

Senator Lyle W. Hillyard proposes to substitute the following bill:

**SALES TAX - EXEMPTION FOR HIGHER
EDUCATION ATHLETIC EVENTS**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: Lyle W. Hillyard

AN ACT RELATING TO REVENUE AND TAXATION § AND HIGHER EDUCATION § ;

PROVIDING A SALES TAX

EXEMPTION FOR AMOUNTS PAID FOR ADMISSION TO ATHLETIC EVENTS AT

CERTAIN INSTITUTIONS OF HIGHER EDUCATION; § PRESCRIBING FOR STATE

INSTITUTIONS THAT CERTAIN REVENUES BE USED FOR TITLE IX PURPOSES; § REPEALING

OBSOLETE

LANGUAGE; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE

DATE.

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

AMENDS:

59-12-102, as last amended by Chapters 209, 299 and 344, Laws of Utah 1997

59-12-103, as last amended by Chapters 261 and 272, Laws of Utah 1997

59-12-104, as last amended by Chapters 218, 299, 344 and 378, Laws of Utah 1997

59-12-105, as last amended by Chapter 296, Laws of Utah 1996

§ **ENACTS:**

53B-7-103.5, UTAH CODE ANNOTATED 1953 §

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

§ **SECTION 1. SECTION 53B-7-103.5 IS ENACTED TO READ:**

BEGINNING ON JULY 1, 1998, A STATE INSTITUTION OF HIGHER EDUCATION SHALL

ANNUALLY USE FOR THE PURPOSES DESCRIBED IN TITLE IX OF THE EDUCATION AMENDMENTS

17d OF 1972, 20 U.S.C. SEC. 1681 ET SEQ., AN AMOUNT OF REVENUE EQUAL TO THE TOTAL AMOUNT
17e OF SALES AND USE TAX REVENUE COLLECTED UNDER TITLE 59, CHAPTER 12, SALES AND USE
17f TAX ACT;

17g (a) DURING THE ONE-YEAR PERIOD BEGINNING ON JULY 1, 1997, AND ENDING ON JUNE
17h 30,1998; AND

17i (b) ON AMOUNTS PAID FOR ADMISSION TO ATHLETIC EVENTS AT THE INSTITUTION OF
17j HIGHER EDUCATION. §

18 Section ~~§ [1] 2 §~~ . Section **59-12-102** is amended to read:

19 **59-12-102. Definitions.**

20 As used in this chapter:

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

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

24 (2) "Authorized carrier" means:

25 (a) in the case of vehicles operated over public highways, the holder of credentials

1 indicating that the vehicle is or will be operated pursuant to both the International Registration
2 Plan (IRP) and the International Fuel Tax Agreement (IFTA);

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

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

7 (3) (a) For purposes of Subsection 59-12-104[~~(44)~~](43), "coin-operated amusement
8 device" means:

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

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

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

13 (b) For purposes of Subsection 59-12-104[~~(44)~~](43), "coin-operated amusement device"
14 does not mean a coin-operated amusement device possessing a coinage mechanism that:

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

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

18 (4) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels
19 that does not constitute industrial use under Subsection (10) or residential use under Subsection
20 (17).

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

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

26 (ii) For purposes of Subsection (5)(b)(i), in accordance with Title 63, Chapter 46a, Utah
27 Administrative Rulemaking Act, the commission may make rules defining what constitutes a
28 person's place of employment.

29 (6) "Component part" includes:

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

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

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

4 (d) feed, seeds, and seedlings.

5 (7) "Construction materials" means any tangible personal property that will be converted
6 into real property.

7 (8) (a) "Fundraising sales" means sales:

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

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

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

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

14 (b) For purposes of Subsection (8)(a)(iii), "officially sanctioned school activity" means
15 a school activity:

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

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

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

22 (9) (a) "Home medical equipment and supplies" means equipment and supplies that:

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

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

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

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

31 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as

1 defined in Subsection (9)(c), doctor, nurse, or other health care provider for use in their
2 professional practice;

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

4 (iii) hearing aids or hearing aid accessories.

5 (c) For purposes of Subsection (9)(b)(i), "health care facility" includes:

6 (i) a clinic;

7 (ii) a doctor's office; and

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

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

11 (a) mining or extraction of minerals;

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

14 (i) commercial greenhouses;

15 (ii) irrigation pumps;

16 (iii) farm machinery;

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

19 (v) other farming activities; and

20 (c) manufacturing tangible personal property at an establishment described in SIC Codes
21 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office
22 of the President, Office of Management and Budget.

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

25 (12) For purposes of Subsection 59-12-104[~~(15)~~](14), "manufacturing facility" means:

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

29 (b) a scrap recycler if:

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

- 1 (A) iron;
- 2 (B) steel;
- 3 (C) nonferrous metal;
- 4 (D) paper;
- 5 (E) glass;
- 6 (F) plastic;
- 7 (G) textile; or
- 8 (H) rubber; and

9 (ii) the new products under Subsection (12)(b)(i) would otherwise be made with
10 nonrecycled materials.

11 (13) (a) "Medicine" means:

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

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

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

20 (b) "Medicine" does not include:

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

22 (ii) any alcoholic beverage.

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

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

26 (15) "Person" includes any individual, firm, partnership, joint venture, association,
27 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
28 municipality, district, or other local governmental entity of the state, or any group or combination
29 acting as a unit.

30 (16) "Purchase price" means the amount paid or charged for tangible personal property or
31 any other taxable item or service under Subsection 59-12-103(1), excluding only cash discounts

1 taken or any excise tax imposed on the purchase price by the federal government.

2 (17) "Residential use" means the use in or around a home, apartment building, sleeping
3 quarters, and similar facilities or accommodations.

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

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

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

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

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

20 (19) (a) "Retailer" means any person engaged in a regularly organized retail business in
21 tangible personal property or any other taxable item or service under Subsection 59-12-103(1), and
22 who is selling to the user or consumer and not for resale.

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

25 (c) "Retailer" includes any person who engages in regular or systematic solicitation of a
26 consumer market in this state by the distribution of catalogs, periodicals, advertising flyers, or
27 other advertising, or by means of print, radio or television media, by mail, telegraphy, telephone,
28 computer data base, cable, optic, microwave, or other communication system.

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

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

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

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

15 (20) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in
16 any manner, of tangible personal property or any other taxable item or service under Subsection
17 59-12-103(1), for a consideration. It includes:

18 (a) installment and credit sales;

19 (b) any closed transaction constituting a sale;

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

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

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

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

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

31 (ii) the sale of clothing that:

- 1 (A) a student is specifically required to wear as a condition of participation in a
- 2 school-related event or activity; and
- 3 (B) is not readily adaptable to general or continued usage to the extent that it takes the
- 4 place of ordinary clothing;
- 5 (iii) sales of food if the net or gross revenues generated by the food sales are deposited into
- 6 a school district fund or school fund dedicated to school meals; and
- 7 (iv) transportation charges for official school activities.
- 8 (b) "Sales relating to schools" does not include:
- 9 (i) gate receipts;
- 10 (ii) special event admission fees;
- 11 (iii) bookstore sales of items that are not educational materials or supplies; and
- 12 (iv) except as provided in Subsection(21)(a)(ii), clothing.
- 13 (22) "State" means the state of Utah, its departments, and agencies.
- 14 (23) "Storage" means any keeping or retention of tangible personal property or any other
- 15 taxable item or service under Subsection 59-12-103(1), in this state for any purpose except sale
- 16 in the regular course of business.
- 17 (24) (a) "Tangible personal property" means:
- 18 (i) all goods, wares, merchandise, produce, and commodities;
- 19 (ii) all tangible or corporeal things and substances which are dealt in or capable of being
- 20 possessed or exchanged;
- 21 (iii) water in bottles, tanks, or other containers; and
- 22 (iv) all other physically existing articles or things, including property severed from real
- 23 estate.
- 24 (b) "Tangible personal property" does not include:
- 25 (i) real estate or any interest or improvements in real estate;
- 26 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;
- 27 (iii) insurance certificates or policies;
- 28 (iv) personal or governmental licenses;
- 29 (v) water in pipes, conduits, ditches, or reservoirs;
- 30 (vi) currency and coinage constituting legal tender of the United States or of a foreign
- 31 nation; and

1 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
2 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
3 80%.

4 (25) (a) "Use" means the exercise of any right or power over tangible personal property
5 under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or
6 service.

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

9 (26) "Vehicle" means any aircraft, as defined in Section 2-1-1; any vehicle, as defined in
10 Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any vessel, as
11 defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle" for
12 purposes of Subsection 59-12-104[(37)](36) only, also includes any locomotive, freight car,
13 railroad work equipment, or other railroad rolling stock.

14 (27) "Vehicle dealer" means a person engaged in the business of buying, selling, or
15 exchanging vehicles as defined in Subsection (26).

16 (28) (a) "Vendor" means:

17 (i) any person receiving any payment or consideration upon a sale of tangible personal
18 property or any other taxable item or service under Subsection 59-12-103(1), or to whom such
19 payment or consideration is payable; and

20 (ii) any person who engages in regular or systematic solicitation of a consumer market in
21 this state by the distribution of catalogs, periodicals, advertising flyers, or other advertising, or by
22 means of print, radio or television media, by mail, telegraphy, telephone, computer data base,
23 cable, optic, microwave, or other communication system.

24 (b) "Vendor" does not mean a printer's facility described in Subsection (19)(e).

25 Section § [2] 3 § . Section 59-12-103 is amended to read:

26 **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

27 (1) There is levied a tax on the purchaser for the amount paid or charged for the following:

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

29 (b) amount paid to common carriers or to telephone or telegraph corporations, whether the
30 corporations are municipally or privately owned, for:

31 (i) all transportation;

- 1 (ii) intrastate telephone service; or
- 2 (iii) telegraph service;
- 3 (c) gas, electricity, heat, coal, fuel oil, or other fuels sold for commercial use;
- 4 (d) gas, electricity, heat, coal, fuel oil, or other fuels sold for residential use;
- 5 (e) meals sold;
- 6 (f) (i) admission or user fees for theaters, movies, operas, museums, planetariums, shows
- 7 of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides,
- 8 circuses, menageries, fairs, races, contests, sporting events, dances, boxing and wrestling matches,
- 9 closed circuit television broadcasts, billiard or pool parlors, bowling lanes, golf and miniature golf,
- 10 golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 11 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 12 horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition,
- 13 cultural, or athletic activity;
- 14 (ii) the tax imposed on admission or user fees in Subsection (1)(f)(i) does not affect an
- 15 entity's sales tax exempt status under Section 59-12-104.1;
- 16 (g) services for repairs or renovations of tangible personal property or services to install
- 17 tangible personal property in connection with other tangible personal property;
- 18 (h) except as provided in Subsection 59-12-104[(8)](7), cleaning or washing of tangible
- 19 personal property;
- 20 (i) tourist home, hotel, motel, or trailer court accommodations and services for less than
- 21 30 consecutive days;
- 22 (j) laundry and dry cleaning services;
- 23 (k) leases and rentals of tangible personal property if the property situs is in this state, if
- 24 the lessee took possession in this state, or if the property is stored, used, or otherwise consumed
- 25 in this state; and
- 26 (l) tangible personal property stored, used, or consumed in this state.
- 27 (2) Except for Subsection (1)(d), the rates of the tax levied under Subsection (1) shall be:
- 28 (a) 5% through June 30, 1994;
- 29 (b) 4.875% beginning on July 1, 1994 through June 30, 1997; and
- 30 (c) 4.75% beginning on July 1, 1997.
- 31 (3) The rates of the tax levied under Subsection (1)(d) shall be 2% from and after January

1 1, 1990.

2 (4) (a) From January 1, 1990, through December 31, 1999, there shall be deposited in an
3 Olympics special revenue fund or funds as determined by the Division of Finance under Section
4 51-5-4, for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports
5 Authority Act:

6 (i) the amount of sales and use tax generated by a 1/64% tax rate on the taxable items and
7 services under Subsection (1);

8 (ii) the amount of revenue generated by a 1/64% tax rate under Section 59-12-204 or
9 Section 59-12-205 on the taxable items and services under Subsection (1); and

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

11 (b) These funds shall be used:

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

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

16 (B) to pay for the actual and necessary operating, administrative, legal, and other expenses
17 of the Utah Sports Authority, but not including protocol expenses for seeking and obtaining the
18 right to host the Winter Olympic Games; and

19 (C) the Utah Sports Authority may not expend, loan, or pledge in the aggregate more than
20 \$59,000,000 of sales and use tax deposited into the Olympics special revenue fund under
21 Subsection (4)(a) unless the Legislature appropriates additional funds from the Olympics special
22 revenue fund to the Utah Sports Authority; or

23 (ii) to pay salary, benefits, or administrative costs associated with the State Olympic
24 Coordinator under Subsection 63A-10-103(3), except that the salary, benefits, or administrative
25 costs may not be paid from the sales and tax revenues generated by municipalities or counties and
26 deposited under Subsection (4)(a)(ii).

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

29 (d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(C), the
30 authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge the
31 appropriated funds unless the authority:

1 (i) contracts in writing for the full reimbursement of the monies to the Olympics special
2 revenue fund by a public sports entity or other person benefitting from the expenditure; and

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

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

6 (f) Any monies in the Olympics special revenue fund or funds as of October 1, 2002, shall
7 be dispersed as follows:

8 (i) 50% shall be deposited into the General Fund; and

9 (ii) 50% to counties, cities, or towns in proportion to the sales and use taxes generated by
10 the county, city, or town and deposited under Subsection (4)(a)(ii).

11 (5) (a) From July 1, 1997, the annual amount of sales and use tax generated by a 1/8% tax
12 rate on the taxable items and services under Subsection (1) shall be used as follows:

13 (i) 50% shall be used for water and wastewater projects as provided in Subsections (5)(b)
14 through (f); and

15 (ii) 50% shall be used for transportation projects as provided in Subsections (5)(g) through
16 (h).

17 (b) Five hundred thousand dollars each year shall be transferred to the Agriculture
18 Resource Development Fund created in Section 4-18-6.

19 (c) Fifty percent of the remaining amount generated by 50% of the 1/8% tax rate shall be
20 transferred to the Water Resources Conservation and Development Fund created in Section
21 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund
22 under Section 73-10-24, the fund may also be used to:

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

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

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

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

3 (d) Twenty-five percent of the remaining amount generated by 50% of the 1/8% tax rate
4 shall be transferred to the Utah Wastewater Loan Program subaccount created in Section 73-10c-5
5 for use by the Water Quality Board to fund wastewater projects as defined in Section 73-10b-2.

6 (e) Twenty-five percent of the remaining amount generated by 50% of the 1/8% tax rate
7 shall be transferred to the Drinking Water Loan Program subaccount created in Section 73-10c-5
8 for use by the Division of Drinking Water to:

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

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

12 (iii) develop surface water sources.

13 (f) Notwithstanding Subsections (5)(b), (c), (d), and (e), \$100,000 of the remaining amount
14 generated by 50% of the 1/8% tax rate each year shall be transferred as dedicated credits to the
15 Division of Water Rights to cover the costs incurred in hiring legal and other technical staff for
16 the adjudication of water rights. Any remaining balance at the end of each fiscal year shall lapse
17 back to the contributing funds on a prorated basis.

18 (g) Fifty percent of the 1/8% tax rate shall be transferred to the class B and class C roads
19 account to be expended as provided in Title 27, Chapter 12, Article 11, Finances, except as
20 provided in Subsection (5)(h).

21 (h) (i) If H.B. 53, "Transportation Corridor Preservation," passes in the 1996 General
22 Session, \$500,000 each year shall be transferred to the Transportation Corridor Preservation
23 Revolving Loan Fund, and if H.B. 121, "State Park Access Roads," passes in the 1996 General
24 Session, from July 1, 1997, through June 30, 2006, \$500,000 shall be transferred to the Department
25 of Transportation for the State Park Access Highways Improvement Program. The remaining
26 amount generated by 50% of the 1/8% tax rate shall be transferred to the class B and class C roads
27 account.

28 (ii) At least 50% of the money transferred to the Transportation Corridor Preservation
29 Revolving Loan Fund under Subsection (5)(h)(i) shall be used to fund loan applications made by
30 the Department of Transportation at the request of local governments.

31 (6) (a) Beginning on January 1, 2000, the Division of Finance shall deposit into the

1 Centennial Highway Trust Fund created in Section 63-49-22 a portion of the state sales and use
 2 tax under Subsections (2) and (3) equal to the revenues generated by a 1/64% tax rate on the
 3 taxable items and services under Subsection (1).

4 (b) Beginning on January 1, 2000, the revenues generated by the 1/64% tax rate:

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

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

9 Section ~~§ [3] 4 §~~ . Section **59-12-104** is amended to read:

10 **59-12-104. Exemptions.**

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

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

14 [~~(2) through December 31, 1995, sales to the state, its institutions, and its political~~
 15 ~~subdivisions, except sales of construction materials however, construction materials purchased by~~
 16 ~~the state, its institutions, or its political subdivisions which are installed or converted to real~~
 17 ~~property by employees of the state, its institutions, or its political subdivisions are exempt;]~~

18 [~~(3) beginning January 1, 1996,]~~

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

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

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

28 [~~(4)~~] (3) sales of food, beverage, and dairy products from vending machines in which the
 29 proceeds of each sale do not exceed \$1 if the vendor or operator of the vending machine reports
 30 an amount equal to 150% of the cost of items as goods consumed;

31 [~~(5)~~] (4) sales of food, beverage, dairy products, similar confections, and related services

1 to commercial airline carriers for in-flight consumption;

2 ~~[(6)]~~ (5) sales of parts and equipment installed in aircraft operated by common carriers in
3 interstate or foreign commerce;

4 ~~[(7)]~~ (6) sales of commercials, motion picture films, prerecorded audio program tapes or
5 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
6 exhibitor, distributor, or commercial television or radio broadcaster;

7 ~~[(8)]~~ (7) sales of cleaning or washing of tangible personal property by a coin-operated
8 laundry or dry cleaning machine;

9 ~~[(9)]~~ (8) sales made to or by religious or charitable institutions in the conduct of their
10 regular religious or charitable functions and activities, if the requirements of Section 59-12-104.1
11 are fulfilled;

12 ~~[(10)]~~ (9) sales of vehicles of a type required to be registered under the motor vehicle laws
13 of this state which are made to bona fide nonresidents of this state and are not afterwards registered
14 or used in this state except as necessary to transport them to the borders of this state;

15 ~~[(11)]~~ (10) sales of medicine;

16 ~~[(12)]~~ (11) sales or use of property, materials, or services used in the construction of or
17 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

18 ~~[(13)]~~ (12) sales of meals served by:

19 (a) churches, charitable institutions, and institutions of higher education, if the meals are
20 not available to the general public; and

21 (b) inpatient meals provided at medical or nursing facilities;

22 ~~[(14)]~~ (13) isolated or occasional sales by persons not regularly engaged in business,
23 except the sale of vehicles or vessels required to be titled or registered under the laws of this state
24 in which case the tax is based upon:

25 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;

26 or

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

29 ~~[(15)]~~ (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

30 (i) machinery and equipment:

31 (A) used in the manufacturing process;

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

2 (C) used:

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

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

5 (ii) subject to the provisions of Subsection [~~(15)~~] (14)(b), normal operating replacements

6 that:

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

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

9 (C) are used to replace or adapt an existing machine to extend the normal estimated useful

10 life of the machine; and

11 (D) do not include repairs and maintenance;

12 (b) the rates for the exemption under Subsection [~~(15)~~] (14)(a)(ii) are as follows:

13 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in

14 Subsection [~~(15)~~] (14)(a)(ii) is exempt;

15 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in

16 Subsection [~~(15)~~] (14)(a)(ii) is exempt; and

17 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection [~~(15)~~]

18 (14)(a)(ii) is exempt;

19 (c) for purposes of this subsection, the commission shall by rule define the terms "new or

20 expanding operations" and "establishment"; and

21 (d) on or before October 1, 1991, and every five years after October 1, 1991, the

22 commission shall:

23 (i) review the exemptions described in Subsection [~~(15)~~] (14)(a) and make

24 recommendations to the Revenue and Taxation Interim Committee concerning whether the

25 exemptions should be continued, modified, or repealed; and

26 (ii) include in its report:

27 (A) the cost of the exemptions;

28 (B) the purpose and effectiveness of the exemptions; and

29 (C) the benefits of the exemptions to the state;

30 [~~(16)~~] (15) sales of tooling, special tooling, support equipment, and special test equipment

31 used or consumed exclusively in the performance of any aerospace or electronics industry contract

1 with the United States government or any subcontract under that contract, but only if, under the
2 terms of that contract or subcontract, title to the tooling and equipment is vested in the United
3 States government as evidenced by a government identification tag placed on the tooling and
4 equipment or by listing on a government-approved property record if a tag is impractical;

5 [~~(17)~~] (16) intrastate movements of:

6 (a) freight by common carriers; and

7 (b) people by taxicabs as described in SIC Code 4121 of the Standard Industrial

8 Classification Manual of the federal Executive Office of the President, Office of Management and
9 Budget;

10 [~~(18)~~] (17) sales of newspapers or newspaper subscriptions;

11 [~~(19)~~] (18) tangible personal property, other than money, traded in as full or part payment
12 of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold
13 by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

14 (a) the bill of sale or other written evidence of value of the vehicle being sold and the
15 vehicle being traded in; or

16 (b) in the absence of a bill of sale or other written evidence of value, the then existing fair
17 market value of the vehicle being sold and the vehicle being traded in, as determined by the
18 commission;

19 [~~(20)~~] (19) sprays and insecticides used to control insects, diseases, and weeds for
20 commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those
21 sprays and insecticides used in the processing of the products;

22 [~~(21)~~] (20) (a) sales of tangible personal property used or consumed primarily and directly
23 in farming operations, including sales of irrigation equipment and supplies used for agricultural
24 production purposes, whether or not they become part of real estate and whether or not installed
25 by farmer, contractor, or subcontractor, but not sales of:

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

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

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

3 (b) sales of hay;

4 ~~[(22)]~~ (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm,
5 or other agricultural produce if sold by a producer during the harvest season;

6 ~~[(23)]~~ (22) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp
7 Program, 7 U.S.C. Sec. 2011 et seq.;

8 ~~[(24)]~~ (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
9 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor, wholesaler,
10 or retailer for use in packaging tangible personal property to be sold by that manufacturer,
11 processor, wholesaler, or retailer;

12 ~~[(25)]~~ (24) property stored in the state for resale;

13 ~~[(26)]~~ (25) property brought into the state by a nonresident for his or her own personal use
14 or enjoyment while within the state, except property purchased for use in Utah by a nonresident
15 living and working in Utah at the time of purchase;

16 ~~[(27)]~~ (26) property purchased for resale in this state, in the regular course of business,
17 either in its original form or as an ingredient or component part of a manufactured or compounded
18 product;

19 ~~[(28)]~~ (27) property upon which a sales or use tax was paid to some other state, or one of
20 its subdivisions, except that the state shall be paid any difference between the tax paid and the tax
21 imposed by this part and Part 2, and no adjustment is allowed if the tax paid was greater than the
22 tax imposed by this part and Part 2;

23 ~~[(29)]~~ (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to
24 a person for use in compounding a service taxable under the subsections;

25 ~~[(30)]~~ (29) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14)
26 under the special supplemental nutrition program for women, infants, and children established in
27 42 U.S.C. Sec. 1786;

28 ~~[(31)]~~ (30) (a) sales or leases made before June 30, 1996, of rolls, rollers, refractory brick,
29 electric motors, and other replacement parts used in the furnaces, mills, and ovens of a steel mill
30 described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal
31 Executive Office of the President, Office of Management and Budget; or

1 (b) contracts entered into or orders placed on or before January 1, 1996, to purchase or
2 lease an item described in Subsection [~~(31)~~] (30)(a) if the contract or order constitutes a:

3 (i) legal obligation to purchase or lease an item described in Subsection [~~(31)~~] (30)(a); and

4 (ii) sale or lease under Section 59-12-102 on or before June 30, 1997;

5 [~~(32)~~] (31) sales of boats of a type required to be registered under Title 73, Chapter 18,
6 State Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents
7 of this state and are not thereafter registered or used in this state except as necessary to transport
8 them to the borders of this state;

9 [~~(33)~~] (32) sales of tangible personal property to persons within this state that is
10 subsequently shipped outside the state and incorporated pursuant to contract into and becomes a
11 part of real property located outside of this state, except to the extent that the other state or political
12 entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it against
13 which the other state or political entity allows a credit for taxes imposed by this chapter;

14 [~~(34)~~] (33) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
15 where a sales or use tax is not imposed, even if the title is passed in Utah;

16 [~~(35)~~] (34) amounts paid for the purchase of telephone service for purposes of providing
17 telephone service;

18 [~~(36)~~] (35) fares charged to persons transported directly by a public transit district created
19 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit [Districts] District Act;

20 [~~(37)~~] (36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

21 [~~(38)~~] (37) until July 1, 2000, 45% of the sales price of any new manufactured home and
22 100% of the sales price of any used manufactured home;

23 [~~(39)~~] (38) sales relating to schools and fundraising sales;

24 [~~(40)~~] (39) sales or rentals of home medical equipment and supplies;

25 [~~(41)~~] (40) (a) sales to a ski resort of electricity to operate a passenger tramway as defined
26 in Subsection 63-11-38(8); and

27 (b) the commission shall by rule determine the method for calculating sales exempt under
28 Subsection [~~(41)~~] (40)(a) that are not separately metered and accounted for in utility billings;

29 [~~(42)~~] (41) sales to a ski resort of:

30 (a) snowmaking equipment;

31 (b) ski slope grooming equipment; and

1 (c) passenger tramways as defined in Subsection 63-11-38(8);

2 [(43)] (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial
3 use;

4 [(44)] (43) sales or rentals of the right to use or operate for amusement, entertainment, or
5 recreation a coin-operated amusement device as defined in Subsection 59-12-102(3);

6 [(45)] (44) sales of cleaning or washing of tangible personal property by a coin-operated
7 car wash machine;

8 [(46)] (45) sales by the state or a political subdivision of the state, except state institutions
9 of higher education as defined in Section 53B-3-102, of:

10 (a) photocopies; or

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

13 [(47)] (46) (a) amounts paid:

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

16 (ii) by an:

17 (A) employee; or

18 (B) employer; and

19 (iii) pursuant to a written contract between:

20 (A) the employer; and

21 (B) (I) the employee; or

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

23 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
24 commission may for purposes of Subsection [(47)] (46)(a) make rules defining what constitutes
25 an employee's primary place of employment[-]; and

26 (47) amounts paid for admission to an athletic event at an institution of higher education
27 that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec.
28 1681 et seq.

29 Section § [-4] 5 § . Section 59-12-105 is amended to read:

30 **59-12-105. Exempt sales to be reported.**

31 The amount of sales or uses exempt under Subsections 59-12-104[(15), (21);] (14), (20),

1 (40), and (41)~~[, and (42)]~~ shall be reported to the commission by the owner, vendor, or purchaser,
2 as the case may be. Upon failure by the owner, vendor, or purchaser to report the full amount of
3 the exemptions granted under Subsections 59-12-104~~[(15), (21),]~~ (14), (20), (40), and (41)~~[, and~~
4 ~~(42)]~~ on the original filed return, the commission shall impose a penalty equal to 10% of the sales
5 or use tax that would have been imposed if the exemption had not applied. The penalty shall not
6 be imposed if an amended return containing the amount of the exemption is filed prior to notice
7 of audit by the tax commission to the owner, vendor, or purchaser.

8 Section **§ [5] 6 § . Effective date.**

9 This act takes effect on July 1, 1998.