

1 **SALES AND USE TAX - REPEAL OF CABLE**
2 **AND SATELLITE SERVICE**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Greg J. Curtis**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Sales and Use Tax Act to modify the transactions that are subject
10 to sales and use tax.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ deletes certain definitions;
- 14 ▶ removes certain amounts paid or charged for multi-channel video or audio service
15 from the sales and use tax base; and
- 16 ▶ makes technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill provides an effective date.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **59-12-102 (Superseded 07/01/04)**, as last amended by Chapters 253 and 318, Laws of
24 Utah 2003

25 **59-12-102 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003

26 **59-12-103 (Superseded 07/01/04)**, as last amended by Chapter 318, Laws of Utah 2003

27 **59-12-103 (Effective 07/01/04)**, as last amended by Chapter 312, Laws of Utah 2003



28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54
55
56
57
58

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

Section 1. Section **59-12-102 (Superseded 07/01/04)** is amended to read:

59-12-102 (Superseded 07/01/04). 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 Plan and the International Fuel Tax Agreement;

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

(c) in the case of locomotives, freight cars, railroad work equipment, or other rolling stock, the holder of a certificate issued by the United States Surface Transportation Board.

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

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

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

and

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

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

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

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

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

59 Subsection [~~(25)~~](24).

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

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

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

68 (7) "Component part" includes:

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

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

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

74 (d) feed, seeds, and seedlings.

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

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

78 (i) (A) made by a school; or

79 (B) made by a school student;

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

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

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

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

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

89 (iii) the net or gross revenues from which are deposited in a dedicated account

90 controlled by the school or school district.

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

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

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

94 (II) correct impaired human hearing; and

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

96 (II) affixed behind the human ear;

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

98 (iii) a telephone amplifying device.

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

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

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

104 (A) a personal amplifying system;

105 (B) a personal FM system;

106 (C) a television listening system; or

107 (D) a device or system similar to a device or system described in Subsections

108 (10)(b)(ii)(A) through (C); or

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

111 (A) a device or system installed in:

112 (I) an auditorium;

113 (II) a church;

114 (III) a conference room;

115 (IV) a synagogue; or

116 (V) a theater; or

117 (B) a device or system similar to a device or system described in Subsections

118 (10)(b)(iii)(A)(I) through (V).

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

120 (i) component;

- 121 (ii) attachment; or
122 (iii) accessory.
123 (b) "Hearing aid accessory" includes:
124 (i) a hearing aid neck loop;
125 (ii) a hearing aid cord;
126 (iii) a hearing aid ear mold;
127 (iv) hearing aid tubing;
128 (v) a hearing aid ear hook; or
129 (vi) a hearing aid remote control.
130 (c) "Hearing aid accessory" does not include:
131 (i) a component, attachment, or accessory designed to be used only with an:
132 (A) instrument or device described in Subsection (10)(b)(i); or
133 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
134 (ii) a hearing aid battery.
135 (12) (a) Except as provided in Subsection (12)(c), "home medical equipment or
136 supplies" means equipment or supplies that:
137 (i) a licensed physician prescribes or authorizes in writing as necessary:
138 (A) for the treatment of a medical illness or injury; or
139 (B) to mitigate an impairment resulting from illness or injury;
140 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
141 purpose; and
142 (iii) are listed as eligible for payment under:
143 (A) Title XVIII, Social Security Act; or
144 (B) the state plan for medical assistance under Title XIX, Social Security Act.
145 (b) "Home medical equipment or supplies" includes parts used in the repairs or
146 renovations of equipment or supplies described in Subsection (12)(a).
147 (c) Notwithstanding Subsection (12)(a), "home medical equipment or supplies" does
148 not include:
149 (i) equipment or supplies purchased by, for, or on behalf of any:
150 (A) health care facility, as defined in Subsection (12)(d); or
151 (B) one or more of the following for use in a professional practice:

- 152 (I) a doctor;
- 153 (II) a nurse; or
- 154 (III) another health care provider;
- 155 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
- 156 (iii) hearing aids or hearing aid accessories.
- 157 (d) For purposes of Subsection (12)(c)(i)(A), "health care facility" includes:
- 158 (i) a clinic;
- 159 (ii) a doctor's office; or
- 160 (iii) a health care facility as defined in Section 26-21-2.
- 161 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 162 other fuels:
- 163 (a) in mining or extraction of minerals;
- 164 (b) in agricultural operations to produce an agricultural product up to the time of
- 165 harvest or placing the agricultural product into a storage facility, including:
- 166 (i) commercial greenhouses;
- 167 (ii) irrigation pumps;
- 168 (iii) farm machinery;
- 169 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 170 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 171 (v) other farming activities;
- 172 (c) in manufacturing tangible personal property at an establishment described in SIC
- 173 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 174 Executive Office of the President, Office of Management and Budget; or
- 175 (d) by a scrap recycler if:
- 176 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 177 one or more of the following items into prepared grades of processed materials for use in new
- 178 products:
- 179 (A) iron;
- 180 (B) steel;
- 181 (C) nonferrous metal;
- 182 (D) paper;

183 (E) glass;
184 (F) plastic;
185 (G) textile; or
186 (H) rubber; and
187 (ii) the new products under Subsection (13)(d)(i) would otherwise be made with
188 nonrecycled materials.

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

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

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

195 (b) a scrap recycler if:

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

199 (A) iron;

200 (B) steel;

201 (C) nonferrous metal;

202 (D) paper;

203 (E) glass;

204 (F) plastic;

205 (G) textile; or

206 (H) rubber; and

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

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

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

213 (ii) any medicine dispensed to patients in a county or other licensed hospital if

214 prescribed for that patient and dispensed by a registered pharmacist or administered under the
215 direction of a physician; and

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

218 (b) "Medicine" does not include:

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

220 (ii) any alcoholic beverage.

221 (17) "Mobile telecommunications service" is as defined in the Mobile

222 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

223 [~~(18) (a) "Multi-channel video or audio service provider" means any person or group of~~
224 ~~persons that:~~]

225 [~~(i) provides multi-channel video or audio service and directly or indirectly owns a~~
226 ~~significant interest in the multi-channel video or audio service; or]~~

227 [~~(ii) otherwise controls or is responsible through any arrangement, the management and~~
228 ~~operation of the multi-channel video or audio service.]~~

229 [~~(b) "Multi-channel video or audio service provider" includes the following except as~~
230 ~~specifically exempted by state or federal law:]~~

231 [~~(i) a cable operator;]~~

232 [~~(ii) a CATV provider;]~~

233 [~~(iii) a multi-point distribution provider;]~~

234 [~~(iv) a MMDS provider;]~~

235 [~~(v) a SMATV operator;]~~

236 [~~(vi) a direct-to-home satellite service provider; or]~~

237 [~~(vii) a DBS provider.]~~

238 [~~(19)~~ (18) "Olympic merchandise" means tangible personal property bearing an
239 Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,
240 trademark, or other copyrighted or protected material, including:

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

242 (i) "Olympic";

243 (ii) "Olympiad"; or

244 (iii) "Citius Altius Fortius";

245 (b) the symbol of the International Olympic Committee, consisting of five interlocking
246 rings;

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

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

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

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

253 [~~(20)~~] (19) (a) "Other fuels" means products that burn independently to produce heat or
254 energy.

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

257 [~~(21)~~] (20) "Person" includes any individual, firm, partnership, joint venture,
258 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
259 city, municipality, district, or other local governmental entity of the state, or any group or
260 combination acting as a unit.

261 [~~(22)~~] (21) "Place of primary use":

262 (a) for telephone service other than mobile telecommunications service, means the
263 street address representative of where the purchaser's use of the telephone service primarily
264 occurs, which shall be:

265 (i) the residential street address of the purchaser; or

266 (ii) the primary business street address of the purchaser; or

267 (b) for mobile telecommunications service, is as defined in the Mobile
268 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

269 [~~(23)~~] (22) "Purchase price" means the amount paid or charged for tangible personal
270 property or any other taxable transaction under Subsection 59-12-103(1), excluding only cash
271 discounts taken or any excise tax imposed on the purchase price by the federal government.

272 [~~(24)~~] (23) "Regularly rented" means:

273 (a) rented to a guest for value three or more times during a calendar year; or

274 (b) advertised or held out to the public as a place that is regularly rented to guests for
275 value.

276 [~~(25)~~] (24) "Residential use" means the use in or around a home, apartment building,
277 sleeping quarters, and similar facilities or accommodations.

278 [~~(26)~~] (25) (a) "Retail sale" means any sale within the state of tangible personal
279 property or any other taxable transaction under Subsection 59-12-103(1), other than resale of
280 such property, item, or service by a retailer or wholesaler to a user or consumer.

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

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

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

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

294 [~~(27)~~] (26) (a) "Retailer" means any person engaged in a regularly organized retail
295 business in tangible personal property or any other taxable transaction under Subsection
296 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

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

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

307 these dealers, distributors, supervisors, or employers, except that:

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

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

316 [~~28~~] (27) "Sale" means any transfer of title, exchange, or barter, conditional or
317 otherwise, in any manner, of tangible personal property or any other taxable transaction under
318 Subsection 59-12-103(1), for consideration. It includes:

319 (a) installment and credit sales;

320 (b) any closed transaction constituting a sale;

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

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

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

328 [~~29~~] (28) (a) "Sales relating to schools" means the following sales by, amounts paid
329 to, or amounts charged by a school:

330 (i) sales that are directly related to the school's educational functions or activities
331 including:

332 (A) the sale of:

333 (I) textbooks;

334 (II) textbook fees;

335 (III) laboratory fees;

336 (IV) laboratory supplies; or

337 (V) safety equipment;

338 (B) the sale of clothing that:
339 (I) a student is specifically required to wear as a condition of participation in a
340 school-related event or school-related activity; and
341 (II) is not readily adaptable to general or continued usage to the extent that it takes the
342 place of ordinary clothing;
343 (C) sales of food if the net or gross revenues generated by the food sales are deposited
344 into a school district fund or school fund dedicated to school meals; or
345 (D) transportation charges for official school activities; or
346 (ii) amounts paid to or amounts charged by a school for admission to a school-related
347 event or school-related activity.
348 (b) "Sales relating to schools" does not include:
349 (i) bookstore sales of items that are not educational materials or supplies;
350 (ii) except as provided in Subsection [~~(29)~~] (28)(a)(i)(B), clothing; or
351 (iii) amounts paid to or amounts charged by a school for admission to a school-related
352 event or school-related activity if the amounts paid or charged are passed through to a person:
353 (A) other than a:
354 (I) school;
355 (II) nonprofit organization authorized by a school board or a governing body of a
356 private school to organize and direct a competitive secondary school activity; or
357 (III) nonprofit association authorized by a school board or a governing body of a
358 private school to organize and direct a competitive secondary school activity; and
359 (B) that is required to collect sales and use taxes under this chapter.
360 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
361 commission may make rules defining the term "passed through."
362 [~~(30)~~] (29) For purposes of this section and Section 59-12-104, "school" means:
363 (a) an elementary school or a secondary school that:
364 (i) is a:
365 (A) public school; or
366 (B) private school; and
367 (ii) provides instruction for one or more grades kindergarten through 12; or
368 (b) a public school district.

369 [~~(31)~~] (30) (a) "Semiconductor fabricating or processing materials" means tangible
370 personal property:

371 (i) used primarily in the process of:

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

373 (II) fabricating a semiconductor; or

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

375 (ii) consumed primarily in the process of:

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

377 (II) fabricating a semiconductor; or

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

379 (b) "Semiconductor fabricating or processing materials" includes:

380 (i) parts used in the repairs or renovations of tangible personal property described in

381 Subsection [~~(31)~~] (30)(a); or

382 (ii) a chemical, catalyst, or other material used to:

383 (A) produce or induce in a semiconductor a:

384 (I) chemical change; or

385 (II) physical change;

386 (B) remove impurities from a semiconductor; or

387 (C) improve the marketable condition of a semiconductor.

388 [~~(32)~~] (31) "Senior citizen center" means a facility having the primary purpose of
389 providing services to the aged as defined in Section 62A-3-101.

390 [~~(33)~~] (32) "State" means the state of Utah, its departments, and agencies.

391 [~~(34)~~] (33) "Storage" means any keeping or retention of tangible personal property or
392 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
393 except sale in the regular course of business.

394 [~~(35)~~] (34) (a) "Tangible personal property" means:

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

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

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

399 (iv) all other physically existing articles or things, including property severed from real

400 estate.

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

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

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

404 (iii) insurance certificates or policies;

405 (iv) personal or governmental licenses;

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

407 (vi) currency and coinage constituting legal tender of the United States or of a foreign

408 nation; and

409 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not

410 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than

411 80%.

412 [~~36~~] (35) (a) "Telephone service" means a two-way transmission:

413 (i) by:

414 (A) wire;

415 (B) radio;

416 (C) lightwave; or

417 (D) other electromagnetic means; and

418 (ii) of one or more of the following:

419 (A) a sign;

420 (B) a signal;

421 (C) writing;

422 (D) an image;

423 (E) sound;

424 (F) a message;

425 (G) data; or

426 (H) other information of any nature.

427 (b) "Telephone service" includes:

428 (i) cellular telephone service;

429 (ii) private communications service; or

430 (iii) automated digital telephone answering service.

431 (c) "Telephone service" does not include a service or a transaction that a state or a
432 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
433 Tax Freedom Act, Pub. L. No. 105-277.

434 [~~(37)~~] (36) Notwithstanding where a call is billed or paid, "telephone service address"
435 means:

436 (a) if the location described in this Subsection [~~(37)~~] (36)(a) is known, the location of
437 the telephone service equipment:

438 (i) to which a call is charged; and

439 (ii) from which the call originates or terminates;

440 (b) if the location described in Subsection [~~(37)~~] (36)(a) is not known but the location
441 described in this Subsection [~~(37)~~] (36)(b) is known, the location of the origination point of the
442 signal of the telephone service first identified by:

443 (i) the telecommunications system of the seller; or

444 (ii) if the system used to transport the signal is not that of the seller, information
445 received by the seller from its service provider; or

446 (c) if the locations described in Subsection [~~(37)~~] (36)(a) or (b) are not known, the
447 location of a purchaser's primary place of use.

448 [~~(38)~~] (37) (a) "Telephone service provider" means a person that:

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

450 (ii) engages in an activity described in Subsection [~~(38)~~] (37)(a)(i) for the shared use
451 with or resale to any person of the telephone service.

452 (b) A person described in Subsection [~~(38)~~] (37)(a) is a telephone service provider
453 whether or not the Public Service Commission of Utah regulates:

454 (i) that person; or

455 (ii) the telephone service that the person owns, controls, operates, or manages.

456 [~~(39)~~] (38) (a) "Use" means the exercise of any right or power over tangible personal
457 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
458 property, item, or service.

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

461 [~~(40)~~] (39) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle,

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

466 [~~(41)~~] (40) "Vehicle dealer" means a person engaged in the business of buying, selling,
 467 or exchanging vehicles as defined in Subsection [~~(40)~~] (39).

468 [~~(42)~~] (41) (a) "Vendor" means any person receiving any payment or consideration
 469 upon a sale of tangible personal property or any other taxable transaction under Subsection
 470 59-12-103(1), or to whom the payment or consideration is payable.

471 (b) "Vendor" does not mean a printer's facility described in Subsection [~~(27)~~] (26)(d).

472 Section 2. Section 59-12-102 (Effective 07/01/04) is amended to read:

473 **59-12-102 (Effective 07/01/04). Definitions.**

474 As used in this chapter:

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

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

478 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in
 479 Section 59-12-102.1.

480 (3) "Agreement combined tax rate" means the sum of the tax rates:

481 (a) listed under Subsection (4); and

482 (b) that are imposed within a local taxing jurisdiction.

483 (4) "Agreement sales and use tax" means a tax imposed under:

484 (a) Subsection 59-12-103(2)(a)(i);

485 (b) Section 59-12-204;

486 (c) Section 59-12-401;

487 (d) Section 59-12-402;

488 (e) Section 59-12-501;

489 (f) Section 59-12-502;

490 (g) Section 59-12-703;

491 (h) Section 59-12-802;

492 (i) Section 59-12-804;

- 493 (j) Section 59-12-1001;
- 494 (k) Section 59-12-1102;
- 495 (l) Section 59-12-1302; or
- 496 (m) Section 59-12-1402.
- 497 (5) "Alcoholic beverage" means a beverage that:
- 498 (a) is suitable for human consumption; and
- 499 (b) contains .5% or more alcohol by volume.
- 500 (6) "Area agency on aging" is as defined in Section 62A-3-101.
- 501 (7) "Authorized carrier" means:
- 502 (a) in the case of vehicles operated over public highways, the holder of credentials
- 503 indicating that the vehicle is or will be operated pursuant to both the International Registration
- 504 Plan and the International Fuel Tax Agreement;
- 505 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating
- 506 certificate or air carrier's operating certificate; or
- 507 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
- 508 stock, the holder of a certificate issued by the United States Surface Transportation Board.
- 509 (8) "Certified automated system" means software certified by the governing board of
- 510 the agreement in accordance with Section 59-12-102.1 that:
- 511 (a) calculates the agreement sales and use tax imposed within a local taxing
- 512 jurisdiction:
- 513 (i) on a transaction; and
- 514 (ii) in the states that are members of the agreement;
- 515 (b) determines the amount of agreement sales and use tax to remit to a state that is a
- 516 member of the agreement; and
- 517 (c) maintains a record of the transaction described in Subsection (8)(a)(i).
- 518 (9) "Certified service provider" means an agent certified:
- 519 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;
- 520 and
- 521 (b) to perform all of a seller's sales and use tax functions for an agreement sales and
- 522 use tax.
- 523 (10) (a) Subject to Subsection (10)(b), "clothing" means all human wearing apparel

524 suitable for general use.

525 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
526 commission shall make rules:

527 (i) listing the items that constitute "clothing"; and

528 (ii) that are consistent with the list of items that constitute "clothing" under the
529 agreement.

530 (11) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement device"
531 means:

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

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

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

536 (b) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" does
537 not mean a coin-operated amusement device possessing a coinage mechanism that:

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

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

541 (12) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
542 fuels that does not constitute industrial use under Subsection (30) or residential use under
543 Subsection [~~54~~] (53).

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

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

549 (ii) For purposes of Subsection (13)(b)(i), in accordance with Title 63, Chapter 46a,
550 Utah Administrative Rulemaking Act, the commission may make rules defining what
551 constitutes a person's place of employment.

552 (14) "Component part" includes:

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

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

- 555 (c) fuel used for providing temperature control of orchards and commercial
556 greenhouses doing a majority of their business in wholesale sales, and for providing power for
557 off-highway type farm machinery; and
- 558 (d) feed, seeds, and seedlings.
- 559 (15) "Computer" means an electronic device that accepts information:
- 560 (a) (i) in digital form; or
561 (ii) in a form similar to digital form; and
562 (b) manipulates that information for a result based on a sequence of instructions.
- 563 (16) "Computer software" means a set of coded instructions designed to cause:
- 564 (a) a computer to perform a task; or
565 (b) automatic data processing equipment to perform a task.
- 566 (17) "Construction materials" means any tangible personal property that will be
567 converted into real property.
- 568 (18) "Delivered electronically" means delivered to a purchaser by means other than
569 tangible storage media.
- 570 (19) (a) "Delivery charge" means a charge:
- 571 (i) by a seller of:
572 (A) tangible personal property; or
573 (B) services; and
574 (ii) for preparation and delivery of the tangible personal property or services described
575 in Subsection (19)(a)(i) to a location designated by the purchaser.
- 576 (b) "Delivery charge" includes a charge for the following:
- 577 (i) transportation;
578 (ii) shipping;
579 (iii) postage;
580 (iv) handling;
581 (v) crating; or
582 (vi) packing.
- 583 (20) "Dietary supplement" means a product, other than tobacco, that:
- 584 (a) is intended to supplement the diet;
585 (b) contains one or more of the following dietary ingredients:

- 586 (i) a vitamin;
- 587 (ii) a mineral;
- 588 (iii) an herb or other botanical;
- 589 (iv) an amino acid;
- 590 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 591 dietary intake; or
- 592 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 593 described in Subsections (20)(b)(i) through (v);
- 594 (c) (i) except as provided in Subsection (20)(c)(ii), is intended for ingestion in:
- 595 (A) tablet form;
- 596 (B) capsule form;
- 597 (C) powder form;
- 598 (D) softgel form;
- 599 (E) gelcap form; or
- 600 (F) liquid form; or
- 601 (ii) notwithstanding Subsection (20)(c)(i), if the product is not intended for ingestion in
- 602 a form described in Subsections (20)(c)(i)(A) through (F), is not represented:
- 603 (A) as conventional food; and
- 604 (B) for use as a sole item of:
- 605 (I) a meal; or
- 606 (II) the diet; and
- 607 (d) is required to be labeled as a dietary supplement:
- 608 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 609 (ii) as required by 21 C.F.R. Sec. 101.36.
- 610 (21) (a) "Direct mail" means printed material delivered or distributed by United States
- 611 mail or other delivery service:
- 612 (i) to:
- 613 (A) a mass audience; or
- 614 (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- 615 (ii) if the cost of the printed material is not billed directly to the recipients.
- 616 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a

617 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

618 (c) "Direct mail" does not include multiple items of printed material delivered to a
619 single address.

620 (22) (a) "Drug" means a compound, substance, or preparation, or a component of a
621 compound, substance, or preparation that is:

622 (i) recognized in:

623 (A) the official United States Pharmacopoeia;

624 (B) the official Homeopathic Pharmacopoeia of the United States;

625 (C) the official National Formulary; or

626 (D) a supplement to a publication listed in Subsections (22)(a)(i)(A) through (C);

627 (ii) intended for use in the:

628 (A) diagnosis of disease;

629 (B) cure of disease;

630 (C) mitigation of disease;

631 (D) treatment of disease; or

632 (E) prevention of disease; or

633 (iii) intended to affect:

634 (A) the structure of the body; or

635 (B) any function of the body.

636 (b) "Drug" does not include:

637 (i) food and food ingredients;

638 (ii) a dietary supplement;

639 (iii) an alcoholic beverage; or

640 (iv) a prosthetic device.

641 (23) (a) Except as provided in Subsection (23)(c), "durable medical equipment" means
642 equipment that:

643 (i) can withstand repeated use;

644 (ii) is primarily and customarily used to serve a medical purpose;

645 (iii) generally is not useful to a person in the absence of illness or injury;

646 (iv) is not worn in or on the body; and

647 (v) is listed as eligible for payment under:

648 (A) Title XVIII of the federal Social Security Act; or
649 (B) the state plan for medical assistance under Title XIX of the federal Social Security
650 Act.

651 (b) "Durable medical equipment" includes parts used in the repair or replacement of the
652 equipment described in Subsection (23)(a).

653 (c) Notwithstanding Subsection (23)(a), "durable medical equipment" does not include
654 mobility enhancing equipment.

655 (24) "Electronic" means:

656 (a) relating to technology; and

657 (b) having:

658 (i) electrical capabilities;

659 (ii) digital capabilities;

660 (iii) magnetic capabilities;

661 (iv) wireless capabilities;

662 (v) optical capabilities;

663 (vi) electromagnetic capabilities; or

664 (vii) capabilities similar to Subsections (24)(b)(i) through (vi).

665 (25) (a) "Food and food ingredients" means substances:

666 (i) regardless of whether the substances are in:

667 (A) liquid form;

668 (B) concentrated form;

669 (C) solid form;

670 (D) frozen form;

671 (E) dried form; or

672 (F) dehydrated form; and

673 (ii) that are:

674 (A) sold for:

675 (I) ingestion by humans; or

676 (II) chewing by humans; and

677 (B) consumed for the substance's:

678 (I) taste; or

- 679 (II) nutritional value.
- 680 (b) "Food and food ingredients" does not include:
- 681 (i) an alcoholic beverage;
- 682 (ii) tobacco; or
- 683 (iii) prepared food.
- 684 (26) (a) "Fundraising sales" means sales:
- 685 (i) (A) made by a school; or
- 686 (B) made by a school student;
- 687 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 688 materials, or provide transportation; and
- 689 (iii) that are part of an officially sanctioned school activity.
- 690 (b) For purposes of Subsection (26)(a)(iii), "officially sanctioned school activity"
- 691 means a school activity:
- 692 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 693 district governing the authorization and supervision of fundraising activities;
- 694 (ii) that does not directly or indirectly compensate an individual teacher or other
- 695 educational personnel by direct payment, commissions, or payment in kind; and
- 696 (iii) the net or gross revenues from which are deposited in a dedicated account
- 697 controlled by the school or school district.
- 698 (27) "Governing board of the agreement" means the governing board of the agreement
- 699 that is:
- 700 (a) authorized to administer the agreement; and
- 701 (b) established in accordance with the agreement.
- 702 (28) (a) "Hearing aid" means:
- 703 (i) an instrument or device having an electronic component that is designed to:
- 704 (A) (I) improve impaired human hearing; or
- 705 (II) correct impaired human hearing; and
- 706 (B) (I) be worn in the human ear; or
- 707 (II) affixed behind the human ear;
- 708 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 709 (iii) a telephone amplifying device.

- 710 (b) "Hearing aid" does not include:
- 711 (i) except as provided in Subsection (28)(a)(i)(B) or (28)(a)(ii), an instrument or device
- 712 having an electronic component that is designed to be worn on the body;
- 713 (ii) except as provided in Subsection (28)(a)(iii), an assistive listening device or system
- 714 designed to be used by one individual, including:
- 715 (A) a personal amplifying system;
- 716 (B) a personal FM system;
- 717 (C) a television listening system; or
- 718 (D) a device or system similar to a device or system described in Subsections
- 719 (28)(b)(ii)(A) through (C); or
- 720 (iii) an assistive listening device or system designed to be used by more than one
- 721 individual, including:
- 722 (A) a device or system installed in:
- 723 (I) an auditorium;
- 724 (II) a church;
- 725 (III) a conference room;
- 726 (IV) a synagogue; or
- 727 (V) a theater; or
- 728 (B) a device or system similar to a device or system described in Subsections
- 729 (28)(b)(iii)(A)(I) through (V).
- 730 (29) (a) "Hearing aid accessory" means a hearing aid:
- 731 (i) component;
- 732 (ii) attachment; or
- 733 (iii) accessory.
- 734 (b) "Hearing aid accessory" includes:
- 735 (i) a hearing aid neck loop;
- 736 (ii) a hearing aid cord;
- 737 (iii) a hearing aid ear mold;
- 738 (iv) hearing aid tubing;
- 739 (v) a hearing aid ear hook; or
- 740 (vi) a hearing aid remote control.

- 741 (c) "Hearing aid accessory" does not include:
- 742 (i) a component, attachment, or accessory designed to be used only with an:
- 743 (A) instrument or device described in Subsection (28)(b)(i); or
- 744 (B) assistive listening device or system described in Subsection (28)(b)(ii) or (iii); or
- 745 (ii) a hearing aid battery.
- 746 (30) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 747 other fuels:
- 748 (a) in mining or extraction of minerals;
- 749 (b) in agricultural operations to produce an agricultural product up to the time of
- 750 harvest or placing the agricultural product into a storage facility, including:
- 751 (i) commercial greenhouses;
- 752 (ii) irrigation pumps;
- 753 (iii) farm machinery;
- 754 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 755 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 756 (v) other farming activities;
- 757 (c) in manufacturing tangible personal property at an establishment described in SIC
- 758 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 759 Executive Office of the President, Office of Management and Budget; or
- 760 (d) by a scrap recycler if:
- 761 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 762 one or more of the following items into prepared grades of processed materials for use in new
- 763 products:
- 764 (A) iron;
- 765 (B) steel;
- 766 (C) nonferrous metal;
- 767 (D) paper;
- 768 (E) glass;
- 769 (F) plastic;
- 770 (G) textile; or
- 771 (H) rubber; and

772 (ii) the new products under Subsection (30)(d)(i) would otherwise be made with
773 nonrecycled materials.

774 (31) (a) "Lease" or "rental" means a transfer of possession or control of tangible
775 personal property for:

776 (i) (A) a fixed term; or

777 (B) an indeterminate term; and

778 (ii) consideration.

779 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the
780 amount of consideration may be increased or decreased by reference to the amount realized
781 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue
782 Code.

783 (c) "Lease" or "rental" does not include:

784 (i) a transfer of possession or control of property under a security agreement or
785 deferred payment plan that requires the transfer of title upon completion of the required
786 payments;

787 (ii) a transfer of possession or control of property under an agreement:

788 (A) that requires the transfer of title upon completion of required payments; and

789 (B) in which the payment of an option price does not exceed the greater of:

790 (I) \$100; or

791 (II) 1% of the total required payments; or

792 (iii) providing tangible personal property along with an operator for a fixed period of
793 time or an indeterminate period of time if the operator is necessary for equipment to perform as
794 designed.

795 (d) For purposes of Subsection (31)(c)(iii), an operator is necessary for equipment to
796 perform as designed if the operator's duties exceed the:

797 (i) set-up of tangible personal property;

798 (ii) maintenance of tangible personal property; or

799 (iii) inspection of tangible personal property.

800 (32) "Local taxing jurisdiction" means a:

801 (a) county that is authorized to impose an agreement sales and use tax;

802 (b) city that is authorized to impose an agreement sales and use tax; or

803 (c) town that is authorized to impose an agreement sales and use tax.

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

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

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

810 (b) a scrap recycler if:

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

814 (A) iron;

815 (B) steel;

816 (C) nonferrous metal;

817 (D) paper;

818 (E) glass;

819 (F) plastic;

820 (G) textile; or

821 (H) rubber; and

822 (ii) the new products under Subsection (34)(b)(i) would otherwise be made with
823 nonrecycled materials.

824 (35) "Mobile telecommunications service" is as defined in the Mobile
825 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

826 (36) (a) Except as provided in Subsection (36)(c), "mobility enhancing equipment"
827 means equipment that is:

828 (i) primarily and customarily used to provide or increase the ability to move from one
829 place to another;

830 (ii) appropriate for use in a:

831 (A) home; or

832 (B) motor vehicle;

833 (iii) not generally used by persons with normal mobility; and

834 (iv) listed as eligible for payment under:
835 (A) Title XVIII of the federal Social Security Act; or
836 (B) the state plan for medical assistance under Title XIX of the federal Social Security
837 Act.
838 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of
839 the equipment described in Subsection (36)(a).
840 (c) Notwithstanding Subsection (36)(a), "mobility enhancing equipment" does not
841 include:
842 (i) a motor vehicle;
843 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor
844 vehicle manufacturer;
845 (iii) durable medical equipment; or
846 (iv) a prosthetic device.
847 (37) "Model 1 seller" means a seller that has selected a certified service provider as the
848 seller's agent to perform all of the seller's sales tax functions for agreement sales and use taxes.
849 (38) "Model 2 seller" means a seller that:
850 (a) except as provided in Subsection (38)(b), has selected a certified automated system
851 to perform the seller's sales tax functions for agreement sales and use taxes; and
852 (b) notwithstanding Subsection (38)(a), retains responsibility for remitting all of the
853 sales tax:
854 (i) collected by the seller; and
855 (ii) to the appropriate local taxing jurisdiction.
856 (39) (a) Subject to Subsection (39)(b), "model 3 seller" means a seller that has:
857 (i) sales in at least five states that are members of the agreement;
858 (ii) total annual sales revenues of at least \$500,000,000;
859 (iii) a proprietary system that calculates the amount of tax:
860 (A) for an agreement sales and use tax; and
861 (B) due to each local taxing jurisdiction; and
862 (iv) entered into a performance agreement with the governing board of the agreement.
863 (b) For purposes of Subsection (39)(a), "model 3 seller" includes an affiliated group of
864 sellers using the same proprietary system.

865 ~~[(40) (a) "Multi-channel video or audio service provider" means any person or group of~~
866 ~~persons that:]~~

867 ~~[(i) provides multi-channel video or audio service and directly or indirectly owns a~~
868 ~~significant interest in the multi-channel video or audio service; or]~~

869 ~~[(ii) otherwise controls or is responsible through any arrangement, the management and~~
870 ~~operation of the multi-channel video or audio service.]~~

871 ~~[(b) "Multi-channel video or audio service provider" includes the following except as~~
872 ~~specifically exempted by state or federal law:]~~

873 ~~[(i) a cable operator;]~~

874 ~~[(ii) a CATV provider;]~~

875 ~~[(iii) a multi-point distribution provider;]~~

876 ~~[(iv) a MMDS provider;]~~

877 ~~[(v) a SMATV operator;]~~

878 ~~[(vi) a direct-to-home satellite service provider; or]~~

879 ~~[(vii) a DBS provider.]~~

880 ~~[(41)] (40) "Olympic merchandise" means tangible personal property bearing an~~
881 ~~Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,~~
882 ~~trademark, or other copyrighted or protected material, including:~~

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

884 (i) "Olympic";

885 (ii) "Olympiad"; or

886 (iii) "Citius Altius Fortius";

887 (b) the symbol of the International Olympic Committee, consisting of five interlocking
888 rings;

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

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

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

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

895 ~~[(42)] (41) (a) "Other fuels" means products that burn independently to produce heat or~~

896 energy.

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

899 [~~43~~] (42) "Person" includes any individual, firm, partnership, joint venture,
900 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
901 city, municipality, district, or other local governmental entity of the state, or any group or
902 combination acting as a unit.

903 [~~44~~] (43) "Place of primary use":

904 (a) for telephone service other than mobile telecommunications service, means the
905 street address representative of where the purchaser's use of the telephone service primarily
906 occurs, which shall be:

907 (i) the residential street address of the purchaser; or

908 (ii) the primary business street address of the purchaser; or

909 (b) for mobile telecommunications service, is as defined in the Mobile
910 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

911 [~~45~~] (44) (a) "Prepared food" means:

912 (i) food:

913 (A) sold in a heated state; or

914 (B) heated by a seller;

915 (ii) two or more food ingredients mixed or combined by the seller for sale as a single
916 item; or

917 (iii) except as provided in Subsection [~~45~~] (44)(c), food sold with an eating utensil
918 provided by the seller, including a:

919 (A) plate;

920 (B) knife;

921 (C) fork;

922 (D) spoon;

923 (E) glass;

924 (F) cup;

925 (G) napkin; or

926 (H) straw.

- 927 (b) "Prepared food" does not include:
- 928 (i) food that a seller only:
- 929 (A) cuts;
- 930 (B) repackages; or
- 931 (C) pasteurizes; or
- 932 (ii) (A) the following:
- 933 (I) raw egg;
- 934 (II) raw fish;
- 935 (III) raw meat;
- 936 (IV) raw poultry; or
- 937 (V) a food containing an item described in Subsections [~~(45)~~] (44)(b)(ii)(A)(I) through
- 938 (IV); and
- 939 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
- 940 Food and Drug Administration's Food Code that a consumer cook the items described in
- 941 Subsection [~~(45)~~] (44)(b)(ii)(A) to prevent food borne illness.
- 942 (c) Notwithstanding Subsection [~~(45)~~] (44)(a)(iii), an eating utensil provided by the
- 943 seller does not include the following used to transport the food:
- 944 (i) a container; or
- 945 (ii) packaging.
- 946 [~~(46)~~] (45) "Prescription" means an order, formula, or recipe that is issued:
- 947 (a) (i) orally;
- 948 (ii) in writing;
- 949 (iii) electronically; or
- 950 (iv) by any other manner of transmission; and
- 951 (b) by a licensed practitioner authorized by the laws of a state.
- 952 [~~(47)~~] (46) (a) Except as provided in Subsection [~~(47)~~] (46)(b)(ii) or (iii), "prewritten
- 953 computer software" means computer software that is not designed and developed:
- 954 (i) by the author or other creator of the computer software; and
- 955 (ii) to the specifications of a specific purchaser.
- 956 (b) "Prewritten computer software" includes:
- 957 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer

958 software is not designed and developed:

959 (A) by the author or other creator of the computer software; and

960 (B) to the specifications of a specific purchaser;

961 (ii) notwithstanding Subsection [~~(47)~~] (46)(a), computer software designed and

962 developed by the author or other creator of the computer software to the specifications of a

963 specific purchaser if the computer software is sold to a person other than the purchaser; or

964 (iii) notwithstanding Subsection [~~(47)~~] (46)(a) and except as provided in Subsection

965 [~~(47)~~] (46)(c), prewritten computer software or a prewritten portion of prewritten computer

966 software:

967 (A) that is modified or enhanced to any degree; and

968 (B) if the modification or enhancement described in Subsection [~~(47)~~] (46)(b)(iii)(A) is

969 designed and developed to the specifications of a specific purchaser.

970 (c) Notwithstanding Subsection [~~(47)~~] (46)(b)(iii), "prewritten computer software"

971 does not include a modification or enhancement described in Subsection [~~(47)~~] (46)(b)(iii) if

972 the charges for the modification or enhancement are:

973 (i) reasonable; and

974 (ii) separately stated on the invoice or other statement of price provided to the

975 purchaser.

976 [~~(48)~~] (47) (a) "Prosthetic device" means a device that is:

977 (i) worn on or in the body to:

978 (A) artificially replace a missing portion of the body;

979 (B) prevent or correct a physical deformity or physical malfunction; or

980 (C) support a weak or deformed portion of the body; and

981 (ii) listed as eligible for payment under:

982 (A) Title XVIII of the federal Social Security Act; or

983 (B) the state plan for medical assistance under Title XIX of the federal Social Security

984 Act.

985 (b) "Prosthetic device" includes:

986 (i) parts used in the repairs or renovation of a prosthetic device; or

987 (ii) replacement parts for a prosthetic device.

988 (c) "Prosthetic device" does not include:

- 989 (i) corrective eyeglasses;
- 990 (ii) contact lenses;
- 991 (iii) hearing aids; or
- 992 (iv) dental prostheses.
- 993 [~~49~~] (48) (a) "Protective equipment" means an item:
- 994 (i) for human wear; and
- 995 (ii) that is:
- 996 (A) designed as protection:
- 997 (I) to the wearer against injury or disease; or
- 998 (II) against damage or injury of other persons or property; and
- 999 (B) not suitable for general use.
- 1000 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1001 commission shall make rules:
- 1002 (i) listing the items that constitute "protective equipment"; and
- 1003 (ii) that are consistent with the list of items that constitute "protective equipment"
- 1004 under the agreement.
- 1005 [~~50~~] (49) (a) "Purchase price" and "sales price" mean the total amount of
- 1006 consideration:
- 1007 (i) valued in money; and
- 1008 (ii) for which tangible personal property or services are:
- 1009 (A) sold;
- 1010 (B) leased; or
- 1011 (C) rented.
- 1012 (b) "Purchase price" and "sales price" include:
- 1013 (i) the seller's cost of the tangible personal property or services sold;
- 1014 (ii) expenses of the seller, including:
- 1015 (A) the cost of materials used;
- 1016 (B) a labor cost;
- 1017 (C) a service cost;
- 1018 (D) interest;
- 1019 (E) a loss;

- 1020 (F) the cost of transportation to the seller; or
- 1021 (G) a tax imposed on the seller;
- 1022 (iii) a charge by the seller for any service necessary to complete the sale;
- 1023 (iv) a delivery charge; or
- 1024 (v) an installation charge.
- 1025 (c) "Purchase price" and "sales price" do not include:
- 1026 (i) a discount:
- 1027 (A) in a form including:
- 1028 (I) cash;
- 1029 (II) term; or
- 1030 (III) coupon;
- 1031 (B) that is allowed by a seller;
- 1032 (C) taken by a purchaser on a sale; and
- 1033 (D) that is not reimbursed by a third party; or
- 1034 (ii) the following if separately stated on an invoice, bill of sale, or similar document
- 1035 provided to the purchaser:
- 1036 (A) the amount of a trade-in;
- 1037 (B) the following from credit extended on the sale of tangible personal property or
- 1038 services:
- 1039 (I) interest charges;
- 1040 (II) financing charges; or
- 1041 (III) carrying charges; or
- 1042 (C) a tax or fee legally imposed directly on the consumer.
- 1043 [~~(51)~~] (50) "Purchaser" means a person to whom:
- 1044 (a) a sale of tangible personal property is made; or
- 1045 (b) a service is furnished.
- 1046 [~~(52)~~] (51) "Regularly rented" means:
- 1047 (a) rented to a guest for value three or more times during a calendar year; or
- 1048 (b) advertised or held out to the public as a place that is regularly rented to guests for
- 1049 value.
- 1050 [~~(53)~~] (52) "Rental" is as defined in Subsection (31).

1051 [~~(54)~~] (53) "Residential use" means the use in or around a home, apartment building,
1052 sleeping quarters, and similar facilities or accommodations.

1053 [~~(55)~~] (54) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose
1054 other than:

1055 (a) resale;

1056 (b) sublease; or

1057 (c) subrent.

1058 [~~(56)~~] (55) (a) "Retailer" means any person engaged in a regularly organized business
1059 in tangible personal property or any other taxable transaction under Subsection 59-12-103(1),
1060 and who is selling to the user or consumer and not for resale.

1061 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly
1062 engaged in the business of selling to users or consumers within the state.

1063 [~~(57)~~] (56) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
1064 otherwise, in any manner, of tangible personal property or any other taxable transaction under
1065 Subsection 59-12-103(1), for consideration.

1066 (b) "Sale" includes:

1067 (i) installment and credit sales;

1068 (ii) any closed transaction constituting a sale;

1069 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this
1070 chapter;

1071 (iv) any transaction if the possession of property is transferred but the seller retains the
1072 title as security for the payment of the price; and

1073 (v) any transaction under which right to possession, operation, or use of any article of
1074 tangible personal property is granted under a lease or contract and the transfer of possession
1075 would be taxable if an outright sale were made.

1076 [~~(58)~~] (57) "Sale at retail" is as defined in Subsection [~~(55)~~] (54).

1077 [~~(59)~~] (58) "Sale-leaseback transaction" means a transaction by which title to tangible
1078 personal property that is subject to a tax under this chapter is transferred:

1079 (a) by a purchaser-lessee;

1080 (b) to a lessor;

1081 (c) for consideration; and

1082 (d) if:
1083 (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
1084 of the tangible personal property;
1085 (ii) the sale of the tangible personal property to the lessor is intended as a form of
1086 financing:
1087 (A) for the property; and
1088 (B) to the purchaser-lessee; and
1089 (iii) in accordance with generally accepted accounting principles, the purchaser-lessee
1090 is required to:
1091 (A) capitalize the property for financial reporting purposes; and
1092 (B) account for the lease payments as payments made under a financing arrangement.
1093 [~~(60)~~] (59) "Sales price" is as defined in Subsection [~~(50)~~] (49).
1094 [~~(61)~~] (60) (a) "Sales relating to schools" means the following sales by, amounts paid
1095 to, or amounts charged by a school:
1096 (i) sales that are directly related to the school's educational functions or activities
1097 including:
1098 (A) the sale of:
1099 (I) textbooks;
1100 (II) textbook fees;
1101 (III) laboratory fees;
1102 (IV) laboratory supplies; or
1103 (V) safety equipment;
1104 (B) the sale of a uniform, protective equipment, or sports or recreational equipment
1105 that:
1106 (I) a student is specifically required to wear as a condition of participation in a
1107 school-related event or school-related activity; and
1108 (II) is not readily adaptable to general or continued usage to the extent that it takes the
1109 place of ordinary clothing;
1110 (C) sales of the following if the net or gross revenues generated by the sales are
1111 deposited into a school district fund or school fund dedicated to school meals:
1112 (I) food and food ingredients; or

- 1113 (II) prepared food; or
- 1114 (D) transportation charges for official school activities; or
- 1115 (ii) amounts paid to or amounts charged by a school for admission to a school-related
- 1116 event or school-related activity.
- 1117 (b) "Sales relating to schools" does not include:
- 1118 (i) bookstore sales of items that are not educational materials or supplies;
- 1119 (ii) except as provided in Subsection [~~(61)~~] (60)(a)(i)(B):
- 1120 (A) clothing;
- 1121 (B) clothing accessories or equipment;
- 1122 (C) protective equipment; or
- 1123 (D) sports or recreational equipment; or
- 1124 (iii) amounts paid to or amounts charged by a school for admission to a school-related
- 1125 event or school-related activity if the amounts paid or charged are passed through to a person:
- 1126 (A) other than a:
- 1127 (I) school;
- 1128 (II) nonprofit organization authorized by a school board or a governing body of a
- 1129 private school to organize and direct a competitive secondary school activity; or
- 1130 (III) nonprofit association authorized by a school board or a governing body of a
- 1131 private school to organize and direct a competitive secondary school activity; and
- 1132 (B) that is required to collect sales and use taxes under this chapter.
- 1133 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 1134 commission may make rules defining the term "passed through."
- 1135 [~~(62)~~] (61) For purposes of this section and Section 59-12-104, "school" means:
- 1136 (a) an elementary school or a secondary school that:
- 1137 (i) is a:
- 1138 (A) public school; or
- 1139 (B) private school; and
- 1140 (ii) provides instruction for one or more grades kindergarten through 12; or
- 1141 (b) a public school district.
- 1142 [~~(63)~~] (62) "Seller" means a person that makes a sale, lease, or rental of:
- 1143 (a) tangible personal property; or

1144 (b) a service.

1145 [~~(64)~~] (63) (a) "Semiconductor fabricating or processing materials" means tangible

1146 personal property:

1147 (i) used primarily in the process of:

1148 (A) (I) manufacturing a semiconductor; or

1149 (II) fabricating a semiconductor; or

1150 (B) maintaining an environment suitable for a semiconductor; or

1151 (ii) consumed primarily in the process of:

1152 (A) (I) manufacturing a semiconductor; or

1153 (II) fabricating a semiconductor; or

1154 (B) maintaining an environment suitable for a semiconductor.

1155 (b) "Semiconductor fabricating or processing materials" includes:

1156 (i) parts used in the repairs or renovations of tangible personal property described in

1157 Subsection [~~(64)~~] (63)(a); or

1158 (ii) a chemical, catalyst, or other material used to:

1159 (A) produce or induce in a semiconductor a:

1160 (I) chemical change; or

1161 (II) physical change;

1162 (B) remove impurities from a semiconductor; or

1163 (C) improve the marketable condition of a semiconductor.

1164 [~~(65)~~] (64) "Senior citizen center" means a facility having the primary purpose of

1165 providing services to the aged as defined in Section 62A-3-101.

1166 [~~(66)~~] (65) (a) "Sports or recreational equipment" means an item:

1167 (i) designed for human use; and

1168 (ii) that is:

1169 (A) worn in conjunction with:

1170 (I) an athletic activity; or

1171 (II) a recreational activity; and

1172 (B) not suitable for general use.

1173 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1174 commission shall make rules:

- 1175 (i) listing the items that constitute "sports or recreational equipment"; and
1176 (ii) that are consistent with the list of items that constitute "sports or recreational
1177 equipment" under the agreement.
- 1178 [~~(67)~~] (66) "State" means the state of Utah, its departments, and agencies.
- 1179 [~~(68)~~] (67) "Storage" means any keeping or retention of tangible personal property or
1180 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
1181 except sale in the regular course of business.
- 1182 [~~(69)~~] (68) (a) "Tangible personal property" means personal property that:
- 1183 (i) may be:
- 1184 (A) seen;
- 1185 (B) weighed;
- 1186 (C) measured;
- 1187 (D) felt; or
- 1188 (E) touched; or
- 1189 (ii) is in any manner perceptible to the senses.
- 1190 (b) "Tangible personal property" includes:
- 1191 (i) electricity;
- 1192 (ii) water;
- 1193 (iii) gas;
- 1194 (iv) steam; or
- 1195 (v) prewritten computer software.
- 1196 [~~(70)~~] (69) (a) "Telephone service" means a two-way transmission:
- 1197 (i) by:
- 1198 (A) wire;
- 1199 (B) radio;
- 1200 (C) lightwave; or
- 1201 (D) other electromagnetic means; and
- 1202 (ii) of one or more of the following:
- 1203 (A) a sign;
- 1204 (B) a signal;
- 1205 (C) writing;

- 1206 (D) an image;
- 1207 (E) sound;
- 1208 (F) a message;
- 1209 (G) data; or
- 1210 (H) other information of any nature.
- 1211 (b) "Telephone service" includes:
- 1212 (i) mobile telecommunications service;
- 1213 (ii) private communications service; or
- 1214 (iii) automated digital telephone answering service.
- 1215 (c) "Telephone service" does not include a service or a transaction that a state or a
- 1216 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 1217 Tax Freedom Act, Pub. L. No. 105-277.
- 1218 ~~[(71)]~~ (70) Notwithstanding where a call is billed or paid, "telephone service address"
- 1219 means:
- 1220 (a) if the location described in this Subsection ~~[(71)]~~ (70)(a) is known, the location of
- 1221 the telephone service equipment:
- 1222 (i) to which a call is charged; and
- 1223 (ii) from which the call originates or terminates;
- 1224 (b) if the location described in Subsection ~~[(71)]~~ (70)(a) is not known but the location
- 1225 described in this Subsection ~~[(71)]~~ (70)(b) is known, the location of the origination point of the
- 1226 signal of the telephone service first identified by:
- 1227 (i) the telecommunications system of the seller; or
- 1228 (ii) if the system used to transport the signal is not that of the seller, information
- 1229 received by the seller from its service provider; or
- 1230 (c) if the locations described in Subsection ~~[(71)]~~ (70)(a) or (b) are not known, the
- 1231 location of a purchaser's primary place of use.
- 1232 ~~[(72)]~~ (71) (a) "Telephone service provider" means a person that:
- 1233 (i) owns, controls, operates, or manages a telephone service; and
- 1234 (ii) engages in an activity described in Subsection ~~[(72)]~~ (71)(a)(i) for the shared use
- 1235 with or resale to any person of the telephone service.
- 1236 (b) A person described in Subsection ~~[(72)]~~ (71)(a) is a telephone service provider

1237 whether or not the Public Service Commission of Utah regulates:

1238 (i) that person; or

1239 (ii) the telephone service that the person owns, controls, operates, or manages.

1240 [~~(73)~~] (72) "Tobacco" means:

1241 (a) a cigarette;

1242 (b) a cigar;

1243 (c) chewing tobacco;

1244 (d) pipe tobacco; or

1245 (e) any other item that contains tobacco.

1246 [~~(74)~~] (73) (a) "Use" means the exercise of any right or power over tangible personal
1247 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
1248 property, item, or service.

1249 (b) "Use" does not include the sale, display, demonstration, or trial of that property in
1250 the regular course of business and held for resale.

1251 [~~(75)~~] (74) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle,
1252 as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and
1253 any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both.
1254 "Vehicle," for purposes of Subsection 59-12-104(35) only, also includes any locomotive,
1255 freight car, railroad work equipment, or other railroad rolling stock.

1256 [~~(76)~~] (75) "Vehicle dealer" means a person engaged in the business of buying, selling,
1257 or exchanging vehicles as defined in Subsection [~~(75)~~] (74).

1258 Section 3. Section **59-12-103 (Superseded 07/01/04)** is amended to read:

1259 **59-12-103 (Superseded 07/01/04). Sales and use tax base -- Rate -- Use of sales**
1260 **and use tax revenues.**

1261 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1262 charged for the following transactions:

1263 (a) retail sales of tangible personal property made within the state;

1264 (b) amounts paid:

1265 (i) (A) to a common carrier; or

1266 (B) whether the following are municipally or privately owned, to a:

1267 (I) telephone service provider; or

1268 (II) telegraph corporation as defined in Section 54-2-1; and
1269 (ii) for:
1270 (A) all transportation;
1271 (B) telephone service, other than mobile telecommunications service, that originates
1272 and terminates within the boundaries of this state;
1273 (C) mobile telecommunications service that originates and terminates within the
1274 boundaries of one state only to the extent permitted by the Mobile Telecommunications
1275 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
1276 (D) telegraph service;
1277 (c) sales of the following for commercial use:
1278 (i) gas;
1279 (ii) electricity;
1280 (iii) heat;
1281 (iv) coal;
1282 (v) fuel oil; or
1283 (vi) other fuels;
1284 (d) sales of the following for residential use:
1285 (i) gas;
1286 (ii) electricity;
1287 (iii) heat;
1288 (iv) coal;
1289 (v) fuel oil; or
1290 (vi) other fuels;
1291 (e) sales of meals;
1292 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
1293 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
1294 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
1295 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
1296 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
1297 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
1298 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,

1299 horseback rides, sports activities, or any other amusement, entertainment, recreation,
1300 exhibition, cultural, or athletic activity;

1301 (g) amounts paid or charged for services:

1302 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
1303 provides for an exemption from sales and use tax for:

1304 (A) the tangible personal property; and

1305 (B) parts used in the repairs or renovations of the tangible personal property described
1306 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
1307 renovations of that tangible personal property; or

1308 (ii) to install tangible personal property in connection with other tangible personal
1309 property, unless the tangible personal property being installed is exempt from sales and use tax
1310 under Section 59-12-104;

1311 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1312 cleaning or washing of tangible personal property;

1313 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1314 accommodations and services that are regularly rented for less than 30 consecutive days;

1315 (j) amounts paid or charged for laundry or dry cleaning services;

1316 (k) amounts paid or charged for leases or rentals of tangible personal property if:

1317 (i) the tangible personal property's situs is in this state;

1318 (ii) the lessee took possession of the tangible personal property in this state; or

1319 (iii) within this state the tangible personal property is:

1320 (A) stored;

1321 (B) used; or

1322 (C) otherwise consumed;

1323 (l) amounts paid or charged for tangible personal property if within this state the
1324 tangible personal property is:

1325 (i) stored;

1326 (ii) used; or

1327 (iii) consumed; and

1328 (m) amounts paid or charged for prepaid telephone calling cards[?];

1329 [~~(n) amounts paid or charged for multi-channel video or audio service provided by a~~]

1330 ~~multi-channel video or audio service provider:]~~

1331 ~~[(i) within the state; and]~~

1332 ~~[(ii) to the extent permitted by federal law.]~~

1333 (2) (a) Except as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a
1334 state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the
1335 sum of:

1336 (i) a state tax imposed on the transaction at a rate of 4.75%; and

1337 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1338 transaction under this chapter other than this part.

1339 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a
1340 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

1341 (i) a state tax imposed on the transaction at a rate of 2%; and

1342 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1343 transaction under this chapter other than this part.

1344 (c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor
1345 collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a
1346 state tax and a local tax is imposed on the transaction equal to the sum of:

1347 (i) a state tax imposed on the transaction at a rate of:

1348 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

1349 (B) 2% for a transaction described in Subsection (1)(d); and

1350 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a
1351 rate equal to the sum of the following tax rates:

1352 (A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204,
1353 but only if all of the counties, cities, and towns in the state impose the tax under Section
1354 59-12-204; or

1355 (II) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but
1356 only if all of the counties, cities, and towns in the state impose the tax under Section
1357 59-12-205; and

1358 (B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the
1359 state impose the tax under Section 59-12-1102.

1360 (d) Tax rates authorized under the following do not apply to Subsection (2)(c)(ii):

- 1361 (i) Subsection (2)(a)(i);
1362 (ii) Subsection (2)(b)(i);
1363 (iii) Subsection (2)(c)(i);
1364 (iv) Section 59-12-301;
1365 (v) Section 59-12-352;
1366 (vi) Section 59-12-353;
1367 (vii) Section 59-12-401;
1368 (viii) Section 59-12-402;
1369 (ix) Section 59-12-501;
1370 (x) Section 59-12-502;
1371 (xi) Section 59-12-603;
1372 (xii) Section 59-12-703;
1373 (xiii) Section 59-12-802;
1374 (xiv) Section 59-12-804;
1375 (xv) Section 59-12-1001;
1376 (xvi) Section 59-12-1201; or
1377 (xvii) Section 59-12-1302.
- 1378 (3) (a) Except as provided in Subsections (4) through (9), the following state taxes
1379 shall be deposited into the General Fund:
- 1380 (i) the tax imposed by Subsection (2)(a)(i);
1381 (ii) the tax imposed by Subsection (2)(b)(i); and
1382 (iii) the tax imposed by Subsection (2)(c)(i).
- 1383 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed
1384 to a county, city, or town as provided in this chapter.
- 1385 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the
1386 state shall receive the county's, city's, or town's proportionate share of the revenues generated
1387 by the local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).
- 1388 (ii) The commission shall determine a county's, city's, or town's proportionate share of
1389 the revenues under Subsection (3)(c)(i) by:
- 1390 (A) calculating an amount equal to:
1391 (I) the population of the county, city, or town; divided by

1392 (II) the total population of the state; and
1393 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total
1394 amount of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties,
1395 cities, and towns.

1396 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for
1397 purposes of this section shall be derived from the most recent official census or census estimate
1398 of the United States Census Bureau.

1399 (B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not
1400 available from the United States Census Bureau, population figures shall be derived from the
1401 estimate from the Utah Population Estimates Committee created by executive order of the
1402 governor.

1403 (C) For purposes of this section, the population of a county may only include the
1404 population of the unincorporated areas of the county.

1405 (4) (a) Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics
1406 special revenue fund or funds as determined by the Division of Finance under Section 51-5-4,
1407 for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports
1408 Authority Act:

1409 (i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax
1410 generated by a 1/64% tax rate on the taxable transactions under Subsection (1);
1411 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a
1412 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under
1413 Subsection (1); and
1414 (iii) interest earned on the amounts under Subsections (4)(a)(i) and (ii).

1415 (b) These funds shall be used:

1416 (i) by the Utah Sports Authority as follows:

1417 (A) to the extent funds are available, to transfer directly to a debt service fund or to
1418 otherwise reimburse to the state any amount expended on debt service or any other cost of any
1419 bonds issued by the state to construct any public sports facility as defined in Section
1420 63A-7-103;

1421 (B) to pay for the actual and necessary operating, administrative, legal, and other
1422 expenses of the Utah Sports Authority, but not including protocol expenses for seeking and

1423 obtaining the right to host the Winter Olympic Games;

1424 (C) as otherwise appropriated by the Legislature; and

1425 (D) unless the Legislature appropriates additional funds from the Olympics Special

1426 Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan,

1427 or pledge in the aggregate more than:

1428 (I) \$59,000,000 of sales and use tax deposited into the Olympics Special Revenue Fund

1429 under Subsection (4)(a);

1430 (II) the interest earned on the amount described in Subsection (4)(b)(i)(D)(I); and

1431 (III) the revenues deposited into the Olympics Special Revenue Fund that are not sales

1432 and use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes; and

1433 (ii) to pay salary, benefits, or administrative costs associated with the State Olympic

1434 Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative

1435 costs may not be paid from the sales and use tax revenues generated by municipalities or

1436 counties and deposited under Subsection (4)(a)(ii).

1437 (c) A payment of salary, benefits, or administrative costs under Subsection

1438 63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.

1439 (d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(D), the

1440 authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge

1441 the appropriated funds unless the authority:

1442 (i) contracts in writing for the full reimbursement of the monies to the Olympics

1443 Special Revenue Fund by a public sports entity or other person benefitting from the

1444 expenditure; and

1445 (ii) obtains a security interest that secures payment or performance of the obligation to

1446 reimburse.

1447 (e) A contract or agreement entered into in violation of Subsection (4)(d) is void.

1448 (5) (a) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection

1449 (11), for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred or

1450 deposited as provided in Subsections (5)(a)(ii) through (vii):

1451 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1452 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1453 (II) for fiscal year 2002-03; or

1454 (B) \$18,743,000.

1455 (ii) (A) For fiscal year 2002-03 only, \$2,300,000 of the amount described in Subsection

1456 (5)(a)(i) shall be transferred as dedicated credits to the Department of Natural Resources to:

1457 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to

1458 protect sensitive plant and animal species; or

1459 (II) award grants, up to the amount authorized by the Legislature in an appropriations

1460 act, to political subdivisions of the state to implement the measures described in Subsections

1461 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1462 (B) Money transferred to the Department of Natural Resources under Subsection

1463 (5)(a)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other

1464 person to list or attempt to have listed a species as threatened or endangered under the

1465 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1466 (C) At the end of fiscal year 2002-03:

1467 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources

1468 Conservation and Development Fund created in Section 73-10-24;

1469 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

1470 Program Subaccount created in Section 73-10c-5; and

1471 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

1472 Program Subaccount created in Section 73-10c-5.

1473 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection

1474 (5)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section

1475 4-18-6.

1476 (iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection

1477 (5)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover the

1478 costs incurred in hiring legal and technical staff for the adjudication of water rights.

1479 (B) At the end of fiscal year 2002-03:

1480 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources

1481 Conservation and Development Fund created in Section 73-10-24;

1482 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

1483 Program Subaccount created in Section 73-10c-5; and

1484 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

1485 Program Subaccount created in Section 73-10c-5.

1486 (v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection
1487 (5)(a)(i) that remains after making the transfers and deposits required by Subsections (5)(a)(ii)
1488 through (iv) shall be deposited in the Water Resources Conservation and Development Fund
1489 created in Section 73-10-24 for use by the Division of Water Resources.

1490 (B) In addition to the uses allowed of the Water Resources Conservation and
1491 Development Fund under Section 73-10-24, the Water Resources Conservation and
1492 Development Fund may also be used to:

1493 (I) provide a portion of the local cost share, not to exceed in fiscal year 2002-03 50%
1494 of the funds made available to the Division of Water Resources under this section, of potential
1495 project features of the Central Utah Project;

1496 (II) conduct hydrologic and geotechnical investigations by the Department of Natural
1497 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1498 quantifying surface and ground water resources and describing the hydrologic systems of an
1499 area in sufficient detail so as to enable local and state resource managers to plan for and
1500 accommodate growth in water use without jeopardizing the resource;

1501 (III) fund state required dam safety improvements; and

1502 (IV) protect the state's interest in interstate water compact allocations, including the
1503 hiring of technical and legal staff.

1504 (vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i)
1505 that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through
1506 (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section
1507 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1508 (vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i)
1509 that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through
1510 (iv) shall be deposited in the Drinking Water Loan Program Subaccount created in Section
1511 73-10c-5 for use by the Division of Drinking Water to:

1512 (A) provide for the installation and repair of collection, treatment, storage, and
1513 distribution facilities for any public water system, as defined in Section 19-4-102;

1514 (B) develop underground sources of water, including springs and wells; and

1515 (C) develop surface water sources.

1516 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1517 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)(ii)
1518 through (vii):

1519 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1520 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1521 (II) for the fiscal year; or

1522 (B) \$17,500,000.

1523 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1524 described in Subsection (5)(b)(i) shall be transferred each year as dedicated credits to the
1525 Department of Natural Resources to:

1526 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
1527 protect sensitive plant and animal species; or

1528 (II) award grants, up to the amount authorized by the Legislature in an appropriations
1529 act, to political subdivisions of the state to implement the measures described in Subsections
1530 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1531 (B) Money transferred to the Department of Natural Resources under Subsection
1532 (5)(b)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other
1533 person to list or attempt to have listed a species as threatened or endangered under the
1534 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1535 (C) At the end of each fiscal year:

1536 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1537 Conservation and Development Fund created in Section 73-10-24;

1538 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1539 Program Subaccount created in Section 73-10c-5; and

1540 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1541 Program Subaccount created in Section 73-10c-5.

1542 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1543 Subsection (5)(b)(i) shall be deposited each year in the Agriculture Resource Development
1544 Fund created in Section 4-18-6.

1545 (iv) (A) For a fiscal year beginning on or after July 1, 2003, 1% of the amount
1546 described in Subsection (5)(b)(i) shall be transferred each year as dedicated credits to the

1547 Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the
1548 adjudication of water rights.

1549 (B) At the end of each fiscal year:

1550 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources

1551 Conservation and Development Fund created in Section 73-10-24;

1552 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

1553 Program Subaccount created in Section 73-10c-5; and

1554 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

1555 Program Subaccount created in Section 73-10c-5.

1556 (v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount

1557 described in Subsection (5)(b)(i) shall be deposited in the Water Resources Conservation and

1558 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1559 (B) In addition to the uses allowed of the Water Resources Conservation and

1560 Development Fund under Section 73-10-24, the Water Resources Conservation and

1561 Development Fund may also be used to:

1562 (I) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the

1563 funds made available to the Division of Water Resources under this section, of potential project

1564 features of the Central Utah Project;

1565 (II) conduct hydrologic and geotechnical investigations by the Department of Natural

1566 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

1567 quantifying surface and ground water resources and describing the hydrologic systems of an

1568 area in sufficient detail so as to enable local and state resource managers to plan for and

1569 accommodate growth in water use without jeopardizing the resource;

1570 (III) fund state required dam safety improvements; and

1571 (IV) protect the state's interest in interstate water compact allocations, including the

1572 hiring of technical and legal staff.

1573 (vi) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described

1574 in Subsection (5)(b)(i) shall be deposited in the Utah Wastewater Loan Program Subaccount

1575 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1576 (vii) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount

1577 described in Subsection (5)(b)(i) shall be deposited in the Drinking Water Loan Program

1578 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:
1579 (A) provide for the installation and repair of collection, treatment, storage, and
1580 distribution facilities for any public water system, as defined in Section 19-4-102;
1581 (B) develop underground sources of water, including springs and wells; and
1582 (C) develop surface water sources.
1583 (6) (a) (i) Notwithstanding Subsection (3)(a), for fiscal year 2002-03 only, the lesser of
1584 the following amounts shall be transferred or deposited as provided in Subsections (6)(a)(ii)
1585 through (iv):
1586 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
1587 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and
1588 (II) for the fiscal year; or
1589 (B) \$18,743,000.
1590 (ii) (A) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection
1591 (6)(a)(i) shall be deposited in the Transportation Corridor Preservation Revolving Loan Fund
1592 created in Section 72-2-117.
1593 (B) At least 50% of the money deposited in the Transportation Corridor Preservation
1594 Revolving Loan Fund under Subsection (6)(a)(ii)(A) shall be used to fund loan applications
1595 made by the Department of Transportation at the request of local governments.
1596 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection
1597 (6)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of
1598 Transportation for the State Park Access Highways Improvement Program created in Section
1599 72-3-207.
1600 (iv) For fiscal year 2002-03 only, the amount described in Subsection (6)(a)(i) that
1601 remains after making the transfers and deposits required by Subsections (6)(a)(ii) and (iii) shall
1602 be deposited in the class B and class C roads account to be expended as provided in Title 72,
1603 Chapter 2, Transportation Finances Act, for the use of class B and C roads.
1604 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1605 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)(ii)
1606 through (iv):
1607 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
1608 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1609 (II) for the fiscal year; or

1610 (B) \$18,743,000.

1611 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 3% of the amount
1612 described in Subsection (6)(b)(i) shall be deposited each year in the Transportation Corridor
1613 Preservation Revolving Loan Fund created in Section 72-2-117.

1614 (B) At least 50% of the money deposited in the Transportation Corridor Preservation
1615 Revolving Loan Fund under Subsection (6)(b)(ii)(A) shall be used to fund loan applications
1616 made by the Department of Transportation at the request of local governments.

1617 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1618 Subsection (6)(b)(i) shall be transferred each year as nonlapsing dedicated credits to the
1619 Department of Transportation for the State Park Access Highways Improvement Program
1620 created in Section 72-3-207.

1621 (iv) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described
1622 in Subsection (6)(b)(i) shall be deposited in the class B and class C roads account to be
1623 expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class
1624 B and C roads.

1625 (7) (a) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division
1626 of Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a
1627 portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64%
1628 tax rate on the taxable transactions under Subsection (1).

1629 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,
1630 1999, the revenues generated by the 1/64% tax rate:

1631 (i) retained under Subsection 59-12-204(7)(a) shall be retained by the counties, cities,
1632 or towns as provided in Section 59-12-204; and

1633 (ii) retained under Subsection 59-12-205(4)(a) shall be distributed to each county, city,
1634 and town as provided in Section 59-12-205.

1635 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission
1636 shall deposit into the Airport to University of Utah Light Rail Restricted Account created in
1637 Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and
1638 59-12-205 that is:

1639 (a) generated by a city or town that will have constructed within its boundaries the

1640 Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st
1641 Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

1642 (b) equal to the revenues generated by a 1/64% tax rate on the taxable items and
1643 services under Subsection (1).

1644 (9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
1645 year 2002-03, the commission shall on or before September 30 of each year deposit the
1646 difference described in Subsection (9)(b) into the Remote Sales Restricted Account created in
1647 Section 59-12-103.2 if that difference is greater than \$0.

1648 (b) The difference described in Subsection (9)(a) is equal to the difference between:

1649 (i) the total amount of revenues under Subsection (2)(c)(i) the commission received
1650 from vendors collecting a tax under Subsection 59-12-107(1)(b) for the fiscal year immediately
1651 preceding the September 30 described in Subsection (9)(a); and

1652 (ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates
1653 that the commission received from vendors described in Subsection 59-12-107(1)(b) for fiscal
1654 year 2000-01.

1655 (10) (a) For purposes of amounts paid or charged as admission or user fees relating to
1656 the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the
1657 day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a
1658 person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of
1659 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in
1660 Subsection (1)(f).

1661 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1662 commission shall make rules defining what constitutes sending a purchaser confirmation under
1663 Subsection (10)(a).

1664 (11) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from
1665 the total amount required to be deposited or transferred in accordance with Subsection (5):

1666 (i) \$25,000 shall be subtracted from the total amount required to be transferred to the
1667 Division of Water Rights in accordance with Subsection (5)(a)(iv);

1668 (ii) \$385,000 shall be subtracted from the total amount required to be deposited into the
1669 Agriculture Resource Development Fund in accordance with Subsection (5)(a)(iii);

1670 (iii) \$350,000 shall be subtracted from the total amount required to be transferred to the

1671 Department of Natural Resources in accordance with Subsection (5)(a)(ii);
1672 (iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into
1673 the Drinking Water Loan Program Subaccount in accordance with Subsection (5)(a)(vii);
1674 (v) \$3,012,500 shall be subtracted from the total amount required to be deposited into
1675 the Utah Wastewater Loan Program Subaccount in accordance with Subsection (5)(a)(vi); and
1676 (vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into
1677 the Water Resources Conservation and Development Fund in accordance with Subsection
1678 (5)(a)(v).

1679 (b) The amounts subtracted under Subsection (11)(a) shall be deposited into the
1680 General Fund.

1681 Section 4. Section **59-12-103 (Effective 07/01/04)** is amended to read:

1682 **59-12-103 (Effective 07/01/04). Sales and use tax base -- Rates -- Effective dates --**
1683 **Use of sales and use tax revenues.**

1684 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or
1685 charged for the following transactions:

1686 (a) retail sales of tangible personal property made within the state;

1687 (b) amounts paid:

1688 (i) (A) to a common carrier; or

1689 (B) whether the following are municipally or privately owned, to a:

1690 (I) telephone service provider; or

1691 (II) telegraph corporation as defined in Section 54-2-1; and

1692 (ii) for:

1693 (A) all transportation;

1694 (B) telephone service, other than mobile telecommunications service, that originates
1695 and terminates within the boundaries of this state;

1696 (C) mobile telecommunications service that originates and terminates within the
1697 boundaries of one state only to the extent permitted by the Mobile Telecommunications
1698 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

1699 (D) telegraph service;

1700 (c) sales of the following for commercial use:

1701 (i) gas;

- 1702 (ii) electricity;
- 1703 (iii) heat;
- 1704 (iv) coal;
- 1705 (v) fuel oil; or
- 1706 (vi) other fuels;
- 1707 (d) sales of the following for residential use:
- 1708 (i) gas;
- 1709 (ii) electricity;
- 1710 (iii) heat;
- 1711 (iv) coal;
- 1712 (v) fuel oil; or
- 1713 (vi) other fuels;
- 1714 (e) sales of prepared food;
- 1715 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 1716 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 1717 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 1718 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 1719 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 1720 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 1721 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 1722 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 1723 exhibition, cultural, or athletic activity;
- 1724 (g) amounts paid or charged for services:
- 1725 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
- 1726 provides for an exemption from sales and use tax for:
- 1727 (A) the tangible personal property; and
- 1728 (B) parts used in the repairs or renovations of the tangible personal property described
- 1729 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
- 1730 renovations of that tangible personal property; or
- 1731 (ii) to install tangible personal property in connection with other tangible personal
- 1732 property, unless the tangible personal property being installed is exempt from sales and use tax

1733 under Section 59-12-104;

1734 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
1735 cleaning or washing of tangible personal property;

1736 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
1737 accommodations and services that are regularly rented for less than 30 consecutive days;

1738 (j) amounts paid or charged for laundry or dry cleaning services;

1739 (k) amounts paid or charged for leases or rentals of tangible personal property if:

1740 (i) the tangible personal property's situs is in this state;

1741 (ii) the lessee took possession of the tangible personal property in this state; or

1742 (iii) within this state the tangible personal property is:

1743 (A) stored;

1744 (B) used; or

1745 (C) otherwise consumed;

1746 (l) amounts paid or charged for tangible personal property if within this state the
1747 tangible personal property is:

1748 (i) stored;

1749 (ii) used; or

1750 (iii) consumed; and

1751 (m) amounts paid or charged for prepaid telephone calling cards[;].

1752 [~~(n) amounts paid or charged for multi-channel video or audio service provided by a~~
1753 ~~multi-channel video or audio service provider:]~~

1754 [~~(i) within the state; and]~~

1755 [~~(ii) to the extent permitted by federal law.]~~

1756 (2) (a) Except as provided in Subsection (2)(b), beginning on July 1, 2001, a state tax
1757 and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

1758 (i) a state tax imposed on the transaction at a rate of 4.75%; and

1759 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1760 transaction under this chapter other than this part.

1761 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a
1762 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

1763 (i) a state tax imposed on the transaction at a rate of 2%; and

1764 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
1765 transaction under this chapter other than this part.

1766 (c) Subject to Subsections (2)(d) and (e), a tax rate change for a tax rate imposed under
1767 the following shall take effect on the first day of a calendar quarter:

1768 (i) Subsection (2)(a)(i); or

1769 (ii) Subsection (2)(b)(i).

1770 (d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take
1771 effect on the first day of the first billing period:

1772 (A) that begins after the effective date of the tax rate increase; and

1773 (B) if the billing period for the transaction begins before the effective date of a tax rate
1774 increase imposed under:

1775 (I) Subsection (2)(a)(i); or

1776 (II) Subsection (2)(b)(i).

1777 (ii) For a transaction described in Subsection (2)(d)(iii), a tax rate decrease shall take
1778 effect on the first day of the last billing period:

1779 (A) that began before the effective date of the tax rate decrease; and

1780 (B) if the billing period for the transaction begins before the effective date of a tax rate
1781 decrease imposed under:

1782 (I) Subsection (2)(a)(i); or

1783 (II) Subsection (2)(b)(i).

1784 (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:

1785 (A) Subsection (1)(b);

1786 (B) Subsection (1)(c);

1787 (C) Subsection (1)(d);

1788 (D) Subsection (1)(e);

1789 (E) Subsection (1)(f);

1790 (F) Subsection (1)(g);

1791 (G) Subsection (1)(h);

1792 (H) Subsection (1)(i);

1793 (I) Subsection (1)(j); or

1794 (J) Subsection (1)(k).

1795 (e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the
1796 basis of sales and use tax rates published in the catalogue, a change in a tax rate imposed under
1797 Subsection (2)(a)(i) takes effect:

1798 (A) on the first day of a calendar quarter; and

1799 (B) beginning 60 days after the effective date of the tax rate change under Subsection
1800 (2)(a)(i).

1801 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
1802 the commission may by rule define the term "catalogue sale."

1803 (3) (a) Except as provided in Subsections (4) through (7) and (9), the following state
1804 taxes shall be deposited into the General Fund:

1805 (i) the tax imposed by Subsection (2)(a)(i); or

1806 (ii) the tax imposed by Subsection (2)(b)(i).

1807 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed
1808 to a county, city, or town as provided in this chapter.

1809 (4) (a) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection (9),
1810 for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred or
1811 deposited as provided in Subsections (4)(a)(ii) through (vii):

1812 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1813 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1814 (II) for fiscal year 2002-03; or

1815 (B) \$18,743,000.

1816 (ii) (A) For fiscal year 2002-03 only, \$2,300,000 of the amount described in Subsection
1817 (4)(a)(i) shall be transferred as dedicated credits to the Department of Natural Resources to:

1818 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to
1819 protect sensitive plant and animal species; or

1820 (II) award grants, up to the amount authorized by the Legislature in an appropriations
1821 act, to political subdivisions of the state to implement the measures described in Subsections
1822 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1823 (B) Money transferred to the Department of Natural Resources under Subsection
1824 (4)(a)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other
1825 person to list or attempt to have listed a species as threatened or endangered under the

1826 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
1827 (C) At the end of fiscal year 2002-03:
1828 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1829 Conservation and Development Fund created in Section 73-10-24;
1830 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1831 Program Subaccount created in Section 73-10c-5; and
1832 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1833 Program Subaccount created in Section 73-10c-5.
1834 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection
1835 (4)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section
1836 4-18-6.
1837 (iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection
1838 (4)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover the
1839 costs incurred in hiring legal and technical staff for the adjudication of water rights.
1840 (B) At the end of fiscal year 2002-03:
1841 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1842 Conservation and Development Fund created in Section 73-10-24;
1843 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1844 Program Subaccount created in Section 73-10c-5; and
1845 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1846 Program Subaccount created in Section 73-10c-5.
1847 (v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection
1848 (4)(a)(i) that remains after making the transfers and deposits required by Subsections (4)(a)(ii)
1849 through (iv) shall be deposited in the Water Resources Conservation and Development Fund
1850 created in Section 73-10-24 for use by the Division of Water Resources.
1851 (B) In addition to the uses allowed of the Water Resources Conservation and
1852 Development Fund under Section 73-10-24, the Water Resources Conservation and
1853 Development Fund may also be used to:
1854 (I) provide a portion of the local cost share, not to exceed in fiscal year 2002-03 50%
1855 of the funds made available to the Division of Water Resources under this section, of potential
1856 project features of the Central Utah Project;

1857 (II) conduct hydrologic and geotechnical investigations by the Department of Natural
1858 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1859 quantifying surface and ground water resources and describing the hydrologic systems of an
1860 area in sufficient detail so as to enable local and state resource managers to plan for and
1861 accommodate growth in water use without jeopardizing the resource;

1862 (III) fund state required dam safety improvements; and

1863 (IV) protect the state's interest in interstate water compact allocations, including the
1864 hiring of technical and legal staff.

1865 (vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection (4)(a)(i)
1866 that remains after making the transfers and deposits required by Subsections (4)(a)(ii) through
1867 (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section
1868 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1869 (vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection (4)(a)(i)
1870 that remains after making the transfers and deposits required by Subsections (4)(a)(ii) through
1871 (iv) shall be deposited in the Drinking Water Loan Program Subaccount created in Section
1872 73-10c-5 for use by the Division of Drinking Water to:

1873 (A) provide for the installation and repair of collection, treatment, storage, and
1874 distribution facilities for any public water system, as defined in Section 19-4-102;

1875 (B) develop underground sources of water, including springs and wells; and

1876 (C) develop surface water sources.

1877 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1878 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)(ii)
1879 through (vii):

1880 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1881 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1882 (II) for the fiscal year; or

1883 (B) \$17,500,000.

1884 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
1885 described in Subsection (4)(b)(i) shall be transferred each year as dedicated credits to the
1886 Department of Natural Resources to:

1887 (I) implement the measures described in Subsections 63-34-14(4)(a) through (d) to

1888 protect sensitive plant and animal species; or

1889 (II) award grants, up to the amount authorized by the Legislature in an appropriations
1890 act, to political subdivisions of the state to implement the measures described in Subsections
1891 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

1892 (B) Money transferred to the Department of Natural Resources under Subsection
1893 (4)(b)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other
1894 person to list or attempt to have listed a species as threatened or endangered under the
1895 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

1896 (C) At the end of each fiscal year:

1897 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1898 Conservation and Development Fund created in Section 73-10-24;

1899 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1900 Program Subaccount created in Section 73-10c-5; and

1901 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1902 Program Subaccount created in Section 73-10c-5.

1903 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1904 Subsection (4)(b)(i) shall be deposited each year in the Agriculture Resource Development
1905 Fund created in Section 4-18-6.

1906 (iv) (A) For a fiscal year beginning on or after July 1, 2003, 1% of the amount
1907 described in Subsection (4)(b)(i) shall be transferred each year as dedicated credits to the
1908 Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the
1909 adjudication of water rights.

1910 (B) At the end of each fiscal year:

1911 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources
1912 Conservation and Development Fund created in Section 73-10-24;

1913 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
1914 Program Subaccount created in Section 73-10c-5; and

1915 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
1916 Program Subaccount created in Section 73-10c-5.

1917 (v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount
1918 described in Subsection (4)(b)(i) shall be deposited in the Water Resources Conservation and

1919 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

1920 (B) In addition to the uses allowed of the Water Resources Conservation and

1921 Development Fund under Section 73-10-24, the Water Resources Conservation and

1922 Development Fund may also be used to:

1923 (I) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the
1924 funds made available to the Division of Water Resources under this section, of potential project
1925 features of the Central Utah Project;

1926 (II) conduct hydrologic and geotechnical investigations by the Department of Natural
1927 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
1928 quantifying surface and ground water resources and describing the hydrologic systems of an
1929 area in sufficient detail so as to enable local and state resource managers to plan for and
1930 accommodate growth in water use without jeopardizing the resource;

1931 (III) fund state required dam safety improvements; and

1932 (IV) protect the state's interest in interstate water compact allocations, including the
1933 hiring of technical and legal staff.

1934 (vi) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
1935 in Subsection (4)(b)(i) shall be deposited in the Utah Wastewater Loan Program Subaccount
1936 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

1937 (vii) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount
1938 described in Subsection (4)(b)(i) shall be deposited in the Drinking Water Loan Program
1939 Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

1940 (A) provide for the installation and repair of collection, treatment, storage, and
1941 distribution facilities for any public water system, as defined in Section 19-4-102;

1942 (B) develop underground sources of water, including springs and wells; and

1943 (C) develop surface water sources.

1944 (5) (a) (i) Notwithstanding Subsection (3)(a), for fiscal year 2002-03 only, the lesser of
1945 the following amounts shall be transferred or deposited as provided in Subsections (5)(a)(ii)
1946 through (iv):

1947 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1948 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1949 (II) for the fiscal year; or

1950 (B) \$18,743,000.

1951 (ii) (A) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection
1952 (5)(a)(i) shall be deposited in the Transportation Corridor Preservation Revolving Loan Fund
1953 created in Section 72-2-117.

1954 (B) At least 50% of the money deposited in the Transportation Corridor Preservation
1955 Revolving Loan Fund under Subsection (5)(a)(ii)(A) shall be used to fund loan applications
1956 made by the Department of Transportation at the request of local governments.

1957 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection
1958 (5)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of
1959 Transportation for the State Park Access Highways Improvement Program created in Section
1960 72-3-207.

1961 (iv) For fiscal year 2002-03 only, the amount described in Subsection (5)(a)(i) that
1962 remains after making the transfers and deposits required by Subsections (5)(a)(ii) and (iii) shall
1963 be deposited in the class B and class C roads account to be expended as provided in Title 72,
1964 Chapter 2, Transportation Finances Act, for the use of class B and C roads.

1965 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
1966 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)(ii)
1967 through (iv):

1968 (A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

1969 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and

1970 (II) for the fiscal year; or

1971 (B) \$18,743,000.

1972 (ii) (A) For a fiscal year beginning on or after July 1, 2003, 3% of the amount
1973 described in Subsection (5)(b)(i) shall be deposited each year in the Transportation Corridor
1974 Preservation Revolving Loan Fund created in Section 72-2-117.

1975 (B) At least 50% of the money deposited in the Transportation Corridor Preservation
1976 Revolving Loan Fund under Subsection (5)(b)(ii)(A) shall be used to fund loan applications
1977 made by the Department of Transportation at the request of local governments.

1978 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
1979 Subsection (5)(b)(i) shall be transferred each year as nonlapsing dedicated credits to the
1980 Department of Transportation for the State Park Access Highways Improvement Program

1981 created in Section 72-3-207.

1982 (iv) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described
1983 in Subsection (5)(b)(i) shall be deposited in the class B and class C roads account to be
1984 expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class
1985 B and C roads.

1986 (6) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of
1987 Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion
1988 of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate
1989 on the taxable transactions under Subsection (1).

1990 (7) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission
1991 shall deposit into the Airport to University of Utah Light Rail Restricted Account created in
1992 Section 17A-2-1064 the portion of the sales and use tax under Section 59-12-204 that is:

1993 (a) generated by a city or town that will have constructed within its boundaries the
1994 Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st
1995 Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

1996 (b) equal to the revenues generated by a 1/64% tax rate on the taxable items and
1997 services under Subsection (1).

1998 (8) (a) For purposes of amounts paid or charged as admission or user fees relating to
1999 the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the
2000 day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a
2001 person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of
2002 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in
2003 Subsection (1)(f).

2004 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
2005 commission shall make rules defining what constitutes sending a purchaser confirmation under
2006 Subsection (8)(a).

2007 (9) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from the
2008 total amount required to be deposited or transferred in accordance with Subsection (4):

2009 (i) \$25,000 shall be subtracted from the total amount required to be transferred to the
2010 Division of Water Rights in accordance with Subsection (4)(a)(iv);

2011 (ii) \$385,000 shall be subtracted from the total amount required to be deposited into

2012 the Agriculture Resource Development Fund in accordance with Subsection (4)(a)(iii);
 2013 (iii) \$350,000 shall be subtracted from the total amount required to be transferred to the
 2014 Department of Natural Resources in accordance with Subsection (4)(a)(ii);
 2015 (iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into
 2016 the Drinking Water Loan Program Subaccount in accordance with Subsection (4)(a)(vii);
 2017 (v) \$3,012,500 shall be subtracted from the total amount required to be deposited into
 2018 the Utah Wastewater Loan Program Subaccount in accordance with Subsection (4)(a)(vi); and
 2019 (vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into
 2020 the Water Resources Conservation and Development Fund in accordance with Subsection
 2021 (4)(a)(v).
 2022 (b) The amounts subtracted under Subsection (9)(a) shall be deposited into the General
 2023 Fund.
 2024 Section 5. **Effective date.**
 2025 This bill takes effect on June 1, 2004, except that the amendments to Sections
 2026 59-12-102 (Effective 07/01/04) and 59-12-103 (Effective 07/01/04) take effect on July 1, 2004.

Legislative Review Note
as of 12-3-03 9:55 AM

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

Office of Legislative Research and General Counsel

Interim Committee Note
as of 12-11-03 7:35 AM

The Revenue and Taxation Interim Committee recommended this bill.

State Impact

Passage of this bill could decrease the General Fund by \$14,000,000 annually.

	<u>FY 2005</u> <u>Approp.</u>	<u>FY 2006</u> <u>Approp.</u>	<u>FY 2005</u> <u>Revenue</u>	<u>FY 2006</u> <u>Revenue</u>
General Fund	\$0	\$0	(\$14,000,000)	(\$14,000,000)
TOTAL	\$0	\$0	(\$14,000,000)	(\$14,000,000)

Individual and Business Impact

Individual and business savings will be dependent on the level of service utilized.

Office of the Legislative Fiscal Analyst