

Senator D. Chris Buttars proposes the following substitute bill:

**TAXATION OF MEDICALLY IMPLANTED
DEVICES AND PROSTHETICS**

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: D. Chris Buttars

This act modifies the Sales and Use Tax Act to provide definitions, to exempt sales of medical implants from sales and use taxes, and to make technical changes. The act takes effect on July 1, 2003.

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

AMENDS:

59-12-102, as last amended by Chapters 77, 117, 192 and 320, Laws of Utah 2002

59-12-104, as last amended by Chapters 117, 138, 217 and 286, Laws of Utah 2002

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 and the International Fuel Tax Agreement;

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



26 certificate or air carrier's operating certificate; or

27 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling
28 stock, the holder of a certificate issued by the United States Surface Transportation Board.

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

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

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

33 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
40 is 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
42 fuels that does not constitute industrial use under Subsection (13) or residential use under
43 Subsection [~~(23)~~] (24).

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
47 traveling to or from that person's place of employment, transports a passenger to or from the
48 passenger's place of employment.

49 (ii) For purposes of Subsection (6)(b)(i), in accordance with Title 63, Chapter 46a,
50 Utah Administrative Rulemaking Act, the commission may make rules defining what
51 constitutes a 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
56 greenhouses doing a majority of their business in wholesale sales, and for providing power for

57 off-highway type farm machinery; and

58 (d) feed, seeds, and seedlings.

59 (8) "Construction materials" means any tangible personal property that will be
60 converted 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
68 a 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
74 controlled 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) Except as provided in Subsection (12)(c), "home medical equipment or
120 supplies" means equipment or supplies that:
121 (i) a licensed physician prescribes or authorizes in writing as necessary:
122 (A) for the treatment of a medical illness or injury; or
123 (B) to mitigate an impairment resulting from illness or injury;
124 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
125 purpose; and
126 (iii) are listed as eligible for payment under:
127 (A) Title XVIII of the federal Social Security Act; or
128 (B) the state plan for medical assistance under Title XIX of the federal Social Security
129 Act.
130 (b) "Home medical equipment or supplies" includes parts used in the repairs or
131 renovations of equipment or supplies described in Subsection (12)(a).
132 (c) Notwithstanding Subsection (12)(a), "home medical equipment or supplies" does
133 not include:
134 (i) equipment or supplies purchased by, for, or on behalf of any:
135 (A) health care facility, as defined in Subsection (12)(d); or
136 (B) one or more of the following for use in a professional practice:
137 (I) a doctor;
138 (II) a nurse; or
139 (III) another health care provider;
140 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
141 (iii) hearing aids or hearing aid accessories.
142 (d) For purposes of Subsection (12)(c)(i)(A), "health care facility" includes:
143 (i) a clinic;
144 (ii) a doctor's office; or
145 (iii) a health care facility as defined in Section 26-21-2.
146 (13) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
147 other fuels:
148 (a) in mining or extraction of minerals;
149 (b) in agricultural operations to produce an agricultural product up to the time of

150 harvest or placing the agricultural product into a storage facility, including:

151 (i) commercial greenhouses;

152 (ii) irrigation pumps;

153 (iii) farm machinery;

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

156 (v) other farming activities;

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

160 (d) by a scrap recycler if:

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

164 (A) iron;

165 (B) steel;

166 (C) nonferrous metal;

167 (D) paper;

168 (E) glass;

169 (F) plastic;

170 (G) textile; or

171 (H) rubber; and

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

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

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

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

180 (b) a scrap recycler if:

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

- 184 (A) iron;
- 185 (B) steel;
- 186 (C) nonferrous metal;
- 187 (D) paper;
- 188 (E) glass;
- 189 (F) plastic;
- 190 (G) textile; or
- 191 (H) rubber; and

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

194 (16) (a) "Medical implant" means a replacement, corrective, or supportive device that
 195 is surgically implanted in the body to:

- 196 (i) artificially replace a missing portion of the body;
- 197 (ii) prevent or correct physical deformity or malfunction; or
- 198 (iii) support a weak or deformed portion of the body.

199 (b) "Medical implant" includes:

- 200 (i) parts used in the repairs or renovations of a medical implant; and
- 201 (ii) replacement parts for a medical implant.

202 **§ [(c) "Medical implant" does not include a dental implant.] §**

203 ~~[(16)]~~ (17) (a) "Medicine" means:

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

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

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

212 (b) "Medicine" does not include:

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

214 (ii) any alcoholic beverage.

215 [~~17~~] 18 "Mobile telecommunications service" is as defined in the Mobile

216 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

217 [~~18~~] 19 "Olympic merchandise" means tangible personal property bearing an

218 Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,

219 trademark, or other copyrighted or protected material, including:

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

221 (i) "Olympic";

222 (ii) "Olympiad"; or

223 (iii) "Citius Altius Fortius";

224 (b) the symbol of the International Olympic Committee, consisting of five interlocking
225 rings;

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

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

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

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

232 [~~19~~] 20 (a) "Other fuels" means products that burn independently to produce heat or
233 energy.

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

236 [~~20~~] 21 "Person" includes any individual, firm, partnership, joint venture,
237 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
238 city, municipality, district, or other local governmental entity of the state, or any group or
239 combination acting as a unit.

240 [~~21~~] 22 "Purchase price" means the amount paid or charged for tangible personal
241 property or any other taxable transaction under Subsection 59-12-103(1), excluding only cash
242 discounts taken or any excise tax imposed on the purchase price by the federal government.

243 [~~(22)~~] (23) "Regularly rented" means:

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

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

247 [~~(23)~~] (24) "Residential use" means the use in or around a home, apartment building,
248 sleeping quarters, and similar facilities or accommodations.

249 [~~(24)~~] (25) (a) "Retail sale" means any sale within the state of tangible personal
250 property or any other taxable transaction under Subsection 59-12-103(1), other than resale of
251 such property, item, or service by a retailer or wholesaler to a user or consumer.

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

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

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

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

265 [~~(25)~~] (26) (a) "Retailer" means any person engaged in a regularly organized retail
266 business in tangible personal property or any other taxable transaction under Subsection
267 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

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

273 (d) For purposes of this chapter the commission may regard as retailers the following if

274 they determine it is necessary for the efficient administration of this chapter: salesmen,
275 representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or
276 employers under whom they operate or from whom they obtain the tangible personal property
277 sold by them, irrespective of whether they are making sales on their own behalf or on behalf of
278 these dealers, distributors, supervisors, or employers, except that:

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

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

287 [~~26~~] (27) "Sale" means any transfer of title, exchange, or barter, conditional or
288 otherwise, in any manner, of tangible personal property or any other taxable transaction under
289 Subsection 59-12-103(1), for consideration. It includes:

290 (a) installment and credit sales;

291 (b) any closed transaction constituting a sale;

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

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

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

299 [~~27~~] (28) (a) "Sales relating to schools" means the following sales by, amounts paid
300 to, or amounts charged by a school:

301 (i) sales that are directly related to the school's educational functions or activities
302 including:

303 (A) the sale of:

304 (I) textbooks;

- 305 (II) textbook fees;
- 306 (III) laboratory fees;
- 307 (IV) laboratory supplies; or
- 308 (V) safety equipment;
- 309 (B) the sale of clothing that:
 - 310 (I) a student is specifically required to wear as a condition of participation in a
 - 311 school-related event or school-related activity; and
 - 312 (II) is not readily adaptable to general or continued usage to the extent that it takes the
 - 313 place of ordinary clothing;
 - 314 (C) sales of food if the net or gross revenues generated by the food sales are deposited
 - 315 into a school district fund or school fund dedicated to school meals; or
 - 316 (D) transportation charges for official school activities; or
 - 317 (ii) amounts paid to or amounts charged by a school for admission to a school-related
 - 318 event or school-related activity.
- 319 (b) "Sales relating to schools" does not include:
 - 320 (i) bookstore sales of items that are not educational materials or supplies;
 - 321 (ii) except as provided in Subsection [~~(27)~~] (28)(a)(i)(B), clothing; or
 - 322 (iii) amounts paid to or amounts charged by a school for admission to a school-related
 - 323 event or school-related activity if the amounts paid or charged are passed through to a person:
 - 324 (A) other than a:
 - 325 (I) school;
 - 326 (II) nonprofit organization authorized by a school board or a governing body of a
 - 327 private school to organize and direct a competitive secondary school activity; or
 - 328 (III) nonprofit association authorized by a school board or a governing body of a
 - 329 private school to organize and direct a competitive secondary school activity; and
 - 330 (B) that is required to collect sales and use taxes under this chapter.
 - 331 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 - 332 commission may make rules defining the term "passed through."
 - 333 [~~(28)~~] (29) For purposes of this section and Section 59-12-104, "school" means:
 - 334 (a) an elementary school or a secondary school that:
 - 335 (i) is a:

- 336 (A) public school; or
- 337 (B) private school; and
- 338 (ii) provides instruction for one or more grades kindergarten through 12; or
- 339 (b) a public school district.
- 340 [~~29~~] (30) (a) "Semiconductor fabricating or processing materials" means tangible
- 341 personal property:
- 342 (i) used primarily in the process of:
- 343 (A) (I) manufacturing a semiconductor; or
- 344 (II) fabricating a semiconductor; or
- 345 (B) maintaining an environment suitable for a semiconductor; or
- 346 (ii) consumed primarily in the process of:
- 347 (A) (I) manufacturing a semiconductor; or
- 348 (II) fabricating a semiconductor; or
- 349 (B) maintaining an environment suitable for a semiconductor.
- 350 (b) "Semiconductor fabricating or processing materials" includes:
- 351 (i) parts used in the repairs or renovations of tangible personal property described in
- 352 Subsection [~~29~~] (30)(a); or
- 353 (ii) a chemical, catalyst, or other material used to:
- 354 (A) produce or induce in a semiconductor a:
- 355 (I) chemical change; or
- 356 (II) physical change;
- 357 (B) remove impurities from a semiconductor; or
- 358 (C) improve the marketable condition of a semiconductor.
- 359 [~~30~~] (31) "Senior citizen center" means a facility having the primary purpose of
- 360 providing services to the aged as defined in Section 62A-3-101.
- 361 [~~31~~] (32) "State" means the state of Utah, its departments, and agencies.
- 362 [~~32~~] (33) "Storage" means any keeping or retention of tangible personal property or
- 363 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 364 except sale in the regular course of business.
- 365 [~~33~~] (34) (a) "Tangible personal property" means:
- 366 (i) all goods, wares, merchandise, produce, and commodities;

- 367 (ii) all tangible or corporeal things and substances which are dealt in or capable of
- 368 being possessed or exchanged;
- 369 (iii) water in bottles, tanks, or other containers; and
- 370 (iv) all other physically existing articles or things, including property severed from real
- 371 estate.
- 372 (b) "Tangible personal property" does not include:
- 373 (i) real estate or any interest or improvements in real estate;
- 374 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;
- 375 (iii) insurance certificates or policies;
- 376 (iv) personal or governmental licenses;
- 377 (v) water in pipes, conduits, ditches, or reservoirs;
- 378 (vi) currency and coinage constituting legal tender of the United States or of a foreign
- 379 nation; and
- 380 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
- 381 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
- 382 80%.

383 [~~34~~] (35) (a) For purposes of Subsection [~~(35)~~] (36) and Section 59-12-103,

384 "telephone service" means a two-way transmission:

- 385 (i) by:
- 386 (A) wire;
- 387 (B) radio;
- 388 (C) lightwave; or
- 389 (D) other electromagnetic means; and
- 390 (ii) of one or more of the following:
- 391 (A) a sign;
- 392 (B) a signal;
- 393 (C) writing;
- 394 (D) an image;
- 395 (E) sound;
- 396 (F) a message;
- 397 (G) data; or

398 (H) other information of any nature.

399 (b) "Telephone service" includes:

400 (i) cellular telephone service;

401 (ii) private communications service; or

402 (iii) automated digital telephone answering service.

403 (c) "Telephone service" does not include a service or a transaction that a state or a
404 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
405 Tax Freedom Act, Pub. L. No. 105-277.

406 [~~35~~] (36) (a) "Telephone service provider" means a person that:

407 (i) owns, controls, operates, or manages a telephone service; and

408 (ii) engages in an activity described in Subsection [~~35~~] (36)(a)(i) for the shared use
409 with or resale to any person of the telephone service.

410 (b) A person described in Subsection [~~35~~] (36)(a) is a telephone service provider
411 whether or not the Public Service Commission of Utah regulates:

412 (i) that person; or

413 (ii) the telephone service that the person owns, controls, operates, or manages.

414 [~~36~~] (37) (a) "Use" means the exercise of any right or power over tangible personal
415 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
416 property, item, or service.

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

419 [~~37~~] (38) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle,
420 as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and
421 any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both.

422 "Vehicle," for purposes of Subsection 59-12-104[~~36~~] (37) only, also includes any locomotive,
423 freight car, railroad work equipment, or other railroad rolling stock.

424 [~~38~~] (39) "Vehicle dealer" means a person engaged in the business of buying, selling,
425 or exchanging vehicles as defined in Subsection [~~37~~] (38).

426 [~~39~~] (40) (a) "Vendor" means any person receiving any payment or consideration
427 upon a sale of tangible personal property or any other taxable transaction under Subsection
428 59-12-103(1), or to whom the payment or consideration is payable.

429 (b) "Vendor" does not mean a printer's facility described in Subsection [~~(25)~~] (26)(d).

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

431 **59-12-104. Exemptions.**

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

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

435 (2) sales to the state, its institutions, and its political subdivisions; however, this
436 exemption does not apply to sales of:

437 (a) construction materials except:

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

442 (ii) construction materials purchased by the state, its institutions, or its political
443 subdivisions which are installed or converted to real property by employees of the state, its
444 institutions, or its political subdivisions; or

445 (b) tangible personal property in connection with the construction, operation,
446 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
447 providing additional project capacity, as defined in Section 11-13-103;

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

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

453 (5) sales of parts and equipment for installation in aircraft operated by common carriers
454 in interstate or foreign commerce;

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

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

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

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

467 (i) retail sales of Olympic merchandise;

468 (ii) except as provided in Subsection (51), admissions or user fees described in
469 Subsection 59-12-103(1)(f);

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

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

474 (B) exclusively used by:

475 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
476 Olympic Winter Games of 2002; or

477 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
478 Winter Games of 2002; and

479 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
480 2002 does not receive reimbursement; or

481 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
482 rental of a vehicle:

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

485 (B) exclusively used by:

486 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
487 Olympic Winter Games of 2002; or

488 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
489 Winter Games of 2002; and

490 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of

491 2002 does not receive reimbursement;

492 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of
493 this state which are made to bona fide nonresidents of this state and are not afterwards
494 registered or used in this state except as necessary to transport them to the borders of this state;

495 (10) sales of medicine;

496 (11) sales or use of property, materials, or services used in the construction of or
497 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

498 (12) (a) sales of meals served by:

499 (i) the following if the meals are not available to the general public:

500 (A) a church; or

501 (B) a charitable institution;

502 (ii) an institution of higher education if:

503 (A) the meals are not available to the general public; or

504 (B) the meals are prepaid as part of a student meal plan offered by the institution of
505 higher education; or

506 (b) inpatient meals provided at:

507 (i) a medical facility; or

508 (ii) a nursing facility;

509 (13) isolated or occasional sales by persons not regularly engaged in business, except
510 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
511 which case the tax is based upon:

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

513 or

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

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

517 (i) machinery and equipment:

518 (A) used in the manufacturing process;

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

520 (C) used:

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

522 (II) in new or expanding operations in a manufacturing facility in the state; and
523 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
524 (A) have an economic life of three or more years;
525 (B) are used in the manufacturing process in a manufacturing facility in the state;
526 (C) are used to replace or adapt an existing machine to extend the normal estimated
527 useful life of the machine; and
528 (D) do not include repairs and maintenance;
529 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
530 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
531 Subsection (14)(a)(ii) is exempt;
532 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in
533 Subsection (14)(a)(ii) is exempt; and
534 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
535 (14)(a)(ii) is exempt;
536 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
537 "new or expanding operations" and "establishment"; and
538 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
539 commission shall:
540 (i) review the exemptions described in Subsection (14)(a) and make recommendations
541 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
542 continued, modified, or repealed; and
543 (ii) include in its report:
544 (A) the cost of the exemptions;
545 (B) the purpose and effectiveness of the exemptions; and
546 (C) the benefits of the exemptions to the state;
547 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
548 (i) tooling;
549 (ii) special tooling;
550 (iii) support equipment;
551 (iv) special test equipment; or
552 (v) parts used in the repairs or renovations of tooling or equipment described in

553 Subsections (15)(a)(i) through (iv); and
554 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
555 (i) the tooling, equipment, or parts are used or consumed exclusively in the
556 performance of any aerospace or electronics industry contract with the United States
557 government or any subcontract under that contract; and
558 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
559 title to the tooling, equipment, or parts is vested in the United States government as evidenced
560 by:
561 (A) a government identification tag placed on the tooling, equipment, or parts; or
562 (B) listing on a government-approved property record if placing a government
563 identification tag on the tooling, equipment, or parts is impractical;
564 (16) intrastate movements of:
565 (a) freight by common carriers; or
566 (b) passengers:
567 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
568 Classification Manual of the federal Executive Office of the President, Office of Management
569 and Budget;
570 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
571 Industrial Classification Manual of the federal Executive Office of the President, Office of
572 Management and Budget, if the transportation originates and terminates within a county of the
573 first, second, or third class; or
574 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard
575 Industrial Classification Manual of the federal Executive Office of the President, Office of
576 Management and Budget:
577 (A) a horse-drawn cab; or
578 (B) a horse-drawn carriage[-];
579 (17) sales of newspapers or newspaper subscriptions;
580 (18) tangible personal property, other than money, traded in as full or part payment of
581 the purchase price, except that for purposes of calculating sales or use tax upon vehicles not
582 sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:
583 (a) the bill of sale or other written evidence of value of the vehicle being sold and the

584 vehicle being traded in; or

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

588 (19) sprays and insecticides used to control insects, diseases, and weeds for
589 commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those
590 sprays and insecticides used in the processing of the products;

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

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

598 (B) tangible personal property used in any activities other than farming, such as office
599 equipment and supplies, equipment and supplies used in sales or distribution of farm products,
600 in research, or in transportation; or

601 (C) any vehicle required to be registered by the laws of this state, without regard to the
602 use to which the vehicle is put; or

603 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
604 tangible personal property is exempt under Subsection (20)(a); or

605 (b) sales of hay;

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

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

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

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

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

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

621 (27) property upon which a sales or use tax was paid to some other state, or one of its
622 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
623 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
624 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
625 Act;

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

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

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

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

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

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

- 646 (34) amounts paid for the purchase of telephone service for purposes of providing
647 telephone service;
- 648 (35) fares charged to persons transported directly by a public transit district created
649 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
- 650 (36) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
- 651 (37) (a) 45% of the sales price of any new manufactured home; and
652 (b) 100% of the sales price of any used manufactured home;
- 653 (38) sales relating to schools and fundraising sales;
- 654 (39) sales or rentals of home medical equipment or supplies;
- 655 (40) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
656 Section 72-11-102; and
657 (b) the commission shall by rule determine the method for calculating sales exempt
658 under Subsection (40)(a) that are not separately metered and accounted for in utility billings;
- 659 (41) sales to a ski resort of:
660 (a) snowmaking equipment;
661 (b) ski slope grooming equipment;
662 (c) passenger ropeways as defined in Section 72-11-102; or
663 (d) parts used in the repairs or renovations of equipment or passenger ropeways
664 described in Subsections (41)(a) through (c);
- 665 (42) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 666 (43) sales or rentals of the right to use or operate for amusement, entertainment, or
667 recreation a coin-operated amusement device as defined in Section 59-12-102;
- 668 (44) sales of cleaning or washing of tangible personal property by a coin-operated car
669 wash machine;
- 670 (45) sales by the state or a political subdivision of the state, except state institutions of
671 higher education as defined in Section 53B-3-102, of:
672 (a) photocopies; or
673 (b) other copies of records held or maintained by the state or a political subdivision of
674 the state;
- 675 (46) (a) amounts paid:
676 (i) to a person providing intrastate transportation to an employer's employee to or from

677 the employee's primary place of employment;

678 (ii) by an:

679 (A) employee; or

680 (B) employer; and

681 (iii) pursuant to a written contract between:

682 (A) the employer; and

683 (B) (I) the employee; or

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

685 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

686 commission may for purposes of Subsection (46)(a) make rules defining what constitutes an

687 employee's primary place of employment;

688 (47) amounts paid for admission to an athletic event at an institution of higher

689 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

690 20 U.S.C. Sec. 1681 et seq.;

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

692 (49) (a) sales of:

693 (i) hearing aids;

694 (ii) hearing aid accessories; or

695 (iii) except as provided in Subsection (49)(b), parts used in the repairs or renovations

696 of hearing aids or hearing aid accessories; and

697 (b) for purposes of this Subsection (49), notwithstanding Subsection (49)(a)(iii),

698 "parts" does not include batteries;

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

700 (i) an area agency on aging; or

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

702 (b) sales made by a senior citizen center that contracts with an area agency on aging;

703 (51) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as

704 admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter

705 Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing

706 Committee for the Olympic Winter Games of 2002 in accordance with requirements of the

707 International Olympic Committee; and

708 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
709 Winter Games of 2002 shall make at least two reports during the 2000 interim:

710 (i) to the:

711 (A) Olympic Coordination Committee; and

712 (B) Revenue and Taxation Interim Committee; and

713 (ii) regarding the status of:

714 (A) agreements relating to the funding of public safety services for the Olympic Winter
715 Games of 2002;

716 (B) agreements relating to the funding of services, other than public safety services, for
717 the Olympic Winter Games of 2002;

718 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by
719 the Olympic Coordination Committee or the Revenue and Taxation Interim Committee;

720 (D) other issues as requested by the Olympic Coordination Committee or the Revenue
721 and Taxation Interim Committee; or

722 (E) a combination of Subsections (51)(b)(ii)(A) through (D);

723 (52) (a) beginning on July 1, 2001, through June 30, 2004, and subject to Subsection
724 (52)(b), a sale or lease of semiconductor fabricating or processing materials regardless of
725 whether the semiconductor fabricating or processing materials:

726 (i) actually come into contact with a semiconductor; or

727 (ii) ultimately become incorporated into real property;

728 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
729 described in Subsection (52)(a) is exempt;

730 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
731 described in Subsection (52)(a) is exempt; and

732 (iii) beginning on July 1, 2003, through June 30, 2004, the entire amount of the sale or
733 lease described in Subsection (52)(a) is exempt; and

734 (c) each year on or before the November interim meeting, the Revenue and Taxation
735 Interim Committee shall:

736 (i) review the exemption described in this Subsection (52) and make recommendations
737 concerning whether the exemption should be continued, modified, or repealed; and

738 (ii) include in the review under this Subsection (52)(c):

739 (A) the cost of the exemption;
740 (B) the purpose and effectiveness of the exemption; and
741 (C) the benefits of the exemption to the state;
742 (53) an amount paid by or charged to a purchaser for accommodations and services
743 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
744 59-12-104.2;
745 (54) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
746 sports event registration certificate in accordance with Section 41-3-306 for the event period
747 specified on the temporary sports event registration certificate; [or]
748 (55) sales or uses of electricity, if the sales or uses are:
749 (a) made under a tariff adopted by the Public Service Commission of Utah only for
750 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
751 source, as designated in the tariff by the Public Service Commission of Utah; and
752 (b) for an amount of electricity that is:
753 (i) unrelated to the amount of electricity used by the person purchasing the electricity
754 under the tariff described in Subsection (55)(a); and
755 (ii) equivalent to the number of kilowatthours specified in the tariff described in
756 Subsection (55)(a) that may be purchased under the tariff described in Subsection (55)(a)[-]; or
757 (56) sales of medical implants.
758 Section 3. **Effective date.**
759 This act takes effect on July 1, 2003.