

REVIEW OF SALES AND USE TAX EXEMPTIONS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Greg J. Curtis

Judy Ann Buffmire

This act modifies the Sales and Use Tax Act by amending the Utah Tax Review Commission's study of sales and use tax exemptions. This act repeals obsolete language and makes technical changes.

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

AMENDS:

59-12-104.5, as last amended by Chapters 126, 272, 288, 289, 290, 341 and 342, Laws of Utah 1996

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

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

59-12-104.5. Review of sales tax exemptions.

(1) [~~The~~] Beginning with the 2001 interim, the Utah Tax Review Commission, in cooperation with the governor's office and the [~~State Tax Commission~~] tax commission, shall conduct a review of the [~~following~~] sales and use tax exemptions [~~and related issues created in Section 59-12-104 within the following period of time:~~] created by Section 59-12-104 as provided in this section.

[~~(a) Subsections 59-12-104(4), (7), (8), (12), (15), (17), (24), (31), (37), (40) and (43) before October 1, 1993, and every eight years thereafter;~~]

[~~(b) Subsections 59-12-104(5), (6), (16), (18), (20), (21), (22), (34), and (35) before October 1, 1994, and every eight years thereafter;~~]

[~~(c) except as provided in Subsections (1)(e) and (f), Subsections 59-12-104(1), (2), (9), (13), (23), (29), (30), (39), (44), and (45) before October 1, 1995, and every eight years thereafter;~~]

[~~(d) Subsections 59-12-104(10), (11), (14), (19), (25), (26), (27), (28), (32), and (33) before October 1, 1996, and every eight years thereafter;~~]

(2) The Utah Tax Review Commission shall:

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

(b) subject to Subsection (2)(a) and except as provided in Subsection (3), for each year select the exemptions that the Utah Tax Review Commission will review for that year.

~~[(e)]~~ (3) ~~[notwithstanding Subsection (1)(e);]~~ Notwithstanding Subsection (2):

(a) the Utah Tax Review Commission shall review Subsection 59-12-104[(30)](29) before October 1 of the year after the year in which Congress permits a state to participate in the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local sales taxes are collected within the state on purchases of food under that program; and

~~[(f) notwithstanding Subsection (1)(e);]~~ (b) the Utah Tax Review Commission shall review Subsection 59-12-104[(23)](22) before October 1 of the year after the year in which Congress permits a state to participate in the food stamp program under the Food Stamp Act, 7 U.S.C. Sec. 2011 et seq., even if state or local sales taxes are collected within the state on purchases of food under that program.

~~[(2)(a)]~~ (4) The Utah Tax Review Commission ~~[and the Revenue and Taxation Interim Committee]~~ shall for each sales and use tax exemption the Utah Tax Review Commission reviews make [recommendations] a report to the governor and the [Legislature,] Revenue and Taxation Interim Committee:

(a) on or before the [October] November interim meeting in the year [the study is required to be completed under this section, concerning whether the exemption listed in Subsection (1) should be continued, modified, or repealed:] in which the Utah Tax Review Commission reviews the sales and use tax exemption;

(b) [In its report to the governor and the Revenue and Taxation Interim Committee, the commission review shall include at least:] including:

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

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

(A) whether the business [must be] is willing to make a substantial capital investment in [Utah, signaling] the state indicating that it will be a long-term member of the community in which

the business is or will be located;

(B) whether the business [~~must bring~~] brings new dollars into the state, which generally means the business must export goods or services outside of [~~Utah~~] the state, not just recirculate existing dollars;

(C) subject to Subsection (5), whether the business [~~must pay~~] pays higher than average wages in the area [~~where it~~] in which the business is or will be located, increasing [~~Utah's~~] the state's overall household income [~~(average wage calculations are not to include local, state, or federal government or school district employees)~~];

(D) whether the same incentives offered [~~the outside~~] to a new business [~~must be~~] locating in the state from another state are available to existing in-state businesses so as not to discriminate against [~~home-grown~~] the in-state businesses; and

(E) whether the incentives [~~must~~] clearly produce a positive return on investment as determined by state economic modeling formulas;

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

(iv) a review of the purpose [and effectiveness] of the sales and use tax exemption; [and]

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

~~(v)~~ (vi) a review of the benefits of the sales and use tax exemption to the state[-];

(c) recommending whether the sales and use tax exemption should be:

(i) continued;

(ii) modified; or

(iii) repealed; and

(d) reviewing any other issue the Utah Tax Review Commission determines to study.

~~[(3) Item 43, in H.B. 337, enacted during the 1993 General Session, is transferred from the Tax Commission to the Tax Review Commission to implement this section.]~~

(5) For purposes of Subsection (4)(b)(ii)(C), in determining whether a business pays higher than average wages in the area in which the business is or will be located, the Utah Tax Review

Commission may not include wages of the following in making average wage calculations:

- (a) wages of school district employees;
- (b) wages of county, city, or town employees;
- (c) wages of state employees; or
- (d) wages of federal government employees.