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S.B. 72

1

ENHANCED 911 FOR MULTI-LINE

2

TELEPHONE SYSTEMS

3

2010 GENERAL SESSION

4

STATE OF UTAH

5

Chief Sponsor: Jon J. Greiner

6

House Sponsor: _____

7

8 **LONG TITLE**

9 **General Description:**

10 This bill addresses enhanced 911 requirements for multi-line telephone systems.

11 **Highlighted Provisions:**

12 This bill:

13 . defines terms;

14 . requires certain multi-line telephone systems to provide various location-related
15 information for 911 calls made from telephones within the system;

16 . addresses requirements for updating location-related information when a multi-line
17 telephone system's database changes;

18 . addresses the effect of industry standards on compliance with E-911 requirements;

19 . provides for multi-line telephone systems to train users on dialing instructions for
20 911, including where a prefix is required;

21 . provides for training and other standards to be created by the Utah 911 Committee;

22 . addresses liability for multi-line telephone system operators;

23 . provides for certain exemptions from E-911 requirements;

24 . allows the Utah 911 Committee to grant a waiver from E-911 requirements; and

25 . makes technical changes.

26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **53-10-601**, as last amended by Laws of Utah 2008, Chapter 77

33 **53-10-603**, as last amended by Laws of Utah 2007, Chapter 241

34 **53-10-604**, as enacted by Laws of Utah 2004, Chapter 313

35 **53-10-605**, as last amended by Laws of Utah 2008, Chapter 384

36 **53-10-606**, as enacted by Laws of Utah 2004, Chapter 313

37 **59-1-401**, as last amended by Laws of Utah 2009, Chapters 31, 203, 212, and 336

38 **59-1-1402**, as enacted by Laws of Utah 2009, Chapter 212

39 **59-12-107**, as last amended by Laws of Utah 2009, Chapter 212

40 **59-12-108**, as last amended by Laws of Utah 2008, Chapters 286, 382, and 384

41 **59-12-128**, as last amended by Laws of Utah 2009, Chapter 212

42 **63I-1-269**, as last amended by Laws of Utah 2008, Chapter 384 and renumbered and
43 amended by Laws of Utah 2008, Chapter 382

44 **63J-1-602**, as enacted by Laws of Utah 2009, Chapter 368

45 ENACTS:

46 **69-2-501**, Utah Code Annotated 1953

47 **69-2-502**, Utah Code Annotated 1953

48 **69-2-503**, Utah Code Annotated 1953

49 **69-2-504**, Utah Code Annotated 1953

50 **69-2-505**, Utah Code Annotated 1953

51 **69-2-506**, Utah Code Annotated 1953

52 **69-2-507**, Utah Code Annotated 1953

53 **69-2-508**, Utah Code Annotated 1953

54 **69-2-509**, Utah Code Annotated 1953

55 **69-2-510**, Utah Code Annotated 1953

56 **69-2-511**, Utah Code Annotated 1953

57 **69-2-512**, Utah Code Annotated 1953

58 RENUMBERS AND AMENDS:

59 **69-2-101**, (Renumbered from 69-2-1, as enacted by Laws of Utah 1986, Chapter 33)

60 **69-2-102**, (Renumbered from 69-2-2, as last amended by Laws of Utah 2002, Chapter
61 320)

62 **69-2-201**, (Renumbered from 69-2-3, as enacted by Laws of Utah 1986, Chapter 33)

63 **69-2-202**, (Renumbered from 69-2-4, as last amended by Laws of Utah 2008, Chapter
64 360)

65 **69-2-301**, (Renumbered from 69-2-5, as last amended by Laws of Utah 2009, Chapter
66 203)

67 **69-2-302**, (Renumbered from 69-2-5.5, as last amended by Laws of Utah 2009, Chapter
68 212)

69 **69-2-303**, (Renumbered from 69-2-5.6, as last amended by Laws of Utah 2008,
70 Chapters 382 and 384)

71 **69-2-401**, (Renumbered from 69-2-6, as enacted by Laws of Utah 1986, Chapter 33)

72 **69-2-402**, (Renumbered from 69-2-7, as last amended by Laws of Utah 1996, Chapter
73 86)

74 **69-2-403**, (Renumbered from 69-2-8, as last amended by Laws of Utah 1996, Chapter
75 86)

76

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

78 Section 1. Section **53-10-601** is amended to read:

79 **53-10-601. Utah 911 Committee.**

80 (1) There is created within the division, the Utah 911 Committee consisting of the
81 following 18 members:

82 (a) a representative from each of the following primary emergency public safety
83 answering points:

84 (i) Salt Lake County;

85 (ii) Davis County;

86 (iii) Utah County;

87 (iv) Weber County; and

88 (v) Washington County;

89 (b) six members representing the following primary emergency public safety answering

90 points:

91 (i) Bear River Association;

92 (ii) Uintah Basin Association;

93 (iii) South East Association;

94 (iv) Six County Association;

95 (v) Five County Association; and

96 (vi) Mountainlands Association, not including Utah County;

97 (c) the following people with knowledge of technology and equipment that might be
98 needed for an emergency public safety answering system:

99 (i) a representative from a local exchange carrier;

100 (ii) a representative from a rural incumbent local exchange carrier; and

101 (iii) two representatives from radio communications services as defined in Section
102 [~~69-2-2~~] 69-2-102;

103 (d) two representatives from the Department of Public Safety, one of whom represents
104 urban Utah and the other rural Utah; and

105 (e) a representative from the Department of Technology Services, created in Title 63F,
106 Chapter 1.

107 (2) (a) Each committee member shall be appointed as follows:

108 (i) a member described in Subsection (1)(a) shall be appointed by the governor from a
109 nominee or nominees submitted to the governor by the council of government for that
110 member's county;

111 (ii) the six members described in Subsection (1)(b) shall be appointed by the governor
112 from a nominee or nominees submitted to the governor by the associations described in
113 Subsection (1)(b) as follows:

114 (A) the six associations shall select by lot, the first four associations to begin the
115 rotation of membership as required by Subsection (2)(b)(i); and

116 (B) as each association is represented on the commission in accordance with
117 Subsection (2)(b)(i), that association shall select the person to represent it on the commission;

118 (iii) the members described in Subsection (1)(c) shall be appointed by the governor
119 with the consent of the Senate; and

120 (iv) the members described in Subsections (1)(d) and (e) shall be appointed by the

121 governor.

122 (b) The term of office of each member is four years, except as provided in Subsections
123 (2)(b)(ii) through (iv).

124 (i) The representatives from Subsection (1)(b) must rotate to provide each geographic

125 location at least one representative every four years, except as provided for the initial
126 appointment under Subsection (2)(b)(ii).

127 (ii) The associations listed in Subsection (1)(b) shall select by lot, two of its members
128 to an initial two-year term.

129 (iii) The governor shall appoint two representatives from Subsection (1)(c) to initial
130 two-year terms.

131 (iv) The public service answering points listed in Subsection (1)(a) shall, by lot, select
132 two members to serve an initial two-year term.

133 (c) No member of the committee may serve more than two consecutive four-year terms.

134 (d) Each mid-term vacancy shall be filled for the unexpired term in the same manner as
135 an appointment under Subsection (2)(a).

136 (3) (a) Committee members shall elect a chair from their number and establish rules for
137 the organization and operation of the committee, with the chair rotating among
representatives

138 from Subsections (1)(a), (b), and (d) every year.

139 (b) Staff services to the committee:

140 (i) shall be provided by the division; and

141 (ii) may be provided by local entities through the Utah Association of Counties and the
142 Utah League of Cities and Towns.

143 (c) Funding for staff services shall be provided with funds approved by the committee
144 from those identified under Section 53-10-605 .

145 (4) (a) No member may receive compensation or benefits for the member's service on
146 the committee.

147 (b) A member is not required to give bond for the performance of official duties.

148 Section 2. Section **53-10-603** is amended to read:

149 **53-10-603. Creation of Statewide Unified E-911 Emergency Service Fund.**

150 (1) There is created a restricted account in the General Fund entitled the "Statewide
151 Unified E-911 Emergency Service Fund," or "fund" consisting of:

152 (a) proceeds from the fee imposed in Section [~~69-2-5.6~~] 69-2-303;

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

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

156 (2) The monies in this fund shall be used exclusively for the following statewide public
157 purposes:

158 (a) enhancing public safety as provided in this chapter;

159 (b) providing a statewide, unified, wireless E-911 service available to public service
160 answering points; and

161 (c) providing reimbursement to providers for certain costs associated with Phase II
162 wireless E-911 service.

163 Section 3. Section **53-10-604** is amended to read:

164 **53-10-604. Committee expenses -- State Tax Commission expenses -- Division of**
165 **Finance responsibilities.**

166 (1) Committee expenses and the costs of administering grants from the fund, as
167 provided in Subsection (3), shall be paid from the fund.

168 (2) (a) The expenses and costs of the State Tax Commission to administer and enforce
169 the collection of the telephone levy imposed by Section [~~69-2-5.6~~] 69-2-303 shall be paid

from

170 the fund.

171 (b) (i) The State Tax Commission may charge the fund the administrative costs

172 incurred in discharging the responsibilities imposed by Section [~~69-2-5.6~~] 69-2-303.

173 (ii) The charges in Subsection (2)(b)(i) may not exceed an amount equal to 1.5% of the
174 charges imposed under Section [~~69-2-5.6~~] 69-2-303.

175 (3) (a) The Division of Finance shall be responsible for the care, custody, safekeeping,
176 collection, and accounting for grants issued by the committee under the provisions of Section
177 53-10-605 .

178 (b) The Division of Finance may charge the fund the administrative costs incurred in
179 discharging the responsibilities imposed by Subsection (3)(a).

180 Section 4. Section **53-10-605** is amended to read:

181 **53-10-605. Use of money in fund -- Criteria -- Administration.**

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

183 (a) the committee, the committee shall:

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

186 (ii) grant to state agencies and local entities an amount not to exceed the per month fee
187 levied on telecommunications service under Section [~~69-2-5.6~~] 69-2-303 for installation,
188 implementation, and maintenance of unified, statewide 911 emergency services and
189 technology; and

190 (iii) in addition to any money under Subsection (1)(a)(ii), grant to counties of the third
191 through sixth class the amount dedicated for rural assistance, which is at least 3 cents per
192 month levied on telecommunications service under Section [~~69-2-5.6~~] 69-2-303 to:

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

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

197 (b) the committee, the committee shall:

198 (i) include reimbursement to a provider of radio communications service, as defined in
199 Section [~~69-2-2~~] 69-2-102, for costs as provided in Subsection (1)(b)(ii); and

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

and

202 the carrier; and

203 (c) the state's Automated Geographic Reference Center in the Division of Integrated
204 Technology of the Department of Technology Services, an amount equal to 1 cent per month
205 levied on telecommunications service under Section [~~69-2-5.6~~] 69-2-303 shall be used to
206 enhance and upgrade statewide digital mapping standards.

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

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

211 (3) A local entity must deposit any money it receives from the committee into a special
212 emergency telecommunications service fund in accordance with Subsection [~~69-2-5~~]
213 69-2-301 (4).

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

217 Section 5. Section **53-10-606** is amended to read:

218 **53-10-606. Committee to report annually.**

219 (1) The committee shall submit an annual report to the Executive Appropriations
220 Committee of the Legislature which shall include:
221 (a) the total aggregate surcharge collected by local entities and the state in the last
222 fiscal year under Sections [~~69-2-5~~] 69-2-301 and [~~69-2-5.6~~] 69-2-303;
223 (b) the amount of each disbursement from the fund;
224 (c) the recipient of each disbursement and describing the project for which money was
225 disbursed;
226 (d) the conditions, if any, placed by the committee on disbursements from the fund;
227 (e) the planned expenditures from the fund for the next fiscal year;
228 (f) the amount of any unexpended funds carried forward;
229 (g) a cost study to guide the Legislature towards necessary adjustments of both the
230 Statewide Unified E-911 Emergency Service Fund and the monthly emergency services
231 telephone charge imposed under Section [~~69-2-5~~] 69-2-301; and
232 (h) a progress report of local government implementation of wireless and land-based
233 E-911 services including:
234 (i) a fund balance or balance sheet from each agency maintaining its own emergency
235 telephone service fund;
236 (ii) a report from each public safety answering point of annual call activity separating
237 wireless and land-based 911 call volumes; and
238 (iii) other relevant justification for ongoing support from the Statewide Unified E-911
239 Emergency Service Fund.
240 (2) (a) The committee may request information from a local entity as necessary to
241 prepare the report required by this section.
242 (b) A local entity imposing a levy under Section [~~69-2-5~~] 69-2-301 or receiving a grant
243 under Section 53-10-605 shall provide the information requested pursuant to Subsection (2)

(a).
244 Section 6. Section **59-1-401** is amended to read:

245 **59-1-401. Definitions -- Offenses and penalties -- Rulemaking authority -- Statute**
246 **of limitations -- Commission authority to waive, reduce, or compromise penalty or**
247 **interest.**
248 (1) As used in this section:
249 (a) "Activated tax, fee, or charge" means a tax, fee, or charge with respect to which the
250 commission:
251 (i) has implemented the commission's GenTax system; and
252 (ii) at least 30 days before implementing the commission's GenTax system as described
253 in Subsection (1)(a)(i), has provided notice in a conspicuous place on the commission's
website
254 stating:
255 (A) the date the commission will implement the GenTax system with respect to the tax,
256 fee, or charge; and
257 (B) that, at the time the commission implements the GenTax system with respect to the
258 tax, fee, or charge:
259 (I) a person that files a return after the due date as described in Subsection (2)[~~(b)~~](a) is
260 subject to the penalty described in Subsection (2)(c)(ii); and
261 (II) a person that fails to pay the tax, fee, or charge as described in Subsection (3)(a) is
262 subject to the penalty described in Subsection (3)(b)(ii).
263 (b) "Activation date for a tax, fee, or charge" means with respect to a tax, fee, or
264 charge, the later of:
265 (i) the date on which the commission implements the commission's GenTax system

266 with respect to the tax, fee, or charge; or
267 (ii) 30 days after the date the commission provides the notice described in Subsection
268 (1)(a)(ii) with respect to the tax, fee, or charge.
269 (c) "Tax, fee, or charge" means:
270 (i) a tax, fee, or charge the commission administers under:
271 (A) this title;
272 (B) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
273 (C) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
274 (D) Section 19-6-410.5 ;
275 (E) Section 19-6-714 ;

276 (F) Section 19-6-805 ;
277 (G) Section 40-6-14 ;
278 (H) Section [~~69-2-5~~] 69-2-301 ;
279 (I) Section [~~69-2-5.5~~] 69-2-302 ; or
280 (J) Section [~~69-2-5.6~~] 69-2-303 ; or
281 (ii) another amount that by statute is subject to a penalty imposed under this section.
282 (d) "Unactivated tax, fee, or charge" means a tax, fee, or charge except for an activated
283 tax, fee, or charge.
284 (2) (a) The due date for filing a return is:
285 (i) if the person filing the return is not allowed by law an extension of time for filing
286 the return, the day on which the return is due as provided by law; or
287 (ii) if the person filing the return is allowed by law an extension of time for filing the
288 return, the earlier of:
289 (A) the date the person files the return; or
290 (B) the last day of that extension of time as allowed by law.
291 (b) A penalty in the amount described in Subsection (2)(c) is imposed if a person files a
292 return after the due date described in Subsection (2)(a).
293 (c) For purposes of Subsection (2)(b), the penalty is an amount equal to the greater of:
294 (i) if the return described in Subsection (2)(b) is filed with respect to an unactivated
295 tax, fee, or charge:
296 (A) \$20; or
297 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
298 (ii) if the return described in Subsection (2)(b) is filed with respect to an activated tax,
299 fee, or charge, beginning on the activation date for the tax, fee, or charge:
300 (A) \$20; or
301 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the return is
302 filed no later than five days after the due date described in Subsection (2)(a);
303 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the return is filed
304 more than five days after the due date but no later than 15 days after the due date described in
305 Subsection (2)(a); or
306 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the return is

307 filed more than 15 days after the due date described in Subsection (2)(a).
308 (d) This Subsection (2) does not apply to:
309 (i) an amended return; or
310 (ii) a return with no tax due.
311 (3) (a) A person is subject to a penalty for failure to pay a tax, fee, or charge if:
312 (i) the person files a return on or before the due date for filing a return described in
313 Subsection (2)(a), but fails to pay the tax, fee, or charge due on the return on or before that

due

314 date;
315 (ii) the person:
316 (A) is subject to a penalty under Subsection (2)(b); and
317 (B) fails to pay the tax, fee, or charge due on a return within a 90-day period after the
318 due date for filing a return described in Subsection (2)(a);
319 (iii) (A) the person is subject to a penalty under Subsection (2)(b); and
320 (B) the commission estimates an amount of tax due for that person in accordance with
321 Subsection 59-1-1406 (2);
322 (iv) the person:
323 (A) is mailed a notice of deficiency; and
324 (B) within a 30-day period after the day on which the notice of deficiency described in
325 Subsection (3)(a)(iv)(A) is mailed:
326 (I) does not file a petition for redetermination or a request for agency action; and
327 (II) fails to pay the tax, fee, or charge due on a return;
328 (v) (A) the commission:
329 (I) issues an order constituting final agency action resulting from a timely filed petition
330 for redetermination or a timely filed request for agency action; or
331 (II) is considered to have denied a request for reconsideration under Subsection
332 63G-4-302 (3)(b) resulting from a timely filed petition for redetermination or a timely filed
333 request for agency action; and
334 (B) the person fails to pay the tax, fee, or charge due on a return within a 30-day period
335 after the date the commission:
336 (I) issues the order constituting final agency action described in Subsection
337 (3)(a)(v)(A)(I); or

338 (II) is considered to have denied the request for reconsideration described in
339 Subsection (3)(a)(v)(A)(II); or
340 (vi) the person fails to pay the tax, fee, or charge within a 30-day period after the date
341 of a final judicial decision resulting from a timely filed petition for judicial review.
342 (b) For purposes of Subsection (3)(a), the penalty is an amount equal to the greater of:
343 (i) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
344 respect to an unactivated tax, fee, or charge:
345 (A) \$20; or
346 (B) 10% of the unpaid unactivated tax, fee, or charge due on the return; or
347 (ii) if the failure to pay a tax, fee, or charge as described in Subsection (3)(a) is with
348 respect to an activated tax, fee, or charge, beginning on the activation date:
349 (A) \$20; or
350 (B) (I) 2% of the unpaid activated tax, fee, or charge due on the return if the activated
351 tax, fee, or charge due on the return is paid no later than five days after the due date for filing
a
352 return described in Subsection (2)(a);
353 (II) 5% of the unpaid activated tax, fee, or charge due on the return if the activated tax,
354 fee, or charge due on the return is paid more than five days after the due date for filing a
return
355 described in Subsection (2)(a) but no later than 15 days after that due date; or
356 (III) 10% of the unpaid activated tax, fee, or charge due on the return if the activated
357 tax, fee, or charge due on the return is paid more than 15 days after the due date for filing a
358 return described in Subsection (2)(a).
359 (4) (a) Beginning January 1, 1995, in the case of any underpayment of estimated tax or

there
360 quarterly installments required by Sections 59-5-107 , 59-5-207 , 59-7-504 , and 59-9-104 ,
361 shall be added a penalty in an amount determined by applying the interest rate provided under
362 Section 59-1-402 plus four percentage points to the amount of the underpayment for the
period
363 of the underpayment.
364 (b) (i) For purposes of Subsection (4)(a), the amount of the underpayment shall be the
365 excess of the required installment over the amount, if any, of the installment paid on or before
366 the due date for the installment.
367 (ii) The period of the underpayment shall run from the due date for the installment to
368 whichever of the following dates is the earlier:

369 (A) the original due date of the tax return, without extensions, for the taxable year; or
370 (B) with respect to any portion of the underpayment, the date on which that portion is
371 paid.
372 (iii) For purposes of this Subsection (4), a payment of estimated tax shall be credited
373 against unpaid required installments in the order in which the installments are required to be
374 paid.
375 (5) (a) Notwithstanding Subsection (2) and except as provided in Subsection (6), a
376 person allowed by law an extension of time for filing a corporate franchise or income tax
return
377 under Chapter 7, Corporate Franchise and Income Taxes, or an individual income tax return
378 under Chapter 10, Individual Income Tax Act, is subject to a penalty in the amount described
in
379 Subsection (5)(b) if, on or before the day on which the return is due as provided by law, not
380 including the extension of time, the person fails to pay:
381 (i) for a person filing a corporate franchise or income tax return under Chapter 7,
382 Corporate Franchise and Income Taxes, the payment required by Subsection 59-7-507 (1)(b);
or
383 (ii) for a person filing an individual income tax return under Chapter 10, Individual
384 Income Tax Act, the payment required by Subsection 59-10-516 (2).
385 (b) For purposes of Subsection (5)(a), the penalty per month during the period of the
386 extension of time for filing the return is an amount equal to 2% of the tax due on the return,
387 unpaid as of the day on which the return is due as provided by law.
388 (6) If a person does not file a return within an extension of time allowed by Section
389 59-7-505 or 59-10-516 , the person:
390 (a) is not subject to a penalty in the amount described in Subsection (5)(b); and
391 (b) is subject to a penalty in an amount equal to the sum of:
392 (i) a late file penalty in an amount equal to the greater of:
393 (A) \$20; or
394 (B) 10% of the tax due on the return, unpaid as of the day on which the return is due as
395 provided by law, not including the extension of time; and
396 (ii) a late pay penalty in an amount equal to the greater of:
397 (A) \$20; or
398 (B) 10% of the unpaid tax due on the return, unpaid as of the day on which the return is
399 due as provided by law, not including the extension of time.

400 (7) (a) Additional penalties for an underpayment of a tax, fee, or charge are as provided
401 in this Subsection (7)(a).
402 (i) Except as provided in Subsection (7)(c), if any portion of an underpayment of a tax,

403 fee, or charge is due to negligence, the penalty is 10% of the portion of the underpayment that
404 is due to negligence.

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

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

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

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

415 (i) The notice of proposed penalty shall:

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

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

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

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

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

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

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

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

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

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

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

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

437 (A) the seller meets one or more of the criteria described in Subsection
438 59-12-107 (1)(a); and

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

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

442 (A) the seller meets one or more of the criteria described in Subsection
443 59-12-107 (1)(a); and

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

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

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

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

451 and
452 (II) the commission or a county, city, or town may require the seller to collect a tax
453 under Subsections 59-12-103 (2)(a) through (d); or
454 (B) the commission issues a final unappealable administrative order determining that:
455 (I) the seller meets one or more of the criteria described in Subsection 59-12-107 (1)(a);
456 and
457 (II) the commission or a county, city, or town may require the seller to collect a tax
458 under Subsections 59-12-103 (2)(a) through (d); and
459 (ii) the seller's intentional disregard of law or rule is warranted by existing law or by a
460 nonfrivolous argument for the extension, modification, or reversal of existing law or the
461 establishment of new law.

462 (8) The penalty for failure to file an information return, information report, or a
463 complete supporting schedule is \$50 for each information return, information report, or
464 supporting schedule up to a maximum of \$1,000.

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

is

469 substantially incorrect, the penalty is \$500.

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

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

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

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

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

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

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

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

483 (A) a return;

484 (B) an affidavit;

485 (C) a claim; or

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

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

489 (iii) knows that the document described in Subsection (11)(a)(i), if used in connection
490 with any material matter administered by the commission, would result in an understatement

of

491 another person's liability for a tax, fee, or charge.

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

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

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

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

496 (iv) advising in the preparation or presentation of any portion of a document described

497 in Subsection (11)(a)(i);
498 (v) aiding in the preparation or presentation of any portion of a document described in
499 Subsection (11)(a)(i);
500 (vi) assisting in the preparation or presentation of any portion of a document described
501 in Subsection (11)(a)(i); or
502 (vii) counseling in the preparation or presentation of any portion of a document
503 described in Subsection (11)(a)(i).
504 (c) For purposes of Subsection (11)(a), the penalty:
505 (i) shall be imposed by the commission;
506 (ii) is \$500 for each document described in Subsection (11)(a)(i) with respect to which
507 the person described in Subsection (11)(a) meets the requirements of Subsection (11)(a); and
508 (iii) is in addition to any other penalty provided by law.
509 (d) The commission may seek a court order to enjoin a person from engaging in
510 conduct that is subject to a penalty under this Subsection (11).
511 (e) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
512 commission may make rules prescribing the documents that are similar to Subsections
513 (11)(a)(i)(A) through (C).
514 (12) (a) As provided in Section 76-8-1101 , criminal offenses and penalties are as
515 provided in Subsections (12)(b) through (e).
516 (b) (i) A person who is required by this title or any laws the commission administers or
517 regulates to register with or obtain a license or permit from the commission, who operates
518 without having registered or secured a license or permit, or who operates when the
registration,
519 license, or permit is expired or not current, is guilty of a class B misdemeanor.
520 (ii) Notwithstanding Section 76-3-301 , for purposes of Subsection (12)(b)(i), the
521 penalty may not:
522 (A) be less than \$500; or
523 (B) exceed \$1,000.

524 (c) (i) A person who, with intent to evade a tax, fee, or charge or requirement of this
525 title or any lawful requirement of the commission, fails to make, render, sign, or verify a
return
526 or to supply information within the time required by law, or who makes, renders, signs, or
527 verifies a false or fraudulent return or statement, or who supplies false or fraudulent
528 information, is guilty of a third degree felony.
529 (ii) Notwithstanding Section 76-3-301 , for purposes of Subsection (12)(c)(i), the
530 penalty may not:
531 (A) be less than \$1,000; or
532 (B) exceed \$5,000.
533 (d) (i) A person who intentionally or willfully attempts to evade or defeat a tax, fee, or
534 charge or the payment of a tax, fee, or charge is, in addition to other penalties provided by
law,
535 guilty of a second degree felony.
536 (ii) Notwithstanding Section 76-3-301 , for purposes of Subsection (12)(d)(i), the
537 penalty may not:
538 (A) be less than \$1,500; or
539 (B) exceed \$25,000.
540 (e) (i) A person is guilty of a second degree felony if that person commits an act:
541 (A) described in Subsection (12)(e)(ii) with respect to one or more of the following
542 documents:

543 (I) a return;
544 (II) an affidavit;
545 (III) a claim; or
546 (IV) a document similar to Subsections (12)(e)(i)(A)(I) through (III); and
547 (B) subject to Subsection (12)(e)(iii), with knowledge that the document described in
548 Subsection (12)(e)(i)(A):
549 (I) is false or fraudulent as to any material matter; and
550 (II) could be used in connection with any material matter administered by the
551 commission.
552 (ii) The following acts apply to Subsection (12)(e)(i):
553 (A) preparing any portion of a document described in Subsection (12)(e)(i)(A);
554 (B) presenting any portion of a document described in Subsection (12)(e)(i)(A);

555 (C) procuring any portion of a document described in Subsection (12)(e)(i)(A);
556 (D) advising in the preparation or presentation of any portion of a document described
557 in Subsection (12)(e)(i)(A);
558 (E) aiding in the preparation or presentation of any portion of a document described in
559 Subsection (12)(e)(i)(A);
560 (F) assisting in the preparation or presentation of any portion of a document described
561 in Subsection (12)(e)(i)(A); or
562 (G) counseling in the preparation or presentation of any portion of a document
563 described in Subsection (12)(e)(i)(A).
564 (iii) This Subsection (12)(e) applies:
565 (A) regardless of whether the person for which the document described in Subsection
566 (12)(e)(i)(A) is prepared or presented:
567 (I) knew of the falsity of the document described in Subsection (12)(e)(i)(A); or
568 (II) consented to the falsity of the document described in Subsection (12)(e)(i)(A); and
569 (B) in addition to any other penalty provided by law.
570 (iv) Notwithstanding Section 76-3-301 , for purposes of this Subsection (12)(e), the
571 penalty may not:
572 (A) be less than \$1,500; or
573 (B) exceed \$25,000.
574 (v) The commission may seek a court order to enjoin a person from engaging in
575 conduct that is subject to a penalty under this Subsection (12)(e).
576 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
577 the commission may make rules prescribing the documents that are similar to Subsections
578 (12)(e)(i)(A)(I) through (III).
579 (f) The statute of limitations for prosecution for a violation of this Subsection (12) is
580 the later of six years:
581 (i) from the date the tax should have been remitted; or
582 (ii) after the day on which the person commits the criminal offense.
583 (13) Upon making a record of its actions, and upon reasonable cause shown, the
584 commission may waive, reduce, or compromise any of the penalties or interest imposed under
585 this part.

586 Section 7. Section **59-1-1402** is amended to read:
587 **59-1-1402. Definitions.**
588 As used in this part:
589 (1) "Administrative cost" means a fee imposed to cover:
590 (a) the cost of filing;

591 (b) the cost of administering a garnishment; or
592 (c) a cost similar to Subsection (1)(a) or (b) as determined by the commission by rule
593 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
594 (2) "Books and records" means the following made available in printed or electronic
595 format:
596 (a) an account;
597 (b) a book;
598 (c) an invoice;
599 (d) a memorandum;
600 (e) a paper;
601 (f) a record; or
602 (g) an item similar to Subsections (2)(a) through (f) as determined by the commission
603 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
604 (3) "Deficiency" means:
605 (a) the amount by which a tax, fee, or charge exceeds the difference between:
606 (i) the sum of:
607 (A) the amount shown as the tax, fee, or charge by a person on the person's return; and
608 (B) any amount previously assessed, or collected without assessment, as a deficiency;
609 and
610 (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect
611 to that tax, fee, or charge; or
612 (b) if a person does not show an amount as a tax, fee, or charge on the person's return,
613 or if a person does not make a return, the amount by which the tax, fee, or charge exceeds:
614 (i) the amount previously assessed, or collected without assessment, as a deficiency;
615 and
616 (ii) any amount previously abated, credited, refunded, or otherwise repaid with respect

617 to that tax, fee, or charge.
618 (4) "Garnishment" means any legal or equitable procedure through which one or more
619 of the following are required to be withheld for payment of an amount a person owes:
620 (a) an asset of the person held by another person; or
621 (b) the earnings of the person.
622 (5) "Liability" means the following that a person is required to remit to the
623 commission:
624 (a) a tax, fee, or charge;
625 (b) an addition to a tax, fee, or charge;
626 (c) an administrative cost;
627 (d) interest that accrues in accordance with Section 59-1-402 ; or
628 (e) a penalty that accrues in accordance with Section 59-1-401 .
629 (6) (a) Subject to Subsection (6)(b), "mathematical error" is as defined in Section
630 6213(g)(2), Internal Revenue Code.
631 (b) The reference to Section 6213(g)(2), Internal Revenue Code, in Subsection (6)(a)
632 means:
633 (i) the reference to Section 6213(g)(2), Internal Revenue Code, in effect for the taxable
634 year; or
635 (ii) a corresponding or comparable provision of the Internal Revenue Code as
636 amended, redesignated, or reenacted.
637 (7) (a) Except as provided in Subsection (7)(b), "tax, fee, or charge" means a tax, fee,
638 or charge the commission administers under:
639 (i) this title;

- 640 (ii) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
641 (iii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
642 (iv) Section 19-6-410.5 ;
643 (v) Section 19-6-714 ;
644 (vi) Section 19-6-805 ;
645 (vii) Section [~~69-2-5~~] 69-2-301 ;
646 (viii) Section [~~69-2-5.5~~] 69-2-302 ; or
647 (ix) Section [~~69-2-5.6~~] 69-2-303 .
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- 648 (b) "Tax, fee, or charge" does not include a tax, fee, or charge imposed under:
649 (i) Chapter 2, Property Tax Act;
650 (ii) Chapter 3, Tax Equivalent Property Act; or
651 (iii) Chapter 4, Privilege Tax.
652 (8) "Transferee" means:
653 (a) a devisee;
654 (b) a distributee;
655 (c) a donee;
656 (d) an heir;
657 (e) a legatee; or
658 (f) a person similar to Subsections (8)(a) through (e) as determined by the commission
659 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
660 Section 8. Section **59-12-107** is amended to read:
661 **59-12-107. Collection, remittance, and payment of tax by sellers or other persons**
662 **-- Returns -- Reports -- Direct payment by purchaser of vehicle -- Other liability for**
663 **collection -- Rulemaking authority -- Credits -- Treatment of bad debt -- Penalties.**
664 (1) (a) Except as provided in Subsection (1)(d) or Section 59-12-107.1 or 59-12-123
665 and subject to Subsection (1)(e), each seller shall pay or collect and remit the sales and use
666 taxes imposed by this chapter if within this state the seller:
667 (i) has or utilizes:
668 (A) an office;
669 (B) a distribution house;
670 (C) a sales house;
671 (D) a warehouse;
672 (E) a service enterprise; or
673 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);
674 (ii) maintains a stock of goods;
675 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
676 state, unless the seller's only activity in the state is:
677 (A) advertising; or
678 (B) solicitation by:
-

- 679 (I) direct mail;
680 (II) electronic mail;
681 (III) the Internet;
682 (IV) telecommunications service; or
683 (V) a means similar to Subsection (1)(a)(iii)(A) or (B);
684 (iv) regularly engages in the delivery of property in the state other than by:
685 (A) common carrier; or
686 (B) United States mail; or
687 (v) regularly engages in an activity directly related to the leasing or servicing of

688 property located within the state.

689 (b) A seller that does not meet one or more of the criteria provided for in Subsection

690 (1)(a):

691 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:

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

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

694 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax on a transaction described

695 in Subsection 59-12-103 (1) if Section 59-12-103.1 requires the seller to collect the tax.

696 (c) The collection and remittance of a tax under this chapter by a seller that is

697 registered under the agreement may not be used as a factor in determining whether that seller

is

698 required by Subsection (1)(a) to:

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

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

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

702 (C) Section 19-6-714 ;

703 (D) Section 19-6-805 ;

704 (E) Section [~~69-2-5~~] 69-2-301 ;

705 (F) Section [~~69-2-5.5~~] 69-2-302 ;

706 (G) Section [~~69-2-5.6~~] 69-2-303 ; or

707 (H) this title; or

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

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

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

711 (C) Section 19-6-714 ;

712 (D) Section 19-6-805 ;

713 (E) Section [~~69-2-5~~] 69-2-301 ;

714 (F) Section [~~69-2-5.5~~] 69-2-302 ;

715 (G) Section [~~69-2-5.6~~] 69-2-303 ; or

716 (H) this title.

717 (d) A person shall pay a use tax imposed by this chapter on a transaction described in

718 Subsection 59-12-103 (1) if:

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

720 (ii) the person:

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

722 state;

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

724 or

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

726 state.

727 (e) The ownership of property that is located at the premises of a printer's facility with

728 which the retailer has contracted for printing and that consists of the final printed product,

729 property that becomes a part of the final printed product, or copy from which the printed

730 product is produced, shall not result in the retailer being considered to have or maintain an

731 office, distribution house, sales house, warehouse, service enterprise, or other place of

732 business, or to maintain a stock of goods, within this state.

733 (f) (i) As used in this Subsection (1)(f):

734 (A) "Affiliated group" is as defined in Section 59-7-101 , except that "affiliated group"

735 includes a corporation that is qualified to do business but is not otherwise doing business in

736 this state.
737 (B) "Common ownership" is as defined in Section 59-7-101 .
738 (C) "Related seller" means a seller that:
739 (I) is not required to pay or collect and remit sales and use taxes under Subsection
740 (1)(a) or Section 59-12-103.1 ;

and

741 (II) is:
742 (Aa) related to a seller that is required to pay or collect and remit sales and use taxes
743 under Subsection (1)(a) as part of an affiliated group or because of common ownership; or
744 (Bb) a limited liability company owned by the parent corporation of an affiliated group
745 if that parent corporation of the affiliated group is required to pay or collect and remit sales
746 use taxes under Subsection (1)(a); and
747 (III) does not voluntarily collect and remit a tax under Subsection (1)(b)(i).
748 (ii) A seller is not required to pay or collect and remit sales and use taxes under
749 Subsection (1)(a):
750 (A) if the seller is a related seller;
751 (B) if the seller to which the related seller is related does not engage in any of the
752 following activities on behalf of the related seller:
753 (I) advertising;
754 (II) marketing;
755 (III) sales; or
756 (IV) other services; and
757 (C) if the seller to which the related seller is related accepts the return of an item sold
758 by the related seller, the seller to which the related seller is related accepts the return of that
759 item:
760 (I) sold by a seller that is not a related seller; and
761 (II) on the same terms as the return of an item sold by that seller to which the related
762 seller is related.
763 (2) (a) Except as provided in Section 59-12-107.1 , a tax under this chapter shall be
764 collected from a purchaser.
765 (b) A seller may not collect as tax an amount, without regard to fractional parts of one
766 cent, in excess of the tax computed at the rates prescribed by this chapter.
767 (c) (i) Each seller shall:
768 (A) give the purchaser a receipt for the tax collected; or
769 (B) bill the tax as a separate item and declare the name of this state and the seller's
770 sales and use tax license number on the invoice for the sale.
771 (ii) The receipt or invoice is prima facie evidence that the seller has collected the tax

seller

772 and relieves the purchaser of the liability for reporting the tax to the commission as a
773 consumer.
774 (d) A seller is not required to maintain a separate account for the tax collected, but is
775 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.
776 (e) Taxes collected by a seller pursuant to this chapter shall be held in trust for the
777 benefit of the state and for payment to the commission in the manner and at the time provided
778 for in this chapter.
779 (f) If any seller, during any reporting period, collects as a tax an amount in excess of
780 the lawful state and local percentage of total taxable sales allowed under this chapter, the
781 shall remit to the commission the full amount of the tax imposed under this chapter, plus any

782 excess.
783 (g) If the accounting methods regularly employed by the seller in the transaction of the
784 seller's business are such that reports of sales made during a calendar month or quarterly
period
785 will impose unnecessary hardships, the commission may accept reports at intervals that will,
in
786 the commission's opinion, better suit the convenience of the taxpayer or seller and will not
787 jeopardize collection of the tax.
788 (3) (a) Except as provided in Subsections (4) through (6) and Section 59-12-108 , the
789 sales or use tax imposed by this chapter is due and payable to the commission quarterly on or
790 before the last day of the month next succeeding each calendar quarterly period.
791 (b) (i) Each seller shall, on or before the last day of the month next succeeding each
792 calendar quarterly period, file with the commission a return for the preceding quarterly
period.
793 (ii) The seller shall remit with the return under Subsection (3)(b)(i) the amount of the
794 tax required under this chapter to be collected or paid for the period covered by the return.
795 (c) Except as provided in Subsection (4)(c), a return shall contain information and be in
796 a form the commission prescribes by rule.
797 (d) The sales tax as computed in the return shall be based upon the total nonexempt
798 sales made during the period, including both cash and charge sales.
799 (e) The use tax as computed in the return shall be based upon the total amount of
800 purchases for storage, use, or other consumption in this state made during the period,
including
801 both by cash and by charge.
802 (f) (i) Subject to Subsection (3)(f)(ii) and in accordance with Title 63G, Chapter 3,

803 Utah Administrative Rulemaking Act, the commission may by rule extend the time for
making
804 returns and paying the taxes.
805 (ii) An extension under Subsection (3)(f)(i) may not be for more than 90 days.
806 (g) The commission may require returns and payment of the tax to be made for other
807 than quarterly periods if the commission considers it necessary in order to ensure the payment
808 of the tax imposed by this chapter.
809 (h) (i) The commission may require a seller that files a simplified electronic return with
810 the commission to file an additional electronic report with the commission.
811 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
812 commission may make rules providing:
813 (A) the information required to be included in the additional electronic report described
814 in Subsection (3)(h)(i); and
815 (B) one or more due dates for filing the additional electronic report described in
816 Subsection (3)(h)(i).
817 (4) (a) As used in this Subsection (4) and Subsection (5)(b), "remote seller" means a
818 seller that is:
819 (i) registered under the agreement;
820 (ii) described in Subsection (1)(b); and
821 (iii) not a:
822 (A) model 1 seller;
823 (B) model 2 seller; or
824 (C) model 3 seller.
825 (b) (i) Except as provided in Subsection (4)(b)(ii), a tax a remote seller collects in

826 accordance with Subsection (1)(b) is due and payable:
827 (A) to the commission;
828 (B) annually; and
829 (C) on or before the last day of the month immediately following the last day of each
830 calendar year.
831 (ii) The commission may require that a tax a remote seller collects in accordance with
832 Subsection (1)(b) be due and payable:
833 (A) to the commission; and

834 (B) on the last day of the month immediately following any month in which the seller
835 accumulates a total of at least \$1,000 in agreement sales and use tax.
836 (c) (i) If a remote seller remits a tax to the commission in accordance with Subsection
837 (4)(b), the remote seller shall file a return:
838 (A) with the commission;
839 (B) with respect to the tax;
840 (C) containing information prescribed by the commission; and
841 (D) on a form prescribed by the commission.
842 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
843 commission shall make rules prescribing:
844 (A) the information required to be contained in a return described in Subsection
845 (4)(a)(i); and
846 (B) the form described in Subsection (4)(c)(i)(D).
847 (d) A tax a remote seller collects in accordance with this Subsection (4) shall be
848 calculated on the basis of the total amount of taxable transactions under Subsection
849 59-12-103 (1) the remote seller completes, including:
850 (i) a cash transaction; and
851 (ii) a charge transaction.
852 (5) (a) Except as provided in Subsection (5)(b), a tax a seller that files a simplified
853 electronic return collects in accordance with this chapter is due and payable:
854 (i) monthly on or before the last day of the month immediately following the month for
855 which the seller collects a tax under this chapter; and
856 (ii) for the month for which the seller collects a tax under this chapter.
857 (b) A tax a remote seller that files a simplified electronic return collects in accordance
858 with this chapter is due and payable as provided in Subsection (4).
859 (6) (a) On each vehicle sale made by other than a regular licensed vehicle dealer, the
860 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
861 titling or registration under the laws of this state.
862 (b) The commission shall collect the tax described in Subsection (6)(a) when the
863 vehicle is titled or registered.
864 (7) If any sale of tangible personal property or any other taxable transaction under

865 Subsection 59-12-103 (1), is made by a wholesaler to a retailer, the wholesaler is not
866 responsible for the collection or payment of the tax imposed on the sale and the retailer is
867 responsible for the collection or payment of the tax imposed on the sale if:
868 (a) the retailer represents that the personal property is purchased by the retailer for
869 resale; and
870 (b) the personal property is not subsequently resold.
871 (8) If any sale of property or service subject to the tax is made to a person prepaying
872 sales or use tax in accordance with Title 63M, Chapter 5, Resource Development Act, or to a
873 contractor or subcontractor of that person, the person to whom such payment or consideration

874 is payable is not responsible for the collection or payment of the sales or use tax and the
person
875 prepaying the sales or use tax is responsible for the collection or payment of the sales or use
tax
876 if the person prepaying the sales or use tax represents that the amount prepaid as sales or use
877 tax has not been fully credited against sales or use tax due and payable under the rules
878 promulgated by the commission.
879 (9) (a) For purposes of this Subsection (9):
880 (i) Except as provided in Subsection (9)(a)(ii), "bad debt" is as defined in Section 166,
881 Internal Revenue Code.
882 (ii) Notwithstanding Subsection (9)(a)(i), "bad debt" does not include:
883 (A) an amount included in the purchase price of tangible personal property, a product
884 transferred electronically, or a service that is:
885 (I) not a transaction described in Subsection 59-12-103 (1); or
886 (II) exempt under Section 59-12-104 ;
887 (B) a financing charge;
888 (C) interest;
889 (D) a tax imposed under this chapter on the purchase price of tangible personal
890 property, a product transferred electronically, or a service;
891 (E) an uncollectible amount on tangible personal property or a product transferred
892 electronically that:
893 (I) is subject to a tax under this chapter; and
894 (II) remains in the possession of a seller until the full purchase price is paid;
895 (F) an expense incurred in attempting to collect any debt; or

896 (G) an amount that a seller does not collect on repossessed property.
897 (b) A seller may deduct bad debt from the total amount from which a tax under this
898 chapter is calculated on a return.
899 (c) A seller may file a refund claim with the commission if:
900 (i) the amount of bad debt for the time period described in Subsection (9)(e) exceeds
901 the amount of the seller's sales that are subject to a tax under this chapter for that same time
902 period; and
903 (ii) as provided in Section 59-1-1410 .
904 (d) A bad debt deduction under this section may not include interest.
905 (e) A bad debt may be deducted under this Subsection (9) on a return for the time
906 period during which the bad debt:
907 (i) is written off as uncollectible in the seller's books and records; and
908 (ii) would be eligible for a bad debt deduction:
909 (A) for federal income tax purposes; and
910 (B) if the seller were required to file a federal income tax return.
911 (f) If a seller recovers any portion of bad debt for which the seller makes a deduction or
912 claims a refund under this Subsection (9), the seller shall report and remit a tax under this
913 chapter:
914 (i) on the portion of the bad debt the seller recovers; and
915 (ii) on a return filed for the time period for which the portion of the bad debt is
916 recovered.
917 (g) For purposes of reporting a recovery of a portion of bad debt under Subsection
918 (9)(f), a seller shall apply amounts received on the bad debt in the following order:
919 (i) in a proportional amount:
920 (A) to the purchase price of the tangible personal property, product transferred

921 electronically, or service; and
922 (B) to the tax due under this chapter on the tangible personal property, product
923 transferred electronically, or service; and
924 (ii) to:
925 (A) interest charges;
926 (B) service charges; and

927 (C) other charges.
928 (h) A seller's certified service provider may make a deduction or claim a refund for bad
929 debt on behalf of the seller:

930 (i) in accordance with this Subsection (9); and

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

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

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

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

938 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
939 paid to the state, except amounts determined to be due by the commission under Chapter 1,
940 Part 14, Assessment, Collections, and Refunds Act, or Section 59-12-111 , within the time
941 required by this chapter, or who fails to file any return as required by this chapter, shall pay,

in

942 addition to the tax, penalties and interest as provided in Section 59-1-401 .

943 (d) For purposes of prosecution under this section, each quarterly tax period in which a
944 seller, with intent to evade any tax, collects a tax and fails to timely remit the full amount of

the

945 tax required to be remitted, constitutes a separate offense.

946 Section 9. Section **59-12-108** is amended to read:

947 **59-12-108. Monthly payment -- Amount of tax a seller may retain -- Penalty --**
948 **Certain amounts allocated to local taxing jurisdictions.**

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

951 (i) file a return with the commission:

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

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

955 (ii) except as provided in Subsection (1)(b), remit with the return required by

956 Subsection (1)(a)(i) the amount the person is required to remit to the commission for each tax,
957 fee, or charge described in Subsection (1)(c):

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

960 (B) if that seller's tax liability under this chapter for the previous calendar year is
961 \$96,000 or more, by electronic funds transfer.

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

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

966 (ii) (A) is required to collect and remit a tax under Subsection 59-12-107 (1)(a); and

967 (B) files a simplified electronic return.
968 (c) Subsections (1)(a) and (b) apply to the following taxes, fees, or charges:
969 (i) a tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
970 (ii) a fee under Section 19-6-716 ;
971 (iii) a fee under Section 19-6-805 ;
972 (iv) a charge under Section [~~69-2-5~~] 69-2-301 ;
973 (v) a charge under Section [~~69-2-5.5~~] 69-2-302 ;
974 (vi) a charge under Section [~~69-2-5.6~~] 69-2-303 ; or
975 (vii) a tax under this chapter.
976 (d) Notwithstanding Subsection (1)(a)(ii) and in accordance with Title 63G, Chapter 3,
977 Utah Administrative Rulemaking Act, the commission shall make rules providing for a

method

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

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

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

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

988 (i) for a transaction described in Subsection 59-12-103 (1) that is subject to a state tax

989 and a local tax imposed in accordance with the following, for the month for which the seller is
990 filing a return in accordance with Subsection (1):

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

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

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

994 (ii) for an agreement sales and use tax.

995 (c) (i) A seller subject to Subsection (1) or a seller described in Subsection (4) may
996 retain each month the amount calculated under Subsection (2)(c)(ii) for a transaction

described

997 in Subsection 59-12-103 (1) that is subject to the state tax and the local tax imposed in
998 accordance with Subsection 59-12-103 (2)(c).

999 (ii) For purposes of Subsection (2)(c)(i), the amount a seller may retain is an amount
1000 equal to the sum of:

1001 (A) 1.31% of any amounts the seller is required to remit to the commission for:

1002 (I) the state tax and the local tax imposed in accordance with Subsection
1003 59-12-103 (2)(c);

1004 (II) the month for which the seller is filing a return in accordance with Subsection (1);
1005 and

1006 (III) an agreement sales and use tax; and

1007 (B) 1.31% of the difference between:

1008 (I) the amounts the seller would have been required to remit to the commission:

1009 (Aa) in accordance with Subsection 59-12-103 (2)(a) if the transaction had been subject
1010 to the state tax and the local tax imposed in accordance with Subsection 59-12-103 (2)(a);

1011 (Bb) for the month for which the seller is filing a return in accordance with Subsection
1012 (1); and

1013 (Cc) for an agreement sales and use tax; and

1014 (II) the amounts the seller is required to remit to the commission for:
1015 (Aa) the state tax and the local tax imposed in accordance with Subsection
1016 59-12-103 (2)(c);
1017 (Bb) the month for which the seller is filing a return in accordance with Subsection (1);
1018 and
1019 (Cc) an agreement sales and use tax.

1020 (d) A seller subject to Subsection (1) or a seller described in Subsection (4) may retain
1021 each month 1% of any amounts the seller is required to remit to the commission:

1022 (i) for the month for which the seller is filing a return in accordance with Subsection
1023 (1); and

1024 (ii) under:

1025 (A) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1026 (B) Subsection 59-12-603 (1)(a)(i)(A); or

1027 (C) Subsection 59-12-603 (1)(a)(i)(B).

1028 (3) A state government entity that is required to remit taxes monthly in accordance
1029 with Subsection (1) may not retain any amount under Subsection (2).

1030 (4) A seller that has a tax liability under this chapter for the previous calendar year of
1031 less than \$50,000 may:

1032 (a) voluntarily meet the requirements of Subsection (1); and

1033 (b) if the seller voluntarily meets the requirements of Subsection (1), retain the
1034 amounts allowed by Subsection (2).

1035 (5) Penalties for late payment shall be as provided in Section 59-1-401 .

1036 (6) (a) Except as provided in Subsection (6)(c), for any amounts required to be remitted
1037 to the commission under this part, the commission shall each month calculate an amount

equal

1038 to the difference between:

1039 (i) the total amount retained for that month by all sellers had the percentages listed
1040 under Subsections (2)(b) and (2)(c)(ii) been 1.5%; and

1041 (ii) the total amount retained for that month by all sellers at the percentages listed
1042 under Subsections (2)(b) and (2)(c)(ii).

1043 (b) The commission shall each month allocate the amount calculated under Subsection
1044 (6)(a) to each county, city, and town on the basis of the proportion of agreement sales and

use

1045 tax that the commission distributes to each county, city, and town for that month compared

to

1046 the total agreement sales and use tax that the commission distributes for that month to all
1047 counties, cities, and towns.

1048 (c) The amount the commission calculates under Subsection (6)(a) may not include an
1049 amount collected from a tax that:

1050 (i) the state imposes within a county, city, or town, including the unincorporated area

1051 of a county; and

1052 (ii) is not imposed within the entire state.

1053 Section 10. Section **59-12-128** is amended to read:

1054 **59-12-128. Amnesty.**

1055 (1) As used in this section, "amnesty" means that a seller is not required to pay the
1056 following amounts that the seller would otherwise be required to pay:

1057 (a) a tax, fee, or charge under:

1058 (i) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;

1059 (ii) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
1060 (iii) Section 19-6-714 ;
1061 (iv) Section 19-6-805 ;
1062 (v) Section [~~69-2-5~~] 69-2-301 ;
1063 (vi) Section [~~69-2-5.5~~] 69-2-302 ;
1064 (vii) Section [~~69-2-5.6~~] 69-2-303 ; or
1065 (viii) this chapter;
1066 (b) a penalty on a tax, fee, or charge described in Subsection (1)(a); or
1067 (c) interest on a tax, fee, or charge described in Subsection (1)(a).
1068 (2) The commission shall grant a seller amnesty under this section if the seller:
1069 (a) was not licensed under Section 59-12-106 at any time during the 12-month period
1070 prior to the effective date of the state's participation in the agreement;
1071 (b) obtains a license under Section 59-12-106 within a 12-month period after the
1072 effective date of the state's participation in the agreement; and
1073 (c) is registered under the agreement.
1074 (3) A seller may not receive amnesty under this section for a tax, fee, or charge:
1075 (a) the seller collects;
1076 (b) the seller remits to the commission;
1077 (c) that the seller is required to remit to the commission on the seller's purchase; or
1078 (d) arising from a transaction that occurs within a time period that is under audit by the
1079 commission if:
1080 (i) the seller receives notice of the commencement of the audit prior to obtaining a
1081 license under Section 59-12-106 ; and

1082 (ii) (A) the audit described in Subsection (3)(d)(i) is not complete; or
1083 (B) the seller has not exhausted all administrative and judicial remedies in connection
1084 with the audit described in Subsection (3)(d)(i).
1085 (4) (a) Except as provided in Subsection (4)(b), amnesty the commission grants to a
1086 seller under this section:
1087 (i) applies to the time period during which the seller is not licensed under Section
1088 59-12-106 ; and
1089 (ii) remains in effect if, for a period of three years, the seller:
1090 (A) remains registered under the agreement;
1091 (B) collects a tax, fee, or charge on a transaction subject to a tax, fee, or charge
1092 described in Subsection (1)(a); and
1093 (C) remits to the commission the taxes, fees, and charges the seller collects in
1094 accordance with Subsection (4)(a)(ii)(B).
1095 (b) The commission may not grant a seller amnesty under this section if, with respect
1096 to a tax, fee, or charge for which the seller would otherwise be granted amnesty under this
1097 section, the seller commits:
1098 (i) fraud; or
1099 (ii) an intentional misrepresentation of a material fact.
1100 (5) (a) If a seller does not meet a requirement of Subsection (4)(a)(ii), the commission
1101 shall require the seller to pay the amounts described in Subsection (1) that the seller would
1102 have otherwise been required to pay.
1103 (b) Notwithstanding Section 59-1-1410 , for purposes of requiring a seller to pay an
1104 amount in accordance with Subsection (5)(a), the time period for the commission to make an
1105 assessment under Section 59-1-1410 is extended for a time period beginning on the date the
1106 seller does not meet a requirement of Subsection (4)(a)(ii) and ends three years after that

date.

1107 Section 11. Section **63I-1-269** is amended to read:
1108 **63I-1-269. Repeal dates, Title 69.**
1109 Section [~~69-2-5-6~~] 69-2-303, Emergency services telecommunications charge to fund
1110 statewide unified E-911 emergency service, is repealed July 1, 2011.
1111 Section 12. Section **63J-1-602** is amended to read:
1112 **63J-1-602. Nonlapsing accounts and funds.**

1113 (1) The following revenue collections, appropriations from a fund or account, and
1114 appropriations to a program are nonlapsing:
1115 (a) appropriations made to the Legislature and its committees;
1116 (b) funds collected by the grain grading program, as provided in Section 4-2-2 ;
1117 (c) the Salinity Offset Fund created in Section 4-2-8.5 ;
1118 (d) the Invasive Species Mitigation Fund created in Section 4-2-8.7 ;
1119 (e) funds collected by pesticide dealer license registration fees, as provided in Section
1120 4-14-3 ;
1121 (f) funds collected by pesticide applicator business registration fees, as provided in
1122 Section 4-14-13 ;
1123 (g) the Rangeland Improvement Fund created in Section 4-20-2 ;
1124 (h) funds deposited as dedicated credits under the Insect Infestation Emergency Control
1125 Act, as provided in Section 4-35-6 ;
1126 (i) the Percent-for-Art Program created in Section 9-6-404 ;
1127 (j) the Centennial History Fund created in Section 9-8-604 ;
1128 (k) the Uintah Basin Revitalization Fund, as provided in Section 9-10-108 ;
1129 (l) the Navajo Revitalization Fund created in Section 9-11-104 ;
1130 (m) the LeRay McAllister Critical Land Conservation Program created in Section
1131 11-38-301 ;
1132 (n) the Clean Fuels and Vehicle Technology Fund created in Section 19-1-403 ;
1133 (o) fees deposited as dedicated credits for hazardous waste plan reviews, as provided in
1134 Section 19-6-120 ;
1135 (p) an appropriation made to the Division of Wildlife Resources for the appraisal and
1136 purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6 ;
1137 (q) award monies under the Crime Reduction Assistance Program, as provided under
1138 Section 24-1-19 ;
1139 (r) funds collected from the emergency medical services grant program, as provided in
1140 Section 26-8a-207 ;
1141 (s) fees and other funding available to purchase training equipment and to administer
1142 tests and conduct quality assurance reviews, as provided in Section 26-8a-208 ;
1143 (t) funds collected as a result of a sanction under Section 1919 of Title XIX of the

1144 federal Social Security Act, as provided in Section 26-18-3 ;
1145 (u) the Utah Health Care Workforce Financial Assistance Program created in Section
1146 26-46-102 ;
1147 (v) monies collected from subscription fees for publications prepared or distributed by
1148 the insurance commissioner, as provided in Section 31A-2-208 ;
1149 (w) monies received by the Insurance Department for administering, investigating
1150 under, and enforcing the Insurance Fraud Act, as provided in Section 31A-31-108 ;
1151 (x) certain monies received for penalties paid under the Insurance Fraud Act, as
1152 provided in Section 31A-31-109 ;
1153 (y) the fund for operating the state's Federal Health Care Tax Credit Program, as
1154 provided in Section 31A-38-104 ;

1155 (z) certain funds in the Department of Workforce Services' program for the education,
1156 training, and transitional counseling of displaced homemakers, as provided in Section
1157 35A-3-114 ;
1158 (aa) the Employment Security Administration Fund created in Section 35A-4-505 ;
1159 (bb) the Special Administrative Expense Fund created in Section 35A-4-506 ;
1160 (cc) funding for a new program or agency that is designated as nonlapsing under
1161 Section 36-24-101 ;
1162 (dd) the Oil and Gas Conservation Account created in Section 40-6-14.5 ;
1163 (ee) funds available to the State Tax Commission for purchase and distribution of
1164 license plates and decals, as provided in Section 41-1a-1201 ;
1165 (ff) certain fees for the cost of electronic payments under the Motor Vehicle Act, as
1166 provided in Section 41-1a-1221 ;
1167 (gg) certain fees collected for administering and enforcing the Motor Vehicle Business
1168 Regulation Act, as provided in Section 41-3-601 ;
1169 (hh) certain fees for the cost of electronic payments under the Motor Vehicle Business
1170 Regulation Act, as provided in Section 41-3-604 ;
1171 (ii) the Off-Highway Access and Education Restricted Account created in Section
1172 41-22-19.5 ;
1173 (jj) certain fees for the cost of electronic payments under the Motor Vehicle Act, as
1174 provided in Section 41-22-36 ;

1175 (kk) monies collected under the Notaries Public Reform Act, as provided under
1176 46-1-23 ;
1177 (ll) certain funds associated with the Law Enforcement Operations Account, as
1178 provided in Section 51-9-411 ;
1179 (mm) the Public Safety Honoring Heroes Restricted Account created in Section
1180 53-1-118 ;
1181 (nn) funding for the Search and Rescue Financial Assistance Program, as provided in
1182 Section 53-2-107 ;
1183 (oo) appropriations made to the Department of Public Safety from the Department of
1184 Public Safety Restricted Account, as provided in Section 53-3-106 ;
1185 (pp) appropriations to the Motorcycle Rider Education Program, as provided in Section
1186 53-3-905 ;
1187 (qq) fees collected by the State Fire Marshal Division under the Utah Fire Prevention
1188 and Safety Act, as provided in Section 53-7-314 ;
1189 (rr) the DNA Specimen Restricted Account created in Section 53-10-407 ;
1190 (ss) the minimum school program, as provided in Section 53A-17a-105 ;
1191 (tt) certain funds appropriated from the Uniform School Fund to the State Board of
1192 Education for new teacher bonus and performance-based compensation plans, as provided in
1193 Section 53A-17a-148 ;
1194 (uu) certain funds appropriated from the Uniform School Fund to the State Board of
1195 Education for implementation of proposals to improve mathematics achievement test scores,
as
1196 provided in Section 53A-17a-152 ;
1197 (vv) the School Building Revolving Account created in Section 53A-21-401 ;
1198 (ww) monies received by the State Office of Rehabilitation for the sale of certain
1199 products or services, as provided in Section 53A-24-105 ;
1200 (xx) the State Board of Regents, as provided in Section 53B-6-104 ;
1201 (yy) certain funds appropriated from the General Fund to the State Board of Regents
1202 for teacher preparation programs, as provided in Section 53B-6-104 ;

1203 (zz) a certain portion of monies collected for administrative costs under the School
1204 Institutional Trust Lands Management Act, as provided under Section 53C-3-202 ;
1205 (aaa) certain surcharges on residence and business telecommunications access lines

1206 imposed by the Public Service Commission, as provided in Section 54-8b-10 ;
1207 (bbb) certain fines collected by the Division of Occupational and Professional
1208 Licensing for violation of unlawful or unprofessional conduct that are used for education and
1209 enforcement purposes, as provided in Section 58-17b-505 ;
1210 (ccc) the Nurse Education and Enforcement Fund created in Section 58-31b-103 ;
1211 (ddd) funding of the controlled substance database, as provided in Section 58-37-7.7 ;
1212 (eee) the Certified Nurse Midwife Education and Enforcement Fund created in Section
1213 58-44a-103 ;
1214 (fff) funding for the building inspector's education program, as provided in Section
1215 58-56-9 ;
1216 (ggg) certain fines collected by the Division of Occupational and Professional
1217 Licensing for use in education and enforcement of the Security Personnel Licensing Act, as
1218 provided in Section 58-63-103 ;
1219 (hhh) the Professional Geologist Education and Enforcement Fund created in Section
1220 58-76-103 ;
1221 (iii) certain monies in the Water Resources Conservation and Development Fund, as
1222 provided in Section 59-12-103 ;
1223 (jjj) funds paid to the Division of Real Estate for the cost of a criminal background
1224 check for broker and sales agent licenses, as provided in Section 61-2-9 ;
1225 (kkk) the Utah Housing Opportunity Restricted Account created in Section 61-2-28 ;
1226 (lll) funds paid to the Division of Real Estate for the cost of a criminal background
1227 check for a mortgage loan license, as provided in Section 61-2c-202 ;
1228 (mmm) funds paid to the Division of Real Estate in relation to examination of records
1229 in an investigation, as provided in Section 61-2c-401 ;
1230 (nnn) certain funds donated to the Department of Human Services, as provided in
1231 Section 62A-1-111 ;
1232 (ooo) certain funds donated to the Division of Child and Family Services, as provided
1233 in Section 62A-4a-110 ;
1234 (ppp) the Mental Health Therapist Grant and Scholarship Program, as provided in
1235 Section 62A-13-109 ;
1236 (qqq) assessments for DUI violations that are forwarded to an account created by a

1237 county treasurer, as provided in Section 62A-15-503 ;
1238 (rrr) appropriations to the Division of Services for People with Disabilities, as provided
1239 in Section 62A-5-102 ;
1240 (sss) certain donations to the Division of Substance Abuse and Mental Health, as
1241 provided in Section 62A-15-103 ;
1242 (ttt) certain funds received by the Division of Parks and Recreation from the sale or
1243 disposal of buffalo, as provided under Section 63-11-19.2 ;
1244 (uuu) revenue for golf user fees at the Wasatch Mountain State Park, Palisades State
1245 Park, or Jordan River State Park, as provided under Section 63-11-19.5 ;
1246 (vvv) revenue for golf user fees at the Green River State Park, as provided under
1247 Section 63-11-19.6 ;
1248 (www) the Centennial Nonmotorized Paths and Trail Crossings Program created under
1249 Section 63-11a-503 ;
1250 (xxx) the Bonneville Shoreline Trail Program created under Section 63-11a-504 ;

1251 (yyy) the account for the Utah Geological Survey, as provided in Section 63-73-10 ;
1252 (zzz) the Risk Management Fund created under Section 63A-4-201 ;
1253 (aaaa) the Child Welfare Parental Defense Fund created in Section 63A-11-203 ;
1254 (bbbb) the Constitutional Defense Restricted Account created in Section 63C-4-103 ;
1255 (cccc) a portion of the funds appropriated to the Utah Seismic Safety Commission, as
1256 provided in Section 63C-6-104 ;
1257 (dddd) funding for the Medical Education Program administered by the Medical
1258 Education Council, as provided in Section 63C-8-102 ;
1259 (eeee) certain monies payable for commission expenses of the Pete Suazo Utah
1260 Athletic Commission, as provided under Section 63C-11-301 ;
1261 (ffff) funds collected for publishing the Division of Administrative Rules' publications,
1262 as provided in Section 63G-3-402 ;
1263 (gggg) the appropriation to fund the Governor's Office of Economic Development's
1264 Enterprise Zone Act, as provided in Section 63M-1-416 ;
1265 (hhhh) the Tourism Marketing Performance Account, as provided in Section
1266 63M-1-1406 ;
1267 (iiii) certain funding for rural development provided to the Office of Rural

1268 Development in the Governor's Office of Economic Development, as provided in Section
1269 63M-1-1604 ;
1270 (jjjj) certain monies in the Development for Disadvantaged Rural Communities
1271 Restricted Account, as provided in Section 63M-1-2003 ;
1272 (kkkk) appropriations to the Utah Science Technology and Research Governing
1273 Authority, created under Section 63M-2-301 , as provided under Section 63M-3-302 ;
1274 (llll) certain monies in the Rural Broadband Service Fund, as provided in Section
1275 63M-1-2303 ;
1276 (mmmm) funds collected from monthly offender supervision fees, as provided in
1277 Section 64-13-21.2 ;
1278 (nnnn) funds collected by the housing of state probationary inmates or state parole
1279 inmates, as provided in Subsection 64-13e-104 (2);
1280 (oooo) the Sovereign Lands Management account created in Section 65A-5-1 ;
1281 (pppp) certain forestry and fire control funds utilized by the Division of Forestry, Fire,
1282 and State Lands, as provided in Section 65A-8-103 ;
1283 (qqqq) the Department of Human Resource Management user training program, as
1284 provided in Section 67-19-6 ;
1285 (rrrr) funds for the University of Utah Poison Control Center program, as provided in
1286 Section [~~69-2-5.5~~] 69-2-302 ;
1287 (ssss) appropriations to the Transportation Corridor Preservation Revolving Loan
1288 Fund, as provided in Section 72-2-117 ;
1289 (tttt) appropriations to the Local Transportation Corridor Preservation Fund, as
1290 provided in Section 72-2-117.5 ;
1291 (uuuu) appropriations to the Tollway Restricted Special Revenue Fund, as provided in
1292 Section 77-2-120 ;
1293 (vvvv) appropriations to the Aeronautics Construction Revolving Loan Fund, as
1294 provided in Section 77-2-122 ;
1295 (wwww) appropriations to the State Park Access Highways Improvement Program, as
1296 provided in Section 72-3-207 ;
1297 (xxxx) the Traffic Noise Abatement Program created in Section 72-6-112 ;
1298 (yyyy) certain funds received by the Office of the State Engineer for well drilling fines

1299 or bonds, as provided in Section 73-3-25 ;
1300 (zzzz) certain monies appropriated to increase the carrying capacity of the Jordan River
1301 that are transferred to the Division of Parks and Recreation, as provided in Section 73-10e-1
;
1302 (aaaaa) certain fees for the cost of electronic payments under the State Boating Act, as
1303 provided in Section 73-18-25 ;
1304 (bbbbb) certain monies appropriated from the Water Resources Conservation and
1305 Development Fund, as provided in Section 73-23-2 ;
1306 (ccccc) the Lake Powell Pipeline Project Operation and Maintenance Fund created in
1307 Section 73-28-404 ;
1308 (dddd) certain funds in the Water Development and Flood Mitigation Reserve
1309 Account, as provided in Section 73-103-1 ;
1310 (eeee) certain funds appropriated for compensation for special prosecutors, as
1311 provided in Section 77-10a-19 ;
1312 (ffff) the Indigent Aggravated Murder Defense Trust Fund created in Section
1313 77-32-601 ;
1314 (ggggg) the Indigent Felony Defense Trust Fund created in Section 77-32-701 ;
1315 (hhhhh) funds donated or paid to a juvenile court by private sources, as provided in
1316 Subsection 78A-6-203 (1)(c);
1317 (iiii) a state rehabilitative employment program, as provided in Section 78A-6-210 ;
1318 and
1319 (jjjjj) fees from the issuance and renewal of licenses for certified court interpreters, as
1320 provided in Section 78B-1-146 .
1321 (2) No revenue collection, appropriation from a fund or account, or appropriation to a
1322 program may be treated as nonlapsing unless:
1323 (a) it is expressly referenced by this section;
1324 (b) it is designated in a condition of appropriation in the appropriations bill; or
1325 (c) nonlapsing authority is granted under Section 63J-1-603 .
1326 (3) Each legislative appropriations subcommittee shall review the accounts and funds
1327 that have been granted nonlapsing authority under this section or Section 63J-1-603 .
1328 Section 13. Section **69-2-101** , which is renumbered from Section 69-2-1 is renumbered
1329 and amended to read:

1330

CHAPTER 2. EMERGENCY TELEPHONE SERVICE LAW

1331

Part 1. General Provisions

1332 ~~[69-2-1].~~ 69-2-101. Title.

1333 This chapter is known as the "Emergency Telephone Service Law."

1334 Section 14. Section **69-2-102** , which is renumbered from Section 69-2-2 is renumbered
1335 and amended to read:

1336 ~~[69-2-2].~~ 69-2-102. Definitions.

1337 As used in this chapter:

1338 (1) "911 emergency telephone service" means a communication system which provides
1339 citizens with rapid direct access to public emergency operation centers by dialing the

telephone

1340 number "911" with the objective of reducing the response time to situations requiring law
1341 enforcement, fire, medical, rescue, and other emergency services.

1342 (2) "Local exchange service" means the provision of public telecommunications
1343 services by a wireline common carrier to customers within a geographic area encompassing
one
1344 or more local communities as described in the carrier's service territory maps, tariffs, price
1345 lists, or rate schedules filed with and approved by the Public Service Commission.
1346 (3) "Local exchange service switched access line" means the transmission facility and
1347 local switching equipment used by a wireline common carrier to connect a customer location
to
1348 a carrier's local exchange switching network for providing two-way interactive voice, or
voice
1349 capable, services.
1350 (4) "Mobile telecommunications service" is as defined in Section 54-8b-2 .
1351 (5) "Public agency" means any county, city, town, special service district, or public
1352 authority located within the state which provides or has authority to provide fire fighting,
law
1353 enforcement, ambulance, medical, or other emergency services.
1354 (6) "Public safety agency" means a functional division of a public agency which
1355 provides fire fighting, law enforcement, medical, or other emergency services.
1356 (7) "Radio communications access line" means the radio equipment and assigned
1357 customer identification number used to connect a mobile or fixed radio customer in Utah to
a
1358 radio communication service provider's network for two-way interactive voice, or voice
1359 capable, services.
1360 (8) (a) "Radio communications service" means a public telecommunications service

1361 providing the capability of two-way interactive telecommunications between mobile and
fixed
1362 radio customers, and between mobile or fixed radio customers and the local exchange
service
1363 network customers of a wireline common carrier. [~~Radio communications service~~]
1364 (b) "Radio communications service" providers include corporations, persons or entities
1365 offering cellular telephone service, enhanced specialized mobile radio service, rural radio
1366 service, radio common carrier services, personal communications services, and any
equivalent
1367 wireless public telecommunications service, as defined in 47 CFR, parts 20, 21, 22, 24, and
90.
1368 (9) "Wireline common carrier" means a public telecommunications service provider
1369 that primarily uses metallic or nonmetallic cables and wires for connecting customers to its
1370 local exchange service networks.
1371 Section 15. Section **69-2-201** , which is renumbered from Section 69-2-3 is renumbered
1372 and amended to read:
1373

Part 2. 911 Service

1374 ~~[69-2-3]~~. 69-2-201. 911 service -- Establishment.
1375 (1) The governing authority of any public agency may establish a 911 emergency
1376 telephone service to provide service to any part or all of the territory lying within the
1377 geographical area of [~~such~~] the public agency and may join with the governing authority of
any
1378 other public agency to provide emergency telephone service to any part or all of the territory

1379 lying within their respective jurisdictions.
1380 (2) A county may provide 911 emergency telephone service within other public safety
1381 agency jurisdictions only upon agreement with the governing authority of such public safety
1382 agency.

1383 Section 16. Section **69-2-202** , which is renumbered from Section 69-2-4 is renumbered
1384 and amended to read:

1385 **[69-2-4]. 69-2-202. Administration.**

1386 The administration of the 911 emergency telephone system shall be provided by the
1387 governing authority of the public agency establishing 911 emergency telephone service

either

1388 directly or by the appointment of employees of the public agency as directed by the

governing

1389 authority, except that any 911 emergency telephone service established by a special service
1390 district shall be administered as set forth in Title 17D, Chapter 1, Special Service District

Act.

1391 Section 17. Section **69-2-301** , which is renumbered from Section 69-2-5 is renumbered

1392 and amended to read:

1393

Part 3. Funding

1394 **[69-2-5]. 69-2-301. Funding for 911 emergency telecommunications service.**

1395 (1) In providing funding of 911 emergency telecommunications service, any public
1396 agency establishing a 911 emergency telecommunications service may:

1397 (a) seek assistance from the federal or state government, to the extent constitutionally
1398 permissible, in the form of loans, advances, grants, subsidies, and otherwise, directly or
1399 indirectly;

1400 (b) seek funds appropriated by local governmental taxing authorities for the funding of
1401 public safety agencies; and

1402 (c) seek gifts, donations, or grants from individuals, corporations, or other private
1403 entities.

1404 (2) For purposes of providing funding of 911 emergency telecommunications service,
1405 special service districts may raise funds as provided in Section 17D-1-105 and may borrow
1406 money and incur indebtedness as provided in Section 17D-1-103 .

1407 (3) (a) Except as provided in Subsection (3)(b) and subject to the other provisions of
1408 this Subsection (3) a county, city, or town within which 911 emergency telecommunications
1409 service is provided may levy monthly an emergency services telecommunications charge on:

1410 (i) each local exchange service switched access line within the boundaries of the
1411 county, city, or town;

1412 (ii) each revenue producing radio communications access line with a billing address
1413 within the boundaries of the county, city, or town; and

1414 (iii) any other service, including voice over Internet protocol, provided to a user within
1415 the boundaries of the county, city, or town that allows the user to make calls to and receive
1416 calls from the public switched telecommunications network, including commercial mobile
1417 radio service networks.

1418 (b) Notwithstanding Subsection (3)(a), an access line provided for public coin
1419 telecommunications service is exempt from emergency telecommunications charges.

1420 (c) The amount of the charge levied under this section may not exceed:

1421 (i) 61 cents per month for each local exchange service switched access line;

1422 (ii) 61 cents per month for each radio communications access line; and

1423 (iii) 61 cents per month for each service under Subsection (3)(a)(iii).
1424 (d) (i) For purposes of this Subsection (3)(d) the following terms shall be defined as
1425 provided in Section 59-12-102 or 59-12-215 :
1426 (A) "mobile telecommunications service";
1427 (B) " place of primary use";
1428 (C) "service address"; and
1429 (D) "telecommunications service."
1430 (ii) An access line described in Subsection (3)(a) is considered to be within the
1431 boundaries of a county, city, or town if the telecommunications services provided over the
1432 access line are located within the county, city, or town:
1433 (A) for purposes of sales and use taxes under Title 59, Chapter 12, Sales and Use Tax
1434 Act; and
1435 (B) determined in accordance with Section 59-12-215 .
1436 (iii) The rate imposed on an access line under this section shall be determined in
1437 accordance with Subsection (3)(d)(iv) if the location of an access line described in
Subsection
1438 (3)(a) is determined under Subsection (3)(d)(ii) to be a county, city, or town other than
county,
1439 city, or town in which is located:
1440 (A) for a telecommunications service, the purchaser's service address; or
1441 (B) for mobile telecommunications service, the purchaser's place of primary use.
1442 (iv) The rate imposed on an access line under this section shall be the lower of:
1443 (A) the rate imposed by the county, city, or town in which the access line is located
1444 under Subsection (3)(d)(ii); or
1445 (B) the rate imposed by the county, city, or town in which it is located:
1446 (I) for telecommunications service, the purchaser's service address; or
1447 (II) for mobile telecommunications service, the purchaser's place of primary use.
1448 (e) (i) A county, city, or town shall notify the Public Service Commission of the intent
1449 to levy the charge under this Subsection (3) at least 30 days before the effective date of the
1450 charge being levied.
1451 (ii) For purposes of this Subsection (3)(e):
1452 (A) "Annexation" means an annexation to:
1453 (I) a city or town under Title 10, Chapter 2, Part 4, Annexation; or

1454 (II) a county under Title 17, Chapter 2, Annexation to County.
1455 (B) "Annexing area" means an area that is annexed into a county, city, or town.
1456 (iii) (A) Except as provided in Subsection (3)(e)(iii)(C) or (D), if on or after July 1,
1457 2003, a county, city, or town enacts or repeals a charge or changes the amount of the charge
1458 under this section, the enactment, repeal, or change shall take effect:
1459 (I) on the first day of a calendar quarter; and
1460 (II) after a 90-day period beginning on the date the State Tax Commission receives
1461 notice meeting the requirements of Subsection (3)(e)(iii)(B) from the county, city, or town.
1462 (B) The notice described in Subsection (3)(e)(iii)(A) shall state:
1463 (I) that the county, city, or town will enact or repeal a charge or change the amount of
1464 the charge under this section;
1465 (II) the statutory authority for the charge described in Subsection (3)(e)(iii)(B)(I);
1466 (III) the effective date of the charge described in Subsection (3)(e)(iii)(B)(I); and
1467 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
1468 described in Subsection (3)(e)(iii)(B)(I), the amount of the charge.

1469 (C) Notwithstanding Subsection (3)(e)(iii)(A), the enactment of a charge or a charge
1470 increase under this section shall take effect on the first day of the first billing period:
1471 (I) that begins after the effective date of the enactment of the charge or the charge
1472 increase; and
1473 (II) if the billing period for the charge begins before the effective date of the enactment
1474 of the charge or the charge increase imposed under this section.
1475 (D) Notwithstanding Subsection (3)(e)(iii)(A), the repeal of a charge or a charge
1476 decrease under this section shall take effect on the first day of the last billing period:
1477 (I) that began before the effective date of the repeal of the charge or the charge
1478 decrease; and
1479 (II) if the billing period for the charge begins before the effective date of the repeal of
1480 the charge or the charge decrease imposed under this section.
1481 (iv) (A) Except as provided in Subsection (3)(e)(iv)(C) or (D), if for an annexation that
1482 occurs on or after July 1, 2003, the annexation will result in the enactment, repeal, or a
change
1483 in the amount of a charge imposed under this section for an annexing area, the enactment,
1484 repeal, or change shall take effect:

1485 (I) on the first day of a calendar quarter; and
1486 (II) after a 90-day period beginning on the date the State Tax Commission receives
1487 notice meeting the requirements of Subsection (3)(e)(iv)(B) from the county, city, or town
that
1488 annexes the annexing area.
1489 (B) The notice described in Subsection (3)(e)(iv)(A) shall state:
1490 (I) that the annexation described in Subsection (3)(e)(iv)(A) will result in an
1491 enactment, repeal, or a change in the charge being imposed under this section for the
annexing
1492 area;
1493 (II) the statutory authority for the charge described in Subsection (3)(e)(iv)(B)(I);
1494 (III) the effective date of the charge described in Subsection (3)(e)(iv)(B)(I); and
1495 (IV) if the county, city, or town enacts the charge or changes the amount of the charge
1496 described in Subsection (3)(e)(iv)(B)(I), the amount of the charge.
1497 (C) Notwithstanding Subsection (3)(e)(iv)(A), the enactment of a charge or a charge
1498 increase under this section shall take effect on the first day of the first billing period:
1499 (I) that begins after the effective date of the enactment of the charge or the charge
1500 increase; and
1501 (II) if the billing period for the charge begins before the effective date of the enactment
1502 of the charge or the charge increase imposed under this section.
1503 (D) Notwithstanding Subsection (3)(e)(iv)(A), the repeal of a charge or a charge
1504 decrease under this section shall take effect on the first day of the last billing period:
1505 (I) that began before the effective date of the repeal of the charge or the charge
1506 decrease; and
1507 (II) if the billing period for the charge begins before the effective date of the repeal of
1508 the charge or the charge decrease imposed under this section.
1509 (f) Subject to Subsection (3)(g), an emergency services telecommunications charge
1510 levied under this section shall:
1511 (i) be billed and collected by the person that provides the:
1512 (A) local exchange service switched access line services; or
1513 (B) radio communications access line services; and
1514 (ii) except for costs retained under Subsection (3)(h), remitted to the State Tax

by

1516 (g) An emergency services telecommunications charge on a mobile
1517 telecommunications service may be levied, billed, and collected only to the extent permitted

1518 the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

1519 (h) The person that bills and collects the charges levied under Subsection (3)(f) may:

1520 (i) bill the charge imposed by this section in combination with the charge levied under
1521 Section [~~69-2-5.6~~] 69-2-303 as one line item charge; and

1522 (ii) retain an amount not to exceed 1.5% of the levy collected under this section as
1523 reimbursement for the cost of billing, collecting, and remitting the levy.

1524 (i) The State Tax Commission shall:

1525 (i) collect, enforce, and administer the charge imposed under this Subsection (3) using
1526 the same procedures used in the administration, collection, and enforcement of the state sales
1527 and use taxes under:

1528 (A) Title 59, Chapter 1, General Taxation Policies; and

1529 (B) Title 59, Chapter 12, Part 1, Tax Collection, except for:

1530 (I) Section 59-12-104 ;

1531 (II) Section 59-12-104.1 ;

1532 (III) Section 59-12-104.2 ;

1533 (IV) Section 59-12-107.1 ; and

1534 (V) Section 59-12-123 ;

1535 (ii) transmit monies collected under this Subsection (3):

1536 (A) monthly; and

1537 (B) by electronic funds transfer by the commission to the county, city, or town that
1538 imposes the charge; and

1539 (iii) charge the county, city, or town for the State Tax Commission's services under this
1540 Subsection (3) in an amount:

1541 (A) sufficient to reimburse the State Tax Commission for the cost to the State Tax
1542 Commission in rendering the services; and

1543 (B) that may not exceed an amount equal to 1.5% of the charges imposed under this
1544 Subsection (3).

1545 (4) (a) Any money received by a public agency for the provision of 911 emergency
1546 telecommunications service shall be deposited in a special emergency telecommunications

1547 service fund.

1548 (b) (i) Except as provided in Subsection (5), the money in the emergency
1549 telecommunications service fund shall be expended by the public agency to pay the costs of
1550 establishing, installing, maintaining, and operating a 911 emergency telecommunications
1551 system or integrating a 911 system into an established public safety dispatch center,

including

1552 contracting with the providers of local exchange service, radio communications service, and
1553 vendors of appropriate terminal equipment as necessary to implement the 911 emergency
1554 telecommunications service.

1555 (ii) Revenues derived for the funding of 911 emergency telecommunications service
1556 may only be used for that portion of costs related to the operation of the 911 emergency
1557 telecommunications system when such a system is integrated with any public safety dispatch
1558 system.

1559 (c) Any unexpended money in the emergency telecommunications service fund at the
1560 end of a fiscal year does not lapse, and must be carried forward to be used for the purposes

1561 described in this section.
1562 (5) (a) Revenue received by a local entity from an increase in the levy imposed under
1563 Subsection (3) after the 2004 Annual General Session, or from grants from the Utah 911
1564 Committee pursuant to Section 53-10-605 :
1565 (i) shall be deposited into the special emergency telecommunications service fund
1566 described in Subsection (4)(a); and
1567 (ii) shall only be used for that portion of the costs related to the development and
1568 operation of wireless and land-based enhanced 911 emergency telecommunications service
and
1569 the implementation of wireless E-911 Phase I and Phase II services as provided in
Subsection
1570 (5)(b).
1571 (b) The costs allowed under Subsection (5)(a)(ii) shall include the public service
1572 answering point's or local entity's costs for:
1573 (i) acquisition, upgrade, modification, maintenance, and operation of public service
1574 answering point equipment capable of receiving E-911 information;
1575 (ii) database development, operation, and maintenance; and
1576 (iii) personnel costs associated with establishing, installing, maintaining, and operating
1577 wireless E-911 Phase I and Phase II services, including training emergency service
personnel

1578 regarding receipt and use of E-911 wireless service information and educating consumers
1579 regarding the appropriate and responsible use of E-911 wireless service.
1580 (6) A local entity that increases the levy it imposes under Subsection (3)(c) after the
1581 2004 Annual General Session shall increase the levy to the maximum amount permitted by
1582 Subsection (3)(c).
1583 Section 18. Section **69-2-302** , which is renumbered from Section 69-2-5.5 is
1584 renumbered and amended to read:
1585 **[69-2-5.5]. 69-2-302. Emergency services telecommunications charge to fund**
1586 **the Poison Control Center.**
1587 (1) Subject to Subsection (7), there is imposed an emergency services
1588 telecommunications charge of 7 cents per month on each local exchange service switched
1589 access line and each revenue producing radio communications access line that is subject to
an
1590 emergency services telecommunications charge levied by a county, city, or town under
Section
1591 ~~[69-2-5]~~ 69-2-301.
1592 (2) The emergency services telecommunications charge imposed under this section
1593 shall be:
1594 (a) subject to Subsection (7), billed and collected by the person that provides:
1595 (i) local exchange service switched access line services; or
1596 (ii) radio communications access line services;
1597 (b) remitted to the State Tax Commission at the same time as the person remits to the
1598 State Tax Commission monies collected by the person under Title 59, Chapter 12, Sales and
1599 Use Tax Act; and
1600 (c) deposited into the General Fund as dedicated credits to pay for:
1601 (i) costs of establishing, installing, maintaining, and operating the University of Utah
1602 Poison Control Center; and
1603 (ii) expenses of the State Tax Commission to administer and enforce the collection of
1604 the emergency services telecommunications charges.

1605 (3) Funds for the University of Utah Poison Control Center program are nonlapsing.
1606 (4) Emergency services telecommunications charges remitted to the State Tax
1607 Commission pursuant to Subsection (2) shall be accompanied by the form prescribed by the
1608 State Tax Commission.

1609 (5) (a) The State Tax Commission shall administer, collect, and enforce the charge
1610 imposed under Subsection (1) according to the same procedures used in the administration,
1611 collection, and enforcement of the state sales and use tax under:

1612 (i) Title 59, Chapter 1, General Taxation Policies; and

1613 (ii) Title 59, Chapter 12, Part 1, Tax Collection, except for:

1614 (A) Section 59-12-104 ;

1615 (B) Section 59-12-104.1 ;

1616 (C) Section 59-12-104.2 ; and

1617 (D) Section 59-12-107.1 .

1618 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1619 State Tax Commission may make rules to administer, collect, and enforce the emergency
1620 services telecommunications charges imposed under this section.

1621 (6) A provider of local exchange service switched access line services or radio
1622 communications access line services who fails to comply with this section is subject to
1623 penalties and interest as provided in Sections 59-1-401 and 59-1-402 .

1624 (7) An emergency services telecommunications charge under this section on a mobile
1625 telecommunications service may be imposed, billed, and collected only to the extent

permitted

1626 by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.

1627 Section 19. Section **69-2-303** , which is renumbered from Section 69-2-5.6 is
1628 renumbered and amended to read:

1629 **[69-2-5.6]. 69-2-303. Emergency services telecommunications charge to fund**
1630 **statewide unified E-911 emergency service.**

1631 (1) Subject to Subsection [~~69-2-5~~] 69-2-301 (3)(g), there is imposed a statewide unified
1632 E-911 emergency service charge on each local exchange service switched access line and

each

1633 revenue producing radio communications access line that is subject to an emergency

services

1634 telecommunications charge levied by a county, city, or town under Section [~~69-2-5 or 69-2-~~

~~5.5~~]

1635 69-2-301 or 69-2-302 at:

1636 (a) 13 cents per month until June 30, 2007; and

1637 (b) 8 cents per month on and after July 1, 2007.

1638 (2) The emergency services telecommunications charge imposed under this section
1639 shall be:

1640 (a) subject to Subsection [~~69-2-5~~] 69-2-301 (3)(g);

1641 (b) billed and collected by the person that provides:

1642 (i) local exchange service switched access line services;

1643 (ii) radio communications access line services; or

1644 (iii) service described in Subsection [~~69-2-5~~] 69-2-301 (3)(a)(iii)[~~7~~];

1645 (c) except for costs retained under Subsection (3), remitted to the State Tax

1646 Commission at the same time as the person remits to the State Tax Commission monies
1647 collected by the person under Title 59, Chapter 12, Sales and Use Tax Act; and

1648 (d) deposited into the Statewide Unified E-911 Emergency Service Fund restricted

1649 account in the General Fund created by Section 53-10-603 .
1650 (3) The person that bills and collects the charges levied by this section pursuant to
1651 Subsections (2)(b) and (c) may:
1652 (a) bill the charge imposed by this section in combination with the charge levied under
1653 Section [~~69-2-5~~] 69-2-301 as one line item charge; and
1654 (b) retain an amount not to exceed 1.5% of the charges collected under this section as
1655 reimbursement for the cost of billing, collecting, and remitting the levy.
1656 (4) The State Tax Commission shall collect, enforce, and administer the charges
1657 imposed under Subsection (1) using the same procedures used in the administration,

collection,

1658 and enforcement of the emergency services telecommunications charge to fund the Poison
1659 Control Center under Section [~~69-2-5.5~~] 69-2-302 .

1660 (5) This section sunsets in accordance with Section 63I-1-269 .

1661 Section 20. Section **69-2-401** , which is renumbered from Section 69-2-6 is renumbered
1662 and amended to read:

1663

Part 4. Liability and Related Provisions

1664 **[~~69-2-6~~]. 69-2-401. Jurisdiction and employee immunity.**

1665 (1) In implementing a 911 emergency telephone service, the public agency and public
1666 safety agencies and their employees shall cooperate in establishing the service and in its
1667 day-to-day provision.

1668 (2) Any employee of any public safety agency which is a participant in a 911
1669 emergency telephone service may respond and take any action to any call whether within or
1670 without the authorized territorial jurisdiction of the public safety agency.

1671 (3) In response to emergency calls, employees of public safety agencies shall have the
1672 same immunity for any acts performed in the line of duty outside their authorized

jurisdictions

1673 as they enjoy within their authorized jurisdictions.

1674 (4) No cause of action is created by any incorrect dispatch or response by any system or
1675 any public safety agency or by reason of elapsed response time.

1676 Section 21. Section **69-2-402** , which is renumbered from Section 69-2-7 is renumbered
1677 and amended to read:

1678 **[~~69-2-7~~]. 69-2-402. Limitation of liabilities.**

1679 Except as provided in Section [~~69-2-8~~] 69-2-403 , nothing contained in this chapter
1680 imposes any [~~duties or liabilities~~] duty or liability beyond those otherwise specified by law
1681 upon any provider of local exchange service, radio communications service, or terminal
1682 equipment needed to implement 911 emergency telephone service.

1683 Section 22. Section **69-2-403** , which is renumbered from Section 69-2-8 is renumbered
1684 and amended to read:

1685 **[~~69-2-8~~]. 69-2-403. Liabilities of providers.**

1686 (1) A provider of local exchange service or radio communications service may by tariff
1687 or agreement with a customer provide for the customer's release of any claim, suit, or

demand

1688 against the provider based upon a disclosure or a nondisclosure of an unlisted or

nonpublished

1689 telephone number and address, and the related address, if a call for any 911 emergency
1690 telephone service is made from the customer's telephone.

1691 (2) A provider of local exchange service, radio communications service, or telephone

1692 terminal equipment needed to implement or enhance 911 emergency telephone service, and
1693 their employees and agents, are not liable for any damages in a civil action for injuries,
death,
1694 or loss to person or property incurred as a result of any act or omission of the provider,
1695 employee, or agent, in connection with developing, adopting, implementing, maintaining,
1696 enhancing, or operating a 911 emergency telephone service, except for damages or injury
1697 intentionally caused by or resulting from gross negligence of the provider or person.
1698 Section 23. Section **69-2-501** is enacted to read:
1699

Part 5. Enhanced 911 for Multi-Line Telephone Systems Act

1700 **69-2-501. Title.**

1701 *This part is known as the "Enhanced 911 for Multi-Line Telephone Systems Act."*

1702 Section 24. Section **69-2-502** is enacted to read:

1703 **69-2-502. Definitions.**

1704 *As used in this part:*

1705 *(1) "911 service provider" means an entity providing one or more of the following 911*
1706 *elements:*

1707 *(a) network;*

1708 *(b) customer premises equipment; or*

1709 *(c) database service.*

1710 *(2) "Alternative method of notification" means a mode of determining the location of*
1711 *an emergency caller and initiating emergency response other than through information*
1712 *regularly provided to the local exchange service.*

1713 *(3) "Alternative method to support E-911" means an alternative method of notification*
1714 *used by a multi-line telephone system operator to permit a 911 emergency response team*
1715 *reasonable opportunity to quickly locate a caller, other than the multi-line telephone system*
1716 *signaling needed to produce the automatic display of caller location information on the*
display
1717 *of the call-taker.*

1718 *(4) "Automatic location identification" means the automatic display, at the public*
1719 *safety answering point, of a caller's telephone number, the address or location of the*
telephone,

1720 *and supplementary emergency services information.*

1721 *(5) "Automatic number identification" means the telephone number associated with the*
1722 *access line from which a 911 call originates.*

1723 *(6) "Building unit identifier" means a room number or equivalent designation of a*
1724 *portion of a structure or building from which a 911 call originates.*

1725 *(7) "Call back number" means a number used by a public safety answering point to*
1726 *contact the location from which a 911 call was placed, which may or may not be the number*

of
1727 *the station used to originate the 911 call.*

1728 *(8) "Direct inward dialing" means the ability for a caller outside a multi-line telephone*
1729 *system to call an extension within the multi-line telephone system without having to pass*
1730 *through a switchboard operator or attendant.*

1731 *(9) "Emergency location identification number" means a valid North American*
1732 *Numbering Plan format telephone number, assigned to the multi-line telephone system*

1733 *operator by the appropriate authority, that is used to route a 911 call to a public safety*

the

1734 answering point and is used to retrieve the automatic location identification, which may be
1735 same number as the automatic number identification, but need not necessarily be a dialable
1736 number.
1737 (10) "Emergency response location" means a location to which a 911 emergency
1738 response team may be dispatched, sufficiently specific to provide reasonable opportunity for
1739 the emergency response team to quickly locate a caller anywhere within the location.
1740 (11) "Key telephone system" means a multi-line telephone system designed to provide
1741 shared access to several outside lines through buttons, or keys, typically offering identified
1742 access lines with direct line appearances or termination on a given station set.
1743 (12) "Local notification":
1744 (a) means a system capability whereby:
1745 (i) a 911 call from a multi-line telephone system extension is directed through the 911
1746 network to a public safety answering point and simultaneously to a switchboard operator,
1747 attendant, or designated personnel where assistance can be provided to the public safety
1748 answering point to locate the caller or to assist in directing response; and
1749 (ii) there is the capability for the attendant to identify the location of a telephone on
1750 which 911 has been dialed; and
1751 (b) requires a call back number that can be dialed from the public switched network
1752 and be answered by a switchboard operator, attendant, or other designated person.
1753 (13) "Master street address guide" means a database of street names and house number
1754 ranges within the associated communities defining emergency services zones and their
1755 associated emergency services numbers to enable proper routing of 911 calls.
1756 (14) "Multi-line telephone system":
1757 (a) means a shared telecommunications service consisting of a telephone system that is
1758 comprised of common control units, telephones, and control hardware and software;
1759 (b) includes a network or premises based system; and
1760 (c) includes a system owned or leased by a governmental agency, non-profit entity, or a
1761 for-profit business.
1762 (15) "Multi-line telephone system operator" means the entity that owns or leases from a
1763 third party, and operates, a multi-line telephone system through which a person may place a

family

1764 911 call through the public switched network.
1765 (16) "Private 911 emergency answering point" means an answering point operated by a
1766 non-public safety entity with functional alternative and adequate means of signaling and
1767 directing responses to emergencies.
1768 (17) "Public safety answering point" means a public facility equipped to receive 911
1769 calls.
1770 (18) "Shared residential multi-line telephone system" means the use of a multi-line
1771 telephone system to provide service to residential facilities, including single- and multi-

rise

privately

1772 homes, extended care facilities, and dormitories.
1773 (19) "Shared telecommunications services" includes the provision of:
1774 (a) telecommunications and information management services and equipment within a
1775 user group located in discrete private premises in building complexes, campuses, or high-
1776 buildings, by a commercial shared services provider or by a user association, through
1777 owned customer premises equipment and associated data processing and information
1778 management services; and

1779 (b) connections to the facilities of a local exchange and to interexchange
1780 telecommunication companies.
1781 (20) "Station identification" means a telephone number dialable from the public
1782 switched network that provides sufficient information to permit a return call by the public
1783 safety answering point to the caller or telephone nearby the caller.
1784 (21) "Workspace":
1785 (a) means the physical building area where work is normally performed stated as a net
1786 square footage measurement;
1787 (b) includes hallways, conference rooms, restrooms, and break rooms; and
1788 (c) does not include wall thickness, shafts, heating, or ventilating, or air conditioning
1789 equipment spaces, mechanical or electronic spaces, or similar areas where employees do

not

1790 normally have access.
1791 Section 25. Section **69-2-503** is enacted to read:
1792 **69-2-503. Multi-line telephone system 911 requirements.**
1793 (1) The operator of a shared residential multi-line telephone system shall connect the
1794 shared residential multi-line telephone system to the public switched network in a manner

that

1795 results in calls to 911 generating one distinctive automatic number identification and
automatic
1796 location identification for each living unit, unless the facility maintains, at all times, an
1797 alternative method to support E-911.
1798 (2) The multi-line telephone system operator of a multi-line telephone system
1799 connected to the public switched network serving one or more business locations of one
1800 employer shall deliver a 911 call with an emergency location identification number that will
1801 result in:
1802 (a) an emergency response location providing at least the building and floor location of
1803 the caller;
1804 (b) the ability to direct response through an alternative and adequate means of signaling
1805 by the establishment of a private 911 emergency answering point; or
1806 (c) connection to a switchboard operator or attendant to a person capable of providing
1807 local notification.
1808 (3) Subsection (2) does not apply to the multi-line telephone system serving one or
1809 more business locations of one employer if:
1810 (a) the employer's workspace totals less than 700 square feet and is located on a single
1811 contiguous property;
1812 (b) the multi-line telephone system is a key telephone system; or
1813 (c) the multi-line telephone system:
1814 (i) consists of fewer than 49 stations; and
1815 (ii) occupies no more than 40,000 square feet and is located on a single contiguous
1816 property.
1817 (4) Providers of shared telecommunication services shall assure that the multi-line
1818 telephone system is connected to the public switched network such that calls to 911 from any
1819 telephone result in automatic location identification for each emergency response location
of
1820 each entity sharing the telecommunication services.
1821 (5) A multi-line telephone system operator of a multi-line telephone system located in
1822 a hotel or motel shall permit the dialing of 911 in a manner that results in either:
1823 (a) a 911 call originating from the hotel or motel providing the public safety answering

1824 point with the ability to clearly identify the address and building unit identifier of the 911
caller
1825 through the delivery of automatic number identification by the public safety answering point,

1826 for each telephone set within the facility; or
1827 (b) an automated means connecting the caller, public safety answering point, and
1828 switchboard operator or attendant to a person capable of supplementing or replacing the
1829 automatic location identification with local notification.
1830 (6) A private 911 emergency answering point shall provide a report of each 911
1831 incident to a public safety agency or public safety answering point, as directed by the Utah
911
1832 Committee, created in Section 53-10-601.
1833 Section 26. Section **69-2-504** is enacted to read:
1834 **69-2-504. Automatic location identification database maintenance.**
1835 (1) Upon installing or changing a multi-line telephone system, the multi-line telephone
1836 system operator shall update the automatic location identification database with a valid
master
1837 street address guide and call back information for each multi-line telephone system
telephone
1838 in a manner specifying the emergency response location of a 911 caller from the telephone.
1839 (2) An update required by Subsection (1) shall be made:
1840 (a) as soon as practicable for a new multi-line telephone system installation; or
1841 (b) within one business day after completion of the changes for a previously installed
1842 multi-line telephone system.
1843 (3) The information in the automatic location identification database is proprietary to a
1844 multi-line telephone system operator and may not be disclosed by another person or used for
1845 any purpose other than facilitating emergency response to a 911 call.
1846 Section 27. Section **69-2-505** is enacted to read:
1847 **69-2-505. Compliance with industry standards sufficient.**
1848 (1) Notwithstanding anything in this part, a multi-line telephone system operator
1849 complies with this part if the multi-line telephone system operator complies with generally
1850 accepted industry standards concerning E-911 services, as defined by the Utah 911
Committee.
1851 (2) A telecommunications entity providing interconnectivity to a multi-line telephone
1852 system shall use generally accepted industry standards for providing the interconnectivity.
1853 Section 28. Section **69-2-506** is enacted to read:
1854 **69-2-506. User dialing instructions.**
1855 (1) A multi-line telephone system operator shall make reasonable efforts to assure that
1856 system users are aware of the proper procedures for calling emergency assistance, including
the

1857 need to dial any prefix or other code before dialing 911.
1858 (2) Subsection (1) applies to a multi-line telephone system regardless of the application
1859 of any of this part's other provisions.
1860 Section 29. Section **69-2-507** is enacted to read:
1861 **69-2-507. Signaling protocol.**
1862 A multi-line telephone system shall support E-911 calling by using any generally
1863 accepted industry standard signaling protocol that is designed to produce an automatic
display
1864 of caller information on the public safety answering point terminal, unless the multi-line

1865 telephone system operator is exempt or a waiver has been granted by the Utah 911
Committee.

1866 Section 30. Section **69-2-508** is enacted to read:
1867 **69-2-508. Utah 911 Committee.**
1868 The Utah 911 Committee shall:
1869 (1) consider developing a program to educate multi-line telephone system operators
1870 concerning 911 telephone systems;
1871 (2) coordinate adequate testing of each multi-line telephone system's interface to the
1872 relevant 911 system; and
1873 (3) set standards, by rule made in accordance with Title 63G, Chapter 3, Utah
1874 Administrative Rulemaking Act, for alternative methods of notification to emergencies.

1875 Section 31. Section **69-2-509** is enacted to read:
1876 **69-2-509. Liability.**
1877 A multi-line telephone system manufacturer, provider, or operator is not liable for any
1878 civil damage or penalty resulting from an act or omission, except willful or wanton
1879 misconduct, in connection with developing, adopting, operating, or implementing a plan or
1880 system required by this part.

1881 Section 32. Section **69-2-510** is enacted to read:
1882 **69-2-510. Training.**
1883 A multi-line telephone system operator providing alternative and adequate means of
1884 intercepting a 911 call shall train the person intercepting the call in accordance with any
1885 applicable local emergency telecommunications requirements.

1886 Section 33. Section **69-2-511** is enacted to read:
1887 **69-2-511. Exemptions.**

1888 (1) A multi-line telephone system operator in an area without E-911 service is exempt
1889 from this part until 18 months after the day on which E-911 service becomes available.
1890 (2) A multi-line telephone system with a single emergency response location and fewer
1891 than 49 telephone stations is exempt from this part.
1892 (3) A multi-line telephone system operator employing an alternative method of E-911
1893 support is exempt from this part.
1894 (4) This part does not apply to the following types of equipment until two years after
1895 the effective date of a federal communications commission ruling addressing implementation
1896 of E-911 support for the respective type of equipment:
1897 (a) a multi-line telephone system wireless telephone;
1898 (b) a multi-line telephone system IP-based telephone; and
1899 (c) an IP-based multi-line telephone system.
1900 (5) A multi-line telephone system using a combination of conventional stations and
1901 IP-based or wireless stations is exempt from this part only for calls made from the IP-based
or
1902 wireless station.

1903 Section 34. Section **69-2-512** is enacted to read:
1904 **69-2-512. Waivers.**
1905 (1) A multi-line telephone system operator that is not exempt from this part may apply
1906 to the Utah 911 Committee for a waiver of any requirements of this part, if complying with
the
1907 requirement would be unduly impractical.
1908 (2) The Utah 911 Committee may grant a waiver if it finds that the multi-line telephone
1909 system operator's compliance would be unduly impractical.
1910 (3) A local exchange carrier may not grant a waiver or enforce compliance with this

- 1911 part.
1912 (4) Nothing in this part relieves an employer of any obligation under federal and state
1913 workplace occupational safety and health statutes and rules.

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