

**POSTSECONDARY TEXTBOOK PURCHASES -  
SALES TAX EXEMPTION**

2000 GENERAL SESSION

STATE OF UTAH

**Sponsor: Duane E. Bourdeaux**

AN ACT RELATING TO SALES AND USE TAX; EXEMPTING THE PURCHASE OF  
TEXTBOOKS REQUIRED FOR COURSES TAUGHT IN UTAH'S STATE-FUNDED  
INSTITUTIONS OF HIGHER EDUCATION FROM THE PAYMENT OF SALES TAX; AND  
MAKING TECHNICAL CHANGES.

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

AMENDS:

**59-12-102**, as last amended by Chapters 63 and 362, Laws of Utah 1999

**59-12-104**, as last amended by Chapters 63, 155, 195, 306, 313 and 362, Laws of Utah  
1999

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

Section 1. Section **59-12-102** is amended to read:

**59-12-102. 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 (IRP) and the International Fuel Tax Agreement (IFTA);

(b) in the case of aircraft, the holder of a Federal Aviation Administration (FAA) operating

28 certificate or air carrier's operating certificate; or

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

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

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

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

35 (iii) includes a music machine, pinball machine, billiard machine, video game machine,

36 arcade machine, and a mechanical or electronic skill game or ride.

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

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

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

42 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels  
43 that does not constitute industrial use under Subsection (13) or residential use under Subsection  
44 (21).

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

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

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

53 (7) "Component part" includes:

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

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

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

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

- 59 (d) feed, seeds, and seedlings.
- 60 (8) "Construction materials" means any tangible personal property that will be converted
- 61 into real property.
- 62 (9) (a) "Fundraising sales" means sales:
- 63 (i) (A) made by a public or private elementary or secondary school; or
- 64 (B) made by a public or private elementary or secondary school student, grades
- 65 kindergarten through 12;
- 66 (ii) that are for the purpose of raising funds for the school to purchase equipment,
- 67 materials, or provide transportation; and
- 68 (iii) that are part of an officially sanctioned school activity.
- 69 (b) For purposes of Subsection (9)(a)(iii), "officially sanctioned school activity" means a
- 70 school activity:
- 71 (i) that is conducted in accordance with a formal policy adopted by the school or school
- 72 district governing the authorization and supervision of fundraising activities;
- 73 (ii) that does not directly or indirectly compensate an individual teacher or other
- 74 educational personnel by direct payment, commissions, or payment in kind; and
- 75 (iii) the net or gross revenues from which are deposited in a dedicated account controlled
- 76 by the school or school district.
- 77 (10) (a) "Hearing aid" means:
- 78 (i) an instrument or device having an electronic component that is designed to:
- 79 (A) (I) improve impaired human hearing; or
- 80 (II) correct impaired human hearing; and
- 81 (B) (I) be worn in the human ear; or
- 82 (II) affixed behind the human ear;
- 83 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 84 (iii) a telephone amplifying device.
- 85 (b) "Hearing aid" does not include:
- 86 (i) except as provided in Subsection (10)(a)(i)(B) or (10)(a)(ii), an instrument or device
- 87 having an electronic component that is designed to be worn on the body;
- 88 (ii) except as provided in Subsection (10)(a)(iii), an assistive listening device or system
- 89 designed to be used by one individual, including:

- 90 (A) a personal amplifying system;
- 91 (B) a personal FM system;
- 92 (C) a television listening system; or
- 93 (D) a device or system similar to a device or system described in Subsections
- 94 (10)(b)(ii)(A) through (C); or
- 95 (iii) an assistive listening device or system designed to be used by more than one
- 96 individual, including:
  - 97 (A) a device or system installed in:
    - 98 (I) an auditorium;
    - 99 (II) a church;
    - 100 (III) a conference room;
    - 101 (IV) a synagogue; or
    - 102 (V) a theater; or
  - 103 (B) a device or system similar to a device or system described in Subsections
  - 104 (10)(b)(iii)(A)(I) through (V).
- 105 (11) (a) "Hearing aid accessory" means a hearing aid:
  - 106 (i) component;
  - 107 (ii) attachment; or
  - 108 (iii) accessory.
- 109 (b) "Hearing aid accessory" includes:
  - 110 (i) a hearing aid neck loop;
  - 111 (ii) a hearing aid cord;
  - 112 (iii) a hearing aid ear mold;
  - 113 (iv) hearing aid tubing;
  - 114 (v) a hearing aid ear hook; or
  - 115 (vi) a hearing aid remote control.
- 116 (c) "Hearing aid accessory" does not include:
  - 117 (i) a component, attachment, or accessory designed to be used only with an:
    - 118 (A) instrument or device described in Subsection (10)(b)(i); or
    - 119 (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
    - 120 (ii) a hearing aid battery.

121 (12) (a) "Home medical equipment and supplies" means equipment and supplies that:  
122 (i) a licensed physician prescribes or authorizes in writing as necessary for the treatment  
123 of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or  
124 injury;  
125 (ii) are used exclusively by the person for whom they are prescribed to serve a medical  
126 purpose; and  
127 (iii) are listed as eligible for payment under Title 18 of the federal Social Security Act or  
128 under the state plan for medical assistance under Title 19 of the federal Social Security Act.  
129 (b) "Home medical equipment and supplies" does not include:  
130 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as  
131 defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their  
132 professional practice;  
133 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or  
134 (iii) hearing aids or hearing aid accessories.  
135 (c) For purposes of Subsection (12)(b)(i), "health care facility" includes:  
136 (i) a clinic;  
137 (ii) a doctor's office; and  
138 (iii) a health care facility as defined in Section 26-21-2.  
139 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other  
140 fuels in:  
141 (a) mining or extraction of minerals;  
142 (b) agricultural operations to produce an agricultural product up to the time of harvest or  
143 placing the agricultural product into a storage facility, including:  
144 (i) commercial greenhouses;  
145 (ii) irrigation pumps;  
146 (iii) farm machinery;  
147 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not  
148 registered under Title 41, Chapter 1a, Part 2, Registration; and  
149 (v) other farming activities; and  
150 (c) manufacturing tangible personal property at an establishment described in SIC Codes  
151 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office

152 of the President, Office of Management and Budget.

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

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

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

159 (b) a scrap recycler if:

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

162 (A) iron;

163 (B) steel;

164 (C) nonferrous metal;

165 (D) paper;

166 (E) glass;

167 (F) plastic;

168 (G) textile; or

169 (H) rubber; and

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

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

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

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

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

181 (b) "Medicine" does not include:

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

- 183 (ii) any alcoholic beverage.
- 184 (17) "Olympic merchandise" means tangible personal property bearing an Olympic  
185 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other  
186 copyrighted or protected material, including:
- 187 (a) one or more of the following terms:
- 188 (i) "Olympic;"
- 189 (ii) "Olympiad;" or
- 190 (iii) "Citius Altius Fortius;"
- 191 (b) the symbol of the International Olympic Committee, consisting of five interlocking  
192 rings;
- 193 (c) the emblem of the International Olympic Committee Corporation;
- 194 (d) a United States Olympic Committee designation, emblem, insignia, mark, logo, service  
195 mark, symbol, terminology, trademark, or other copyrighted or protected material;
- 196 (e) any emblem of the Winter Olympic Games of 2002 that is officially designated by the  
197 Salt Lake Organizing Committee of the Winter Olympic Games of 2002; or
- 198 (f) the mascot of the Winter Olympic Games of 2002.
- 199 (18) (a) "Other fuels" means products that burn independently to produce heat or energy.
- 200 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible personal  
201 property.
- 202 (19) "Person" includes any individual, firm, partnership, joint venture, association,  
203 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
204 municipality, district, or other local governmental entity of the state, or any group or combination  
205 acting as a unit.
- 206 (20) "Purchase price" means the amount paid or charged for tangible personal property or  
207 any other taxable item or service under Subsection 59-12-103(1), excluding only cash discounts  
208 taken or any excise tax imposed on the purchase price by the federal government.
- 209 (21) "Residential use" means the use in or around a home, apartment building, sleeping  
210 quarters, and similar facilities or accommodations.
- 211 (22) (a) "Retail sale" means any sale within the state of tangible personal property or any  
212 other taxable item or service under Subsection 59-12-103(1), other than resale of such property,  
213 item, or service by a retailer or wholesaler to a user or consumer.

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

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

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

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

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

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

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

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

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



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

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

253 (24) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any  
254 manner, of tangible personal property or any other taxable item or service under Subsection  
255 59-12-103(1), for a consideration. It includes:

256 (a) installment and credit sales;

257 (b) any closed transaction constituting a sale;

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

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

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

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

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

269 (ii) the sale of clothing that:

270 (A) a student is specifically required to wear as a condition of participation in a  
271 school-related event or activity; and

272 (B) is not readily adaptable to general or continued usage to the extent that it takes the  
273 place of ordinary clothing;

274 (iii) sales of food if the net or gross revenues generated by the food sales are deposited into  
275 a school district fund or school fund dedicated to school meals; and

- 276 (iv) transportation charges for official school activities.
- 277 (b) "Sales relating to schools" does not include:
- 278 (i) gate receipts;
- 279 (ii) special event admission fees;
- 280 (iii) bookstore sales of items that are not educational materials or supplies; and
- 281 (iv) except as provided in Subsection (25)(a)(ii), clothing.
- 282 (26) "Senior citizen center" means a facility having the primary purpose of providing
- 283 services to the aged as defined in Section 62A-3-101.
- 284 (27) "State" means the state of Utah, its departments, and agencies.
- 285 (28) "Storage" means any keeping or retention of tangible personal property or any other
- 286 taxable item or service under Subsection 59-12-103(1), in this state for any purpose except sale
- 287 in the regular course of business.
- 288 (29) (a) "Tangible personal property" means:
- 289 (i) all goods, wares, merchandise, produce, and commodities;
- 290 (ii) all tangible or corporeal things and substances which are dealt in or capable of being
- 291 possessed or exchanged;
- 292 (iii) water in bottles, tanks, or other containers; and
- 293 (iv) all other physically existing articles or things, including property severed from real
- 294 estate.
- 295 (b) "Tangible personal property" does not include:
- 296 (i) real estate or any interest or improvements in real estate;
- 297 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;
- 298 (iii) insurance certificates or policies;
- 299 (iv) personal or governmental licenses;
- 300 (v) water in pipes, conduits, ditches, or reservoirs;
- 301 (vi) currency and coinage constituting legal tender of the United States or of a foreign
- 302 nation; and
- 303 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
- 304 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
- 305 80%.
- 306 (30) "Textbooks" means books or other materials required for courses that are taught in

307 Utah's institutions of higher education as listed in Section 53B-2-101.

308 [~~(30)~~] (31) (a) "Use" means the exercise of any right or power over tangible personal  
309 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property,  
310 item, or service.

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

313 [~~(31)~~] (32) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as  
314 defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any  
315 vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle"  
316 for purposes of Subsection 59-12-104 (36) only, also includes any locomotive, freight car, railroad  
317 work equipment, or other railroad rolling stock.

318 [~~(32)~~] (33) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
319 exchanging vehicles as defined in Subsection [~~(31)~~] (32).

320 [~~(33)~~] (34) (a) "Vendor" means:

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

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

328 (b) "Vendor" does not mean a printer's facility described in Subsection (23)(e).

329 Section 2. Section **59-12-104** is amended to read:

330 **59-12-104. Exemptions.**

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

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

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

336 (a) construction materials purchased by or on behalf of institutions of the public education  
337 system as defined in Utah Constitution Article X, Section 2, provided the construction materials

338 are clearly identified and segregated and installed or converted to real property which is owned by  
339 institutions of the public education system; and

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

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

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

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

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

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

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

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

362 (i) retail sales of Olympic merchandise;

363 (ii) admissions or user fees described in Subsection 59-12-103(1)(f);

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

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

368 (B) exclusively used by:

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

400 or

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

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

404 (i) machinery and equipment:

405 (A) used in the manufacturing process;

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

407 (C) used:

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

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

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

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

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

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

415 (D) do not include repairs and maintenance;

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

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

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

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

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

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

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

430 (ii) include in its report:

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

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

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

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

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

474 (b) sales of hay;

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

555 1681 et seq.;

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

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

558 (b) sales of hearing aid accessories; [and]

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

560 (i) an area agency on aging; or

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

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

563 (51) sales of textbooks as defined in Subsection 59-12-102(30) to students who produce

564 identification verifying that they are currently enrolled in one of Utah's state-funded institutions

565 of higher education.

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**Legislative Review Note**  
**as of 12-20-99 10:42 AM**

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

**Office of Legislative Research and General Counsel**