

1                                   **SALES AND USE TAX - TAXATION OF**  
2                                   **AMOUNTS PAID TO A TELEPHONE SERVICE**  
3                                   **PROVIDER OR TELEGRAPH CORPORATION**

4                                   2002 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Sponsor: Curtis S. Bramble**

7   **This act modifies the Revenue and Taxation Code to amend definitions, to address the**  
8   **applicability of the sales and use tax to amounts paid to telephone service providers or**  
9   **telegraph corporations, and to make technical changes. This act takes effect on July 1, 2002.**

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

11 AMENDS:

12           **59-12-102**, as last amended by Chapter 11, Laws of Utah 2001, First Special Session

13           **59-12-103**, as last amended by Chapter 11, Laws of Utah 2001, First Special Session

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

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

16           **59-12-102. Definitions.**

17           As used in this chapter:

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

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

21           (2) "Area agency on aging" is as defined in Section 62A-3-101.

22           (3) "Authorized carrier" means:

23           (a) in the case of vehicles operated over public highways, the holder of credentials  
24 indicating that the vehicle is or will be operated pursuant to both the International Registration  
25 Plan and the International Fuel Tax Agreement;

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



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

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

- 32 (i) a coin-operated amusement, skill, or ride device;
- 33 (ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens; and
- 34 (iii) includes a music machine, pinball machine, billiard machine, video game machine,  
35 arcade machine, and a mechanical or electronic skill game or ride.

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

- 38 (i) accepts and registers multiple denominations of coins; and
- 39 (ii) allows the vendor to collect the sales and use tax at the time an amusement device is  
40 activated and operated by a person inserting coins into the device.

41 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels  
42 that does not constitute industrial use under Subsection (13) or residential use under Subsection  
43 (22).

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

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

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

52 (7) "Component part" includes:

- 53 (a) poultry, dairy, and other livestock feed, and their components;
- 54 (b) baling ties and twine used in the baling of hay and straw;
- 55 (c) fuel used for providing temperature control of orchards and commercial greenhouses  
56 doing a majority of their business in wholesale sales, and for providing power for off-highway type  
57 farm machinery; and
- 58 (d) feed, seeds, and seedlings.

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

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

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

63 (B) made by a school student;

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

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

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

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

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

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

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

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

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

78 (II) correct impaired human hearing; and

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

80 (II) affixed behind the human ear;

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

82 (iii) a telephone amplifying device.

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

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

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

88 (A) a personal amplifying system;

89 (B) a personal FM system;

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

121 of a medical illness or injury or as necessary to mitigate an impairment resulting from illness or  
122 injury;

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

125 (iii) are listed as eligible for payment under Title XVIII of the federal Social Security Act  
126 or under the state plan for medical assistance under Title XIX of the federal Social Security Act.

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

128 (i) equipment and supplies purchased by, for, or on behalf of any health care facility, as  
129 defined in Subsection (12)(c), doctor, nurse, or other health care provider for use in their  
130 professional practice;

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

132 (iii) hearing aids or hearing aid accessories.

133 (c) For purposes of Subsection (12)(b)(i), "health care facility" includes:

134 (i) a clinic;

135 (ii) a doctor's office; and

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

137 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other  
138 fuels:

139 (a) in mining or extraction of minerals;

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

142 (i) commercial greenhouses;

143 (ii) irrigation pumps;

144 (iii) farm machinery;

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

147 (v) other farming activities;

148 (c) in manufacturing tangible personal property at an establishment described in SIC Codes  
149 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office  
150 of the President, Office of Management and Budget; or

151 (d) by a scrap recycler if:

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

- 154 (A) iron;
- 155 (B) steel;
- 156 (C) nonferrous metal;
- 157 (D) paper;
- 158 (E) glass;
- 159 (F) plastic;
- 160 (G) textile; or
- 161 (H) rubber; and

162 (ii) the new products under Subsection (13)(d)(i) would otherwise be made with  
163 nonrecycled materials.

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

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

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

170 (b) a scrap recycler if:

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

- 173 (A) iron;
- 174 (B) steel;
- 175 (C) nonferrous metal;
- 176 (D) paper;
- 177 (E) glass;
- 178 (F) plastic;
- 179 (G) textile; or
- 180 (H) rubber; and

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

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

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

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

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

192 (b) "Medicine" does not include:

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

194 (ii) any alcoholic beverage.

195 (17) "Olympic merchandise" means tangible personal property bearing an Olympic  
196 designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other  
197 copyrighted or protected material, including:

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

199 (i) "Olympic";

200 (ii) "Olympiad"; or

201 (iii) "Citius Altius Fortius";

202 (b) the symbol of the International Olympic Committee, consisting of five interlocking  
203 rings;

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

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

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

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

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

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

213 (19) "Person" includes any individual, firm, partnership, joint venture, association,

214 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
215 municipality, district, or other local governmental entity of the state, or any group or combination  
216 acting as a unit.

217 (20) "Purchase price" means the amount paid or charged for tangible personal property or  
218 any other taxable transaction under Subsection 59-12-103(1), excluding only cash discounts taken  
219 or any excise tax imposed on the purchase price by the federal government.

220 (21) "Regularly rented" means:

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

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

224 (22) "Residential use" means the use in or around a home, apartment building, sleeping  
225 quarters, and similar facilities or accommodations.

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

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

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

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

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

242 (24) (a) "Retailer" means any person engaged in a regularly organized retail business in  
243 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
244 who is selling to the user or consumer and not for resale.



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

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

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

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

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

264 (25) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any  
265 manner, of tangible personal property or any other taxable transaction under Subsection  
266 59-12-103(1), for consideration. It includes:

267 (a) installment and credit sales;

268 (b) any closed transaction constituting a sale;

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

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

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

275 (26) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

276 amounts charged by a school:

277 (i) sales that are directly related to the school's educational functions or activities

278 including:

279 (A) the sale of:

280 (I) textbooks;

281 (II) textbook fees;

282 (III) laboratory fees;

283 (IV) laboratory supplies; or

284 (V) safety equipment;

285 (B) the sale of clothing that:

286 (I) a student is specifically required to wear as a condition of participation in a  
287 school-related event or school-related activity; and

288 (II) is not readily adaptable to general or continued usage to the extent that it takes the  
289 place of ordinary clothing;

290 (C) sales of food if the net or gross revenues generated by the food sales are deposited into  
291 a school district fund or school fund dedicated to school meals; or

292 (D) transportation charges for official school activities; or

293 (ii) amounts paid to or amounts charged by a school for admission to a school-related  
294 event or school-related activity.

295 (b) "Sales relating to schools" does not include:

296 (i) bookstore sales of items that are not educational materials or supplies;

297 (ii) except as provided in Subsection (26)(a)(i)(B), clothing; or

298 (iii) amounts paid to or amounts charged by a school for admission to a school-related  
299 event or school-related activity if the amounts paid or charged are passed through to a person:

300 (A) other than a:

301 (I) school;

302 (II) nonprofit organization authorized by a school board or a governing body of a private  
303 school to organize and direct a competitive secondary school activity; or

304 (III) nonprofit association authorized by a school board or a governing body of a private  
305 school to organize and direct a competitive secondary school activity; and

306 (B) that is required to collect sales and use taxes under this chapter.

307 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
308 commission may make rules defining the term "passed through."

309 (27) For purposes of this section and Section 59-12-104, "school" means:

310 (a) an elementary school or a secondary school that:

311 (i) is a:

312 (A) public school; or

313 (B) private school; and

314 (ii) provides instruction for one or more grades kindergarten through 12; or

315 (b) a public school district.

316 (28) (a) "Semiconductor fabricating or processing materials" means tangible personal  
317 property:

318 (i) used primarily in the process of:

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

320 (II) fabricating a semiconductor; or

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

322 (ii) consumed primarily in the process of:

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

324 (II) fabricating a semiconductor; or

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

326 (b) "Semiconductor fabricating or processing materials" includes a chemical, catalyst, or  
327 other material used to:

328 (i) produce or induce in a semiconductor a:

329 (A) chemical change; or

330 (B) physical change;

331 (ii) remove impurities from a semiconductor; or

332 (iii) improve the marketable condition of a semiconductor.

333 (29) "Senior citizen center" means a facility having the primary purpose of providing  
334 services to the aged as defined in Section 62A-3-101.

335 (30) "State" means the state of Utah, its departments, and agencies.

336 (31) "Storage" means any keeping or retention of tangible personal property or any other  
337 taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the

338 regular course of business.

339 (32) (a) "Tangible personal property" means:

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

341 (ii) all tangible or corporeal things and substances which are dealt in or capable of being

342 possessed or exchanged;

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

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

345 estate.

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

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

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

349 (iii) insurance certificates or policies;

350 (iv) personal or governmental licenses;

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

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

353 nation; and

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

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

356 80%.

357 [~~(34)~~] (33) (a) For purposes of Subsection [~~(33)~~] (34) and Section 59-12-103, "telephone

358 service" means a two-way transmission:

359 (i) by:

360 (A) wire;

361 (B) radio;

362 (C) lightwave; or

363 (D) other electromagnetic means; and

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

365 (A) a sign;

366 (B) a signal;

367 (C) writing;

368 (D) an image;

- 369 (E) sound;
- 370 (F) a message;
- 371 (G) data; or
- 372 (H) other information of any nature.
- 373 (b) "Telephone service" includes:
- 374 (i) cellular telephone service;
- 375 (ii) private communications service; or
- 376 (iii) automated digital telephone answering service.
- 377 (c) "Telephone service" does not include a service or a transaction that a state or a political
- 378 subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet Tax Freedom
- 379 Act, Pub. L. No. 105-277.
- 380 ~~[(33)]~~ (34) (a) "Telephone [corporation] service provider" means a [corporation] person
- 381 that:
- 382 (i) owns, controls, operates, or manages a telephone service; and
- 383 (ii) engages in an activity described in Subsection ~~[(33)]~~ (34)(a)(i) for the shared use with
- 384 or resale to any person of the telephone service.
- 385 (b) A [corporation] person described in Subsection ~~[(33)]~~ (34)(a) is a telephone
- 386 [corporation] service provider whether or not the Public Service Commission of Utah regulates:
- 387 (i) ~~[the corporation]~~ that person; or
- 388 (ii) the telephone service that the [corporation] person owns, controls, operates, or
- 389 manages.
- 390 (35) (a) "Use" means the exercise of any right or power over tangible personal property
- 391 under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or
- 392 service.
- 393 (b) "Use" does not include the sale, display, demonstration, or trial of that property in the
- 394 regular course of business and held for resale.
- 395 (36) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as defined
- 396 in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any vessel, as
- 397 defined in Section 41-1a-102; that is required to be titled, registered, or both. "Vehicle," for
- 398 purposes of Subsection 59-12-104(36) only, also includes any locomotive, freight car, railroad
- 399 work equipment, or other railroad rolling stock.

400 (37) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
401 exchanging vehicles as defined in Subsection (36).

402 (38) (a) "Vendor" means any person receiving any payment or consideration upon a sale  
403 of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), or  
404 to whom the payment or consideration is payable.

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

406 Section 2. Section **59-12-103** is amended to read:

407 **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

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

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

411 (b) amounts paid:

412 (i) (A) to a common [carriers or to] carrier; or

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

414 (I) telephone [corporations] service provider; or

415 (II) telegraph [corporations, whether the corporations are municipally or privately owned,]

416 corporation as defined in Section 54-2-1; and

417 (ii) for:

418 [(i)] (A) all transportation;

419 [(ii)] (B) intrastate telephone service; or

420 [(iii)] (C) telegraph service;

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

422 (i) gas;

423 (ii) electricity;

424 (iii) heat;

425 (iv) coal;

426 (v) fuel oil; or

427 (vi) other fuels;

428 (d) sales of the following for residential use:

429 (i) gas;

430 (ii) electricity;

- 431 (iii) heat;
- 432 (iv) coal;
- 433 (v) fuel oil; or
- 434 (vi) other fuels;
- 435 (e) sales of meals;
- 436 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or user
- 437 fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions,
- 438 concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests,
- 439 sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts,
- 440 billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages,
- 441 skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water
- 442 slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any
- 443 other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;
- 444 (g) amounts paid or charged for services:
- 445 (i) for repairs or renovations of tangible personal property; or
- 446 (ii) to install tangible personal property in connection with other tangible personal
- 447 property;
- 448 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning
- 449 or washing of tangible personal property;
- 450 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations
- 451 and services that are regularly rented for less than 30 consecutive days;
- 452 (j) amounts paid or charged for laundry or dry cleaning services;
- 453 (k) amounts paid or charged for leases or rentals of tangible personal property if:
- 454 (i) the tangible personal property's situs is in this state;
- 455 (ii) the lessee took possession of the tangible personal property in this state; or
- 456 (iii) within this state the tangible personal property is:
- 457 (A) stored;
- 458 (B) used; or
- 459 (C) otherwise consumed;
- 460 (l) amounts paid or charged for tangible personal property if within this state the tangible
- 461 personal property is:

- 462 (i) stored;
- 463 (ii) used; or
- 464 (iii) consumed; and
- 465 (m) amounts paid or charged for prepaid telephone calling cards.

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

- 468 (i) a state tax imposed on the transaction at a rate of 4.75%; and
- 469 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
470 transaction under this chapter other than this part.

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

- 473 (i) a state tax imposed on the transaction at a rate of 2%; and
- 474 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
475 transaction under this chapter other than this part.

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

- 479 (i) a state tax imposed on the transaction at a rate of:
  - 480 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or
  - 481 (B) 2% for a transaction described in Subsection (1)(d); and
- 482 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate  
483 equal to the sum of the following tax rates:

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

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

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

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



- 493 (i) Subsection (2)(a)(i);
- 494 (ii) Subsection (2)(b)(i);
- 495 (iii) Subsection (2)(c)(i);
- 496 (iv) Section 59-12-301;
- 497 (v) Section 59-12-352;
- 498 (vi) Section 59-12-353;
- 499 (vii) Section 59-12-401;
- 500 (viii) Section 59-12-402;
- 501 (ix) Section 59-12-501;
- 502 (x) Section 59-12-502;
- 503 (xi) Section 59-12-603;
- 504 (xii) Section 59-12-703;
- 505 (xiii) Section 59-12-802;
- 506 (xiv) Section 59-12-804;
- 507 (xv) Section 59-12-1001;
- 508 (xvi) Section 59-12-1201; or
- 509 (xvii) Section 59-12-1302.

510 (3) (a) Except as provided in Subsections (4) through (9), the state taxes described in  
511 Subsections (2)(a)(i), (2)(b)(i), and (2)(c)(i) shall be deposited into the General Fund.

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

514 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the state  
515 shall receive the county's, city's, or town's proportionate share of the revenues generated by the  
516 local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).

517 (ii) The commission shall determine a county's, city's, or town's proportionate share of the  
518 revenues under Subsection (3)(c)(i) by:

519 (A) calculating an amount equal to:

520 (I) the population of the county, city, or town; divided by

521 (II) the total population of the state; and

522 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total amount  
523 of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties, cities, and towns.

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

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

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

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

536 (i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax  
537 generated by a 1/64% tax rate on the taxable transactions under Subsection (1);

538 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a  
539 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under  
540 Subsection (1); and

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

542 (b) These funds shall be used:

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

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

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

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

551 (D) unless the Legislature appropriates additional funds from the Olympics Special  
552 Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan, or  
553 pledge in the aggregate more than:

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

555 under Subsection (4)(a);

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

557 (III) the revenues deposited into the Olympics Special Revenue Fund that are not sales and  
558 use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes;

559 (ii) to pay salary, benefits, or administrative costs associated with the State Olympic  
560 Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative costs  
561 may not be paid from the sales and use tax revenues generated by municipalities or counties and  
562 deposited under Subsection (4)(a)(ii).

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

565 (d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(D), the  
566 authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge the  
567 appropriated funds unless the authority:

568 (i) contracts in writing for the full reimbursement of the monies to the Olympics Special  
569 Revenue Fund by a public sports entity or other person benefitting from the expenditure; and

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

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

573 (5) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2001, the amount of sales  
574 and use tax generated annually by a 1/16% tax rate on the taxable transactions under Subsection  
575 (1) shall be used as provided in Subsections (5)(b) through (g).

576 (b) (i) Beginning on July 1, 2001, \$2,300,000 each year shall be transferred as dedicated  
577 credits to the Department of Natural Resources to:

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

580 (B) award grants, up to the amount authorized by the Legislature in an appropriations act,  
581 to political subdivisions of the state to implement the measures described in Subsections  
582 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

583 (ii) Money transferred to the Department of Natural Resources under Subsection (5)(b)(i)  
584 may not be used to assist the United States Fish and Wildlife Service or any other person to list or  
585 attempt to have listed a species as threatened or endangered under the Endangered Species Act of

586 1973, 16 U.S.C. Sec. 1531 et seq.

587 (iii) At the end of each fiscal year:

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

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

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

594 (c) Five hundred thousand dollars each year shall be deposited in the Agriculture Resource  
595 Development Fund created in Section 4-18-6.

596 (d) (i) One hundred thousand dollars each year shall be transferred as dedicated credits to  
597 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the  
598 adjudication of water rights.

599 (ii) At the end of each fiscal year:

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

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

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

606 (e) Fifty percent of the remaining amount generated by the 1/16% tax rate shall be  
607 deposited in the Water Resources Conservation and Development Fund created in Section  
608 73-10-24 for use by the Division of Water Resources. In addition to the uses allowed of the fund  
609 under Section 73-10-24, the fund may also be used to:

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

613 (ii) conduct hydrologic and geotechnical investigations by the Department of Natural  
614 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
615 quantifying surface and ground water resources and describing the hydrologic systems of an area  
616 in sufficient detail so as to enable local and state resource managers to plan for and accommodate

617 growth in water use without jeopardizing the resource;

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

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

621 (f) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be  
622 deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use  
623 by the Water Quality Board to fund wastewater projects.

624 (g) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be  
625 deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use  
626 by the Division of Drinking Water to:

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

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

630 (iii) develop surface water sources.

631 (6) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2001, the amount of sales  
632 and use tax generated annually by a 1/16% tax rate on the taxable transactions under Subsection  
633 (1) shall be used as provided in Subsections (6)(b) through (d).

634 (b) (i) Five hundred thousand dollars each year shall be deposited in the Transportation  
635 Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

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

639 (c) From July 1, 1997, through June 30, 2006, \$500,000 each year shall be transferred as  
640 nonlapsing dedicated credits to the Department of Transportation for the State Park Access  
641 Highways Improvement Program created in Section 72-3-207.

642 (d) The remaining amount generated by the 1/16% tax rate shall be deposited in the class  
643 B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation  
644 Finances Act, for the use of class B and C roads.

645 (7) (a) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of  
646 Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion of  
647 the state sales and use tax under Subsection (2) equal to the revenues generated by a 1/64% tax rate

648 on the taxable transactions under Subsection (1).

649 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,  
650 1999, the revenues generated by the 1/64% tax rate:

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

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

655 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission shall  
656 deposit into the Airport to University of Utah Light Rail Restricted Account created in Section  
657 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

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

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

663 (9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year  
664 2002-03, the commission shall on or before September 30 of each year deposit the difference  
665 described in Subsection (9)(b) into the Remote Sales Restricted Account created in Section  
666 59-12-103.2 if that difference is greater than \$0.

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

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

671 (ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates that  
672 the commission received from vendors described in Subsection 59-12-107(1)(b) for fiscal year  
673 2000-01.

674 (10) (a) For purposes of amounts paid or charged as admission or user fees relating to the  
675 Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the day on  
676 which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a person  
677 designated by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 sends  
678 a purchaser confirmation of the purchase of an admission or user fee described in Subsection

679 (1)(f).

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

683 Section 3. **Effective date.**

684 This act takes effect on July 1, 2002.

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**Legislative Review Note**  
**as of 1-8-02 3:14 PM**

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

**Office of Legislative Research and General Counsel**