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**REVIEW OF SALES AND USE TAX****EXEMPTIONS**

2001 GENERAL SESSION

STATE OF UTAH

**Sponsor: Greg J. Curtis**

Judy Ann Buffmire

**This act modifies the Sales and Use Tax Act by amending the Utah Tax Review****Commission's study of sales and use tax exemptions. This act repeals obsolete language and makes technical changes.**

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

AMENDS:

**59-12-104.5**, as last amended by Chapters 126, 272, 288, 289, 290, 341 and 342, Laws of Utah 1996*Be it enacted by the Legislature of the state of Utah:*Section 1. Section **59-12-104.5** is amended to read:**59-12-104.5. Review of sales tax exemptions.**

(1) ~~[The] Beginning with the 2001 interim, the Utah~~ Tax Review Commission, in cooperation with the governor's office and the ~~[State Tax Commission]~~ tax commission, shall conduct a review of the ~~[following]~~ sales and use tax exemptions ~~[and related issues created in Section 59-12-104 within the following period of time:]~~ created by Section 59-12-104 as provided in this section.

~~[(a) Subsections 59-12-104(4), (7), (8), (12), (15), (17), (24), (31), (37), (40) and (43) before October 1, 1993, and every eight years thereafter;]~~

~~[(b) Subsections 59-12-104(5), (6), (16), (18), (20), (21), (22), (34), and (35) before October 1, 1994, and every eight years thereafter;]~~

~~[(c) except as provided in Subsections (1)(e) and (f), Subsections 59-12-104(1), (2), (9), (13), (23), (29), (30), (39), (44), and (45) before October 1, 1995, and every eight years thereafter;]~~

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28 ~~[(d) Subsections 59-12-104(10), (11), (14), (19), (25), (26), (27), (28), (32), and (33)~~  
 29 ~~before October 1, 1996, and every eight years thereafter;]~~

30 (2) The Utah Tax Review Commission shall:

31 (a) review each of the sales and use tax exemptions created by Section 59-12-104 one or  
 32 more times every eight years; and

33 (b) subject to Subsection (2)(a) and except as provided in Subsection (3), for each year  
 34 select the exemptions that the Utah Tax Review Commission will review for that year.

35 ~~[(e)]~~ (3) [notwithstanding Subsection (1)(c);] Notwithstanding Subsection (2):

36 (a) the Utah Tax Review Commission shall review Subsection 59-12-104[(30)](29) before  
 37 October 1 of the year after the year in which Congress permits a state to participate in the special  
 38 supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are  
 39 collected within the state on purchases of food under that program; and

40 ~~[(f) notwithstanding Subsection (1)(c);]~~ (b) the Utah Tax Review Commission shall  
 41 review Subsection 59-12-104[(23)](22) before October 1 of the year after the year in which  
 42 Congress permits a state to participate in the food stamp program under the Food Stamp Act, 7  
 43 U.S.C. Sec. 2011 et seq., even if state or local sales taxes are collected within the state on  
 44 purchases of food under that program.

45 ~~[(2)(a)]~~ (4) The Utah Tax Review Commission [and the Revenue and Taxation Interim  
 46 Committee] shall for each sales and use tax exemption the Utah Tax Review Commission reviews  
 47 make [recommendations] a report to the governor and the [Legislature;] Revenue and Taxation  
 48 Interim Committee:

49 (a) on or before the [October] November interim meeting in the year [the study is required  
 50 to be completed under this section, concerning whether the exemption listed in Subsection (1)  
 51 should be continued, modified, or repealed:] in which the Utah Tax Review Commission reviews  
 52 the sales and use tax exemption;

53 (b) [In its report to the governor and the Revenue and Taxation Interim Committee, the  
 54 commission review shall include at least:] including:

55 (i) a review of the cost of the sales and use tax exemption;

56 (ii) a review of the following criteria for granting or extending incentives for businesses:

57 (A) whether the business [must be] is willing to make a substantial capital investment in  
 58 [Utah, signaling] the state indicating that it will be a long-term member of the community in which

59 the business is or will be located;

60 (B) whether the business ~~[must bring]~~ brings new dollars into the state, which generally  
 61 means the business must export goods or services outside of ~~[Utah]~~ the state, not just recirculate  
 62 existing dollars;

63 (C) subject to Subsection (5), whether the business ~~[must pay]~~ pays higher than average  
 64 wages in the area ~~[where it]~~ in which the business is or will be located, increasing ~~[Utah's]~~ the  
 65 state's overall household income ~~[(average wage calculations are not to include local, state, or~~  
 66 federal government or school district employees)];

67 (D) whether the same incentives offered ~~[the outside]~~ to a new business ~~[must be]~~ locating  
 68 in the state from another state are available to existing in-state businesses so as not to discriminate  
 69 against ~~[home-grown]~~ the in-state businesses; and

70 (E) whether the incentives ~~[must]~~ clearly produce a positive return on investment as  
 71 determined by state economic modeling formulas;

72 (iii) a determination of whether the sales and use tax exemption is consistent with the  
 73 Legislature's sales and use tax policy positions adopted in ~~[H.J.R. 32 of the]~~ 1990 General Session  
 74 H.J.R. 32;

75 (iv) a review of the purpose ~~[and effectiveness]~~ of the sales and use tax exemption; ~~[and]~~

76 (v) a review of the effectiveness of the sales and use tax exemption; and

77 ~~[(v)]~~ (vi) a review of the benefits of the sales and use tax exemption to the state[-];

78 (c) recommending whether the sales and use tax exemption should be:

79 (i) continued;

80 (ii) modified; or

81 (iii) repealed; and

82 (vi) a review of any other issue the Utah Tax Review Commission determines to study.

83 ~~[(3) Item 43, in H.B. 337, enacted during the 1993 General Session, is transferred from the~~  
 84 ~~Tax Commission to the Tax Review Commission to implement this section.]~~

85 (5) For purposes of Subsection (4)(b)(ii)(C), in determining whether a business pays higher  
 86 than average wages in the area in which the business is or will be located, the Utah Tax Review  
 87 Commission may not include wages of the following in making average wage calculations:

88 (a) wages of school district employees;

89 (b) wages of county, city, or town employees;

- 90            (c) wages of state employees; or
- 91            (d) wages of federal government employees.

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**Legislative Review Note**  
**as of 1-16-01 9:23 AM**

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

**Office of Legislative Research and General Counsel**