

**SALES AND USE TAX - SALES RELATING
TO SCHOOLS**

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Bradley T. Johnson

This act modifies the Sales and Use Tax Act to expand the exemption for sales relating to schools to include amounts paid or charged for admission to certain school-related events or school-related activities. This act defines terms and makes technical changes. This act takes effect on July 1, 2001.

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

AMENDS:

59-12-102 (Effective 07/01/01), as last amended by Chapter 253, Laws of Utah 2000

59-12-103 (Effective 07/01/01), as last amended by Chapters 147, 253 and 325, Laws of Utah 2000

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

Section 1. Section **59-12-102 (Effective 07/01/01)** is amended to read:

59-12-102 (Effective 07/01/01). 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) "Area agency on aging" is as defined in Section 62A-3-101.

(3) "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

28 certificate or air carrier's operating certificate; or

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

31 (4) (a) For purposes of Subsection 59-12-104(43), "coin-operated amusement device"
32 means:

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

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

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

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

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

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

42 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
43 that does not constitute industrial use under Subsection (13) or residential use under Subsection
44 (21).

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

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

50 (ii) For purposes of Subsection (6)(b)(i), in accordance with Title 63, Chapter 46a, Utah
51 Administrative Rulemaking Act, the commission may make rules defining what constitutes a
52 person's place of employment.

53 (7) "Component part" includes:

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

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

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

59 (d) feed, seeds, and seedlings.

60 (8) "Construction materials" means any tangible personal property that will be converted
61 into real property.

62 (9) (a) "Fundraising sales" means sales:

63 (i) (A) made by a [~~public or private elementary or secondary~~] school; or

64 (B) made by a [~~public or private elementary or secondary~~] school student[~~, grades~~
65 ~~kindergarten through 12~~];

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

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

69 (b) For purposes of Subsection (9)(a)(iii), "officially sanctioned school activity" means a
70 school activity:

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

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

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

77 (10) (a) "Hearing aid" means:

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

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

80 (II) correct impaired human hearing; and

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

82 (II) affixed behind the human ear;

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

84 (iii) a telephone amplifying device.

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

86 (i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device
87 having an electronic component that is designed to be worn on the body;

88 (ii) except as provided in Subsection (10)(a)(iii), an assistive listening device or system
89 designed to be used by one individual, including:

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

121 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:
122 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment
123 of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or
124 injury;
125 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
126 purpose; and
127 (iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or
128 under the state plan for medical assistance under Title 19 of the federal Social Security Act.
129 (b) "Home medical equipment and supplies" does not include:
130 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as
131 defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their
132 professional practice;
133 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
134 (iii) hearing aids or hearing aid accessories.
135 (c) For purposes of Subsection (12)(b)(i), "health care facility" includes:
136 (i) a clinic;
137 (ii) a doctor's office; and
138 (iii) a health care facility as defined in Section 26-21-2.
139 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
140 fuels in:
141 (a) mining or extraction of minerals;
142 (b) agricultural operations to produce an agricultural product up to the time of harvest or
143 placing the agricultural product into a storage facility, including:
144 (i) commercial greenhouses;
145 (ii) irrigation pumps;
146 (iii) farm machinery;
147 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
148 registered under Title 41, Chapter 1a, Part 2, Registration; and
149 (v) other farming activities; and
150 (c) manufacturing tangible personal property at an establishment described in SIC Codes
151 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office

152 of the President, Office of Management and Budget.

153 (14) "Manufactured home" means any manufactured home or mobile home as defined in
154 Title 58, Chapter 56, Utah Uniform Building Standards Act.

155 (15) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

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

159 (b) a scrap recycler if:

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

162 (A) iron;

163 (B) steel;

164 (C) nonferrous metal;

165 (D) paper;

166 (E) glass;

167 (F) plastic;

168 (G) textile; or

169 (H) rubber; and

170 (ii) the new products under Subsection (15)(b)(i) would otherwise be made with
171 nonrecycled materials.

172 (16) (a) "Medicine" means:

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

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

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

181 (b) "Medicine" does not include:

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

- 183 (ii) any alcoholic beverage.
- 184 (17) "Olympic merchandise" means tangible personal property bearing an Olympic
185 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other
186 copyrighted or protected material, including:
- 187 (a) one or more of the following terms:
- 188 (i) "Olympic";
- 189 (ii) "Olympiad"; or
- 190 (iii) "Citius Altius Fortius";
- 191 (b) the symbol of the International Olympic Committee, consisting of five interlocking
192 rings;
- 193 (c) the emblem of the International Olympic Committee Corporation;
- 194 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service
195 mark, symbol, terminology, trademark, or other copyrighted or protected material;
- 196 (e) any emblem of the Olympic Winter Games of 2002 that is officially designated by the
197 Salt Lake Organizing Committee of the Olympic Winter Games of 2002; or
- 198 (f) the mascot of the Olympic Winter Games of 2002.
- 199 (18) (a) "Other fuels" means products that burn independently to produce heat or energy.
- 200 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal
201 property.
- 202 (19) "Person" includes any individual, firm, partnership, joint venture, association,
203 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
204 municipality, district, or other local governmental entity of the state, or any group or combination
205 acting as a unit.
- 206 (20) "Purchase price" means the amount paid or charged for tangible personal property or
207 any other taxable transaction under Subsection 59-12-103(1), excluding only cash discounts taken
208 or any excise tax imposed on the purchase price by the federal government.
- 209 (21) "Residential use" means the use in or around a home, apartment building, sleeping
210 quarters, and similar facilities or accommodations.
- 211 (22) (a) "Retail sale" means any sale within the state of tangible personal property or any
212 other taxable transaction under Subsection 59-12-103(1), other than resale of such property, item,
213 or service by a retailer or wholesaler to a user or consumer.

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

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

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

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

227 (23) (a) "Retailer" means any person engaged in a regularly organized retail business in
228 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
229 who is selling to the user or consumer and not for resale.

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

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

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

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

243 (ii) the ownership of property that is located at the premises of a printer's facility with
244 which the retailer has contracted for printing and that consists of the final printed product, property

245 that becomes a part of the final printed product, or copy from which the printed product is
246 produced, shall not result in the retailer being deemed to have or maintain an office, distribution
247 house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock
248 of goods, within this state.

249 (24) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any
250 manner, of tangible personal property or any other taxable transaction under Subsection
251 59-12-103(1), for consideration. It includes:

252 (a) installment and credit sales;

253 (b) any closed transaction constituting a sale;

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

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

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

260 (25) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
261 amounts charged by a [public] school [~~district or public or private elementary or secondary school,~~
262 ~~grades kindergarten through 12,~~];

263 (i) sales that are directly related to the school's [~~or school district's~~] educational functions
264 or activities [~~and include~~] including:

265 [(i)] (A) the sale of:

266 (I) textbooks[;];

267 (II) textbook fees[;];

268 (III) laboratory fees[;];

269 (IV) laboratory supplies[~~, and~~]; or

270 (V) safety equipment;

271 [(ii)] (B) the sale of clothing that:

272 [(A)] (I) a student is specifically required to wear as a condition of participation in a
273 school-related event or school-related activity; and

274 [(B)] (II) is not readily adaptable to general or continued usage to the extent that it takes
275 the place of ordinary clothing;

276 ~~[(iii)]~~ (C) sales of food if the net or gross revenues generated by the food sales are
 277 deposited into a school district fund or school fund dedicated to school meals; ~~[and]~~ or
 278 ~~[(iv)]~~ (D) transportation charges for official school activities~~[-]; or~~
 279 (ii) amounts paid to or amounts charged by a school for admission to a school-related
 280 event or school-related activity.

281 (b) "Sales relating to schools" does not include:
 282 ~~[(i) gate receipts;]~~
 283 ~~[(ii) special event admission fees;]~~
 284 ~~[(iii)]~~ (i) bookstore sales of items that are not educational materials or supplies; ~~[and]~~
 285 ~~[(iv)]~~ (ii) except as provided in Subsection (25)(a)~~[(iii)]~~(i)(B), clothing~~[-]; or~~
 286 (iii) amounts paid to or amounts charged by a school for admission to a school-related
 287 event or school-related activity if the amounts paid or charged are passed through to a person:

288 (A) other than a:
 289 (I) school;
 290 (II) nonprofit organization authorized by a school board or a governing body of a private
 291 school to organize and direct a competitive secondary school activity; or
 292 (III) nonprofit association authorized by a school board or a governing body of a private
 293 school to organize and direct a competitive secondary school activity; and
 294 (B) that is required to collect sales and use taxes under this chapter.
 295 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 296 commission may make rules defining the term "passed through."

297 (26) For purposes of this section and Section 59-12-104, "school" means:
 298 (a) an elementary school or a secondary school that:
 299 (i) is a:
 300 (A) public school; or
 301 (B) private school; and
 302 (ii) provides instruction for one or more grades kindergarten through 12; or
 303 (b) a public school district.

304 ~~[(26)]~~ (27) "Senior citizen center" means a facility having the primary purpose of
 305 providing services to the aged as defined in Section 62A-3-101.

306 ~~[(27)]~~ (28) "State" means the state of Utah, its departments, and agencies.

307 [~~(28)~~] (29) "Storage" means any keeping or retention of tangible personal property or any
308 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale
309 in the regular course of business.

310 [~~(29)~~] (30) (a) "Tangible personal property" means:

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

312 (ii) all tangible or corporeal things and substances which are dealt in or capable of being
313 possessed or exchanged;

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

315 (iv) all other physically existing articles or things, including property severed from real
316 estate.

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

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

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

320 (iii) insurance certificates or policies;

321 (iv) personal or governmental licenses;

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

323 (vi) currency and coinage constituting legal tender of the United States or of a foreign
324 nation; and

325 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
326 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
327 80%.

328 [~~(30)~~] (31) (a) "Use" means the exercise of any right or power over tangible personal
329 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property,
330 item, or service.

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

333 [~~(31)~~] (32) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as
334 defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any
335 vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle"
336 for purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad
337 work equipment, or other railroad rolling stock.

338 [~~(32)~~] (33) "Vehicle dealer" means a person engaged in the business of buying, selling, or
339 exchanging vehicles as defined in Subsection [~~(31)~~] (32).

340 [~~(33)~~] (34) (a) "Vendor" means any person receiving any payment or consideration upon
341 a sale of tangible personal property or any other taxable transaction under Subsection
342 59-12-103(1), or to whom the payment or consideration is payable.

343 (b) "Vendor" does not mean a printer's facility described in Subsection (23)(d).

344 Section 2. Section 59-12-103 (Effective 07/01/01) is amended to read:

345 **59-12-103 (Effective 07/01/01). Sales and use tax base -- Rate -- Use of sales and use**
346 **tax revenues.**

347 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged
348 for the following transactions:

349 (a) retail sales of tangible personal property made within the state;

350 (b) amounts paid to common carriers or to telephone or telegraph corporations, whether
351 the corporations are municipally or privately owned, for:

352 (i) all transportation;

353 (ii) intrastate telephone service; or

354 (iii) telegraph service;

355 (c) sales of the following for commercial use:

356 (i) gas;

357 (ii) electricity;

358 (iii) heat;

359 (iv) coal;

360 (v) fuel oil; or

361 (vi) other fuels;

362 (d) sales of the following for residential use:

363 (i) gas;

364 (ii) electricity;

365 (iii) heat;

366 (iv) coal;

367 (v) fuel oil; or

368 (vi) other fuels;

369 (e) sales of meals;

370 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or user
371 fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions,
372 concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests,
373 sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts,
374 billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages,
375 skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water
376 slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any
377 other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

378 (g) amounts paid or charged for services:

379 (i) for repairs or renovations of tangible personal property; or

380 (ii) to install tangible personal property in connection with other tangible personal
381 property;

382 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning
383 or washing of tangible personal property;

384 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations
385 and services for less than 30 consecutive days;

386 (j) amounts paid or charged for laundry or dry cleaning services;

387 (k) amounts paid or charged for leases or rentals of tangible personal property if:

388 (i) the tangible personal property's situs is in this state;

389 (ii) the lessee took possession of the tangible personal property in this state; or

390 (iii) within this state the tangible personal property is:

391 (A) stored;

392 (B) used; or

393 (C) otherwise consumed;

394 (l) amounts paid or charged for tangible personal property if within this state the tangible
395 personal property is:

396 (i) stored;

397 (ii) used; or

398 (iii) consumed; and

399 (m) amounts paid or charged for prepaid telephone calling cards.

400 (2) (a) Except as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a state
401 tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

402 (i) a state tax imposed on the transaction at a rate of 4.75%; and

403 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
404 transaction under this chapter other than this part.

405 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a local
406 tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

407 (i) a state tax imposed on the transaction at a rate of 2%; and

408 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
409 transaction under this chapter other than this part.

410 (c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor
411 collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a
412 state tax and a local tax is imposed on the transaction equal to the sum of:

413 (i) a state tax imposed on the transaction at a rate of:

414 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

415 (B) 2% for a transaction described in Subsection (1)(d); and

416 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate
417 equal to the sum of the following tax rates:

418 (A) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but
419 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204;

420 (B) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but
421 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-205;

422 and

423 (C) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
424 state impose the tax under Section 59-12-1102.

425 (d) Tax rates authorized under the following do not apply to Subsection (2)(c)(ii):

426 (i) Subsection (2)(a)(i);

427 (ii) Subsection (2)(b)(i);

428 (iii) Subsection (2)(c)(i);

429 (iv) Section 59-12-301;

430 (v) Section 59-12-352;

- 431 (vi) Section 59-12-353;
432 (vii) Section 59-12-401;
433 (viii) Section 59-12-402;
434 (ix) Section 59-12-501;
435 (x) Section 59-12-502;
436 (xi) Section 59-12-603;
437 (xii) Section 59-12-703;
438 (xiii) Section 59-12-802;
439 (xiv) Section 59-12-804;
440 (xv) Section 59-12-1001;
441 (xvi) Section 59-12-1201; or
442 (xvii) Section 59-12-1302.

443 (3) (a) Except as provided in Subsections (4) through (9), the state taxes described in
444 Subsections (2)(a)(i), (2)(b)(i), and (2)(c)(i) shall be deposited into the General Fund.

445 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed to
446 a county, city, or town as provided in this chapter.

447 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the state
448 shall receive the county's, city's, or town's proportionate share of the revenues generated by the
449 local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).

450 (ii) The commission shall determine a county's, city's, or town's proportionate share of the
451 revenues under Subsection (3)(c)(i) by:

452 (A) dividing the population of the county, city, or town by the total population of the state;
453 and

454 (B) multiplying the percentage determined under Subsection (3)(c)(ii)(A) by the total
455 amount of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties, cities,
456 and towns.

457 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for purposes
458 of this section shall be derived from the most recent official census or census estimate of the
459 United States Census Bureau.

460 (B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not
461 available from the United States Census Bureau, population figures shall be derived from the

462 estimate from the Utah Population Estimates Committee created by executive order of the
463 governor.

464 (C) For purposes of this section, the population of a county may only include the
465 population of the unincorporated areas of the county.

466 (4) (a) Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics special
467 revenue fund or funds as determined by the Division of Finance under Section 51-5-4, for the use
468 of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports Authority Act:

469 (i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax
470 generated by a 1/64% tax rate on the taxable transactions under Subsection (1);

471 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a
472 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under
473 Subsection (1); and

474 (iii) interest earned on the amounts under Subsections (4)(a)(i) and (ii).

475 (b) These funds shall be used:

476 (i) by the Utah Sports Authority as follows:

477 (A) to the extent funds are available, to transfer directly to a debt service fund or to
478 otherwise reimburse to the state any amount expended on debt service or any other cost of any
479 bonds issued by the state to construct any public sports facility as defined in Section 63A-7-103;

480 (B) to pay for the actual and necessary operating, administrative, legal, and other expenses
481 of the Utah Sports Authority, but not including protocol expenses for seeking and obtaining the
482 right to host the Winter Olympic Games;

483 (C) as otherwise appropriated by the Legislature; and

484 (D) unless the Legislature appropriates additional funds from the Olympics Special
485 Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan, or
486 pledge in the aggregate more than:

487 (I) \$59,000,000 of sales and use tax deposited into the Olympics Special Revenue Fund
488 under Subsection (4)(a);

489 (II) the interest earned on the amount described in Subsection (4)(b)(i)(D)(I); and

490 (III) the revenues deposited into the Olympics Special Revenue Fund that are not sales and
491 use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes;

492 (ii) to pay salary, benefits, or administrative costs associated with the State Olympic

493 Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative costs
494 may not be paid from the sales and use tax revenues generated by municipalities or counties and
495 deposited under Subsection (4)(a)(ii).

496 (c) A payment of salary, benefits, or administrative costs under Subsection 63A-10-103(3)
497 is not considered an expenditure of the Utah Sports Authority.

498 (d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(D), the
499 authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge the
500 appropriated funds unless the authority:

501 (i) contracts in writing for the full reimbursement of the monies to the Olympics Special
502 Revenue Fund by a public sports entity or other person benefitting from the expenditure; and

503 (ii) obtains a security interest that secures payment or performance of the obligation to
504 reimburse.

505 (e) A contract or agreement entered into in violation of Subsection (4)(d) is void.

506 (5) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2001, the amount of sales
507 and use tax generated annually by a 1/16% tax rate on the taxable transactions under Subsection
508 (1) shall be used as provided in Subsections (5)(b) through (g).

509 (b) (i) Beginning on July 1, 2001, \$2,300,000 each year shall be transferred as dedicated
510 credits to the Department of Natural Resources to:

511 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect
512 sensitive plant and animal species; or

513 (B) award grants, up to the amount authorized by the Legislature in an appropriations act,
514 to political subdivisions of the state to implement the measures described in Subsections
515 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

516 (ii) Money transferred to the Department of Natural Resources under Subsection (5)(b)(i)
517 may not be used to assist the United States Fish and Wildlife Service or any other person to list or
518 attempt to have listed a species as threatened or endangered under the Endangered Species Act of
519 1973, 16 U.S.C. Sec. 1531 et seq.

520 (iii) At the end of each fiscal year:

521 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
522 Conservation and Development Fund created in Section 73-10-24;

523 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

524 Program subaccount created in Section 73-10c-5; and

525 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

526 Program subaccount created in Section 73-10c-5.

527 (c) Five hundred thousand dollars each year shall be deposited in the Agriculture Resource
528 Development Fund created in Section 4-18-6.

529 (d) (i) One hundred thousand dollars each year shall be transferred as dedicated credits to
530 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the
531 adjudication of water rights.

532 (ii) At the end of each fiscal year:

533 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
534 Conservation and Development Fund created in Section 73-10-24;

535 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
536 Program subaccount created in Section 73-10c-5; and

537 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
538 Program subaccount created in Section 73-10c-5.

539 (e) Fifty percent of the remaining amount generated by the 1/16% tax rate shall be
540 deposited in the Water Resources Conservation and Development Fund created in Section
541 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund
542 under Section 73-10-24, the fund may also be used to:

543 (i) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the
544 funds made available to the Division of Water Resources under this section, of potential project
545 features of the Central Utah Project;

546 (ii) conduct hydrologic and geotechnical investigations by the Department of Natural
547 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
548 quantifying surface and ground water resources and describing the hydrologic systems of an area
549 in sufficient detail so as to enable local and state resource managers to plan for and accommodate
550 growth in water use without jeopardizing the resource;

551 (iii) fund state required dam safety improvements; and

552 (iv) protect the state's interest in interstate water compact allocations, including the hiring
553 of technical and legal staff.

554 (f) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be

555 deposited in the Utah Wastewater Loan Program subaccount created in Section 73-10c-5 for use
556 by the Water Quality Board to fund wastewater projects as defined in Section 73-10b-2.

557 (g) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be
558 deposited in the Drinking Water Loan Program subaccount created in Section 73-10c-5 for use by
559 the Division of Drinking Water to:

560 (i) provide for the installation and repair of collection, treatment, storage, and distribution
561 facilities for any public water system, as defined in Section 19-4-102;

562 (ii) develop underground sources of water, including springs and wells; and

563 (iii) develop surface water sources.

564 (6) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2001, the amount of sales
565 and use tax generated annually by a 1/16% tax rate on the taxable transactions under Subsection
566 (1) shall be used as provided in Subsections (6)(b) through (d).

567 (b) (i) Five hundred thousand dollars each year shall be deposited in the Transportation
568 Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

569 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation
570 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made by
571 the Department of Transportation at the request of local governments.

572 (c) From July 1, 1997, through June 30, 2006, \$500,000 each year shall be transferred as
573 nonlapsing dedicated credits to the Department of Transportation for the State Park Access
574 Highways Improvement Program created in Section 72-3-207.

575 (d) The remaining amount generated by the 1/16% tax rate shall be deposited in the class
576 B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation
577 Finances Act, for the use of class B and C roads.

578 (7) (a) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of
579 Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion of
580 the state sales and use tax under Subsection (2) equal to the revenues generated by a 1/64% tax rate
581 on the taxable transactions under Subsection (1).

582 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,
583 1999, the revenues generated by the 1/64% tax rate:

584 (i) retained under Subsection 59-12-204(7)(a) shall be retained by the counties, cities, or
585 towns as provided in Section 59-12-204; and

586 (ii) retained under Subsection 59-12-205(4)(a) shall be distributed to each county, city, and
587 town as provided in Section 59-12-205.

588 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission shall
589 deposit into the Airport to University of Utah Light Rail Restricted Account created in Section
590 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

591 (a) generated by a city or town that will have constructed within its boundaries the Airport
592 to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century,
593 Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

594 (b) equal to the revenues generated by a 1/64% tax rate on the taxable items and services
595 under Subsection (1).

596 (9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year
597 2002-03, the commission shall on or before September 30 of each year deposit the difference
598 described in Subsection (9)(b) into the Remote Sales Restricted Account created in Section
599 59-12-103.2 if that difference is greater than \$0.

600 (b) The difference described in Subsection (9)(a) is equal to the difference between:

601 (i) the total amount of revenues the commission received from vendors collecting a tax
602 under Subsection 59-12-107(1)(b) for the previous fiscal year; and

603 (ii) the total amount of revenues the commission received from vendors collecting a tax
604 under Subsection 59-12-107(1)(b) for fiscal year 2000-01.

605 (10) (a) For purposes of amounts paid or charged as admission or user fees relating to the
606 Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the day on
607 which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a person
608 designated by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 sends
609 a purchaser confirmation of the purchase of an admission or user fee described in Subsection
610 (1)(f).

611 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
612 commission shall make rules defining what constitutes sending a purchaser confirmation under
613 Subsection (10)(a).

614 Section 3. **Effective date.**

615 This act takes effect on July 1, 2001.

Legislative Review Note
as of 12-28-00 8:31 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel