

1                                   **SALES TAX ON FOOD AMENDMENTS**

2   1998 GENERAL SESSION

3   STATE OF UTAH

4   **Sponsor: Scott N. Howell**

5 AN ACT RELATING TO THE SALES AND USE TAX ACT; PHASING OUT THE STATE  
6 PORTION OF THE SALES AND USE TAX IMPOSED ON CERTAIN FOOD PURCHASES;  
7 MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

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

9 AMENDS:

10           **59-12-103**, as last amended by Chapters 261 and 272, Laws of Utah 1997

11 ENACTS:

12           **59-12-104.2**, Utah Code Annotated 1953

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

14           Section 1. Section **59-12-103** is amended to read:

15           **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

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

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

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

20           (i) all transportation;

21           (ii) intrastate telephone service; or

22           (iii) telegraph service;

23           (c) gas, electricity, heat, coal, fuel oil, or other fuels sold for commercial use;

24           (d) gas, electricity, heat, coal, fuel oil, or other fuels sold for residential use;

25           (e) meals sold;

26           (f) (i) admission or user fees for theaters, movies, operas, museums, planetariums, shows  
27 of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides,

1 circuses, menageries, fairs, races, contests, sporting events, dances, boxing and wrestling matches,  
2 closed circuit television broadcasts, billiard or pool parlors, bowling lanes, golf and miniature golf,  
3 golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,  
4 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,  
5 horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition,  
6 cultural, or athletic activity;

7 (ii) the tax imposed on admission or user fees in Subsection (1)(f)(i) does not affect an  
8 entity's sales tax exempt status under Section 59-12-104.1;

9 (g) services for repairs or renovations of tangible personal property or services to install  
10 tangible personal property in connection with other tangible personal property;

11 (h) except as provided in Subsection 59-12-104(8), cleaning or washing of tangible  
12 personal property;

13 (i) tourist home, hotel, motel, or trailer court accommodations and services for less than  
14 30 consecutive days;

15 (j) laundry and dry cleaning services;

16 (k) leases and rentals of tangible personal property if the property situs is in this state, if  
17 the lessee took possession in this state, or if the property is stored, used, or otherwise consumed  
18 in this state; [and]

19 (l) tangible personal property stored, used, or consumed in this state; and

20 (m) food as provided in Section 59-12-104.2.

21 (2) Except for Subsection (1)(d), the rates of the tax levied under Subsection (1) shall be:

22 (a) 5% through June 30, 1994;

23 (b) 4.875% beginning on July 1, 1994 through June 30, 1997; and

24 (c) 4.75% beginning on July 1, 1997.

25 (3) The rates of the tax levied under Subsection (1)(d) shall be 2% from and after January  
26 1, 1990.

27 (4) (a) From January 1, 1990, through December 31, 1999, there shall be deposited in an  
28 Olympics special revenue fund or funds as determined by the Division of Finance under Section  
29 51-5-4, for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports  
30 Authority Act:

31 (i) the amount of sales and use tax generated by a 1/64% tax rate on the taxable items and

1 services under Subsection (1);

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

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

5 (b) These funds shall be used:

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

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

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

13 (C) the Utah Sports Authority may not expend, loan, or pledge in the aggregate more than  
14 \$59,000,000 of sales and use tax deposited into the Olympics special revenue fund under  
15 Subsection (4)(a) unless the Legislature appropriates additional funds from the Olympics special  
16 revenue fund to the Utah Sports Authority; or

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

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

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

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

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

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

31 (f) Any monies in the Olympics special revenue fund or funds as of October 1, 2002, shall

1 be dispersed as follows:

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

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

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

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

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

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

13 (c) Fifty percent of the remaining amount generated by 50% of the 1/8% tax rate shall be  
14 transferred to the Water Resources Conservation and Development Fund created in Section  
15 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund  
16 under Section 73-10-24, the fund may also be used to:

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

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

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

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

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

31 (e) Twenty-five percent of the remaining amount generated by 50% of the 1/8% tax rate

1 shall be transferred to the Drinking Water Loan Program subaccount created in Section 73-10c-5  
2 for use by the Division of Drinking Water to:

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

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

6 (iii) develop surface water sources.

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

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

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

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

25 (6) (a) Beginning on January 1, 2000, the Division of Finance shall deposit into the  
26 Centennial Highway Trust Fund created in Section 63-49-22 a portion of the state sales and use  
27 tax under Subsections (2) and (3) equal to the revenues generated by a 1/64% tax rate on the  
28 taxable items and services under Subsection (1).

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

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

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

3 Section 2. Section **59-12-104.2** is enacted to read:

4 **59-12-104.2. State sales and use tax phase out for certain purchases of food.**

5 (1) (a) Subject to the provisions of Subsections (1)(b) and (c), for purposes of this section,  
6 "food" is as defined in 7 U.S.C. Sec. 2012(g) under the Food Stamp Program, 7 U.S.C. Sec. 2011  
7 et seq., regardless of whether the retailer from whom the food is purchased or the purchaser  
8 participates in a federal or state food program.

9 (b) "Food" includes:

10 (i) hot or cold foods prepared for immediate consumption on or off the premises of a  
11 retailer that does not meet the definition of a restaurant under Subsection 59-12-602(4); or

12 (ii) food sold through vending machines.

13 (c) "Food" does not include prepared foods or beverages that are sold by restaurants as  
14 defined in Subsection 59-12-602(4).

15 (2) Purchases of food as defined in Subsection (1) are subject to the state portion of the  
16 sales and use tax under Section 59-12-103 at the following rates:

17 (a) beginning on July 1, 1998, through June 30, 1999, the rate is 3.8%;

18 (b) beginning on July 1, 1999, through June 30, 2000, the rate is 2.85%;

19 (c) beginning on July 1, 2000, through June 30, 2001, the rate is 1.9%;

20 (d) beginning on July 1, 2001, through June 30, 2002, the rate is .95%; and

21 (e) beginning on July 1, 2002, the rate is 0%.

22 (3) The provisions of this section do not limit the authority provided to a county or a  
23 municipality to levy a tax, including a tax on food, under Title 59, Chapter 12, Part 2, The Local  
24 Sales and Use Tax Act.

25 Section 3. **Effective date.**

26 This act takes effect on July 1, 1998.

**Legislative Review Note**

**as of 1-5-98 3:02 PM**

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

**Office of Legislative Research and General Counsel**

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