

1 **TAXATION OF TELEPHONE CORPORATIONS**

2 2001 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Curtis S. Bramble**

5 **This act modifies the Revenue and Taxation Code to address the definition of telephone**
6 **corporations for purposes of sales and use taxes. This act takes effect on July 1, 2001.**

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

8 AMENDS:

9 **59-12-102 (Effective 07/01/01)**, as last amended by Chapter 253, Laws of Utah 2000

10 **59-12-103 (Effective 07/01/01)**, as last amended by Chapters 147, 253 and 325, Laws of
11 Utah 2000

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

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

14 **59-12-102 (Effective 07/01/01). Definitions.**

15 As used in this chapter:

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

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

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

20 (3) "Authorized carrier" means:

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

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

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



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

- 30 (i) a coin-operated amusement, skill, or ride device;
- 31 (ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens; and
- 32 (iii) includes a music machine, pinball machine, billiard machine, video game machine,
33 arcade machine, and a mechanical or electronic skill game or ride.

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

- 36 (i) accepts and registers multiple denominations of coins; and
- 37 (ii) allows the vendor to collect the sales and use tax at the time an amusement device is
38 activated and operated by a person inserting coins into the device.

39 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
40 that does not constitute industrial use under Subsection (13) or residential use under Subsection
41 (21).

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

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

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

50 (7) "Component part" includes:

- 51 (a) poultry, dairy, and other livestock feed, and their components;
- 52 (b) baling ties and twine used in the baling of hay and straw;
- 53 (c) fuel used for providing temperature control of orchards and commercial greenhouses
54 doing a majority of their business in wholesale sales, and for providing power for off-highway type
55 farm machinery; and
- 56 (d) feed, seeds, and seedlings.

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

- 59 (9) (a) "Fundraising sales" means sales:
60 (i) (A) made by a public or private elementary or secondary school; or
61 (B) made by a public or private elementary or secondary school student, grades
62 kindergarten through 12;
63 (ii) that are for the purpose of raising funds for the school to purchase equipment,
64 materials, or provide transportation; and
65 (iii) that are part of an officially sanctioned school activity.
66 (b) For purposes of Subsection (9)(a)(iii), "officially sanctioned school activity" means a
67 school activity:
68 (i) that is conducted in accordance with a formal policy adopted by the school or school
69 district governing the authorization and supervision of fundraising activities;
70 (ii) that does not directly or indirectly compensate an individual teacher or other
71 educational personnel by direct payment, commissions, or payment in kind; and
72 (iii) the net or gross revenues from which are deposited in a dedicated account controlled
73 by the school or school district.
74 (10) (a) "Hearing aid" means:
75 (i) an instrument or device having an electronic component that is designed to:
76 (A) (I) improve impaired human hearing; or
77 (II) correct impaired human hearing; and
78 (B) (I) be worn in the human ear; or
79 (II) affixed behind the human ear;
80 (ii) an instrument or device that is surgically implanted into the cochlea; or
81 (iii) a telephone amplifying device.
82 (b) "Hearing aid" does not include:
83 (i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device
84 having an electronic component that is designed to be worn on the body;
85 (ii) except as provided in Subsection (10)(a)(iii), an assistive listening device or system
86 designed to be used by one individual, including:
87 (A) a personal amplifying system;
88 (B) a personal FM system;
89 (C) a television listening system; or

90 (D) a device or system similar to a device or system described in Subsections
91 (10)(b)(ii)(A) through (C); or
92 (iii) an assistive listening device or system designed to be used by more than one
93 individual, including:
94 (A) a device or system installed in:
95 (I) an auditorium;
96 (II) a church;
97 (III) a conference room;
98 (IV) a synagogue; or
99 (V) a theater; or
100 (B) a device or system similar to a device or system described in Subsections
101 (10)(b)(iii)(A)(I) through (V).
102 (11) (a) "Hearing aid accessory" means a hearing aid:
103 (i) component;
104 (ii) attachment; or
105 (iii) accessory.
106 (b) "Hearing aid accessory" includes:
107 (i) a hearing aid neck loop;
108 (ii) a hearing aid cord;
109 (iii) a hearing aid ear mold;
110 (iv) hearing aid tubing;
111 (v) a hearing aid ear hook; or
112 (vi) a hearing aid remote control.
113 (c) "Hearing aid accessory" does not include:
114 (i) a component, attachment, or accessory designed to be used only with an:
115 (A) instrument or device described in Subsection (10)(b)(i); or
116 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
117 (ii) a hearing aid battery.
118 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:
119 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment
120 of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or

121 injury;

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

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

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

127 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as
128 defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their
129 professional practice;

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

131 (iii) hearing aids or hearing aid accessories.

132 (c) For purposes of Subsection (12)(b)(i), "health care facility" includes:

133 (i) a clinic;

134 (ii) a doctor's office; and

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

136 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other
137 fuels in:

138 (a) mining or extraction of minerals;

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

141 (i) commercial greenhouses;

142 (ii) irrigation pumps;

143 (iii) farm machinery;

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

146 (v) other farming activities; and

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

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

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

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

156 (b) a scrap recycler if:

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

159 (A) iron;

160 (B) steel;

161 (C) nonferrous metal;

162 (D) paper;

163 (E) glass;

164 (F) plastic;

165 (G) textile; or

166 (H) rubber; and

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

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

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

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

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

178 (b) "Medicine" does not include:

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

180 (ii) any alcoholic beverage.

181 (17) "Olympic merchandise" means tangible personal property bearing an Olympic

182 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other

183 copyrighted or protected material, including:

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

185 (i) "Olympic";

186 (ii) "Olympiad"; or

187 (iii) "Citius Altius Fortius";

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

240 (ii) the ownership of property that is located at the premises of a printer's facility with
241 which the retailer has contracted for printing and that consists of the final printed product, property
242 that becomes a part of the final printed product, or copy from which the printed product is
243 produced, shall not result in the retailer being deemed to have or maintain an office, distribution
244 house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock

245 of goods, within this state.

246 (24) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any
247 manner, of tangible personal property or any other taxable transaction under Subsection
248 59-12-103(1), for consideration. It includes:

249 (a) installment and credit sales;

250 (b) any closed transaction constituting a sale;

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

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

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

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

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

262 (ii) the sale of clothing that:

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

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

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

269 (iv) transportation charges for official school activities.

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

271 (i) gate receipts;

272 (ii) special event admission fees;

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

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

275 (26) "Senior citizen center" means a facility having the primary purpose of providing

276 services to the aged as defined in Section 62A-3-101.

277 (27) "State" means the state of Utah, its departments, and agencies.

278 (28) "Storage" means any keeping or retention of tangible personal property or any other
279 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the
280 regular course of business.

281 (29) (a) "Tangible personal property" means:

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

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

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

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

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

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

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

291 (iii) insurance certificates or policies;

292 (iv) personal or governmental licenses;

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

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

296 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
297 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
298 80%.

299 (30) (a) "Telephone corporation" means a corporation that:

300 (i) owns, controls, operates, or manages a telephone service; and

301 (ii) engages in an activity described in Subsection (30)(a)(i) for the shared use with or
302 resale to any person of the telephone service.

303 (b) A corporation described in Subsection (30)(a) is a telephone corporation whether or
304 not the Public Service Commission of Utah regulates:

305 (i) the corporation; or

306 (ii) the telephone service that the corporation owns, controls, operates, or manages.

307 § ~~[(c)]~~ For purposes of Subsection (30)(a), in accordance with Title 63, Chapter 46a, Utah
 308 Administrative Rulemaking Act, the commission shall define "telephone service."

308a (31)(a) FOR PURPOSES OF SUBSECTION (30) AND SECTION 59-12-103, "TELEPHONE
 308b SERVICE" MEANS A TWO-WAY TRANSMISSION:

308c (i) BY:

308d (A) WIRE;

308e (B) RADIO;

308f (C) LIGHTWAVE; OR

308g (D) OTHER ELECTROMAGNETIC MEANS; AND

308h (ii) OF ONE OR MORE OF THE FOLLOWING:

308i (A) A SIGN;

308j (B) A SIGNAL;

308k (C) WRITING;

308l (D) AN IMAGE;

308m (E) SOUND;

308n (F) A MESSAGE;

308o (G) DATA; OR

308p (H) OTHER INFORMATION OF ANY NATURE.

308q (b) "TELEPHONE SERVICE" INCLUDES:

308r (i) CELLULAR TELEPHONE SERVICE;

308s (ii) PRIVATE COMMUNICATIONS SERVICE; OR

308t (iii) AUTOMATED DIGITAL TELEPHONE ANSWERING SERVICE. §

308u § (c) "TELEPHONE SERVICE" DOES NOT INCLUDE A SERVICE OR A TRANSACTION THAT A
 308v STATE OR A POLITICAL SUBDIVISION OF A STATE IS PROHIBITED FROM TAXING AS OF JULY 1,
 308w 2001, UNDER THE INTERNET TAX FREEDOM ACT, PUB. L. NO. 105-277. §

309 ~~[(30)]~~ § ~~[(31)]~~ (32) § (a) "Use" means the exercise of any right or power over tangible
 309a personal

310 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property,
 311 item, or service.

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

314 ~~[(31)]~~ § ~~[(32)]~~ (33) § "Vehicle" means any aircraft, as defined in Section 72-10-102; any
 314a vehicle, as

315 defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any
 316 vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle"
 317 for purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad
 318 work equipment, or other railroad rolling stock.

319 ~~[(32)]~~ § ~~[(33)]~~ (34) § "Vehicle dealer" means a person engaged in the business of buying,
 319a selling, or

320 exchanging vehicles as defined in Subsection ~~[(31)]~~ § ~~[(32)]~~ (33) § .

321 [~~(33)~~] § [~~(34)~~] **(35)** § (a) "Vendor" means any person receiving any payment or
321a consideration upon
322 a sale of tangible personal property or any other taxable transaction under Subsection
323 59-12-103(1), or to whom the payment or consideration is payable.

324 (b) "Vendor" does not mean a printer's facility described in Subsection (23)(d).
325 Section 2. Section **59-12-103 (Effective 07/01/01)** is amended to read:

326 **59-12-103 (Effective 07/01/01). Sales and use tax base -- Rate -- Use of sales and use**
327 **tax revenues.**

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

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

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

333 (i) all transportation;

334 (ii) intrastate telephone service; or

335 (iii) telegraph service;

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

337 (i) gas;

- 338 (ii) electricity;
- 339 (iii) heat;
- 340 (iv) coal;
- 341 (v) fuel oil; or
- 342 (vi) other fuels;
- 343 (d) sales of the following for residential use:
- 344 (i) gas;
- 345 (ii) electricity;
- 346 (iii) heat;
- 347 (iv) coal;
- 348 (v) fuel oil; or
- 349 (vi) other fuels;
- 350 (e) sales of meals;
- 351 (f) amounts paid or charged as admission or user fees for theaters, movies, operas,
- 352 museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement
- 353 parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances,
- 354 boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool
- 355 parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski
- 356 lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs,
- 357 jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement,
- 358 entertainment, recreation, exhibition, cultural, or athletic activity;
- 359 (g) amounts paid or charged for services:
- 360 (i) for repairs or renovations of tangible personal property; or
- 361 (ii) to install tangible personal property in connection with other tangible personal
- 362 property;
- 363 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning
- 364 or washing of tangible personal property;
- 365 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations
- 366 and services for less than 30 consecutive days;
- 367 (j) amounts paid or charged for laundry or dry cleaning services;
- 368 (k) amounts paid or charged for leases or rentals of tangible personal property if:

- 369 (i) the tangible personal property's situs is in this state;
- 370 (ii) the lessee took possession of the tangible personal property in this state; or
- 371 (iii) within this state the tangible personal property is:
 - 372 (A) stored;
 - 373 (B) used; or
 - 374 (C) otherwise consumed;
- 375 (l) amounts paid or charged for tangible personal property if within this state the tangible
- 376 personal property is:
 - 377 (i) stored;
 - 378 (ii) used; or
 - 379 (iii) consumed; and
 - 380 (m) amounts paid or charged for prepaid telephone calling cards.
- 381 (2) (a) Except as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a state
- 382 tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:
 - 383 (i) a state tax imposed on the transaction at a rate of 4.75%; and
 - 384 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 - 385 transaction under this chapter other than this part.
- 386 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a local
- 387 tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:
 - 388 (i) a state tax imposed on the transaction at a rate of 2%; and
 - 389 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
 - 390 transaction under this chapter other than this part.
- 391 (c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor
- 392 collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a
- 393 state tax and a local tax is imposed on the transaction equal to the sum of:
 - 394 (i) a state tax imposed on the transaction at a rate of:
 - 395 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or
 - 396 (B) 2% for a transaction described in Subsection (1)(d); and
 - 397 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate
 - 398 equal to the sum of the following tax rates:
 - 399 (A) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but

400 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204;

401 (B) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but

402 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-205;

403 and

404 (C) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the

405 state impose the tax under Section 59-12-1102.

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

407 (i) Subsection (2)(a)(i);

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

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

410 (iv) Section 59-12-301;

411 (v) Section 59-12-352;

412 (vi) Section 59-12-353;

413 (vii) Section 59-12-401;

414 (viii) Section 59-12-402;

415 (ix) Section 59-12-501;

416 (x) Section 59-12-502;

417 (xi) Section 59-12-603;

418 (xii) Section 59-12-703;

419 (xiii) Section 59-12-802;

420 (xiv) Section 59-12-804;

421 (xv) Section 59-12-1001;

422 (xvi) Section 59-12-1201; or

423 (xvii) Section 59-12-1302.

424 (3) (a) Except as provided in Subsections (4) through (9), the state taxes described in

425 Subsections (2)(a)(i), (2)(b)(i), and (2)(c)(i) shall be deposited into the General Fund.

426 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed to

427 a county, city, or town as provided in this chapter.

428 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the state

429 shall receive the county's, city's, or town's proportionate share of the revenues generated by the

430 local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).

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

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

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

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

441 (B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not
442 available from the United States Census Bureau, population figures shall be derived from the
443 estimate from the Utah Population Estimates Committee created by executive order of the
444 governor.

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

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

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

452 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a
453 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under
454 Subsection (1); and

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

456 (b) These funds shall be used:

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

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

461 (B) to pay for the actual and necessary operating, administrative, legal, and other expenses

462 of the Utah Sports Authority, but not including protocol expenses for seeking and obtaining the
463 right to host the Winter Olympic Games;

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

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

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

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

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

473 (ii) to pay salary, benefits, or administrative costs associated with the State Olympic
474 Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative costs
475 may not be paid from the sales and use tax revenues generated by municipalities or counties and
476 deposited under Subsection (4)(a)(ii).

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

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

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

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

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

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

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

492 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect

493 sensitive plant and animal species; or

494 (B) award grants, up to the amount authorized by the Legislature in an appropriations act,
495 to political subdivisions of the state to implement the measures described in Subsections
496 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

497 (ii) Money transferred to the Department of Natural Resources under Subsection (5)(b)(i)
498 may not be used to assist the United States Fish and Wildlife Service or any other person to list or
499 attempt to have listed a species as threatened or endangered under the Endangered Species Act of
500 1973, 16 U.S.C. Sec. 1531 et seq.

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

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

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

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

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

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

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

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

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

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

520 (e) Fifty percent of the remaining amount generated by the 1/16% tax rate shall be
521 deposited in the Water Resources Conservation and Development Fund created in Section
522 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund
523 under Section 73-10-24, the fund may also be used to:

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

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

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

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

535 (f) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be
536 deposited in the Utah Wastewater Loan Program subaccount created in Section 73-10c-5 for use
537 by the Water Quality Board to fund wastewater projects as defined in Section 73-10b-2.

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

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

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

544 (iii) develop surface water sources.

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

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

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

553 (c) From July 1, 1997, through June 30, 2006, \$500,000 each year shall be transferred as
554 nonlapsing dedicated credits to the Department of Transportation for the State Park Access

555 Highways Improvement Program created in Section 72-3-207.

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

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

563 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,
564 1999, the revenues generated by the 1/64% tax rate:

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

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

569 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission shall
570 deposit into the Airport to University of Utah Light Rail Restricted Account created in Section
571 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

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

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

577 (9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year
578 2002-03, the commission shall on or before September 30 of each year deposit the difference
579 described in Subsection (9)(b) into the Remote Sales Restricted Account created in Section
580 59-12-103.2 if that difference is greater than \$0.

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

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

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

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

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

595 Section 3. **Effective date.**

596 This act takes effect on July 1, 2001.

Legislative Review Note
as of 2-12-01 7:34 AM

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

Office of Legislative Research and General Counsel