

AMENDMENTS TO SALES AND USE TAX

2003 GENERAL SESSION

STATE OF UTAH

Sponsor: Ed P. Mayne

This act modifies the Sales and Use Tax Act to modify the transactions that are subject to sales and use tax. The act provides definitions. The act makes technical changes. This 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

59-12-103, as last amended by Chapter 2, Laws of Utah 2002, Sixth Special Session

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 certificate or air carrier's operating certificate; or

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

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

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

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

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

(5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (13) or residential use under Subsection [~~(23)~~] (24).

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

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

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

(7) "Component part" includes:

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

(d) feed, seeds, and seedlings.

(8) "Construction materials" means any tangible personal property that will be converted

into real property.

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

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

(B) made by a school student;

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

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

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

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

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

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

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

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

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

(II) correct impaired human hearing; and

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

(II) affixed behind the human ear;

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

(iii) a telephone amplifying device.

(b) "Hearing aid" does not include:

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

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

- (A) a personal amplifying system;
- (B) a personal FM system;
- (C) a television listening system; or
- (D) a device or system similar to a device or system described in Subsections

(10)(b)(ii)(A) through (C); or

(iii) an assistive listening device or system designed to be used by more than one individual, including:

(A) a device or system installed in:

- (I) an auditorium;
- (II) a church;
- (III) a conference room;
- (IV) a synagogue; or
- (V) a theater; or

(B) a device or system similar to a device or system described in Subsections

(10)(b)(iii)(A)(I) through (V).

(11) (a) "Hearing aid accessory" means a hearing aid:

- (i) component;
- (ii) attachment; or
- (iii) accessory.

(b) "Hearing aid accessory" includes:

- (i) a hearing aid neck loop;
- (ii) a hearing aid cord;
- (iii) a hearing aid ear mold;
- (iv) hearing aid tubing;
- (v) a hearing aid ear hook; or
- (vi) a hearing aid remote control.

(c) "Hearing aid accessory" does not include:

- (i) a component, attachment, or accessory designed to be used only with an:

- (A) instrument or device described in Subsection (10)(b)(i); or
- (B) assistive listening device or system described in Subsection (10)(b)(ii) or (iii); or
- (ii) a hearing aid battery.

(12) (a) Except as provided in Subsection (12)(c), "home medical equipment or supplies" means equipment or supplies that:

- (i) a licensed physician prescribes or authorizes in writing as necessary:
 - (A) for the treatment of a medical illness or injury; or
 - (B) to mitigate an impairment resulting from illness or injury;
- (ii) are used exclusively by the person for whom they are prescribed to serve a medical

purpose; and

- (iii) are listed as eligible for payment under:
 - (A) Title XVIII of the federal Social Security Act; or
 - (B) the state plan for medical assistance under Title XIX of the federal Social Security

Act.

(b) "Home medical equipment or supplies" includes parts used in the repairs or renovations of equipment or supplies described in Subsection (12)(a).

(c) Notwithstanding Subsection (12)(a), "home medical equipment or supplies" does not include:

- (i) equipment or supplies purchased by, for, or on behalf of any:
 - (A) health care facility, as defined in Subsection (12)(d); or
 - (B) one or more of the following for use in a professional practice:
 - (I) a doctor;
 - (II) a nurse; or
 - (III) another health care provider;
- (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
- (iii) hearing aids or hearing aid accessories.
- (d) For purposes of Subsection (12)(c)(i)(A), "health care facility" includes:
 - (i) a clinic;

- (ii) a doctor's office; or
- (iii) a health care facility as defined in Section 26-21-2.

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

- (a) in mining or extraction of minerals;
- (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:

- (i) commercial greenhouses;
- (ii) irrigation pumps;
- (iii) farm machinery;
- (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not registered under Title 41, Chapter 1a, Part 2, Registration; and

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

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

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

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

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

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

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

(b) a scrap recycler if:

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

- (A) iron;
- (B) steel;
- (C) nonferrous metal;
- (D) paper;
- (E) glass;
- (F) plastic;
- (G) textile; or
- (H) rubber; and

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

(16) (a) "Medicine" means:

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

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

physician; and

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

(b) "Medicine" does not include:

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

(ii) any alcoholic beverage.

(17) "Mobile telecommunications service" is as defined in the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

(18) (a) "Multi-channel video or audio service provider" means any person or group of persons that:

(i) provides multi-channel video or audio service and directly or indirectly owns a significant interest in the multi-channel video or audio service; or

(ii) otherwise controls or is responsible through any arrangement, the management and operation of the multi-channel video or audio service.

(b) "Multi-channel video or audio service provider" includes the following except as specifically exempted by state or federal law:

(i) a cable operator;

(ii) a CATV provider;

(iii) a multi-point distribution provider;

(iv) a MMDS provider;

(v) a SMATV operator;

(vi) a direct-to-home satellite service provider; or

(vii) a DBS provider.

~~[(18)]~~ (19) "Olympic merchandise" means tangible personal property bearing an Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other copyrighted or protected material, including:

(a) one or more of the following terms:

(i) "Olympic";

(ii) "Olympiad"; or

(iii) "Citius Altius Fortius";

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

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

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

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

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

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

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

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

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

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

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

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

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

~~[(24)]~~ (25) (a) "Retail sale" means any sale within the state of tangible personal property

or any other taxable transaction under Subsection 59-12-103(1), other than resale of such property, item, or service by a retailer or wholesaler to a user or consumer.

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

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

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

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

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

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

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

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

these dealers, distributors, supervisors, or employers, except that:

- (i) a printer's facility with which a retailer has contracted for printing shall not be considered to be a salesman, representative, peddler, canvasser, or agent of the retailer; and
- (ii) the ownership of property that is located at the premises of a printer's facility with which the retailer has contracted for printing and that consists of the final printed product, property that becomes a part of the final printed product, or copy from which the printed product is produced, shall not result in the retailer being deemed to have or maintain an office, distribution house, sales house, warehouse, service enterprise, or other place of business, or to maintain a stock of goods, within this state.

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

- (a) installment and credit sales;
- (b) any closed transaction constituting a sale;
- (c) any sale of electrical energy, gas, services, or entertainment taxable under this chapter;
- (d) any transaction if the possession of property is transferred but the seller retains the title as security for the payment of the price; and
- (e) any transaction under which right to possession, operation, or use of any article of tangible personal property is granted under a lease or contract and the transfer of possession would be taxable if an outright sale were made.

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

- (i) sales that are directly related to the school's educational functions or activities including:
 - (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;

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

- (a) an elementary school or a secondary school that:
 - (i) is a:
 - (A) public school; or
 - (B) private school; and
 - (ii) provides instruction for one or more grades kindergarten through 12; or
- (b) a public school district.

~~[(29)]~~ (30) (a) "Semiconductor fabricating or processing materials" means tangible personal property:

- (i) used primarily in the process of:
 - (A) (I) manufacturing a semiconductor; or
 - (II) fabricating a semiconductor; or
 - (B) maintaining an environment suitable for a semiconductor; or
- (ii) consumed primarily in the process of:
 - (A) (I) manufacturing a semiconductor; or
 - (II) fabricating a semiconductor; or
 - (B) maintaining an environment suitable for a semiconductor.
- (b) "Semiconductor fabricating or processing materials" includes:
 - (i) parts used in the repairs or renovations of tangible personal property described in

Subsection ~~[(29)]~~ (30)(a); or

- (ii) a chemical, catalyst, or other material used to:
 - (A) produce or induce in a semiconductor a:
 - (I) chemical change; or
 - (II) physical change;
 - (B) remove impurities from a semiconductor; or
 - (C) improve the marketable condition of a semiconductor.

~~[(30)]~~ (31) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

~~[(31)]~~ (32) "State" means the state of Utah, its departments, and agencies.

~~[(32)]~~ (33) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

~~[(33)]~~ (34) (a) "Tangible personal property" means:

- (i) all goods, wares, merchandise, produce, and commodities;
- (ii) all tangible or corporeal things and substances which are dealt in or capable of being possessed or exchanged;
- (iii) water in bottles, tanks, or other containers; and
- (iv) all other physically existing articles or things, including property severed from real estate.

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

- (i) real estate or any interest or improvements in real estate;
- (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;
- (iii) insurance certificates or policies;
- (iv) personal or governmental licenses;
- (v) water in pipes, conduits, ditches, or reservoirs;
- (vi) currency and coinage constituting legal tender of the United States or of a foreign nation; and
- (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not constituting legal tender of any nation, with a gold, silver, or platinum content of not less than 80%.

~~[(34)]~~ (35) (a) For purposes of Subsection ~~[(35)]~~ (36) and Section 59-12-103, "telephone service" means a two-way transmission:

- (i) by:
 - (A) wire;
 - (B) radio;
 - (C) lightwave; or
 - (D) other electromagnetic means; and

(ii) of one or more of the following:

- (A) a sign;
- (B) a signal;
- (C) writing;
- (D) an image;
- (E) sound;
- (F) a message;
- (G) data; or
- (H) other information of any nature.

(b) "Telephone service" includes:

- (i) cellular telephone service;
- (ii) private communications service; or
- (iii) automated digital telephone answering service.

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

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

- (i) owns, controls, operates, or manages a telephone service; and
- (ii) engages in an activity described in Subsection ~~[(35)]~~ (36)(a)(i) for the shared use with or resale to any person of the telephone service.

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

- (i) that person; or
- (ii) the telephone service that the person owns, controls, operates, or manages.

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

(b) "Use" does not include the sale, display, demonstration, or trial of that property in the

regular course of business and held for resale.

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

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

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

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

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

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

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

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

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

(b) amounts paid:

(i) (A) to a common carrier; or

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

(I) telephone service provider; or

(II) telegraph corporation as defined in Section 54-2-1; and

(ii) for:

(A) all transportation;

(B) telephone service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(C) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing

Act, 4 U.S.C. Sec. 116 et seq.; or

(D) telegraph service;

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of meals;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services:

(i) for repairs or renovations of tangible personal property, unless Section 59-12-104

provides for an exemption from sales and use tax for:

(A) the tangible personal property; and

(B) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or renovations of that tangible personal property; or

(ii) to install tangible personal property in connection with other tangible personal property, unless the tangible personal property being installed is exempt from sales and use tax under Section 59-12-104;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if:

(i) the tangible personal property's situs is in this state;

(ii) the lessee took possession of the tangible personal property in this state; or

(iii) within this state the tangible personal property is:

(A) stored;

(B) used; or

(C) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; [~~and~~]

(m) amounts paid or charged for prepaid telephone calling cards[-];

(n) amounts paid or charged for multi-channel video or audio service provided by a multi-channel video or audio service provider:

(i) within the state; and

(ii) to the extent permitted by federal law.

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

(i) a state tax imposed on the transaction at a rate of 4.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

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

(i) a state tax imposed on the transaction at a rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

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

(i) a state tax imposed on the transaction at a rate of:

(A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

(B) 2% for a transaction described in Subsection (1)(d); and

(ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate equal to the sum of the following tax rates:

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

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

(B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the

state impose the tax under Section 59-12-1102.

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

- (i) Subsection (2)(a)(i);
- (ii) Subsection (2)(b)(i);
- (iii) Subsection (2)(c)(i);
- (iv) Section 59-12-301;
- (v) Section 59-12-352;
- (vi) Section 59-12-353;
- (vii) Section 59-12-401;
- (viii) Section 59-12-402;
- (ix) Section 59-12-501;
- (x) Section 59-12-502;
- (xi) Section 59-12-603;
- (xii) Section 59-12-703;
- (xiii) Section 59-12-802;
- (xiv) Section 59-12-804;
- (xv) Section 59-12-1001;
- (xvi) Section 59-12-1201; or
- (xvii) Section 59-12-1302.

(3) (a) Except as provided in Subsections (4) through (9), the following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i);
- (ii) the tax imposed by Subsection (2)(b)(i); and
- (iii) the tax imposed by Subsection (2)(c)(i).

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

(c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the state shall receive the county's, city's, or town's proportionate share of the revenues generated by

the local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).

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

(A) calculating an amount equal to:

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

(II) the total population of the state; and

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

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

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

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

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

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

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

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

(b) These funds shall be used:

(i) by the Utah Sports Authority as follows:

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

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

(C) as otherwise appropriated by the Legislature; and

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

(I) \$59,000,000 of sales and use tax deposited into the Olympics Special Revenue Fund under Subsection (4)(a);

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

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

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

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

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

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

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

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

(5) (a) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection (11), for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred or deposited as provided in Subsections (5) (a)(ii) through (vii):

(A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(I) by a 1/16% tax rate on the transactions described in Subsection (1); and

(II) for fiscal year 2002-03; or

(B) \$18,743,000.

(ii) (A) For fiscal year 2002-03 only, \$2,300,000 of the amount described in Subsection (5)(a)(i) shall be transferred as dedicated credits to the Department of Natural Resources to:

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

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

(B) Money transferred to the Department of Natural Resources under Subsection (5)(a)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(C) At the end of fiscal year 2002-03:

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

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

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

(iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection (5)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section 4-18-6.

(iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection (5)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(B) At the end of fiscal year 2002-03:

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

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

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

(v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection (5)(a)(i) that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through (iv) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(B) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(I) provide a portion of the local cost share, not to exceed in fiscal year 2002-03 50% of the funds made available to the Division of Water Resources under this section, of potential project features of the Central Utah Project;

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

(III) fund state required dam safety improvements; and

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

(vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i) that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i) that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through (iv) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

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

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

(C) develop surface water sources.

(b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)(ii) through (vii):

(A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(I) by a 1/16% tax rate on the transactions described in Subsection (1); and

(II) for the fiscal year; or

(B) \$17,500,000.

(ii) (A) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (5)(b)(i) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

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

(II) award grants, up to the amount authorized by the Legislature in an appropriations act,

to political subdivisions of the state to implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

(B) Money transferred to the Department of Natural Resources under Subsection (5)(b)(ii)(A) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(C) At the end of each fiscal year:

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

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

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

(iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (5)(b)(i) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-6.

(iv) (A) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (5)(b)(i) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(B) At the end of each fiscal year:

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

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

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

(v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described

in Subsection (5)(b)(i) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(B) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

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

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

(III) fund state required dam safety improvements; and

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

(vi) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (5)(b)(i) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(vii) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (5)(b)(i) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

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

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

(C) develop surface water sources.

(6) (a) (i) Notwithstanding Subsection (3)(a), for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred or deposited as provided in Subsections (6)(a)(ii)

through (iv):

(A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(I) by a 1/16% tax rate on the transactions described in Subsection (1); and

(II) for the fiscal year; or

(B) \$18,743,000.

(ii) (A) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection (6)(a)(i) shall be deposited in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

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

(iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection (6)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of Transportation for the State Park Access Highways Improvement Program created in Section 72-3-207.

(iv) For fiscal year 2002-03 only, the amount described in Subsection (6)(a)(i) that remains after making the transfers and deposits required by Subsections (6)(a)(ii) and (iii) shall be deposited in the class B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

(b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)(ii) through (iv):

(A) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(I) by a 1/16% tax rate on the transactions described in Subsection (1); and

(II) for the fiscal year; or

(B) \$18,743,000.

(ii) (A) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (6)(b)(i) shall be deposited each year in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

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

(iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (6)(b)(i) shall be transferred each year as nonlapsing dedicated credits to the Department of Transportation for the State Park Access Highways Improvement Program created in Section 72-3-207.

(iv) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in Subsection (6)(b)(i) shall be deposited in the class B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

(7) (a) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

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

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

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

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

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

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

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

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

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

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

(10) (a) For purposes of amounts paid or charged as admission or user fees relating to the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in Subsection (1)(f).

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

(11) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from the total amount required to be deposited or transferred in accordance with Subsection (5):

(i) \$25,000 shall be subtracted from the total amount required to be transferred to the Division of Water Rights in accordance with Subsection (5)(a)(iv);

(ii) \$385,000 shall be subtracted from the total amount required to be deposited into the Agriculture Resource Development Fund in accordance with Subsection (5)(a)(iii);

(iii) \$350,000 shall be subtracted from the total amount required to be transferred to the Department of Natural Resources in accordance with Subsection (5)(a)(ii);

(iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into the Drinking Water Loan Program Subaccount in accordance with Subsection (5)(a)(vii);

(v) \$3,012,500 shall be subtracted from the total amount required to be deposited into the Utah Wastewater Loan Program Subaccount in accordance with Subsection (5)(a)(vi); and

(vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into the Water Resources Conservation and Development Fund in accordance with Subsection (5)(a)(v).

(b) The amounts subtracted under Subsection (11)(a) shall be deposited into the General Fund.

Section 3. Effective date.

This act takes effect on July 1, 2003.