

1                                   **REVIEW OF CERTAIN SALES AND USE TAX**  
2   **PROVISIONS**

3   2002 FIFTH SPECIAL SESSION  
4   STATE OF UTAH

5   **Sponsor: Ralph Becker**

6   **This act amends the Sales and Use Tax Act to require the Utah Tax Review Commission to**  
7   **review certain sales and use tax provisions during the 2002 interim. The act provides**  
8   **procedures and requirements for conducting the review. The act has an immediate effective**  
9   **date.**

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

11 AMENDS:

12                   **59-12-104.5**, as last amended by Chapter 303, Laws of Utah 2001

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

14                   Section 1. Section **59-12-104.5** is amended to read:

15                   **59-12-104.5. Review of sales and use tax exemptions and other sales and use tax**  
16 **provisions.**

17                   (1) Beginning with the 2001 interim, the Utah Tax Review Commission, in cooperation  
18 with the governor's office and the tax commission, shall conduct a review of the sales and use tax  
19 exemptions created by Section 59-12-104 as provided in this section.

20                   (2) The Utah Tax Review Commission shall:

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

23                   (b) subject to Subsection (2)(a) and except as provided in [~~Subsection~~] Subsections (3) and  
24 (6), for each year select the exemptions that the Utah Tax Review Commission will review for that  
25 year.

26                   (3) Notwithstanding Subsection (2):

27                   (a) the Utah Tax Review Commission shall review Subsection 59-12-104(29) before



28 October 1 of the year after the year in which Congress permits a state to participate in the special  
29 supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are  
30 collected within the state on purchases of food under that program; and

31 (b) the Utah Tax Review Commission shall review Subsection 59-12-104(22) before  
32 October 1 of the year after the year in which Congress permits a state to participate in the food  
33 stamp program under the Food Stamp Act, 7 U.S.C. Sec. 2011 et seq., even if state or local sales  
34 taxes are collected within the state on purchases of food under that program.

35 (4) The Utah Tax Review Commission shall for each sales and use tax exemption the Utah  
36 Tax Review Commission reviews make a report to the governor and the Revenue and Taxation  
37 Interim Committee:

38 (a) on or before the November interim meeting in the year in which the Utah Tax Review  
39 Commission reviews the sales and use tax exemption;

40 (b) including:

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

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

43 (A) whether the business is willing to make a substantial capital investment in the state  
44 indicating that it will be a long-term member of the community in which the business is or will be  
45 located;

46 (B) whether the business brings new dollars into the state, which generally means the  
47 business must export goods or services outside of the state, not just recirculate existing dollars;

48 (C) subject to Subsection (5), whether the business pays higher than average wages in the  
49 area in which the business is or will be located, increasing the state's overall household income;

50 (D) whether the same incentives offered to a new business locating in the state from  
51 another state are available to existing in-state businesses so as not to discriminate against the  
52 in-state businesses; and

53 (E) whether the incentives clearly produce a positive return on investment as determined  
54 by state economic modeling formulas;

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

57 (iv) a review of the purpose of the sales and use tax exemption;

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

- 59 (vi) a review of the benefits of the sales and use tax exemption to the state;
- 60 (c) recommending whether the sales and use tax exemption should be:
- 61 (i) continued;
- 62 (ii) modified; or
- 63 (iii) repealed; and
- 64 (d) reviewing any other issue the Utah Tax Review Commission determines to study.
- 65 (5) For purposes of Subsection (4)(b)(ii)(C), in determining whether a business pays higher
- 66 than average wages in the area in which the business is or will be located, the Utah Tax Review
- 67 Commission may not include wages of the following in making average wage calculations:
- 68 (a) wages of school district employees;
- 69 (b) wages of county, city, or town employees;
- 70 (c) wages of state employees; or
- 71 (d) wages of federal government employees.
- 72 (6) (a) Subject to Subsection (2)(a) and notwithstanding Subsection (2)(b), the Utah Tax
- 73 Review Commission, in cooperation with the governor's office and the tax commission:
- 74 (i) shall during the 2002 interim:
- 75 (A) conduct a review of the sales and use tax exemptions created by:
- 76 (I) Section 9-3-311;
- 77 (II) Subsection 59-12-104(3);
- 78 (III) Subsection 59-12-104(4);
- 79 (IV) Subsection 59-12-104(7);
- 80 (V) Subsection 59-12-104(11);
- 81 (VI) Subsection 59-12-104(40);
- 82 (VII) Subsection 59-12-104(41);
- 83 (VIII) Subsection 59-12-104(43); and
- 84 (IX) Subsection 59-12-104(44); and
- 85 (B) subject to Subsection (6)(c), conduct a review of whether interstate telephone service
- 86 not currently subject to taxation under this chapter should be subject to taxation; and
- 87 (ii) may during the 2002 interim review any sales and use tax exemption created by
- 88 Section 59-12-104 other than a sales and use tax exemption described in Subsection (6)(a)(i).
- 89 (b) The review required by:

- 90           (i) Subsection (6)(a)(i) shall meet the requirements of Subsection (4); and
- 91           (ii) Subsection (6)(a)(ii) shall be consistent with the requirements of Subsection (4).
- 92           (c) The Utah Tax Review Commission shall coordinate the review required by Subsection
- 93 (6)(a)(ii) with any similar review conducted by the Competition in Telecommunications Industry
- 94 Task Force.

95           Section 2. **Effective date.**

96           If approved by two-thirds of all the members elected to each house, this act takes effect  
97 upon approval by the governor, or the day following the constitutional time limit of Utah  
98 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the  
99 date of veto override.

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**Legislative Review Note**  
**as of 7-9-02 1:54 PM**

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

**Office of Legislative Research and General Counsel**