

**Senator Leonard M. Blackham** proposes the following substitute bill:

**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 and repeals definitions. The act reduces the amount of certain sales and use tax exemptions. 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:

**19-2-124**, as last amended by Chapter 275, Laws of Utah 2001

**59-1-403**, as last amended by Chapters 52 and 175, Laws of Utah 2002

**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

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

**59-12-104.5**, as last amended by Chapter 303, Laws of Utah 2001

**59-12-105**, as last amended by Chapter 262, Laws of Utah 2001

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

Section 1. Section **19-2-124** is amended to read:

**19-2-124. Application for certification of pollution control facility -- Refunds -- Interest.**

(1) (a) A person who qualifies under Subsection (2) may apply to the board for certification of a pollution control facility or facilities erected, constructed, or installed, or to be erected, constructed, or installed in the state on or after July 1, 1986, but on or before June 30, 2004.



26 (b) An application may be filed at any time after a firm construction contract has been  
27 entered or construction has commenced.

28 (2) (a) (i) A person who applies under Subsection (1) shall be the owner of a trade or  
29 business that uses property in the state requiring a pollution control facility to prevent or  
30 minimize pollution or a person who, as a lessee or pursuant to an agreement, conducts the trade  
31 or business that operates or uses the property.

32 (ii) For purposes of this Subsection (2), "owner" includes a contract purchaser.

33 (b) The facility shall be owned, operated, or leased during a part of the tax year in  
34 which the exemption is claimed.

35 (c) A person who obtains certification for a pollution control facility may claim an  
36 exemption from sales and use taxes as provided in Sections 19-2-123 and 59-12-104 only  
37 during the time period beginning on or after July 1, 1986, and ending on or before June 30,  
38 2004.

39 (d) A person who pays a tax under Title 59, Chapter 12, Sales and Use Tax Act, on a  
40 purchase of tangible personal property or services used in the construction of or incorporated  
41 into a pollution control facility that:

42 (i) is not certified under Section 19-2-125, may obtain a refund of the tax if:

43 (A) the board subsequently certifies the pollution control facility;

44 (B) the tangible personal property or services meet the requirements for exemption  
45 provided in Subsections 19-2-123(2) and 59-12-104[~~(11)~~] (10), except for the certification  
46 requirement; and

47 (C) the person files a claim for the refund with the State Tax Commission within the  
48 lesser of:

49 (I) three years after the day on which the pollution control facility is certified under  
50 Section 19-2-125; or

51 (II) six years after the day on which the person pays the tax under Title 59, Chapter 12,  
52 Sales and Use Tax Act; or

53 (ii) is certified under Section 19-2-125, may obtain a refund of the tax if:

54 (A) the tangible personal property or services meet the requirements for exemption  
55 provided in Subsections 19-2-123(2) and 59-12-104[~~(11)~~] (10); and

56 (B) the person files a claim for the refund with the State Tax Commission within three

57 years after the day on which the person pays the tax under Title 59, Chapter 12, Sales and Use  
58 Tax Act.

59 (e) (i) If a person files a claim for a refund of taxes under Subsection (2)(d)(i) paid on a  
60 purchase of tangible personal property or services used in the construction of or incorporated  
61 into a pollution control facility that was not certified under Section 19-2-125 at the time of the  
62 purchase:

63 (A) within 180 days after the day on which the board certifies the pollution control  
64 facility, interest shall accrue to the amount of the refund granted by the State Tax Commission:

65 (I) at the rate prescribed in Section 59-1-402; and

66 (II) beginning on the day on which the person pays the tax under Title 59, Chapter 12,  
67 Sales and Use Tax Act, for which the person is claiming a refund; or

68 (B) more than 180 days after the day on which the board certifies the pollution control  
69 facility, interest shall be added to the amount of the refund granted by the State Tax  
70 Commission:

71 (I) at the rate prescribed in Section 59-1-402; and

72 (II) beginning 30 days after the day on which the person files the claim for a refund  
73 under Subsection (2)(d).

74 (ii) If a person files a claim for a refund of taxes under Subsection (2)(d)(ii) paid on a  
75 purchase of tangible personal property or services used in the construction of or incorporated  
76 into a pollution control facility that was certified under Section 19-2-125 at the time of the  
77 purchase, interest shall accrue to the amount of the refund granted by the State Tax  
78 Commission:

79 (A) at the rate prescribed in Section 59-1-402; and

80 (B) beginning 30 days after the day on which the person files a claim for a refund under  
81 Subsection (2)(d).

82 (3) (a) Each application shall be in a format prescribed by the board, contain a  
83 description of the facilities and materials incorporated in them, the machinery and equipment,  
84 the existing or proposed operational procedure, and a statement of the purpose of pollution  
85 prevention, control, or reduction served or to be served by the facility.

86 (b) The board may require any further information it finds necessary before issuance of  
87 a certificate.

88 Section 2. Section **59-1-403** is amended to read:

89 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

90 (1) (a) Except as provided in this section, any of the following may not divulge or make  
91 known in any manner any information gained by that person from any return filed with the  
92 commission:

93 (i) a tax commissioner;

94 (ii) an agent, clerk, or other officer or employee of the commission; or

95 (iii) a representative, agent, clerk, or other officer or employee of any county, city, or  
96 town.

97 (b) Except as provided in Subsection (1)(c), an official charged with the custody of a  
98 return filed with the commission is not required to produce the return or evidence of anything  
99 contained in the return in any action or proceeding in any court, except:

100 (i) in accordance with judicial order;

101 (ii) on behalf of the commission in any action or proceeding under:

102 (A) this title; or

103 (B) other law under which persons are required to file returns with the commission;

104 (iii) on behalf of the commission in any action or proceeding to which the commission  
105 is a party; or

106 (iv) on behalf of any party to any action or proceeding under this title if the report or  
107 facts shown by the return are directly involved in the action or proceeding.

108 (c) Notwithstanding Subsection (1)(b), a court may require the production of, and may  
109 admit in evidence, any portion of a return or of the facts shown by the return, as are specifically  
110 pertinent to the action or proceeding.

111 (2) This section does not prohibit:

112 (a) a person or that person's duly authorized representative from receiving a copy of  
113 any return or report filed in connection with that person's own tax;

114 (b) the publication of statistics as long as the statistics are classified to prevent the  
115 identification of particular reports or returns; and

116 (c) the inspection by the attorney general or other legal representative of the state of the  
117 report or return of any taxpayer:

118 (i) who brings action to set aside or review a tax based on the report or return;

119 (ii) against whom an action or proceeding is contemplated or has been instituted under  
120 this title; or

121 (iii) against whom the state has an unsatisfied money judgment.

122 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the  
123 commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative  
124 Rulemaking Act, provide for a reciprocal exchange of information with:

125 (i) the United States Internal Revenue Service; or

126 (ii) the revenue service of any other state.

127 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and  
128 corporate franchise tax, the commission may by rule, made in accordance with Title 63,  
129 Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns  
130 and other written statements with the federal government, any other state, any of the political  
131 subdivisions of another state, or any political subdivision of this state, except as limited by  
132 Sections 59-12-209 and 59-12-210, if these political subdivisions or the federal government  
133 grant substantially similar privileges to this state.

134 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and  
135 corporate franchise tax, the commission may by rule, in accordance with Title 63, Chapter 46a,  
136 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the  
137 identity and other information of taxpayers who have failed to file tax returns or to pay any tax  
138 due.

139 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and  
140 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as  
141 requested by the executive secretary, any records, returns, or other information filed with the  
142 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5  
143 regarding the environmental assurance program participation fee.

144 (e) Notwithstanding Subsection (1), at the request of any person the commission shall  
145 provide that person sales and purchase volume data reported to the commission on a report,  
146 return, or other information filed with the commission under:

147 (i) Chapter 13, Part 2, Motor Fuel; or

148 (ii) Chapter 13, Part 4, Aviation Fuel.

149 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,

150 as defined in Section 59-22-202, the commission shall report to the manufacturer:

151 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the  
152 manufacturer and reported to the commission for the previous calendar year under Section  
153 59-14-407; and

154 (ii) the quantity of cigarettes, as defined in Section 59-22-202, produced by the  
155 manufacturer for which a tax refund was granted during the previous calendar year under  
156 Section 59-14-401 and reported to the commission under Subsection 59-14-401(1)(a)(v).

157 (g) Notwithstanding Subsection (1), the commission shall notify manufacturers,  
158 distributors, wholesalers, and retail dealers of a tobacco product manufacturer that is prohibited  
159 from selling cigarettes to consumers within the state under Subsection 59-14-210(2).

160 (h) Notwithstanding Subsection (1), the commission may:

161 (i) provide to the Division of Consumer Protection within the Department of  
162 Commerce and the attorney general data:

163 (A) reported to the commission under Section 59-14-212; or

164 (B) related to a violation under Section 59-14-211; and

165 (ii) upon request provide to any person data reported to the commission under  
166 Subsections 59-14-212(1)(a) through (c) and Subsection 59-14-212(1)(g).

167 (i) Notwithstanding Subsection (1), the commission shall, at the request of a committee  
168 of the Legislature, Office of the Legislative Fiscal Analyst, or Governor's Office of Planning  
169 and Budget, provide to the committee or office the total amount of revenues collected by the  
170 commission under Chapter 24, Radioactive Waste Tax Act, for the time period specified by the  
171 committee or office.

172 (j) Notwithstanding Subsection (1), the commission shall at the request of the  
173 Legislature provide to the Legislature the total amount of sales or uses exempt under  
174 Subsection 59-12-104[~~(52)~~] (50) reported to the commission in accordance with Section  
175 59-12-105.

176 (k) Notwithstanding Subsection (1), the commission shall make the list required by  
177 Subsection 59-14-408(3) available for public inspection.

178 (4) (a) Reports and returns shall be preserved for at least three years.

179 (b) After the three-year period provided in Subsection (4)(a) the commission may  
180 destroy a report or return.

181 (5) (a) Any person who violates this section is guilty of a class A misdemeanor.

182 (b) If the person described in Subsection (5)(a) is an officer or employee of the state,  
183 the person shall be dismissed from office and be disqualified from holding public office in this  
184 state for a period of five years thereafter.

185 (6) This part does not apply to the property tax.

186 Section 3. Section **59-12-102** is amended to read:

187 **59-12-102. Definitions.**

188 As used in this chapter:

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

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

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

193 (3) "Authorized carrier" means:

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

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

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

201 (4) "Cable service" means:

202 (a) the transmission of one or more of the following programming services to a  
203 purchaser:

204 (i) video programming service;

205 (ii) audio programming service; or

206 (iii) other programming service; and

207 (b) the purchaser interaction, if any, required for the selection or use of a programming  
208 service described in Subsection (4)(a).

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

211 [~~(i) a coin-operated amusement, skill, or ride device;]~~

212 ~~[(ii) that is not controlled through vendor-assisted, over-the-counter, sales of tokens;~~  
213 ~~and]~~

214 ~~[(iii) includes a music machine, pinball machine, billiard machine, video game~~  
215 ~~machine, arcade machine, and a mechanical or electronic skill game or ride.]~~

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

218 ~~[(i) accepts and registers multiple denominations of coins; and]~~

219 ~~[(ii) allows the vendor to collect the sales and use tax at the time an amusement device~~  
220 ~~is activated and operated by a person inserting coins into the device:]~~

221 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
222 fuels that does not constitute industrial use under Subsection ~~[(13)]~~ (14) or residential use  
223 under Subsection ~~[(23)]~~ (25).

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

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

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

232 (7) "Component part" includes:

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

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

235 (c) fuel used for providing temperature control of orchards and commercial  
236 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
237 off-highway type farm machinery; and

238 (d) feed, seeds, and seedlings.

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

241 (9) "Direct-to-home satellite service" is as defined in the federal Communications Act  
242 of 1934, 47 U.S.C. Sec. 303(v).



243            [~~9~~] (10) (a) "Fundraising sales" means sales:  
244            (i) (A) made by a school; or  
245            (B) made by a school student;  
246            (ii) that are for the purpose of raising funds for the school to purchase equipment,  
247 materials, or provide transportation; and  
248            (iii) that are part of an officially sanctioned school activity.  
249            (b) For purposes of Subsection [~~9~~] (10)(a)(iii), "officially sanctioned school activity"  
250 means a school activity:  
251            (i) that is conducted in accordance with a formal policy adopted by the school or school  
252 district governing the authorization and supervision of fundraising activities;  
253            (ii) that does not directly or indirectly compensate an individual teacher or other  
254 educational personnel by direct payment, commissions, or payment in kind; and  
255            (iii) the net or gross revenues from which are deposited in a dedicated account  
256 controlled by the school or school district.  
257            [~~10~~] (11) (a) "Hearing aid" means:  
258            (i) an instrument or device having an electronic component that is designed to:  
259            (A) (I) improve impaired human hearing; or  
260            (II) correct impaired human hearing; and  
261            (B) (I) be worn in the human ear; or  
262            (II) affixed behind the human ear;  
263            (ii) an instrument or device that is surgically implanted into the cochlea; or  
264            (iii) a telephone amplifying device.  
265            (b) "Hearing aid" does not include:  
266            (i) except as provided in Subsection [~~10~~] (11)(a)(i)(B) or [~~10~~] (11)(a)(ii), an  
267 instrument or device having an electronic component that is designed to be worn on the body;  
268            (ii) except as provided in Subsection [~~10~~] (11)(a)(iii), an assistive listening device or  
269 system designed to be used by one individual, including:  
270            (A) a personal amplifying system;  
271            (B) a personal FM system;  
272            (C) a television listening system; or  
273            (D) a device or system similar to a device or system described in Subsections [~~10~~]

274 ~~(11)~~(b)(ii)(A) through (C); or  
275 (iii) an assistive listening device or system designed to be used by more than one  
276 individual, including:  
277 (A) a device or system installed in:  
278 (I) an auditorium;  
279 (II) a church;  
280 (III) a conference room;  
281 (IV) a synagogue; or  
282 (V) a theater; or  
283 (B) a device or system similar to a device or system described in Subsections [~~(10)~~]  
284 ~~(11)~~(b)(iii)(A)(I) through (V).  
285 [~~(11)~~] ~~(12)~~ (a) "Hearing aid accessory" means a hearing aid:  
286 (i) component;  
287 (ii) attachment; or  
288 (iii) accessory.  
289 (b) "Hearing aid accessory" includes:  
290 (i) a hearing aid neck loop;  
291 (ii) a hearing aid cord;  
292 (iii) a hearing aid ear mold;  
293 (iv) hearing aid tubing;  
294 (v) a hearing aid ear hook; or  
295 (vi) a hearing aid remote control.  
296 (c) "Hearing aid accessory" does not include:  
297 (i) a component, attachment, or accessory designed to be used only with an:  
298 (A) instrument or device described in Subsection [~~(10)~~] ~~(11)~~(b)(i); or  
299 (B) assistive listening device or system described in Subsection [~~(10)~~] ~~(11)~~(b)(ii) or  
300 (iii); or  
301 (ii) a hearing aid battery.  
302 [~~(12)~~] ~~(13)~~ (a) Except as provided in Subsection [~~(12)~~] ~~(13)~~(c), "home medical  
303 equipment or supplies" means equipment or supplies that:  
304 (i) a licensed physician prescribes or authorizes in writing as necessary:

- 305 (A) for the treatment of a medical illness or injury; or
- 306 (B) to mitigate an impairment resulting from illness or injury;
- 307 (ii) are used exclusively by the person for whom they are prescribed to serve a medical
- 308 purpose; and
- 309 (iii) are listed as eligible for payment under:
  - 310 (A) Title XVIII of the federal Social Security Act; or
  - 311 (B) the state plan for medical assistance under Title XIX of the federal Social Security
  - 312 Act.
- 313 (b) "Home medical equipment or supplies" includes parts used in the repairs or
- 314 renovations of equipment or supplies described in Subsection [~~(12)~~] (13)(a).
- 315 (c) Notwithstanding Subsection [~~(12)~~] (13)(a), "home medical equipment or supplies"
- 316 does not include:
  - 317 (i) equipment or supplies purchased by, for, or on behalf of any:
    - 318 (A) health care facility, as defined in Subsection [~~(12)~~] (13)(d); or
    - 319 (B) one or more of the following for use in a professional practice:
      - 320 (I) a doctor;
      - 321 (II) a nurse; or
      - 322 (III) another health care provider;
    - 323 (ii) eyeglasses, contact lenses, or equipment to correct impaired vision; or
    - 324 (iii) hearing aids or hearing aid accessories.
    - 325 (d) For purposes of Subsection [~~(12)~~] (13)(c)(i)(A), "health care facility" includes:
      - 326 (i) a clinic;
      - 327 (ii) a doctor's office; or
      - 328 (iii) a health care facility as defined in Section 26-21-2.
  - 329 [~~(13)~~] (14) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
  - 330 or other fuels:
    - 331 (a) in mining or extraction of minerals;
    - 332 (b) in agricultural operations to produce an agricultural product up to the time of
    - 333 harvest or placing the agricultural product into a storage facility, including:
      - 334 (i) commercial greenhouses;
      - 335 (ii) irrigation pumps;

- 336 (iii) farm machinery;
- 337 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 338 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 339 (v) other farming activities;
- 340 (c) in manufacturing tangible personal property at an establishment described in SIC
- 341 Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
- 342 Executive Office of the President, Office of Management and Budget; or
- 343 (d) by a scrap recycler if:
- 344 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
- 345 one or more of the following items into prepared grades of processed materials for use in new
- 346 products:
  - 347 (A) iron;
  - 348 (B) steel;
  - 349 (C) nonferrous metal;
  - 350 (D) paper;
  - 351 (E) glass;
  - 352 (F) plastic;
  - 353 (G) textile; or
  - 354 (H) rubber; and
- 355 (ii) the new products under Subsection [~~(13)~~] (14)(d)(i) would otherwise be made with
- 356 nonrecycled materials.
- 357 [~~(14)~~] (15) "Manufactured home" means any manufactured home or mobile home as
- 358 defined in Title 58, Chapter 56, Utah Uniform Building Standards Act.
- 359 [~~(15)~~] (16) For purposes of Subsection 59-12-104[~~(14)~~] (13), "manufacturing facility"
- 360 means:
  - 361 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
  - 362 Industrial Classification Manual of the federal Executive Office of the President, Office of
  - 363 Management and Budget; or
  - 364 (b) a scrap recycler if:
  - 365 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
  - 366 one or more of the following items into prepared grades of processed materials for use in new

367 products:

368 (A) iron;

369 (B) steel;

370 (C) nonferrous metal;

371 (D) paper;

372 (E) glass;

373 (F) plastic;

374 (G) textile; or

375 (H) rubber; and

376 (ii) the new products under Subsection [~~(15)~~] (16)(b)(i) would otherwise be made with  
377 nonrecycled materials.

378 [~~(16)~~] (17) (a) "Medicine" means:

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

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

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

387 (b) "Medicine" does not include:

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

389 (ii) any alcoholic beverage.

390 [~~(17)~~] (18) "Mobile telecommunications service" is as defined in the Mobile  
391 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

392 (19) "Newspaper carrier" means an individual who delivers a newspaper:

393 (a) on a regularly established newspaper route;

394 (b) to a:

395 (i) vending machine;

396 (ii) business; or

397 (iii) residence; and

398 (c) if after the individual delivers the newspaper to a business described in Subsection  
399 (19)(b)(ii) or residence described in Subsection (19)(b)(iii) the owner of the business or  
400 residence does not resell the newspaper.

401 [~~18~~] (20) "Olympic merchandise" means tangible personal property bearing an  
402 Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,  
403 trademark, or other copyrighted or protected material, including:

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

405 (i) "Olympic";

406 (ii) "Olympiad"; or

407 (iii) "Citius Altius Fortius";

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

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

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

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

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

416 [~~19~~] (21) (a) "Other fuels" means products that burn independently to produce heat or  
417 energy.

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

420 [~~20~~] (22) "Person" includes any individual, firm, partnership, joint venture,  
421 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,  
422 city, municipality, district, or other local governmental entity of the state, or any group or  
423 combination acting as a unit.

424 [~~21~~] (23) "Purchase price" means the amount paid or charged for tangible personal  
425 property or any other taxable transaction under Subsection 59-12-103(1), excluding only cash  
426 discounts taken or any excise tax imposed on the purchase price by the federal government.

427 [~~22~~] (24) "Regularly rented" means:

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

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

431 [~~(23)~~] (25) "Residential use" means the use in or around a home, apartment building,  
432 sleeping quarters, and similar facilities or accommodations.

433 [~~(24)~~] (26) (a) "Retail sale" means any sale within the state of tangible personal  
434 property or any other taxable transaction under Subsection 59-12-103(1), other than resale of  
435 such property, item, or service by a retailer or wholesaler to a user or consumer.

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

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

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

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

449 [~~(25)~~] (27) (a) "Retailer" means any person engaged in a regularly organized retail  
450 business in tangible personal property or any other taxable transaction under Subsection  
451 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

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

457 (d) For purposes of this chapter the commission may regard as retailers the following if  
458 they determine it is necessary for the efficient administration of this chapter: salesmen,  
459 representatives, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, or

460 employers under whom they operate or from whom they obtain the tangible personal property  
461 sold by them, irrespective of whether they are making sales on their own behalf or on behalf of  
462 these dealers, distributors, supervisors, or employers, except that:

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

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

471 [~~26~~] (28) "Sale" means any transfer of title, exchange, or barter, conditional or  
472 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
473 Subsection 59-12-103(1), for consideration. It includes:

474 (a) installment and credit sales;

475 (b) any closed transaction constituting a sale;

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

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

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

483 [~~27~~] (29) (a) "Sales relating to schools" means the following sales by, amounts paid  
484 to, or amounts charged by a school:

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

487 (A) the sale of:

488 (I) textbooks;

489 (II) textbook fees;

490 (III) laboratory fees;



- 491 (IV) laboratory supplies; or
- 492 (V) safety equipment;
- 493 (B) the sale of clothing that:
  - 494 (I) a student is specifically required to wear as a condition of participation in a
  - 495 school-related event or school-related activity; and
  - 496 (II) is not readily adaptable to general or continued usage to the extent that it takes the
  - 497 place of ordinary clothing;
  - 498 (C) sales of food if the net or gross revenues generated by the food sales are deposited
  - 499 into a school district fund or school fund dedicated to school meals; or
  - 500 (D) transportation charges for official school activities; or
  - 501 (ii) amounts paid to or amounts charged by a school for admission to a school-related
  - 502 event or school-related activity.
- 503 (b) "Sales relating to schools" does not include:
  - 504 (i) bookstore sales of items that are not educational materials or supplies;
  - 505 (ii) except as provided in Subsection [~~27~~] (29)(a)(i)(B), clothing; or
  - 506 (iii) amounts paid to or amounts charged by a school for admission to a school-related
  - 507 event or school-related activity if the amounts paid or charged are passed through to a person:
    - 508 (A) other than a:
      - 509 (I) school;
      - 510 (II) nonprofit organization authorized by a school board or a governing body of a
      - 511 private school to organize and direct a competitive secondary school activity; or
      - 512 (III) nonprofit association authorized by a school board or a governing body of a
      - 513 private school to organize and direct a competitive secondary school activity; and
      - 514 (B) that is required to collect sales and use taxes under this chapter.
    - 515 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
    - 516 commission may make rules defining the term "passed through."
    - 517 [~~28~~] (30) For purposes of this section and Section 59-12-104, "school" means:
      - 518 (a) an elementary school or a secondary school that:
        - 519 (i) is a:
          - 520 (A) public school; or
          - 521 (B) private school; and

- 522 (ii) provides instruction for one or more grades kindergarten through 12; or
- 523 (b) a public school district.
- 524 [~~29~~] (31) (a) "Semiconductor fabricating or processing materials" means tangible
- 525 personal property:
- 526 (i) used primarily in the process of:
- 527 (A) (I) manufacturing a semiconductor; or
- 528 (II) fabricating a semiconductor; or
- 529 (B) maintaining an environment suitable for a semiconductor; or
- 530 (ii) consumed primarily in the process of:
- 531 (A) (I) manufacturing a semiconductor; or
- 532 (II) fabricating a semiconductor; or
- 533 (B) maintaining an environment suitable for a semiconductor.
- 534 (b) "Semiconductor fabricating or processing materials" includes:
- 535 (i) parts used in the repairs or renovations of tangible personal property described in
- 536 Subsection [~~29~~] (31)(a); or
- 537 (ii) a chemical, catalyst, or other material used to:
- 538 (A) produce or induce in a semiconductor a:
- 539 (I) chemical change; or
- 540 (II) physical change;
- 541 (B) remove impurities from a semiconductor; or
- 542 (C) improve the marketable condition of a semiconductor.
- 543 [~~30~~] (32) "Senior citizen center" means a facility having the primary purpose of
- 544 providing services to the aged as defined in Section 62A-3-101.
- 545 [~~31~~] (33) "State" means the state of Utah, its departments, and agencies.
- 546 [~~32~~] (34) "Storage" means any keeping or retention of tangible personal property or
- 547 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 548 except sale in the regular course of business.
- 549 [~~33~~] (35) (a) "Tangible personal property" means:
- 550 (i) all goods, wares, merchandise, produce, and commodities;
- 551 (ii) all tangible or corporeal things and substances which are dealt in or capable of
- 552 being possessed or exchanged;

553 (iii) water in bottles, tanks, or other containers; and  
554 (iv) all other physically existing articles or things, including property severed from real  
555 estate.

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

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

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

559 (iii) insurance certificates or policies;

560 (iv) personal or governmental licenses;

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

562 (vi) currency and coinage constituting legal tender of the United States or of a foreign  
563 nation; and

564 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not  
565 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than  
566 80%.

567 [~~34~~] (36) (a) For purposes of Subsection [~~35~~] (37) and Section 59-12-103,  
568 "telephone service" means a two-way transmission:

569 (i) by:

570 (A) wire;

571 (B) radio;

572 (C) lightwave; or

573 (D) other electromagnetic means; and

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

575 (A) a sign;

576 (B) a signal;

577 (C) writing;

578 (D) an image;

579 (E) sound;

580 (F) a message;

581 (G) data; or

582 (H) other information of any nature.

583 (b) "Telephone service" includes:

584 (i) cellular telephone service;  
585 (ii) private communications service; or  
586 (iii) automated digital telephone answering service.  
587 (c) "Telephone service" does not include a service or a transaction that a state or a  
588 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet  
589 Tax Freedom Act, Pub. L. No. 105-277.

590 ~~[(35)]~~ (37) (a) "Telephone service provider" means a person that:  
591 (i) owns, controls, operates, or manages a telephone service; and  
592 (ii) engages in an activity described in Subsection ~~[(35)]~~ (37)(a)(i) for the shared use  
593 with or resale to any person of the telephone service.

594 (b) A person described in Subsection ~~[(35)]~~ (37)(a) is a telephone service provider  
595 whether or not the Public Service Commission of Utah regulates:

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

598 ~~[(36)]~~ (38) (a) "Use" means the exercise of any right or power over tangible personal  
599 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that  
600 property, item, or service.

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

603 ~~[(37)]~~ (39) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle,  
604 as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and  
605 any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both.  
606 "Vehicle," for purposes of Subsection 59-12-104~~[(36)]~~ (35) only, also includes any locomotive,  
607 freight car, railroad work equipment, or other railroad rolling stock.

608 ~~[(38)]~~ (40) "Vehicle dealer" means a person engaged in the business of buying, selling,  
609 or exchanging vehicles as defined in Subsection ~~[(37)]~~ (39).

610 ~~[(39)]~~ (41) (a) "Vendor" means any person receiving any payment or consideration  
611 upon a sale of tangible personal property or any other taxable transaction under Subsection  
612 59-12-103(1), or to whom the payment or consideration is payable.

613 (b) "Vendor" does not mean a printer's facility described in Subsection ~~[(25)]~~ (27)(d).  
614 Section 4. Section **59-12-103** is amended to read:

615           **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

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

618           (a) retail sales [~~of tangible personal property~~] made within the state[;] of:

619           (i) tangible personal property; or

620           (ii) subscriptions to tangible personal property;

621           (b) amounts paid:

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

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

624           (I) telephone service provider; or

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

626           (ii) for:

627           (A) all transportation;

628           (B) telephone service, other than mobile telecommunications service, that originates

629 and terminates within the boundaries of this state;

630           (C) mobile telecommunications service that originates and terminates within the

631 boundaries of one state only to the extent permitted by the Mobile Telecommunications

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

633           (D) telegraph service;

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

635           (i) gas;

636           (ii) electricity;

637           (iii) heat;

638           (iv) coal;

639           (v) fuel oil; or

640           (vi) other fuels;

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

642           (i) gas;

643           (ii) electricity;

644           (iii) heat;

645           (iv) coal;

- 646 (v) fuel oil; or
- 647 (vi) other fuels;
- 648 (e) sales of meals;
- 649 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 650 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 651 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 652 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 653 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 654 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 655 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 656 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 657 exhibition, cultural, or athletic activity;
- 658 (g) amounts paid or charged for services:
- 659 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
- 660 provides for an exemption from sales and use tax for:
- 661 (A) the tangible personal property; and
- 662 (B) parts used in the repairs or renovations of the tangible personal property described
- 663 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
- 664 renovations of that tangible personal property; or
- 665 (ii) to install tangible personal property in connection with other tangible personal
- 666 property, unless the tangible personal property being installed is exempt from sales and use tax
- 667 under Section 59-12-104;
- 668 (h) except as provided in Subsection 59-12-104[~~(7)~~] (6), amounts paid or charged for
- 669 cleaning or washing of tangible personal property;
- 670 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 671 accommodations and services that are regularly rented for less than 30 consecutive days;
- 672 (j) amounts paid or charged for laundry or dry cleaning services;
- 673 (k) amounts paid or charged for leases or rentals of tangible personal property if:
- 674 (i) the tangible personal property's situs is in this state;
- 675 (ii) the lessee took possession of the tangible personal property in this state; or
- 676 (iii) within this state the tangible personal property is:

- 677 (A) stored;
- 678 (B) used; or
- 679 (C) otherwise consumed;
- 680 (l) amounts paid or charged for tangible personal property if within this state the
- 681 tangible personal property is:
- 682 (i) stored;
- 683 (ii) used; or
- 684 (iii) consumed; [~~and~~]
- 685 (m) amounts paid or charged for prepaid telephone calling cards[-];
- 686 (n) amounts paid or charged for cable service:
- 687 (i) within the state; and
- 688 (ii) to the extent permitted by federal law; and
- 689 (o) amounts paid or charged for direct-to-home satellite service:
- 690 (i) within the state; and
- 691 (ii) to the extent permitted by federal law.
- 692 (2) (a) Except as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a
- 693 state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the
- 694 sum of:
- 695 (i) a state tax imposed on the transaction at a rate of 4.75%; and
- 696 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 697 transaction under this chapter other than this part.
- 698 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a
- 699 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:
- 700 (i) a state tax imposed on the transaction at a rate of 2%; and
- 701 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 702 transaction under this chapter other than this part.
- 703 (c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor
- 704 collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a
- 705 state tax and a local tax is imposed on the transaction equal to the sum of:
- 706 (i) a state tax imposed on the transaction at a rate of:
- 707 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

708 (B) 2% for a transaction described in Subsection (1)(d); and  
709 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a  
710 rate equal to the sum of the following tax rates:  
711 (A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204,  
712 but only if all of the counties, cities, and towns in the state impose the tax under Section  
713 59-12-204; or  
714 (II) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but  
715 only if all of the counties, cities, and towns in the state impose the tax under Section  
716 59-12-205; and  
717 (B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the  
718 state impose the tax under Section 59-12-1102.  
719 (d) Tax rates authorized under the following do not apply to Subsection (2)(c)(ii):  
720 (i) Subsection (2)(a)(i);  
721 (ii) Subsection (2)(b)(i);  
722 (iii) Subsection (2)(c)(i);  
723 (iv) Section 59-12-301;  
724 (v) Section 59-12-352;  
725 (vi) Section 59-12-353;  
726 (vii) Section 59-12-401;  
727 (viii) Section 59-12-402;  
728 (ix) Section 59-12-501;  
729 (x) Section 59-12-502;  
730 (xi) Section 59-12-603;  
731 (xii) Section 59-12-703;  
732 (xiii) Section 59-12-802;  
733 (xiv) Section 59-12-804;  
734 (xv) Section 59-12-1001;  
735 (xvi) Section 59-12-1201; or  
736 (xvii) Section 59-12-1302.  
737 (3) (a) Except as provided in Subsections (4) through (9), the following state taxes  
738 shall be deposited into the General Fund:



- 739 (i) the tax imposed by Subsection (2)(a)(i);  
740 (ii) the tax imposed by Subsection (2)(b)(i); and  
741 (iii) the tax imposed by Subsection (2)(c)(i).
- 742 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed  
743 to a county, city, or town as provided in this chapter.
- 744 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the  
745 state shall receive the county's, city's, or town's proportionate share of the revenues generated  
746 by the local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).
- 747 (ii) The commission shall determine a county's, city's, or town's proportionate share of  
748 the revenues under Subsection (3)(c)(i) by:
- 749 (A) calculating an amount equal to:
- 750 (I) the population of the county, city, or town; divided by  
751 (II) the total population of the state; and
- 752 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total  
753 amount of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties,  
754 cities, and towns.
- 755 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for  
756 purposes of this section shall be derived from the most recent official census or census estimate  
757 of the United States Census Bureau.
- 758 (B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not  
759 available from the United States Census Bureau, population figures shall be derived from the  
760 estimate from the Utah Population Estimates Committee created by executive order of the  
761 governor.
- 762 (C) For purposes of this section, the population of a county may only include the  
763 population of the unincorporated areas of the county.
- 764 (4) (a) Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics  
765 special revenue fund or funds as determined by the Division of Finance under Section 51-5-4,  
766 for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports  
767 Authority Act:
- 768 (i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax  
769 generated by a 1/64% tax rate on the taxable transactions under Subsection (1);

770 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a  
771 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under  
772 Subsection (1); and

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

774 (b) These funds shall be used:

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

776 (A) to the extent funds are available, to transfer directly to a debt service fund or to  
777 otherwise reimburse to the state any amount expended on debt service or any other cost of any  
778 bonds issued by the state to construct any public sports facility as defined in Section  
779 63A-7-103;

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

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

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

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

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

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

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

796 (c) A payment of salary, benefits, or administrative costs under Subsection  
797 63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.

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

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

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

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

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

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

811 (I) by a 1/16% tax rate on the transactions described in Subsection (1); and  
812 (II) for fiscal year 2002-03; or

813 (B) \$18,743,000.

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

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

818 (II) award grants, up to the amount authorized by the Legislature in an appropriations  
819 act, to political subdivisions of the state to implement the measures described in Subsections  
820 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

832 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection  
833 (5)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section  
834 4-18-6.

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

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

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

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

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

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

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

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

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

860 (III) fund state required dam safety improvements; and

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

863 (vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i)  
864 that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through  
865 (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section  
866 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

867 (vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i)  
868 that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through  
869 (iv) shall be deposited in the Drinking Water Loan Program Subaccount created in Section  
870 73-10c-5 for use by the Division of Drinking Water to:

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

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

874 (C) develop surface water sources.

875 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
876 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)(ii)  
877 through (vii):

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

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

880 (II) for the fiscal year; or

881 (B) \$17,500,000.

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

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

887 (II) award grants, up to the amount authorized by the Legislature in an appropriations  
888 act, to political subdivisions of the state to implement the measures described in Subsections  
889 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

- 894 (C) At the end of each fiscal year:
- 895 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
896 Conservation and Development Fund created in Section 73-10-24;
- 897 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
898 Program Subaccount created in Section 73-10c-5; and
- 899 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
900 Program Subaccount created in Section 73-10c-5.
- 901 (iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
902 Subsection (5)(b)(i) shall be deposited each year in the Agriculture Resource Development  
903 Fund created in Section 4-18-6.
- 904 (iv) (A) For a fiscal year beginning on or after July 1, 2003, 1% of the amount  
905 described in Subsection (5)(b)(i) shall be transferred each year as dedicated credits to the  
906 Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the  
907 adjudication of water rights.
- 908 (B) At the end of each fiscal year:
- 909 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
910 Conservation and Development Fund created in Section 73-10-24;
- 911 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
912 Program Subaccount created in Section 73-10c-5; and
- 913 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
914 Program Subaccount created in Section 73-10c-5.
- 915 (v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount  
916 described in Subsection (5)(b)(i) shall be deposited in the Water Resources Conservation and  
917 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.
- 918 (B) In addition to the uses allowed of the Water Resources Conservation and  
919 Development Fund under Section 73-10-24, the Water Resources Conservation and  
920 Development Fund may also be used to:
- 921 (I) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the  
922 funds made available to the Division of Water Resources under this section, of potential project  
923 features of the Central Utah Project;
- 924 (II) conduct hydrologic and geotechnical investigations by the Department of Natural

925 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
926 quantifying surface and ground water resources and describing the hydrologic systems of an  
927 area in sufficient detail so as to enable local and state resource managers to plan for and  
928 accommodate growth in water use without jeopardizing the resource;

929 (III) fund state required dam safety improvements; and

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

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

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

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

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

941 (C) develop surface water sources.

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

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

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

947 (II) for the fiscal year; or

948 (B) \$18,743,000.

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

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

955 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection

956 (6)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of  
957 Transportation for the State Park Access Highways Improvement Program created in Section  
958 72-3-207.

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

963 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
964 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)(ii)  
965 through (iv):

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

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

968 (II) for the fiscal year; or

969 (B) \$18,743,000.

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

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

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

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

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



987 tax rate on the taxable transactions under Subsection (1).

988 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,  
989 1999, the revenues generated by the 1/64% tax rate:

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

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

994 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission  
995 shall deposit into the Airport to University of Utah Light Rail Restricted Account created in  
996 Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and  
997 59-12-205 that is:

998 (a) generated by a city or town that will have constructed within its boundaries the  
999 Airport to University of Utah Light Rail described in the Transportation Equity Act for the 21st  
1000 Century, Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

1001 (b) equal to the revenues generated by a 1/64% tax rate on the taxable items and  
1002 services under Subsection (1).

1003 (9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal  
1004 year 2002-03, the commission shall on or before September 30 of each year deposit the  
1005 difference described in Subsection (9)(b) into the Remote Sales Restricted Account created in  
1006 Section 59-12-103.2 if that difference is greater than \$0.

1007 (b) The difference described in Subsection (9)(a) is equal to the difference between:

1008 (i) the total amount of revenues under Subsection (2)(c)(i) the commission received  
1009 from vendors collecting a tax under Subsection 59-12-107(1)(b) for the fiscal year immediately  
1010 preceding the September 30 described in Subsection (9)(a); and

1011 (ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates  
1012 that the commission received from vendors described in Subsection 59-12-107(1)(b) for fiscal  
1013 year 2000-01.

1014 (10) (a) For purposes of amounts paid or charged as admission or user fees relating to  
1015 the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the  
1016 day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a  
1017 person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of

1018 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in  
1019 Subsection (1)(f).

1020 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1021 commission shall make rules defining what constitutes sending a purchaser confirmation under  
1022 Subsection (10)(a).

1023 (11) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from  
1024 the total amount required to be deposited or transferred in accordance with Subsection (5):

1025 (i) \$25,000 shall be subtracted from the total amount required to be transferred to the  
1026 Division of Water Rights in accordance with Subsection (5)(a)(iv);

1027 (ii) \$385,000 shall be subtracted from the total amount required to be deposited into the  
1028 Agriculture Resource Development Fund in accordance with Subsection (5)(a)(iii);

1029 (iii) \$350,000 shall be subtracted from the total amount required to be transferred to the  
1030 Department of Natural Resources in accordance with Subsection (5)(a)(ii);

1031 (iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into  
1032 the Drinking Water Loan Program Subaccount in accordance with Subsection (5)(a)(vii);

1033 (v) \$3,012,500 shall be subtracted from the total amount required to be deposited into  
1034 the Utah Wastewater Loan Program Subaccount in accordance with Subsection (5)(a)(vi); and

1035 (vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into  
1036 the Water Resources Conservation and Development Fund in accordance with Subsection  
1037 (5)(a)(v).

1038 (b) The amounts subtracted under Subsection (11)(a) shall be deposited into the  
1039 General Fund.

1040 Section 5. Section **59-12-104** is amended to read:

1041 **59-12-104. Exemptions.**

1042 The following sales and uses are exempt from the taxes imposed by this chapter:

1043 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax  
1044 under Chapter 13, Motor and Special Fuel Tax Act;

1045 (2) sales to the state, its institutions, and its political subdivisions; however, this  
1046 exemption does not apply to sales of:

1047 (a) construction materials except:

1048 (i) construction materials purchased by or on behalf of institutions of the public

1049 education system as defined in Utah Constitution Article X, Section 2, provided the  
1050 construction materials are clearly identified and segregated and installed or converted to real  
1051 property which is owned by institutions of the public education system; and

1052 (ii) construction materials purchased by the state, its institutions, or its political  
1053 subdivisions which are installed or converted to real property by employees of the state, its  
1054 institutions, or its political subdivisions; or

1055 (b) tangible personal property in connection with the construction, operation,  
1056 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities  
1057 providing additional project capacity, as defined in Section 11-13-103;

1058 [~~(3)~~ sales of food, beverage, and dairy products from vending machines in which the  
1059 proceeds of each sale do not exceed \$1 if the vendor or operator of the vending machine reports  
1060 an amount equal to 150% of the cost of items as goods consumed;]

1061 [~~(4)~~] (3) sales of food, beverage, dairy products, similar confections, and related  
1062 services to commercial airline carriers for in-flight consumption;

1063 [~~(5)~~] (4) sales of parts and equipment for installation in aircraft operated by common  
1064 carriers in interstate or foreign commerce;

1065 [~~(6)~~] (5) sales of commercials, motion picture films, prerecorded audio program tapes  
1066 or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
1067 exhibitor, distributor, or commercial television or radio broadcaster;

1068 [~~(7)~~] (6) sales of cleaning or washing of tangible personal property by a coin-operated  
1069 laundry or dry cleaning machine;

1070 [~~(8)~~] (7) (a) except as provided in Subsection [~~(8)~~] (7)(b), sales made to or by religious  
1071 or charitable institutions in the conduct of their regular religious or charitable functions and  
1072 activities, if the requirements of Section 59-12-104.1 are fulfilled;

1073 (b) the exemption provided for in Subsection [~~(8)~~] (7)(a) does not apply to the  
1074 following sales, uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to  
1075 or by an organization exempt from federal income taxation under Section 501(c)(3), Internal  
1076 Revenue Code:

1077 (i) retail sales of Olympic merchandise;

1078 (ii) except as provided in Subsection [~~(51)~~] (49), admissions or user fees described in  
1079 Subsection 59-12-103(1)(f);

1080 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),  
1081 except for accommodations and services:

1082 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter  
1083 Games of 2002;

1084 (B) exclusively used by:

1085 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the  
1086 Olympic Winter Games of 2002; or

1087 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic  
1088 Winter Games of 2002; and

1089 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of  
1090 2002 does not receive reimbursement; or

1091 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or  
1092 rental of a vehicle:

1093 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter  
1094 Games of 2002;

1095 (B) exclusively used by:

1096 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the  
1097 Olympic Winter Games of 2002; or

1098 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic  
1099 Winter Games of 2002; and

1100 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of  
1101 2002 does not receive reimbursement;

1102 [~~9~~] (8) sales of vehicles of a type required to be registered under the motor vehicle  
1103 laws of this state which are made to bona fide nonresidents of this state and are not afterwards  
1104 registered or used in this state except as necessary to transport them to the borders of this state;

1105 [~~10~~] (9) sales of medicine;

1106 [~~11~~] (10) sales or use of property, materials, or services used in the construction of or  
1107 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

1108 [~~12~~] (11) (a) sales of meals served by:

1109 (i) the following if the meals are not available to the general public:

1110 (A) a church; or

- 1111 (B) a charitable institution;
- 1112 (ii) an institution of higher education if:
- 1113 (A) the meals are not available to the general public; or
- 1114 (B) the meals are prepaid as part of a student meal plan offered by the institution of
- 1115 higher education; or
- 1116 (b) inpatient meals provided at:
- 1117 (i) a medical facility; or
- 1118 (ii) a nursing facility;
- 1119 ~~[(13)]~~ (12) isolated or occasional sales by persons not regularly engaged in business,
- 1120 except the sale of vehicles or vessels required to be titled or registered under the laws of this
- 1121 state in which case the tax is based upon:
- 1122 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
- 1123 or
- 1124 (b) in the absence of a bill of sale or other written evidence of value, the then existing
- 1125 fair market value of the vehicle or vessel being sold as determined by the commission;
- 1126 ~~[(14)]~~ (13) (a) subject to Subsection (13)(b), the following purchases or leases by a
- 1127 manufacturer on or after July 1, 1995:
- 1128 (i) machinery and equipment:
- 1129 (A) used in the manufacturing process;
- 1130 (B) having an economic life of three or more years; and
- 1131 (C) used:
- 1132 (I) to manufacture an item sold as tangible personal property; and
- 1133 (II) in new or expanding operations in a manufacturing facility in the state; and
- 1134 (ii) subject to ~~[the provisions of]~~ Subsection ~~[(14)]~~ (13)(b), purchases or leases of
- 1135 normal operating replacements that:
- 1136 (A) have an economic life of three or more years;
- 1137 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 1138 (C) are used to replace or adapt an existing machine to extend the normal estimated
- 1139 useful life of the machine; and
- 1140 (D) do not include repairs and maintenance;
- 1141 ~~[(b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:]~~

1142           ~~[(i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in~~  
1143 ~~Subsection (14)(a)(ii) is exempt;]~~

1144           ~~[(ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described~~  
1145 ~~in Subsection (14)(a)(ii) is exempt; and]~~

1146           ~~[(iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection~~  
1147 ~~(14)(a)(ii) is exempt;]~~

1148           (b) (i) beginning on July 1, 2003, through June 30, 2005, 10% of a purchase or lease  
1149 described in Subsection (13)(a) is exempt; and

1150           (ii) beginning on July 1, 2005, 100% of a purchase or lease described in Subsection  
1151 (13)(a) is exempt;

1152           (c) for purposes of this Subsection [~~(14)~~] (13), the commission shall by rule define the  
1153 terms "new or expanding operations" and "establishment"; and

1154           (d) on or before October 1, 1991, and every five years after October 1, 1991, the  
1155 commission shall:

1156           (i) review the exemptions described in Subsection [~~(14)~~] (13)(a) and make  
1157 recommendations to the Revenue and Taxation Interim Committee concerning whether the  
1158 exemptions should be continued, modified, or repealed; and

1159           (ii) include in its report:

1160           (A) the cost of the exemptions;

1161           (B) the purpose and effectiveness of the exemptions; and

1162           (C) the benefits of the exemptions to the state;

1163           ~~[(15)]~~ (14) (a) sales of the following if the requirements of Subsection [~~(15)]~~ (14)(b)  
1164 are met:

1165           (i) tooling;

1166           (ii) special tooling;

1167           (iii) support equipment;

1168           (iv) special test equipment; or

1169           (v) parts used in the repairs or renovations of tooling or equipment described in  
1170 Subsections [~~(15)]~~ (14)(a)(i) through (iv); and

1171           (b) sales of tooling, equipment, or parts described in Subsection [~~(15)]~~ (14)(a) are  
1172 exempt if:

- 1173 (i) the tooling, equipment, or parts are used or consumed exclusively in the  
1174 performance of any aerospace or electronics industry contract with the United States  
1175 government or any subcontract under that contract; and
- 1176 (ii) under the terms of the contract or subcontract described in Subsection [~~(15)~~]  
1177 (14)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as  
1178 evidenced by:
- 1179 (A) a government identification tag placed on the tooling, equipment, or parts; or  
1180 (B) listing on a government-approved property record if placing a government  
1181 identification tag on the tooling, equipment, or parts is impractical;
- 1182 [~~(16)~~] (15) intrastate movements of:
- 1183 (a) freight by common carriers; or  
1184 (b) passengers:
- 1185 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial  
1186 Classification Manual of the federal Executive Office of the President, Office of Management  
1187 and Budget;
- 1188 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard  
1189 Industrial Classification Manual of the federal Executive Office of the President, Office of  
1190 Management and Budget, if the transportation originates and terminates within a county of the  
1191 first, second, or third class; or
- 1192 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard  
1193 Industrial Classification Manual of the federal Executive Office of the President, Office of  
1194 Management and Budget:
- 1195 (A) a horse-drawn cab; or  
1196 (B) a horse-drawn carriage[-];
- 1197 [~~(17)~~] (16) sales of newspapers [~~or newspaper subscriptions~~] by an individual who is a  
1198 newspaper carrier;
- 1199 [~~(18)~~] (17) tangible personal property, other than money, traded in as full or part  
1200 payment of the purchase price, except that for purposes of calculating sales or use tax upon  
1201 vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is  
1202 based upon:
- 1203 (a) the bill of sale or other written evidence of value of the vehicle being sold and the

1204 vehicle being traded in; or

1205 (b) in the absence of a bill of sale or other written evidence of value, the then existing  
1206 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
1207 commission;

1208 [~~19~~] (18) sprays and insecticides used to control insects, diseases, and weeds for  
1209 commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those  
1210 sprays and insecticides used in the processing of the products;

1211 [~~20~~] (19) (a) (i) sales of tangible personal property used or consumed primarily and  
1212 directly in farming operations, including sales of irrigation equipment and supplies used for  
1213 agricultural production purposes, whether or not they become part of real estate and whether or  
1214 not installed by farmer, contractor, or subcontractor, but not sales of:

1215 (A) machinery, equipment, materials, and supplies used in a manner that is incidental  
1216 to farming, such as hand tools with a unit purchase price not in excess of \$250, and  
1217 maintenance and janitorial equipment and supplies;

1218 (B) tangible personal property used in any activities other than farming, such as office  
1219 equipment and supplies, equipment and supplies used in sales or distribution of farm products,  
1220 in research, or in transportation; or

1221 (C) any vehicle required to be registered by the laws of this state, without regard to the  
1222 use to which the vehicle is put; or

1223 (ii) sales of parts used in the repairs or renovations of tangible personal property if the  
1224 tangible personal property is exempt under Subsection [~~20~~] (19)(a); or

1225 (b) sales of hay;

1226 [~~21~~] (20) exclusive sale of locally grown seasonal crops, seedling plants, or garden,  
1227 farm, or other agricultural produce if:

1228 (a) sold by a producer during the harvest season; and

1229 (b) if the producer's total sales of the crops, plants, or produce described in this

1230 Subsection (20) for the calendar year immediately preceding the current calendar quarter are  
1231 \$10,000 or less;

1232 [~~22~~] (21) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food  
1233 Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1234 [~~23~~] (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,



1235 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
1236 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
1237 manufacturer, processor, wholesaler, or retailer;

1238       ~~[(24)]~~ (23) property stored in the state for resale;

1239       ~~[(25)]~~ (24) property brought into the state by a nonresident for his or her own personal  
1240 use or enjoyment while within the state, except property purchased for use in Utah by a  
1241 nonresident living and working in Utah at the time of purchase;

1242       ~~[(26)]~~ (25) property purchased for resale in this state, in the regular course of business,  
1243 either in its original form or as an ingredient or component part of a manufactured or  
1244 compounded product;

1245       ~~[(27)]~~ (26) property upon which a sales or use tax was paid to some other state, or one  
1246 of its subdivisions, except that the state shall be paid any difference between the tax paid and  
1247 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is  
1248 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and  
1249 Use Tax Act;

1250       ~~[(28)]~~ (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d)  
1251 to a person for use in compounding a service taxable under the subsections;

1252       ~~[(29)]~~ (28) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14)  
1253 under the special supplemental nutrition program for women, infants, and children established  
1254 in 42 U.S.C. Sec. 1786;

1255       ~~[(30)]~~ (29) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls,  
1256 rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills,  
1257 or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial  
1258 Classification Manual of the federal Executive Office of the President, Office of Management  
1259 and Budget;

1260       ~~[(31)]~~ (30) sales of boats of a type required to be registered under Title 73, Chapter 18,  
1261 State Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents  
1262 of this state and are not thereafter registered or used in this state except as necessary to  
1263 transport them to the borders of this state;

1264       ~~[(32)]~~ (31) sales of tangible personal property to persons within this state that is  
1265 subsequently shipped outside the state and incorporated pursuant to contract into and becomes

1266 a part of real property located outside of this state, except to the extent that the other state or  
1267 political entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it  
1268 against which the other state or political entity allows a credit for taxes imposed by this  
1269 chapter;

1270 ~~[(33)]~~ (32) sales of aircraft manufactured in Utah if sold for delivery and use outside  
1271 Utah where a sales or use tax is not imposed, even if the title is passed in Utah;

1272 ~~[(34)]~~ (33) amounts paid for the purchase of telephone service for purposes of  
1273 providing telephone service;

1274 ~~[(35)]~~ (34) fares charged to persons transported directly by a public transit district  
1275 created under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

1276 ~~[(36)]~~ (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

1277 ~~[(37)]~~ (36) (a) 45% of the sales price of any new manufactured home; and

1278 (b) 100% of the sales price of any used manufactured home;

1279 ~~[(38)]~~ (37) sales relating to schools and fundraising sales;

1280 ~~[(39)]~~ (38) sales or rentals of home medical equipment or supplies;

1281 ~~[(40)]~~ (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as  
1282 defined in Section 72-11-102; and

1283 (b) the commission shall by rule determine the method for calculating sales exempt  
1284 under Subsection ~~[(40)]~~ (39)(a) that are not separately metered and accounted for in utility  
1285 billings;

1286 ~~[(41)]~~ (40) sales to a ski resort of:

1287 (a) snowmaking equipment;

1288 (b) ski slope grooming equipment;

1289 (c) passenger ropeways as defined in Section 72-11-102; or

1290 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
1291 described in Subsections ~~[(41)]~~ (40)(a) through (c);

1292 ~~[(42)]~~ (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for  
1293 industrial use;

1294 ~~[(43)] sales or rentals of the right to use or operate for amusement, entertainment, or  
1295 recreation a coin-operated amusement device as defined in Section 59-12-102;]~~

1296 ~~[(44)]~~ (42) sales of cleaning or washing of tangible personal property by a

1297 coin-operated car wash machine;

1298 [~~(45)~~] (43) sales by the state or a political subdivision of the state, except state

1299 institutions of higher education as defined in Section 53B-3-102, of:

1300 (a) photocopies; or

1301 (b) other copies of records held or maintained by the state or a political subdivision of

1302 the state;

1303 [~~(46)~~] (44) (a) amounts paid:

1304 (i) to a person providing intrastate transportation to an employer's employee to or from

1305 the employee's primary place of employment;

1306 (ii) by an:

1307 (A) employee; or

1308 (B) employer; and

1309 (iii) pursuant to a written contract between:

1310 (A) the employer; and

1311 (B) (I) the employee; or

1312 (II) a person providing transportation to the employer's employee; and

1313 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1314 commission may for purposes of Subsection [~~(46)~~] (44)(a) make rules defining what constitutes

1315 an employee's primary place of employment;

1316 [~~(47)~~] (45) amounts paid for admission to an athletic event at an institution of higher

1317 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

1318 20 U.S.C. Sec. 1681 et seq.;

1319 [~~(48)~~] (46) sales of telephone service charged to a prepaid telephone calling card;

1320 [~~(49)~~] (47) (a) sales of:

1321 (i) hearing aids;

1322 (ii) hearing aid accessories; or

1323 (iii) except as provided in Subsection [~~(49)~~] (47)(b), parts used in the repairs or

1324 renovations of hearing aids or hearing aid accessories; and

1325 (b) for purposes of this Subsection [~~(49)~~] (47), notwithstanding Subsection [~~(49)~~]

1326 (47)(a)(iii), "parts" does not include batteries;

1327 [~~(50)~~] (48) (a) sales made to or by:

- 1328 (i) an area agency on aging; or
- 1329 (ii) a senior citizen center owned by a county, city, or town; or
- 1330 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 1331 [~~51~~] (49) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or
- 1332 charged as admission or user fees described in Subsection 59-12-103(1)(f) relating to the
- 1333 Olympic Winter Games of 2002 if the amounts paid or charged are established by the Salt Lake
- 1334 Organizing Committee for the Olympic Winter Games of 2002 in accordance with
- 1335 requirements of the International Olympic Committee; and
- 1336 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
- 1337 Winter Games of 2002 shall make at least two reports during the 2000 interim:
- 1338 (i) to the:
- 1339 (A) Olympic Coordination Committee; and
- 1340 (B) Revenue and Taxation Interim Committee; and
- 1341 (ii) regarding the status of:
- 1342 (A) agreements relating to the funding of public safety services for the Olympic Winter
- 1343 Games of 2002;
- 1344 (B) agreements relating to the funding of services, other than public safety services, for
- 1345 the Olympic Winter Games of 2002;
- 1346 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by
- 1347 the Olympic Coordination Committee or the Revenue and Taxation Interim Committee;
- 1348 (D) other issues as requested by the Olympic Coordination Committee or the Revenue
- 1349 and Taxation Interim Committee; or
- 1350 (E) a combination of Subsections [~~51~~] (49)(b)(ii)(A) through (D);
- 1351 [~~52~~] (50) (a) beginning on July 1, 2001, through June 30, 2004, and subject to
- 1352 Subsection [~~52~~] (50)(b), a sale or lease of semiconductor fabricating or processing materials
- 1353 regardless of whether the semiconductor fabricating or processing materials:
- 1354 (i) actually come into contact with a semiconductor; or
- 1355 (ii) ultimately become incorporated into real property;
- 1356 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
- 1357 described in Subsection [~~52~~] (50)(a) is exempt;
- 1358 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease

- 1359 described in Subsection [~~(52)~~] (50)(a) is exempt; and
- 1360 (iii) beginning on July 1, 2003, through June 30, 2004, the entire amount of the sale or
- 1361 lease described in Subsection [~~(52)~~] (50)(a) is exempt; and
- 1362 (c) each year on or before the November interim meeting, the Revenue and Taxation
- 1363 Interim Committee shall:
- 1364 (i) review the exemption described in this Subsection [~~(52)~~] (50) and make
- 1365 recommendations concerning whether the exemption should be continued, modified, or
- 1366 repealed; and
- 1367 (ii) include in the review under this Subsection [~~(52)~~] (50)(c):
- 1368 (A) the cost of the exemption;
- 1369 (B) the purpose and effectiveness of the exemption; and
- 1370 (C) the benefits of the exemption to the state;
- 1371 [~~(53)~~] (51) an amount paid by or charged to a purchaser for accommodations and
- 1372 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
- 1373 Section 59-12-104.2;
- 1374 [~~(54)~~] (52) beginning on September 1, 2001, the lease or use of a vehicle issued a
- 1375 temporary sports event registration certificate in accordance with Section 41-3-306 for the
- 1376 event period specified on the temporary sports event registration certificate; or
- 1377 [~~(55)~~] (53) sales or uses of electricity, if the sales or uses are:
- 1378 (a) made under a tariff adopted by the Public Service Commission of Utah only for
- 1379 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
- 1380 source, as designated in the tariff by the Public Service Commission of Utah; and
- 1381 (b) for an amount of electricity that is:
- 1382 (i) unrelated to the amount of electricity used by the person purchasing the electricity
- 1383 under the tariff described in Subsection [~~(55)~~] (53)(a); and
- 1384 (ii) equivalent to the number of kilowatthours specified in the tariff described in
- 1385 Subsection [~~(55)~~] (53)(a) that may be purchased under the tariff described in Subsection [~~(55)~~]
- 1386 (53)(a).
- 1387 Section 6. Section **59-12-104.5** is amended to read:
- 1388 **59-12-104.5. Review of sales tax exemptions.**
- 1389 (1) Beginning with the 2001 interim, the Utah Tax Review Commission, in cooperation

1390 with the governor's office and the tax commission, shall conduct a review of the sales and use  
1391 tax exemptions created by Section 59-12-104 as provided in this section.

1392 (2) The Utah Tax Review Commission shall:

1393 (a) review each of the sales and use tax exemptions created by Section 59-12-104 one  
1394 or more times every eight years; and

1395 (b) subject to Subsection (2)(a) and except as provided in Subsection (3), for each year  
1396 select the exemptions that the Utah Tax Review Commission will review for that year.

1397 (3) Notwithstanding Subsection (2):

1398 (a) the Utah Tax Review Commission shall review Subsection 59-12-104[~~(29)~~] (28)  
1399 before October 1 of the year after the year in which Congress permits a state to participate in  
1400 the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local  
1401 sales taxes are collected within the state on purchases of food under that program; and

1402 (b) the Utah Tax Review Commission shall review Subsection 59-12-104[~~(22)~~] (21)  
1403 before October 1 of the year after the year in which Congress permits a state to participate in  
1404 the food stamp program under the Food Stamp Act, 7 U.S.C. Sec. 2011 et seq., even if state or  
1405 local sales taxes are collected within the state on purchases of food under that program.

1406 (4) The Utah Tax Review Commission shall for each sales and use tax exemption the  
1407 Utah Tax Review Commission reviews make a report to the governor and the Revenue and  
1408 Taxation Interim Committee:

1409 (a) on or before the November interim meeting in the year in which the Utah Tax  
1410 Review Commission reviews the sales and use tax exemption;

1411 (b) including:

1412 (i) a review of the cost of the sales and use tax exemption;

1413 (ii) a review of the following criteria for granting or extending incentives for  
1414 businesses:

1415 (A) whether the business is willing to make a substantial capital investment in the state  
1416 indicating that it will be a long-term member of the community in which the business is or will  
1417 be located;

1418 (B) whether the business brings new dollars into the state, which generally means the  
1419 business must export goods or services outside of the state, not just recirculate existing dollars;

1420 (C) subject to Subsection (5), whether the business pays higher than average wages in

1421 the area in which the business is or will be located, increasing the state's overall household  
1422 income;

1423 (D) whether the same incentives offered to a new business locating in the state from  
1424 another state are available to existing in-state businesses so as not to discriminate against the  
1425 in-state businesses; and

1426 (E) whether the incentives clearly produce a positive return on investment as  
1427 determined by state economic modeling formulas;

1428 (iii) a determination of whether the sales and use tax exemption is consistent with the  
1429 Legislature's sales and use tax policy positions adopted in 1990 General Session H.J.R. 32;

1430 (iv) a review of the purpose of the sales and use tax exemption;

1431 (v) a review of the effectiveness of the sales and use tax exemption; and

1432 (vi) a review of the benefits of the sales and use tax exemption to the state;

1433 (c) recommending whether the sales and use tax exemption should be:

1434 (i) continued;

1435 (ii) modified; or

1436 (iii) repealed; and

1437 (d) reviewing any other issue the Utah Tax Review Commission determines to study.

1438 (5) For purposes of Subsection (4)(b)(ii)(C), in determining whether a business pays  
1439 higher than average wages in the area in which the business is or will be located, the Utah Tax  
1440 Review Commission may not include wages of the following in making average wage  
1441 calculations:

1442 (a) wages of school district employees;

1443 (b) wages of county, city, or town employees;

1444 (c) wages of state employees; or

1445 (d) wages of federal government employees.

1446 Section 7. Section **59-12-105** is amended to read:

1447 **59-12-105. Certain exempt sales to be reported -- Penalties.**

1448 (1) An owner, vendor, or purchaser shall report to the commission the amount of sales  
1449 or uses exempt under Subsection 59-12-104[~~(14), (20), (40), (41), or (52)~~] (13), (19), (39),  
1450 (40), or (50).

1451 (2) Except as provided in Subsections (3) and (4), if the owner, vendor, or purchaser

1452 fails to report the full amount of the exemptions granted under Subsection 59-12-104[~~(14)~~;  
1453 ~~(20), (40), (41), or (52)~~] (13), (19), (39), (40), or (50) on the owner's, vendor's, or purchaser's  
1454 original filed return, the commission shall impose a penalty equal to the lesser of:

1455 (a) 10% of the sales and use tax that would have been imposed if the exemption had not  
1456 applied; or

1457 (b) \$1,000.

1458 (3) Notwithstanding Subsection (2), the commission may not impose a penalty under  
1459 Subsection (2) if the owner, vendor, or purchaser files an amended return containing the  
1460 amount of the exemption prior to the owner, vendor, or purchaser receiving a notice of audit  
1461 from the commission.

1462 (4) (a) Notwithstanding Subsection (2), the commission may waive, reduce, or  
1463 compromise a penalty imposed under this section if the commission finds there are reasonable  
1464 grounds for the waiver, reduction, or compromise.

1465 (b) If the commission waives, reduces, or compromises a penalty under Subsection  
1466 (4)(a), the commission shall make a record of the grounds for waiving, reducing, or  
1467 compromising the penalty.

1468 **Section 8. Effective date.**

1469 This act takes effect on July 1, 2003.