

Senator Curtis S. Bramble proposes to substitute the following bill:

**SALES AND USE TAX - EXEMPTION FOR
SEMICONDUCTOR FABRICATING OR
PROCESSING MATERIALS**

2001 GENERAL SESSION
STATE OF UTAH

Sponsor: Curtis S. Bramble

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7 **This act amends the Sales and Use Tax Act to provide for an exemption beginning on July**
8 **1, § [2002] 2001 § , through June 30, § [2007] 2004 § , for semiconductor fabricating or**
8a **processing materials. The**
9 **act provides that the exemption is phased in over § [a] the § three-year period. The act**
9a **requires**
10 **amounts of the exemption to be reported to the State Tax Commission, and requires the State**
11 **Tax Commission to provide to the Legislature upon request the amounts of the exemption**
12 **reported to the State Tax Commission. The act requires the Revenue and Taxation Interim**
13 **Committee to conduct an annual study of the exemption. The act defines terms and makes**
14 **technical changes. This act provides a July 1, 2001 effective date § [for the definitional section] § .**
15 This act affects sections of Utah Code Annotated 1953 as follows:

16 AMENDS:

17 **59-1-403**, as last amended by Chapters 190 and 229, Laws of Utah 2000

18 **59-12-102 (Effective 07/01/01)**, as last amended by Chapter 253, Laws of Utah 2000

19 **59-12-104**, as last amended by Chapter 325, Laws of Utah 2000

20 **59-12-105**, as last amended by Chapter 147, Laws of Utah 1999

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

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

23 **59-1-403. Confidentiality -- Penalty -- Application to property tax.**

24 (1) Any tax commissioner, agent, clerk, or other officer or employee of the commission
25 or any representative, agent, clerk, or other officer or employee of any county, city, or town may



26 not divulge or make known in any manner any information gained by him from any return filed
27 with the commission. The officials charged with the custody of such returns are not required to
28 produce any of them or evidence of anything contained in them in any action or proceeding in any
29 court, except:

30 (a) in accordance with judicial order;

31 (b) on behalf of the commission in any action or proceeding under this title or other law
32 under which persons are required to file returns with the commission;

33 (c) on behalf of the commission in any action or proceeding to which the commission is
34 a party; or

35 (d) on behalf of any party to any action or proceeding under this title when the report or
36 facts shown thereby are directly involved in such action or proceeding. In any event, the court may
37 require the production of, and may admit in evidence, any portion of reports or of the facts shown
38 by them, as are specifically pertinent to the action or proceeding.

39 (2) This section does not prohibit:

40 (a) a person or his duly authorized representative from receiving a copy of any return or
41 report filed in connection with that person's own tax;

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

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

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

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

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

50 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the commission
51 may, by rule, provide for a reciprocal exchange of information with the United States Internal
52 Revenue Service or the revenue service of any other state.

53 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and
54 corporate franchise tax, the commission may, by rule, share information gathered from returns and
55 other written statements with the federal government, any other state, any of their political
56 subdivisions, or any political subdivision of this state, except as limited by Sections 59-12-209 and

57 59-12-210, if these political subdivisions or the federal government grant substantially similar
58 privileges to this state.

59 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and
60 corporate franchise tax, the commission may, by rule, provide for the issuance of information
61 concerning the identity and other information of taxpayers who have failed to file tax returns or
62 to pay any tax due.

63 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and
64 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, any records,
65 returns, and other information filed with the commission under Title 59, Chapter 13, Motor and
66 Special Fuel Tax Act, or Section 19-6-410.5 regarding the environmental assurance program
67 participation fee, as requested by the executive secretary.

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

70 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
71 manufacturer and reported to the commission for the previous calendar year under Section
72 59-14-407; and

73 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
74 manufacturer for which a tax refund was granted during the previous calendar year under Section
75 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

76 (f) Notwithstanding Subsection (1), the commission may:

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

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

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

81 (ii) upon request provide to any person data reported to the commission under Subsections
82 59-14-212(1)(a) through (1)(c) and Subsection 59-14-212(1)(g).

83 (g) Notwithstanding Subsection (1), the commission shall at the request of the Legislature
84 provide to the Legislature the total amount of sales or uses exempt under Subsection
85 59-12-104(52) reported to the commission in accordance with Section 59-12-105.

86 (4) Reports and returns shall be preserved for at least three years and then the commission
87 may destroy them.

88 (5) Any person who violates this section is guilty of a class A misdemeanor. If the
89 offender is an officer or employee of the state, he shall be dismissed from office and be
90 disqualified from holding public office in this state for a period of five years thereafter.

91 (6) This part does not apply to the property tax.

92 Section 2. Section **59-12-102 (Effective 07/01/01)** is amended to read:

93 **59-12-102 (Effective 07/01/01). Definitions.**

94 As used in this chapter:

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

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

98 (2) "Area agency on aging" is as defined in Section 62A-3-101.

99 (3) "Authorized carrier" means:

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

103 (b) in the case of aircraft, the holder of a Federal Aviation Administration (FAA) operating
104 certificate or air carrier's operating certificate; or

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

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

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

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

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

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

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

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

118 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels

119 that does not constitute industrial use under Subsection (13) or residential use under Subsection
120 (21).

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

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

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

129 (7) "Component part" includes:

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

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

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

135 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

149 (ii) that does not directly or indirectly compensate an individual teacher or other

150 educational personnel by direct payment, commissions, or payment in kind; and
151 (iii) the net or gross revenues from which are deposited in a dedicated account controlled
152 by the school or school district.

153 (10) (a) "Hearing aid" means:
154 (i) an instrument or device having an electronic component that is designed to:
155 (A) (I) improve impaired human hearing; or
156 (II) correct impaired human hearing; and
157 (B) (I) be worn in the human ear; or
158 (II) affixed behind the human ear;
159 (ii) an instrument or device that is surgically implanted into the cochlea; or
160 (iii) a telephone amplifying device.

161 (b) "Hearing aid" does not include:
162 (i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device
163 having an electronic component that is designed to be worn on the body;
164 (ii) except as provided in Subsection (10)(a)(iii), an assistive listening device or system
165 designed to be used by one individual, including:
166 (A) a personal amplifying system;
167 (B) a personal FM system;
168 (C) a television listening system; or
169 (D) a device or system similar to a device or system described in Subsections
170 (10)(b)(ii)(A) through (C); or
171 (iii) an assistive listening device or system designed to be used by more than one
172 individual, including:
173 (A) a device or system installed in:
174 (I) an auditorium;
175 (II) a church;
176 (III) a conference room;
177 (IV) a synagogue; or
178 (V) a theater; or
179 (B) a device or system similar to a device or system described in Subsections
180 (10)(b)(iii)(A)(I) through (V).

- 181 (11) (a) "Hearing aid accessory" means a hearing aid:
182 (i) component;
183 (ii) attachment; or
184 (iii) accessory.
185 (b) "Hearing aid accessory" includes:
186 (i) a hearing aid neck loop;
187 (ii) a hearing aid cord;
188 (iii) a hearing aid ear mold;
189 (iv) hearing aid tubing;
190 (v) a hearing aid ear hook; or
191 (vi) a hearing aid remote control.
192 (c) "Hearing aid accessory" does not include:
193 (i) a component, attachment, or accessory designed to be used only with an:
194 (A) instrument or device described in Subsection (10)(b)(i); or
195 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
196 (ii) a hearing aid battery.
197 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:
198 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment
199 of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or
200 injury;
201 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
202 purpose; and
203 (iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or
204 under the state plan for medical assistance under Title 19 of the federal Social Security Act.
205 (b) "Home medical equipment and supplies" does not include:
206 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as
207 defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their
208 professional practice;
209 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
210 (iii) hearing aids or hearing aid accessories.
211 (c) For purposes of Subsection (12)(b)(i), "health care facility" includes:

- 212 (i) a clinic;
- 213 (ii) a doctor's office; and
- 214 (iii) a health care facility as defined in Section 26-21-2.
- 215 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
- 216 fuels in:
 - 217 (a) mining or extraction of minerals;
 - 218 (b) agricultural operations to produce an agricultural product up to the time of harvest or
 - 219 placing the agricultural product into a storage facility, including:
 - 220 (i) commercial greenhouses;
 - 221 (ii) irrigation pumps;
 - 222 (iii) farm machinery;
 - 223 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
 - 224 registered under Title 41, Chapter 1a, Part 2, Registration; and
 - 225 (v) other farming activities; and
 - 226 (c) manufacturing tangible personal property at an establishment described in SIC Codes
 - 227 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office
 - 228 of the President, Office of Management and Budget.
 - 229 (14) "Manufactured home" means any manufactured home or mobile home as defined in
 - 230 Title 58, Chapter 56, Utah Uniform Building Standards Act.
 - 231 (15) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:
 - 232 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial
 - 233 Classification Manual of the federal Executive Office of the President, Office of Management and
 - 234 Budget; or
 - 235 (b) a scrap recycler if:
 - 236 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one
 - 237 or more of the following items into prepared grades of processed materials for use in new products:
 - 238 (A) iron;
 - 239 (B) steel;
 - 240 (C) nonferrous metal;
 - 241 (D) paper;
 - 242 (E) glass;

243 (F) plastic;
244 (G) textile; or
245 (H) rubber; and
246 (ii) the new products under Subsection (15)(b)(i) would otherwise be made with
247 nonrecycled materials.

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

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

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

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

257 (b) "Medicine" does not include:

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

259 (ii) any alcoholic beverage.

260 (17) "Olympic merchandise" means tangible personal property bearing an Olympic
261 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other
262 copyrighted or protected material, including:

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

264 (i) "Olympic";

265 (ii) "Olympiad"; or

266 (iii) "Citius Altius Fortius";

267 (b) the symbol of the International Olympic Committee, consisting of five interlocking
268 rings;

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

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

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

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

275 (18) (a) "Other fuels" means products that burn independently to produce heat or energy.

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

278 (19) "Person" includes any individual, firm, partnership, joint venture, association,
279 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
280 municipality, district, or other local governmental entity of the state, or any group or combination
281 acting as a unit.

282 (20) "Purchase price" means the amount paid or charged for tangible personal property or
283 any other taxable transaction under Subsection 59-12-103(1), excluding only cash discounts taken
284 or any excise tax imposed on the purchase price by the federal government.

285 (21) "Residential use" means the use in or around a home, apartment building, sleeping
286 quarters, and similar facilities or accommodations.

287 (22) (a) "Retail sale" means any sale within the state of tangible personal property or any
288 other taxable transaction under Subsection 59-12-103(1), other than resale of such property, item,
289 or service by a retailer or wholesaler to a user or consumer.

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

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

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

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

303 (23) (a) "Retailer" means any person engaged in a regularly organized retail business in
304 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and

305 who is selling to the user or consumer and not for resale.

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

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

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

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

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

325 (24) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any
326 manner, of tangible personal property or any other taxable transaction under Subsection
327 59-12-103(1), for consideration. It includes:

328 (a) installment and credit sales;

329 (b) any closed transaction constituting a sale;

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

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

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

336 (25) (a) "Sales relating to schools" means sales by a public school district or public or
337 private elementary or secondary school, grades kindergarten through 12, that are directly related
338 to the school's or school district's educational functions or activities and include:

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

341 (ii) the sale of clothing that:

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

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

346 (iii) sales of food if the net or gross revenues generated by the food sales are deposited into
347 a school district fund or school fund dedicated to school meals; and

348 (iv) transportation charges for official school activities.

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

350 (i) gate receipts;

351 (ii) special event admission fees;

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

353 (iv) except as provided in Subsection (25)(a)(ii), clothing.

354 (26) (a) "Semiconductor fabricating or processing materials" means tangible personal
355 property:

356 (i) used primarily in the process of:

357 (A) (I) manufacturing a semiconductor; or

358 (II) fabricating a semiconductor; or

359 (B) maintaining an environment suitable for a semiconductor; or

360 (ii) consumed primarily in the process of:

361 (A) (I) manufacturing a semiconductor; or

362 (II) fabricating a semiconductor; or

363 (B) maintaining an environment suitable for a semiconductor.

364 (b) "Semiconductor fabricating or processing materials" includes a chemical, catalyst, or
365 other material used to:

366 (i) produce or induce in a semiconductor a:

367 (A) chemical change; or

368 (B) physical change;

369 (ii) remove impurities from a semiconductor; or

370 (iii) improve the marketable condition of a semiconductor.

371 [~~(26)~~] (27) "Senior citizen center" means a facility having the primary purpose of
372 providing services to the aged as defined in Section 62A-3-101.

373 [~~(27)~~] (28) "State" means the state of Utah, its departments, and agencies.

374 [~~(28)~~] (29) "Storage" means any keeping or retention of tangible personal property or any
375 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale
376 in the regular course of business.

377 [~~(29)~~] (30) (a) "Tangible personal property" means:

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

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

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

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

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

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

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

387 (iii) insurance certificates or policies;

388 (iv) personal or governmental licenses;

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

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

392 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
393 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
394 80%.

395 [~~(30)~~] (31) (a) "Use" means the exercise of any right or power over tangible personal
396 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property,
397 item, or service.

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

400 [~~(31)~~] (32) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as
401 defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any
402 vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle"
403 for purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad
404 work equipment, or other railroad rolling stock.

405 [~~(32)~~] (33) "Vehicle dealer" means a person engaged in the business of buying, selling, or
406 exchanging vehicles as defined in Subsection [~~(31)~~] (32).

407 [~~(33)~~] (34) (a) "Vendor" means any person receiving any payment or consideration upon
408 a sale of tangible personal property or any other taxable transaction under Subsection
409 59-12-103(1), or to whom the payment or consideration is payable.

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

411 Section 3. Section **59-12-104** is amended to read:

412 **59-12-104. Exemptions.**

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

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

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

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

422 (b) construction materials purchased by the state, its institutions, or its political
423 subdivisions which are installed or converted to real property by employees of the state, its
424 institutions, or its political subdivisions;

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

428 (4) sales of food, beverage, dairy products, similar confections, and related services to

429 commercial airline carriers for in-flight consumption;

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

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

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

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

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

444 (i) retail sales of Olympic merchandise;

445 (ii) except as provided in Subsection (51), admissions or user fees described in Subsection
446 59-12-103(1)(f);

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

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

451 (B) exclusively used by:

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

454 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
455 Games of 2002; and

456 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
457 does not receive reimbursement; or

458 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
459 rental of a vehicle:

- 460 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games
461 of 2002;
- 462 (B) exclusively used by:
- 463 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
464 Olympic Winter Games of 2002; or
- 465 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter
466 Games of 2002; and
- 467 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002
468 does not receive reimbursement;
- 469 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of this
470 state which are made to bona fide nonresidents of this state and are not afterwards registered or
471 used in this state except as necessary to transport them to the borders of this state;
- 472 (10) sales of medicine;
- 473 (11) sales or use of property, materials, or services used in the construction of or
474 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 475 (12) sales of meals served by:
- 476 (a) churches, charitable institutions, and institutions of higher education, if the meals are
477 not available to the general public; and
- 478 (b) inpatient meals provided at medical or nursing facilities;
- 479 (13) isolated or occasional sales by persons not regularly engaged in business, except the
480 sale of vehicles or vessels required to be titled or registered under the laws of this state in which
481 case the tax is based upon:
- 482 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
483 or
- 484 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair
485 market value of the vehicle or vessel being sold as determined by the commission;
- 486 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:
- 487 (i) machinery and equipment:
- 488 (A) used in the manufacturing process;
- 489 (B) having an economic life of three or more years; and
- 490 (C) used:

- 491 (I) to manufacture an item sold as tangible personal property; and
492 (II) in new or expanding operations in a manufacturing facility in the state; and
493 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
494 (A) have an economic life of three or more years;
495 (B) are used in the manufacturing process in a manufacturing facility in the state;
496 (C) are used to replace or adapt an existing machine to extend the normal estimated useful
497 life of the machine; and
498 (D) do not include repairs and maintenance;
499 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
500 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
501 Subsection (14)(a)(ii) is exempt;
502 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in
503 Subsection (14)(a)(ii) is exempt; and
504 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection (14)(a)(ii)
505 is exempt;
506 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
507 "new or expanding operations" and "establishment"; and
508 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
509 commission shall:
510 (i) review the exemptions described in Subsection (14)(a) and make recommendations to
511 the Revenue and Taxation Interim Committee concerning whether the exemptions should be
512 continued, modified, or repealed; and
513 (ii) include in its report:
514 (A) the cost of the exemptions;
515 (B) the purpose and effectiveness of the exemptions; and
516 (C) the benefits of the exemptions to the state;
517 (15) sales of tooling, special tooling, support equipment, and special test equipment used
518 or consumed exclusively in the performance of any aerospace or electronics industry contract with
519 the United States government or any subcontract under that contract, but only if, under the terms
520 of that contract or subcontract, title to the tooling and equipment is vested in the United States
521 government as evidenced by a government identification tag placed on the tooling and equipment

522 or by listing on a government-approved property record if a tag is impractical;

523 (16) intrastate movements of:

524 (a) freight by common carriers; and

525 (b) passengers:

526 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial

527 Classification Manual of the federal Executive Office of the President, Office of Management and

528 Budget; or

529 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard

530 Industrial Classification Manual of the federal Executive Office of the President, Office of

531 Management and Budget, if the transportation originates and terminates within a county of the

532 first, second, or third class;

533 (17) sales of newspapers or newspaper subscriptions;

534 (18) tangible personal property, other than money, traded in as full or part payment of the

535 purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by

536 a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

537 (a) the bill of sale or other written evidence of value of the vehicle being sold and the

538 vehicle being traded in; or

539 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair

540 market value of the vehicle being sold and the vehicle being traded in, as determined by the

541 commission;

542 (19) sprays and insecticides used to control insects, diseases, and weeds for commercial

543 production of fruits, vegetables, feeds, seeds, and animal products, but not those sprays and

544 insecticides used in the processing of the products;

545 (20) (a) sales of tangible personal property used or consumed primarily and directly in

546 farming operations, including sales of irrigation equipment and supplies used for agricultural

547 production purposes, whether or not they become part of real estate and whether or not installed

548 by farmer, contractor, or subcontractor, but not sales of:

549 (i) machinery, equipment, materials, and supplies used in a manner that is incidental to

550 farming, such as hand tools with a unit purchase price not in excess of \$250, and maintenance and

551 janitorial equipment and supplies;

552 (ii) tangible personal property used in any activities other than farming, such as office

553 equipment and supplies, equipment and supplies used in sales or distribution of farm products, in
554 research, or in transportation; or

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

557 (b) sales of hay;

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

560 (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp Program,
561 7 U.S.C. Sec. 2011 et seq.;

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

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

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

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

572 (27) property upon which a sales or use tax was paid to some other state, or one of its
573 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
574 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if the
575 tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax Act;

576 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a person
577 for use in compounding a service taxable under the subsections;

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

581 (30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,
582 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
583 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual

584 of the federal Executive Office of the President, Office of Management and Budget;

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

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

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

596 (34) amounts paid for the purchase of telephone service for purposes of providing
597 telephone service;

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

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

601 (37) (a) 45% of the sales price of any new manufactured home; and

602 (b) 100% of the sales price of any used manufactured home;

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

604 (39) sales or rentals of home medical equipment and supplies;

605 (40) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
606 Section 72-11-102; and

607 (b) the commission shall by rule determine the method for calculating sales exempt under
608 Subsection (40)(a) that are not separately metered and accounted for in utility billings;

609 (41) sales to a ski resort of:

610 (a) snowmaking equipment;

611 (b) ski slope grooming equipment; and

612 (c) passenger ropeways as defined in Section 72-11-102;

613 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

614 (43) sales or rentals of the right to use or operate for amusement, entertainment, or

615 recreation a coin-operated amusement device as defined in Section 59-12-102;

616 (44) sales of cleaning or washing of tangible personal property by a coin-operated car wash
617 machine;

618 (45) sales by the state or a political subdivision of the state, except state institutions of
619 higher education as defined in Section 53B-3-102, of:

620 (a) photocopies; or

621 (b) other copies of records held or maintained by the state or a political subdivision of the
622 state; and

623 (46) (a) amounts paid:

624 (i) to a person providing intrastate transportation to an employer's employee to or from the
625 employee's primary place of employment;

626 (ii) by an:

627 (A) employee; or

628 (B) employer; and

629 (iii) pursuant to a written contract between:

630 (A) the employer; and

631 (B) (I) the employee; or

632 (II) a person providing transportation to the employer's employee; and

633 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
634 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an
635 employee's primary place of employment;

636 (47) amounts paid for admission to an athletic event at an institution of higher education
637 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
638 1681 et seq.;

639 (48) sales of telephone service charged to a prepaid telephone calling card;

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

641 (b) sales of hearing aid accessories;

642 (50) (a) sales made to or by:

643 (i) an area agency on aging; or

644 (ii) a senior citizen center owned by a county, city, or town; or

645 (b) sales made by a senior citizen center that contracts with an area agency on aging; [and]

646 (51) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as
 647 admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter
 648 Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing
 649 Committee for the Olympic Winter Games of 2002 in accordance with requirements of the
 650 International Olympic Committee; and

651 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
 652 Winter Games of 2002 shall make at least two reports during the 2000 interim:

653 (i) to the:

654 (A) Olympic Coordination Committee; and

655 (B) Revenue and Taxation Interim Committee; and

656 (ii) regarding the status of:

657 (A) agreements relating to the funding of public safety services for the Olympic Winter
 658 Games of 2002;

659 (B) agreements relating to the funding of services, other than public safety services, for
 660 the Olympic Winter Games of 2002;

661 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by the
 662 Olympic Coordination Committee or the Revenue and Taxation Interim Committee;

663 (D) other issues as requested by the Olympic Coordination Committee or the Revenue and
 664 Taxation Interim Committee; or

665 (E) a combination of Subsections (51)(b)(ii)(A) through (D)[-]; or

666 (52) (a) beginning on July 1, § [2002] 2001 § , through June 30, § [2007] 2004 § , and
 666a subject to Subsection

667 (52)(b), a sale or lease of semiconductor fabricating or processing materials regardless of whether
 668 the semiconductor fabricating or processing materials:

669 (i) actually come into contact with a semiconductor; or

670 (ii) ultimately become incorporated into real property;

671 (b) (i) beginning on July 1, § [2002] 2001 § , through June 30, § [2003] 2002 § , 10% of the
 671a sale or lease

672 described in Subsection (52)(a) is exempt;

673 (ii) beginning on July 1, § [-2003] 2002 § , through June 30, § [-2004] 2003 § , 50% of the
 673a sale or lease described

674 in Subsection (52)(a) is exempt; and

675 (iii) beginning on July 1, § [-2004] 2003 § , through June 30, § [-2007] 2004 § , the entire
 675a amount of the sale or

676 lease described in Subsection (52)(a) is exempt; and

677 (c) each year on or before the November interim meeting, the Revenue and Taxation
678 Interim Committee shall:

679 (i) review the exemption described in this Subsection (52) and make recommendations
680 concerning whether the exemption should be continued, modified, or repealed; and

681 (ii) include in the review under this Subsection (52)(c):

682 (A) the cost of the exemption;

683 (B) the purpose and effectiveness of the exemption; and

684 (C) the benefits of the exemption to the state.

685 Section 4. Section **59-12-105** is amended to read:

686 **59-12-105. Certain exempt sales to be reported -- Penalties.**

687 (1) An owner, vendor, or purchaser shall report to the commission the amount of sales or
688 uses exempt under Subsection 59-12-104(14), (20), (40), ~~or~~ (41), or (52).

689 (2) Except as provided in Subsections (3) and (4), if the owner, vendor, or purchaser fails
690 to report the full amount of the exemptions granted under Subsection 59-12-104(14), (20), (40),
691 ~~or~~ (41), or (52) on the owner's, vendor's, or purchaser's original filed return, the commission shall
692 impose a penalty equal to the lesser of:

693 (a) 10% of the sales and use tax that would have been imposed if the exemption had not
694 applied; or

695 (b) \$1,000.

696 (3) Notwithstanding Subsection (2), the commission may not impose a penalty under
697 Subsection (2) if the owner, vendor, or purchaser files an amended return containing the amount
698 of the exemption prior to the owner, vendor, or purchaser receiving a notice of audit from the
699 commission.

700 (4) (a) Notwithstanding Subsection (2), the commission may waive, reduce, or
701 compromise a penalty imposed under this section if the commission finds there are reasonable
702 grounds for the waiver, reduction, or compromise.

703 (b) If the commission waives, reduces, or compromises a penalty under Subsection (4)(a),
704 the commission shall make a record of the grounds for waiving, reducing, or compromising the
705 penalty.

706 Section 5. **Effective date.**

707 **§ ~~[Section 59-12-102]~~ THIS ACT § takes effect on July 1, 2001.**