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**SALES AND USE TAX EXEMPTION FOR  
MINING ESTABLISHMENTS**

2001 GENERAL SESSION

STATE OF UTAH

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**This act modifies the Sales and Use Tax Act by providing a sales and use tax exemption for certain machinery, equipment, or a part for machinery or equipment purchased or leased by a mining establishment. The act grants rulemaking authority to the State Tax Commission, defines terms, makes technical changes, and requires amounts of the exemption to be reported to the State Tax Commission. This act takes effect on July 1, 2001.**

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

AMENDS:

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

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

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

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

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

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

As used in this chapter:

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

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

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

(3) "Authorized carrier" means:

(a) in the case of vehicles operated over public highways, the holder of credentials indicating that the vehicle is or will be operated pursuant to both the International Registration

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28 Plan (IRP) and the International Fuel Tax Agreement (IFTA);

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

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

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

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

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

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

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

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

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

44 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels  
45 that does not constitute industrial use under Subsection (13) or residential use under Subsection  
46 [~~(21)~~] (23).

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

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

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

55 (7) "Component part" includes:

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

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

58 (c) fuel used for providing temperature control of orchards and commercial greenhouses

59 doing a majority of their business in wholesale sales, and for providing power for off-highway type  
60 farm machinery; and

61 (d) feed, seeds, and seedlings.

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

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

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

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

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

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

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

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

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

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

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

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

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

82 (II) correct impaired human hearing; and

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

84 (II) affixed behind the human ear;

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

86 (iii) a telephone amplifying device.

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

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

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

92 (A) a personal amplifying system;

93 (B) a personal FM system;

94 (C) a television listening system; or

95 (D) a device or system similar to a device or system described in Subsections  
96 (10)(b)(ii)(A) through (C); or

97 (iii) an assistive listening device or system designed to be used by more than one  
98 individual, including:

99 (A) a device or system installed in:

100 (I) an auditorium;

101 (II) a church;

102 (III) a conference room;

103 (IV) a synagogue; or

104 (V) a theater; or

105 (B) a device or system similar to a device or system described in Subsections  
106 (10)(b)(iii)(A)(I) through (V).

107 (11) (a) "Hearing aid accessory" means a hearing aid:

108 (i) component;

109 (ii) attachment; or

110 (iii) accessory.

111 (b) "Hearing aid accessory" includes:

112 (i) a hearing aid neck loop;

113 (ii) a hearing aid cord;

114 (iii) a hearing aid ear mold;

115 (iv) hearing aid tubing;

116 (v) a hearing aid ear hook; or

117 (vi) a hearing aid remote control.

118 (c) "Hearing aid accessory" does not include:

119 (i) a component, attachment, or accessory designed to be used only with an:

120 (A) instrument or device described in Subsection (10)(b)(i); or

121 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or  
122 (ii) a hearing aid battery.

123 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:

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

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

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

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

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

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

136 (iii) hearing aids or hearing aid accessories.

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

138 (i) a clinic;

139 (ii) a doctor's office; and

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

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

143 (a) mining or extraction of minerals;

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

146 (i) commercial greenhouses;

147 (ii) irrigation pumps;

148 (iii) farm machinery;

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

151 (v) other farming activities; and

152 (c) manufacturing tangible personal property at an establishment described in SIC Codes  
153 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office  
154 of the President, Office of Management and Budget.

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

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

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

161 (b) a scrap recycler if:

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

164 (A) iron;

165 (B) steel;

166 (C) nonferrous metal;

167 (D) paper;

168 (E) glass;

169 (F) plastic;

170 (G) textile; or

171 (H) rubber; and

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

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

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

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

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

183 (b) "Medicine" does not include:

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

185 (ii) any alcoholic beverage.

186 (17) (a) "Mining establishment" means an establishment described in Sector 21, Mining,

187 of NAICS.

188 (b) For purposes of Subsection (17)(a) and in accordance with Title 63, Chapter 46a, Utah

189 Administrative Rulemaking Act, the commission shall make rules defining the term

190 "establishment."

191 (18) "NAICS" means the 1997 North American Industry Classification System of the

192 federal Executive Office of the President, Office of Management and Budget.

193 ~~[(17)]~~ (19) "Olympic merchandise" means tangible personal property bearing an Olympic  
194 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other  
195 copyrighted or protected material, including:

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

197 (i) "Olympic";

198 (ii) "Olympiad"; or

199 (iii) "Citius Altius Fortius";

200 (b) the symbol of the International Olympic Committee, consisting of five interlocking  
201 rings;

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

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

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

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

208 ~~[(18)]~~ (20) (a) "Other fuels" means products that burn independently to produce heat or  
209 energy.

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

212 ~~[(19)]~~ (21) "Person" includes any individual, firm, partnership, joint venture, association,  
213 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,

214 municipality, district, or other local governmental entity of the state, or any group or combination  
215 acting as a unit.

216 [~~(20)~~] (22) "Purchase price" means the amount paid or charged for tangible personal  
217 property or any other taxable transaction under Subsection 59-12-103(1), excluding only cash  
218 discounts taken or any excise tax imposed on the purchase price by the federal government.

219 [~~(21)~~] (23) "Residential use" means the use in or around a home, apartment building,  
220 sleeping quarters, and similar facilities or accommodations.

221 [~~(22)~~] (24) (a) "Retail sale" means any sale within the state of tangible personal property  
222 or any other taxable transaction under Subsection 59-12-103(1), other than resale of such property,  
223 item, or service by a retailer or wholesaler to a user or consumer.

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

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

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

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

237 [~~(23)~~] (25) (a) "Retailer" means any person engaged in a regularly organized retail business  
238 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
239 who is selling to the user or consumer and not for resale.

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

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



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

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

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

259 [~~24~~] (26) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise,  
260 in any manner, of tangible personal property or any other taxable transaction under Subsection  
261 59-12-103(1), for consideration. It includes:

262 (a) installment and credit sales;

263 (b) any closed transaction constituting a sale;

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

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

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

270 [~~25~~] (27) (a) "Sales relating to schools" means sales by a public school district or public  
271 or private elementary or secondary school, grades kindergarten through 12, that are directly related  
272 to the school's or school district's educational functions or activities and include:

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

275 (ii) the sale of clothing that:

- 276 (A) a student is specifically required to wear as a condition of participation in a  
277 school-related event or activity; and
- 278 (B) is not readily adaptable to general or continued usage to the extent that it takes the  
279 place of ordinary clothing;
- 280 (iii) sales of food if the net or gross revenues generated by the food sales are deposited into  
281 a school district fund or school fund dedicated to school meals; and
- 282 (iv) transportation charges for official school activities.
- 283 (b) "Sales relating to schools" does not include:
- 284 (i) gate receipts;
- 285 (ii) special event admission fees;
- 286 (iii) bookstore sales of items that are not educational materials or supplies; and
- 287 (iv) except as provided in Subsection [~~(25)~~] (27)(a)(ii), clothing.
- 288 [~~(26)~~] (28) "Senior citizen center" means a facility having the primary purpose of  
289 providing services to the aged as defined in Section 62A-3-101.
- 290 [~~(27)~~] (29) "State" means the state of Utah, its departments, and agencies.
- 291 [~~(28)~~] (30) "Storage" means any keeping or retention of tangible personal property or any  
292 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale  
293 in the regular course of business.
- 294 [~~(29)~~] (31) (a) "Tangible personal property" means:
- 295 (i) all goods, wares, merchandise, produce, and commodities;
- 296 (ii) all tangible or corporeal things and substances which are dealt in or capable of being  
297 possessed or exchanged;
- 298 (iii) water in bottles, tanks, or other containers; and
- 299 (iv) all other physically existing articles or things, including property severed from real  
300 estate.
- 301 (b) "Tangible personal property" does not include:
- 302 (i) real estate or any interest or improvements in real estate;
- 303 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;
- 304 (iii) insurance certificates or policies;
- 305 (iv) personal or governmental licenses;
- 306 (v) water in pipes, conduits, ditches, or reservoirs;

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

309 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not  
310 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than  
311 80%.

312 ~~[(30)]~~ (32) (a) "Use" means the exercise of any right or power over tangible personal  
313 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property,  
314 item, or service.

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

317 ~~[(31)]~~ (33) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as  
318 defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any  
319 vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle"  
320 for purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad  
321 work equipment, or other railroad rolling stock.

322 ~~[(32)]~~ (34) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
323 exchanging vehicles as defined in Subsection ~~[(31)]~~ (33).

324 ~~[(33)]~~ (35) (a) "Vendor" means any person receiving any payment or consideration upon  
325 a sale of tangible personal property or any other taxable transaction under Subsection  
326 59-12-103(1), or to whom the payment or consideration is payable.

327 (b) "Vendor" does not mean a printer's facility described in Subsection ~~[(23)]~~ (25)(d).  
328 Section 2. Section **59-12-104** is amended to read:

329 **59-12-104. Exemptions.**

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

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

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

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

338 institutions of the public education system; and

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

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

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

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

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

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

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

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

361 (i) retail sales of Olympic merchandise;

362 (ii) except as provided in Subsection (51), admissions or user fees described in Subsection  
363 59-12-103(1)(f);

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

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

368 (B) exclusively used by:

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

400 or

401 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair  
402 market value of the vehicle or vessel being sold as determined by the commission;

403 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

404 (i) machinery and equipment:

405 (A) used in the manufacturing process;

406 (B) having an economic life of three or more years; and

407 (C) used:

408 (I) to manufacture an item sold as tangible personal property; and

409 (II) in new or expanding operations in a manufacturing facility in the state; and

410 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:

411 (A) have an economic life of three or more years;

412 (B) are used in the manufacturing process in a manufacturing facility in the state;

413 (C) are used to replace or adapt an existing machine to extend the normal estimated useful  
414 life of the machine; and

415 (D) do not include repairs and maintenance;

416 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:

417 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in  
418 Subsection (14)(a)(ii) is exempt;

419 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in  
420 Subsection (14)(a)(ii) is exempt; and

421 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection (14)(a)(ii)  
422 is exempt;

423 (c) for purposes of this Subsection (14), the commission shall by rule define the terms  
424 "new or expanding operations" and "establishment"; and

425 (d) on or before October 1, 1991, and every five years after October 1, 1991, the  
426 commission shall:

427 (i) review the exemptions described in Subsection (14)(a) and make recommendations to  
428 the Revenue and Taxation Interim Committee concerning whether the exemptions should be  
429 continued, modified, or repealed; and

430 (ii) include in its report:

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

462 (20) (a) sales of tangible personal property used or consumed primarily and directly in  
463 farming operations, including sales of irrigation equipment and supplies used for agricultural  
464 production purposes, whether or not they become part of real estate and whether or not installed  
465 by farmer, contractor, or subcontractor, but not sales of:

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

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

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

474 (b) sales of hay;

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

477 (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp Program,  
478 7 U.S.C. Sec. 2011 et seq.;

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

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

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

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

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



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

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

498 (30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,  
499 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
500 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual  
501 of the federal Executive Office of the President, Office of Management and Budget;

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

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

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

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

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

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

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

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

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

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

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

524 (b) the commission shall by rule determine the method for calculating sales exempt under  
525 Subsection (40)(a) that are not separately metered and accounted for in utility billings;  
526 (41) sales to a ski resort of:  
527 (a) snowmaking equipment;  
528 (b) ski slope grooming equipment; and  
529 (c) passenger ropeways as defined in Section 72-11-102;  
530 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;  
531 (43) sales or rentals of the right to use or operate for amusement, entertainment, or  
532 recreation a coin-operated amusement device as defined in Section 59-12-102;  
533 (44) sales of cleaning or washing of tangible personal property by a coin-operated car wash  
534 machine;  
535 (45) sales by the state or a political subdivision of the state, except state institutions of  
536 higher education as defined in Section 53B-3-102, of:  
537 (a) photocopies; or  
538 (b) other copies of records held or maintained by the state or a political subdivision of the  
539 state; and  
540 (46) (a) amounts paid:  
541 (i) to a person providing intrastate transportation to an employer's employee to or from the  
542 employee's primary place of employment;  
543 (ii) by an:  
544 (A) employee; or  
545 (B) employer; and  
546 (iii) pursuant to a written contract between:  
547 (A) the employer; and  
548 (B) (I) the employee; or  
549 (II) a person providing transportation to the employer's employee; and  
550 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
551 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an  
552 employee's primary place of employment;  
553 (47) amounts paid for admission to an athletic event at an institution of higher education  
554 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.

555 1681 et seq.;

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

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

558 (b) sales of hearing aid accessories;

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

560 (i) an area agency on aging; or

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

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

563 (51) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as

564 admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter

565 Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing

566 Committee for the Olympic Winter Games of 2002 in accordance with requirements of the

567 International Olympic Committee; and

568 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic

569 Winter Games of 2002 shall make at least two reports during the 2000 interim:

570 (i) to the:

571 (A) Olympic Coordination Committee; and

572 (B) Revenue and Taxation Interim Committee; and

573 (ii) regarding the status of:

574 (A) agreements relating to the funding of public safety services for the Olympic Winter

575 Games of 2002;

576 (B) agreements relating to the funding of services, other than public safety services, for

577 the Olympic Winter Games of 2002;

578 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by the

579 Olympic Coordination Committee or the Revenue and Taxation Interim Committee;

580 (D) other issues as requested by the Olympic Coordination Committee or the Revenue and

581 Taxation Interim Committee; or

582 (E) a combination of Subsections (51)(b)(ii)(A) through (D)~~[-]; and~~

583 (52) (a) beginning on July 1, 2001, a purchase or lease by a mining establishment of

584 machinery, equipment, or a part for machinery or equipment if the machinery, equipment, or part

585 for machinery or equipment:

586 (i) is used in a mining process; and  
587 (ii) has an economic life of three or more years; and  
588 (b) for purposes of Subsection (52)(a) and in accordance with Title 63, Chapter 46a, Utah  
589 Administrative Rulemaking Act, the commission shall make rules defining the following terms:

590 (i) "equipment";  
591 (ii) "machinery"; and  
592 (iii) "mining process."

593 Section 3. Section **59-12-105** is amended to read:

594 **59-12-105. Exempt sales to be reported -- Penalties.**

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

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

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

603 (b) \$1,000.

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

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

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

614 Section 4. **Effective date.**

615 This act takes effect on July 1, 2001.

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**Legislative Review Note**  
**as of 11-14-00 4:56 PM**

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

**Office of Legislative Research and General Counsel**

**Committee Note**

The Revenue and Taxation Interim Committee recommended this bill.