

Senator Robert F. Montgomery proposes to substitute the following bill:

**SALES AND USE TAX EXEMPTION FOR HEARING AIDS
AND HEARING AID ACCESSORIES**

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Robert F. Montgomery

AN ACT RELATING TO THE SALES AND USE TAX ACT; PROVIDING DEFINITIONS;
EXEMPTING FROM STATE AND LOCAL SALES AND USE TAXES SALES OF HEARING
AIDS AND HEARING AID ACCESSORIES; MAKING TECHNICAL CHANGES; AND
PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

59-12-102, as last amended by Chapters 270, 291 and 318, Laws of Utah 1998

59-12-104, as last amended by Chapters 201, 210, 246, 291 and 318, Laws of Utah 1998

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

Section 1. Section **59-12-102** is amended to read:

59-12-102. Definitions.

As used in this chapter:

(1) (a) "Admission or user fees" includes season passes.

(b) "Admission or user fees" does not include annual membership dues to private organizations.

(2) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration Plan (IRP) and the International Fuel Tax Agreement (IFTA);

(b) in the case of aircraft, the holder of a Federal Aviation Administration (FAA) operating

26 certificate or air carrier's operating certificate; or

27 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock,
28 the holder of a certificate issued by the United States Interstate Commerce Commission.

29 (3) (a) For purposes of Subsection 59-12-104 (43), "coin-operated amusement device"
30 means:

31 (i) a coin-operated amusement, skill, or ride device;

32 (ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens; and

33 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
34 arcade machine, and a mechanical or electronic skill game or ride.

35 (b) For purposes of Subsection 59-12-104 (43), "coin-operated amusement device" does
36 not mean a coin-operated amusement device possessing a coinage mechanism that:

37 (i) accepts and registers multiple denominations of coins; and

38 (ii) allows the vendor to collect the sales and use tax at the time an amusement device is
39 activated and operated by a person inserting coins into the device.

40 (4) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
41 that does not constitute industrial use under Subsection [~~(10)~~] (12) or residential use under
42 Subsection [~~(18)~~] (20).

43 (5) (a) "Common carrier" means a person engaged in or transacting the business of
44 transporting passengers, freight, merchandise, or other property for hire within this state.

45 (b) (i) "Common carrier" does not include a person who, at the time the person is traveling
46 to or from that person's place of employment, transports a passenger to or from the passenger's
47 place of employment.

48 (ii) For purposes of Subsection (5)(b)(i), in accordance with Title 63, Chapter 46a, Utah
49 Administrative Rulemaking Act, the commission may make rules defining what constitutes a
50 person's place of employment.

51 (6) "Component part" includes:

52 (a) poultry, dairy, and other livestock feed, and their components;

53 (b) baling ties and twine used in the baling of hay and straw;

54 (c) fuel used for providing temperature control of orchards and commercial greenhouses
55 doing a majority of their business in wholesale sales, and for providing power for off-highway type
56 farm machinery; and

57 (d) feed, seeds, and seedlings.

58 (7) "Construction materials" means any tangible personal property that will be converted
59 into real property.

60 (8) (a) "Fundraising sales" means sales:

61 (i) (A) made by a public or private elementary or secondary school; or

62 (B) made by a public or private elementary or secondary school student, grades
63 kindergarten through 12;

64 (ii) that are for the purpose of raising funds for the school to purchase equipment,
65 materials, or provide transportation; and

66 (iii) that are part of an officially sanctioned school activity.

67 (b) For purposes of Subsection (8)(a)(iii), "officially sanctioned school activity" means a
68 school activity:

69 (i) that is conducted in accordance with a formal policy adopted by the school or school
70 district governing the authorization and supervision of fundraising activities;

71 (ii) that does not directly or indirectly compensate an individual teacher or other
72 educational personnel by direct payment, commissions, or payment in kind; and

73 (iii) the net or gross revenues from which are deposited in a dedicated account controlled
74 by the school or school district.

75 (9) (a) "Hearing aid" means:

76 (i) an instrument or device having an electronic component that is designed to:

77 (A) (I) improve impaired human hearing; or

78 (II) correct impaired human hearing; and

79 (B) (I) be worn in the human ear; or

80 (II) affixed behind the human ear;

81 (ii) an instrument or device that is surgically implanted into the cochlea; or

82 (iii) a telephone amplifying device.

83 (b) "Hearing aid" does not include:

84 (i) except as provided in Subsection (9)(a)(i)(B) or (9)(a)(ii), an instrument or device
85 having an electronic component that is designed to be worn on the body;

86 (ii) except as provided in Subsection (9)(a)(iii), an assistive listening device or system
87 designed to be used by one individual, including:

- 88 (A) a personal amplifying system;
- 89 (B) a personal FM system;
- 90 (C) a television listening system; or
- 91 (D) a device or system similar to a device or system described in Subsections (9)(b)(ii)(A)
- 92 through (C); or
- 93 (iii) an assistive listening device or system designed to be used by more than one
- 94 individual, including:
- 95 (A) a device or system installed in:
- 96 (I) an auditorium;
- 97 (II) a church;
- 98 (III) a conference room;
- 99 (IV) a synagogue; or
- 100 (V) a theater; or
- 101 (B) a device or system similar to a device or system described in Subsections
- 102 (9)(b)(iii)(A)(I) through (V).
- 103 (10) (a) "Hearing aid accessory" means a hearing aid:
- 104 (i) component;
- 105 (ii) attachment; or
- 106 (iii) accessory.
- 107 (b) "Hearing aid accessory" includes:
- 108 (i) a hearing aid neck loop;
- 109 (ii) a hearing aid cord;
- 110 (iii) a hearing aid ear mold;
- 111 (iv) hearing aid tubing;
- 112 (v) a hearing aid ear hook; or
- 113 (vi) a hearing aid remote control.
- 114 (c) "Hearing aid accessory" does not include:
- 115 (i) a component, attachment, or accessory designed to be used only with an:
- 116 (A) instrument or device described in Subsection (9)(b)(i); or
- 117 (B) assistive listening device or system described in Subsection (9)(b)(ii) or (iii); or
- 118 (ii) a hearing aid battery.

119 [~~9~~] (11) (a) "Home medical equipment and supplies" means equipment and supplies that:

120 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment
121 of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or
122 injury;

123 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
124 purpose; and

125 (iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or
126 under the state plan for medical assistance under Title 19 of the federal Social Security Act.

127 (b) "Home medical equipment and supplies" does not include:

128 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as
129 defined in Subsection [~~9~~] (11)(c), doctor, nurse, or other health care provider for use in their
130 professional practice;

131 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or

132 (iii) hearing aids or hearing aid accessories.

133 (c) For purposes of Subsection [~~9~~] (11)(b)(i), "health care facility" includes:

134 (i) a clinic;

135 (ii) a doctor's office; and

136 (iii) a health care facility as defined in Section 26-21-2.

137 [~~10~~] (12) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
138 other fuels in:

139 (a) mining or extraction of minerals;

140 (b) agricultural operations to produce an agricultural product up to the time of harvest or
141 placing the agricultural product into a storage facility, including:

142 (i) commercial greenhouses;

143 (ii) irrigation pumps;

144 (iii) farm machinery;

145 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
146 registered under Title 41, Chapter 1a, Part 2, Registration; and

147 (v) other farming activities; and

148 (c) manufacturing tangible personal property at an establishment described in SIC Codes
149 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office

150 of the President, Office of Management and Budget.

151 ~~[(11)]~~ (13) "Manufactured home" means any manufactured home or mobile home as
152 defined in Title 58, Chapter 56, Utah Uniform Building Standards Act.

153 ~~[(12)]~~ (14) For purposes of Subsection 59-12-104 (14), "manufacturing facility" means:

154 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial
155 Classification Manual of the federal Executive Office of the President, Office of Management and
156 Budget; or

157 (b) a scrap recycler if:

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

160 (A) iron;

161 (B) steel;

162 (C) nonferrous metal;

163 (D) paper;

164 (E) glass;

165 (F) plastic;

166 (G) textile; or

167 (H) rubber; and

168 (ii) the new products under Subsection ~~[(12)]~~ (14)(b)(i) would otherwise be made with
169 nonrecycled materials.

170 ~~[(13)]~~ (15) (a) "Medicine" means:

171 (i) insulin, syringes, and any medicine prescribed for the treatment of human ailments by
172 a person authorized to prescribe treatments and dispensed on prescription filled by a registered
173 pharmacist, or supplied to patients by a physician, surgeon, or podiatric physician;

174 (ii) any medicine dispensed to patients in a county or other licensed hospital if prescribed
175 for that patient and dispensed by a registered pharmacist or administered under the direction of a
176 physician; and

177 (iii) any oxygen or stoma supplies prescribed by a physician or administered under the
178 direction of a physician or paramedic.

179 (b) "Medicine" does not include:

180 (i) any auditory, prosthetic, ophthalmic, or ocular device or appliance; or

181 (ii) any alcoholic beverage.

182 [~~14~~] (16) "Olympic merchandise" means tangible personal property bearing an Olympic
183 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other
184 copyrighted or protected material, including:

185 (a) one or more of the following terms:

186 (i) "Olympic;"

187 (ii) "Olympiad;" or

188 (iii) "Citius Altius Fortius;"

189 (b) the symbol of the International Olympic Committee, consisting of five interlocking
190 rings;

191 (c) the emblem of the International Olympic Committee Corporation;

192 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service
193 mark, symbol, terminology, trademark, or other copyrighted or protected material;

194 (e) any emblem of the Winter Olympic Games of 2002 that is officially designated by the
195 Salt Lake Organizing Committee of the Winter Olympic Games of 2002; or

196 (f) the mascot of the Winter Olympic Games of 2002.

197 [~~15~~] (17) (a) "Other fuels" means products that burn independently to produce heat or
198 energy.

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

201 [~~16~~] (18) "Person" includes any individual, firm, partnership, joint venture, association,
202 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
203 municipality, district, or other local governmental entity of the state, or any group or combination
204 acting as a unit.

205 [~~17~~] (19) "Purchase price" means the amount paid or charged for tangible personal
206 property or any other taxable item or service under Subsection 59-12-103(1), excluding only cash
207 discounts taken or any excise tax imposed on the purchase price by the federal government.

208 [~~18~~] (20) "Residential use" means the use in or around a home, apartment building,
209 sleeping quarters, and similar facilities or accommodations.

210 [~~19~~] (21) (a) "Retail sale" means any sale within the state of tangible personal property
211 or any other taxable item or service under Subsection 59-12-103(1), other than resale of such

212 property, item, or service by a retailer or wholesaler to a user or consumer.

213 (b) "Retail sale" includes sales by any farmer or other agricultural producer of poultry,
214 eggs, or dairy products to consumers if the sales have an average monthly sales value of \$125 or
215 more.

216 (c) "Retail sale" does not include, and no additional sales or use tax shall be assessed
217 against, those transactions where a purchaser of tangible personal property pays applicable sales
218 or use taxes on its initial nonexempt purchases of property and then enters into a sale-leaseback
219 transaction by which title to such property is transferred by the purchaser-lessee to a lessor for
220 consideration, provided:

221 (i) the transaction is intended as a form of financing for the property to the
222 purchaser-lessee; and

223 (ii) pursuant to generally accepted accounting principles, the purchaser-lessee is required
224 to capitalize the subject property for financial reporting purposes, and account for the lease
225 payments as payments made under a financing arrangement.

226 ~~[(20)]~~ (22) (a) "Retailer" means any person engaged in a regularly organized retail business
227 in tangible personal property or any other taxable item or service under Subsection 59-12-103(1),
228 and who is selling to the user or consumer and not for resale.

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

231 (c) "Retailer" includes any person who engages in regular or systematic solicitation of a
232 consumer market in this state by the distribution of catalogs, periodicals, advertising flyers, or
233 other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone,
234 computer data base, cable, optic, microwave, or other communication system.

235 (d) "Retailer" does not include farmers, gardeners, stockmen, poultrymen, or other growers
236 or agricultural producers producing and doing business on their own premises, except those who
237 are regularly engaged in the business of buying or selling for a profit.

238 (e) For purposes of this chapter the commission may regard as retailers the following if
239 they determine it is necessary for the efficient administration of this chapter: salesmen,
240 representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or
241 employers under whom they operate or from whom they obtain the tangible personal property sold
242 by them, irrespective of whether they are making sales on their own behalf or on behalf of these

243 dealers, distributors, supervisors, or employers, except that:

244 (i) a printer's facility with which a retailer has contracted for printing shall not be
245 considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and

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

252 [~~21~~] (23) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise,
253 in any manner, of tangible personal property or any other taxable item or service under Subsection
254 59-12-103(1), for a consideration. It includes:

255 (a) installment and credit sales;

256 (b) any closed transaction constituting a sale;

257 (c) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;

258 (d) any transaction if the possession of property is transferred but the seller retains the title
259 as security for the payment of the price; and

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

263 [~~22~~] (24) (a) "Sales relating to schools" means sales by a public school district or public
264 or private elementary or secondary school, grades kindergarten through 12, that are directly related
265 to the school's or school district's educational functions or activities and include:

266 (i) the sale of textbooks, textbook fees, laboratory fees, laboratory supplies, and safety
267 equipment;

268 (ii) the sale of clothing that:

269 (A) a student is specifically required to wear as a condition of participation in a
270 school-related event or activity; and

271 (B) is not readily adaptable to general or continued usage to the extent that it takes the
272 place of ordinary clothing;

273 (iii) sales of food if the net or gross revenues generated by the food sales are deposited into

274 a school district fund or school fund dedicated to school meals; and

275 (iv) transportation charges for official school activities.

276 (b) "Sales relating to schools" does not include:

277 (i) gate receipts;

278 (ii) special event admission fees;

279 (iii) bookstore sales of items that are not educational materials or supplies; and

280 (iv) except as provided in Subsection [~~(22)~~] (24)(a)(ii), clothing.

281 [~~(23)~~] (25) "State" means the state of Utah, its departments, and agencies.

282 [~~(24)~~] (26) "Storage" means any keeping or retention of tangible personal property or any

283 other taxable item or service under Subsection 59-12-103(1), in this state for any purpose except

284 sale in the regular course of business.

285 [~~(25)~~] (27) (a) "Tangible personal property" means:

286 (i) all goods, wares, merchandise, produce, and commodities;

287 (ii) all tangible or corporeal things and substances which are dealt in or capable of being

288 possessed or exchanged;

289 (iii) water in bottles, tanks, or other containers; and

290 (iv) all other physically existing articles or things, including property severed from real

291 estate.

292 (b) "Tangible personal property" does not include:

293 (i) real estate or any interest or improvements in real estate;

294 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;

295 (iii) insurance certificates or policies;

296 (iv) personal or governmental licenses;

297 (v) water in pipes, conduits, ditches, or reservoirs;

298 (vi) currency and coinage constituting legal tender of the United States or of a foreign

299 nation; and

300 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not

301 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than

302 80%.

303 [~~(26)~~] (28) (a) "Use" means the exercise of any right or power over tangible personal

304 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property,

305 item, or service.

306 (b) "Use" does not include the sale, display, demonstration, or trial of that property in the
307 regular course of business and held for resale.

308 [~~(27)~~] (29) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as
309 defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any
310 vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle"
311 for purposes of Subsection 59-12-104 (36) only, also includes any locomotive, freight car, railroad
312 work equipment, or other railroad rolling stock.

313 [~~(28)~~] (30) "Vehicle dealer" means a person engaged in the business of buying, selling, or
314 exchanging vehicles as defined in Subsection [~~(27)~~] (29).

315 [~~(29)~~] (31) (a) "Vendor" means:

316 (i) any person receiving any payment or consideration upon a sale of tangible personal
317 property or any other taxable item or service under Subsection 59-12-103(1), or to whom such
318 payment or consideration is payable; and

319 (ii) any person who engages in regular or systematic solicitation of a consumer market in
320 this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, or by
321 means of print, radio or television media, by mail, telegraphy, telephone, computer data base,
322 cable, optic, microwave, or other communication system.

323 (b) "Vendor" does not mean a printer's facility described in Subsection [~~(20)~~] (22)(e).
324 Section 2. Section **59-12-104** is amended to read:

325 **59-12-104. Exemptions.**

326 The following sales and uses are exempt from the taxes imposed by this chapter:

327 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
328 under Title 59, Chapter 13, Motor and Special Fuel Tax Act;

329 (2) sales to the state, its institutions, and its political subdivisions; however, this exemption
330 does not apply to sales of construction materials except:

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

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

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

338 (3) sales of food, beverage, and dairy products from vending machines in which the
339 proceeds of each sale do not exceed \$1 if the vendor or operator of the vending machine reports
340 an amount equal to 150% of the cost of items as goods consumed;

341 (4) sales of food, beverage, dairy products, similar confections, and related services to
342 commercial airline carriers for in-flight consumption;

343 (5) sales of parts and equipment installed in aircraft operated by common carriers in
344 interstate or foreign commerce;

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

348 (7) sales of cleaning or washing of tangible personal property by a coin-operated laundry
349 or dry cleaning machine;

350 (8) (a) except as provided in Subsection (8)(b), sales made to or by religious or charitable
351 institutions in the conduct of their regular religious or charitable functions and activities, if the
352 requirements of Section 59-12-104.1 are fulfilled;

353 (b) the exemption provided for in Subsection (8)(a) does not apply to the following sales,
354 uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to or by an
355 organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue
356 Code:

357 (i) retail sales of Olympic merchandise;

358 (ii) admissions or user fees described in Subsection 59-12-103(1)(f);

359 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),
360 except for accommodations and services:

361 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
362 of 2002;

363 (B) exclusively used by:

364 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
365 Olympic Winter Games of 2002; or

366 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter

367 Games of 2002; and
368 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
369 does not receive reimbursement; or
370 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
371 rental of a vehicle:
372 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
373 of 2002;
374 (B) exclusively used by:
375 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
376 Olympic Winter Games of 2002; or
377 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
378 Games of 2002; and
379 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
380 does not receive reimbursement;
381 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of this
382 state which are made to bona fide nonresidents of this state and are not afterwards registered or
383 used in this state except as necessary to transport them to the borders of this state;
384 (10) sales of medicine;
385 (11) sales or use of property, materials, or services used in the construction of or
386 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
387 (12) sales of meals served by:
388 (a) churches, charitable institutions, and institutions of higher education, if the meals are
389 not available to the general public; and
390 (b) inpatient meals provided at medical or nursing facilities;
391 (13) isolated or occasional sales by persons not regularly engaged in business, except the
392 sale of vehicles or vessels required to be titled or registered under the laws of this state in which
393 case the tax is based upon:
394 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
395 or
396 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair
397 market value of the vehicle or vessel being sold as determined by the commission;

- 398 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:
- 399 (i) machinery and equipment:
- 400 (A) used in the manufacturing process;
- 401 (B) having an economic life of three or more years; and
- 402 (C) used:
- 403 (I) to manufacture an item sold as tangible personal property; and
- 404 (II) in new or expanding operations in a manufacturing facility in the state; and
- 405 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
- 406 (A) have an economic life of three or more years;
- 407 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 408 (C) are used to replace or adapt an existing machine to extend the normal estimated useful
- 409 life of the machine; and
- 410 (D) do not include repairs and maintenance;
- 411 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
- 412 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
- 413 Subsection (14)(a)(ii) is exempt;
- 414 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in
- 415 Subsection (14)(a)(ii) is exempt;
- 416 (iii) beginning July 1, 1998, through June 30, 1999, 100% of the sale or lease described in
- 417 Subsection (14)(a)(ii) is exempt; and
- 418 (iv) beginning on or after July 1, 1999, 80% of the sale or lease described in Subsection
- 419 (14)(a)(ii) is exempt;
- 420 (c) for purposes of this subsection, the commission shall by rule define the terms "new or
- 421 expanding operations" and "establishment"; and
- 422 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
- 423 commission shall:
- 424 (i) review the exemptions described in Subsection (14)(a) and make recommendations to
- 425 the Revenue and Taxation Interim Committee concerning whether the exemptions should be
- 426 continued, modified, or repealed; and
- 427 (ii) include in its report:
- 428 (A) the cost of the exemptions;

- 429 (B) the purpose and effectiveness of the exemptions; and
- 430 (C) the benefits of the exemptions to the state;
- 431 (15) sales of tooling, special tooling, support equipment, and special test equipment used
- 432 or consumed exclusively in the performance of any aerospace or electronics industry contract with
- 433 the United States government or any subcontract under that contract, but only if, under the terms
- 434 of that contract or subcontract, title to the tooling and equipment is vested in the United States
- 435 government as evidenced by a government identification tag placed on the tooling and equipment
- 436 or by listing on a government-approved property record if a tag is impractical;
- 437 (16) intrastate movements of:
- 438 (a) freight by common carriers; and
- 439 (b) passengers:
- 440 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
- 441 Classification Manual of the federal Executive Office of the President, Office of Management and
- 442 Budget; or
- 443 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
- 444 Industrial Classification Manual of the federal Executive Office of the President, Office of
- 445 Management and Budget, if the transportation originates and terminates within a county of the
- 446 first, second, or third class;
- 447 (17) sales of newspapers or newspaper subscriptions;
- 448 (18) tangible personal property, other than money, traded in as full or part payment of the
- 449 purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by
- 450 a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:
- 451 (a) the bill of sale or other written evidence of value of the vehicle being sold and the
- 452 vehicle being traded in; or
- 453 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair
- 454 market value of the vehicle being sold and the vehicle being traded in, as determined by the
- 455 commission;
- 456 (19) sprays and insecticides used to control insects, diseases, and weeds for commercial
- 457 production of fruits, vegetables, feeds, seeds, and animal products, but not those sprays and
- 458 insecticides used in the processing of the products;
- 459 (20) (a) sales of tangible personal property used or consumed primarily and directly in

460 farming operations, including sales of irrigation equipment and supplies used for agricultural
461 production purposes, whether or not they become part of real estate and whether or not installed
462 by farmer, contractor, or subcontractor, but not sales of:

463 (i) machinery, equipment, materials, and supplies used in a manner that is incidental to
464 farming, such as hand tools with a unit purchase price not in excess of \$250, and maintenance and
465 janitorial equipment and supplies;

466 (ii) tangible personal property used in any activities other than farming, such as office
467 equipment and supplies, equipment and supplies used in sales or distribution of farm products, in
468 research, or in transportation; or

469 (iii) any vehicle required to be registered by the laws of this state, without regard to the use
470 to which the vehicle is put;

471 (b) sales of hay;

472 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or
473 other agricultural produce if sold by a producer during the harvest season;

474 (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp
475 Program, 7 U.S.C. Sec. 2011 et seq.;

476 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
477 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler,
478 or retailer for use in packaging tangible personal property to be sold by that manufacturer,
479 processor, wholesaler, or retailer;

480 (24) property stored in the state for resale;

481 (25) property brought into the state by a nonresident for his or her own personal use or
482 enjoyment while within the state, except property purchased for use in Utah by a nonresident living
483 and working in Utah at the time of purchase;

484 (26) property purchased for resale in this state, in the regular course of business, either in
485 its original form or as an ingredient or component part of a manufactured or compounded product;

486 (27) property upon which a sales or use tax was paid to some other state, or one of its
487 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
488 imposed by this part and Part 2, and no adjustment is allowed if the tax paid was greater than the
489 tax imposed by this part and Part 2;

490 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person

491 for use in compounding a service taxable under the subsections;

492 (29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14) under the
493 special supplemental nutrition program for women, infants, and children established in 42 U.S.C.
494 Sec. 1786;

495 (30) (a) sales or leases made before June 30, 1996, of rolls, rollers, refractory brick,
496 electric motors, and other replacement parts used in the furnaces, mills, and ovens of a steel mill
497 described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal
498 Executive Office of the President, Office of Management and Budget; or

499 (b) contracts entered into or orders placed on or before January 1, 1996, to purchase or
500 lease an item described in Subsection (30)(a) if the contract or order constitutes a:

501 (i) legal obligation to purchase or lease an item described in Subsection (30)(a); and

502 (ii) sale or lease under Section 59-12-102 on or before June 30, 1997;

503 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
504 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of this
505 state and are not thereafter registered or used in this state except as necessary to transport them to
506 the borders of this state;

507 (32) sales of tangible personal property to persons within this state that is subsequently
508 shipped outside the state and incorporated pursuant to contract into and becomes a part of real
509 property located outside of this state, except to the extent that the other state or political entity
510 imposes a sales, use, gross receipts, or other similar transaction excise tax on it against which the
511 other state or political entity allows a credit for taxes imposed by this chapter;

512 (33) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah where
513 a sales or use tax is not imposed, even if the title is passed in Utah;

514 (34) amounts paid for the purchase of telephone service for purposes of providing
515 telephone service;

516 (35) fares charged to persons transported directly by a public transit district created under
517 the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

518 (36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

519 (37) until July 1, 2000, 45% of the sales price of any new manufactured home and 100%
520 of the sales price of any used manufactured home;

521 (38) sales relating to schools and fundraising sales;

- 522 (39) sales or rentals of home medical equipment and supplies;
- 523 (40) (a) sales to a ski resort of electricity to operate a passenger tramway as defined in
- 524 Subsection 63-11-38(8); and
- 525 (b) the commission shall by rule determine the method for calculating sales exempt under
- 526 Subsection (40)(a) that are not separately metered and accounted for in utility billings;
- 527 (41) sales to a ski resort of:
- 528 (a) snowmaking equipment;
- 529 (b) ski slope grooming equipment; and
- 530 (c) passenger tramways as defined in Subsection 63-11-38(8);
- 531 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 532 (43) sales or rentals of the right to use or operate for amusement, entertainment, or
- 533 recreation a coin-operated amusement device as defined in Subsection 59-12-102(3);
- 534 (44) sales of cleaning or washing of tangible personal property by a coin-operated car wash
- 535 machine;
- 536 (45) sales by the state or a political subdivision of the state, except state institutions of
- 537 higher education as defined in Section 53B-3-102, of:
- 538 (a) photocopies; or
- 539 (b) other copies of records held or maintained by the state or a political subdivision of the
- 540 state; and
- 541 (46) (a) amounts paid:
- 542 (i) to a person providing intrastate transportation to an employer's employee to or from the
- 543 employee's primary place of employment;
- 544 (ii) by an:
- 545 (A) employee; or
- 546 (B) employer; and
- 547 (iii) pursuant to a written contract between:
- 548 (A) the employer; and
- 549 (B) (I) the employee; or
- 550 (II) a person providing transportation to the employer's employee; and
- 551 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 552 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an

553 employee's primary place of employment;

554 (47) amounts paid for admission to an athletic event at an institution of higher education
555 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
556 1681 et seq.; [~~and~~]

557 (48) sales of telephone service charged to a prepaid telephone calling card[~~;~~]; and

558 (49) (a) sales of hearing aids; and

559 (b) sales of hearing aid accessories.

560 Section 3. **Effective date.**

561 This act takes effect on July 1, 1999.