

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 establishes the person required to collect and remit sales and use taxes to the State Tax Commission under certain circumstances. 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

59-12-107, as last amended by Chapter 104, Laws of Utah 2001

ENACTS:

59-12-107.1, Utah Code Annotated 1953

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.



26 (1) (a) A person who qualifies under Subsection (2) may apply to the board for
27 certification of a pollution control facility or facilities erected, constructed, or installed, or to be
28 erected, constructed, or installed in the state on or after July 1, 1986, but on or before June 30,
29 2004.

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

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

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

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

39 (c) A person who obtains certification for a pollution control facility may claim an
40 exemption from sales and use taxes as provided in Sections 19-2-123 and 59-12-104 only
41 during the time period beginning on or after July 1, 1986, and ending on or before June 30,
42 2004.

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

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

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

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

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

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

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

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

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

60 (B) the person files a claim for the refund with the State Tax Commission within three
61 years after the day on which the person pays the tax under Title 59, Chapter 12, Sales and Use
62 Tax Act.

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

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

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

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

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

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

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

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

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

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

86 (3) (a) Each application shall be in a format prescribed by the board, contain a
87 description of the facilities and materials incorporated in them, the machinery and equipment,

88 the existing or proposed operational procedure, and a statement of the purpose of pollution
89 prevention, control, or reduction served or to be served by the facility.

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

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

93 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

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

97 (i) a tax commissioner;

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

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

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

104 (i) in accordance with judicial order;

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

106 (A) this title; or

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

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

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

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

115 (2) This section does not prohibit:

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

118 (b) the publication of statistics as long as the statistics are classified to prevent the

119 identification of particular reports or returns; and

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

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

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

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

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

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

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

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

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

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

148 (e) Notwithstanding Subsection (1), at the request of any person the commission shall
149 provide that person sales and purchase volume data reported to the commission on a report,

150 return, or other information filed with the commission under:

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

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

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

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

155 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
156 manufacturer and reported to the commission for the previous calendar year under Section
157 59-14-407; and

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

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

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

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

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

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

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

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

176 (j) Notwithstanding Subsection (1), the commission shall at the request of the
177 Legislature provide to the Legislature the total amount of sales or uses exempt under
178 Subsection 59-12-104[~~(52)~~] (49) reported to the commission in accordance with Section
179 59-12-105.

180 (k) Notwithstanding Subsection (1), the commission shall make the list required by

181 Subsection 59-14-408(3) available for public inspection.

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

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

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

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

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

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

191 **59-12-102. Definitions.**

192 As used in this chapter:

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

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

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

197 (3) "Authorized carrier" means:

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

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

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

205 (4) "Cable service" means:

206 (a) the transmission of one or more of the following programming services to a
207 purchaser:

208 (i) video programming service;

209 (ii) audio programming service; or

210 (iii) other programming service; and

211 (b) the purchaser interaction, if any, required for the selection or use of a programming

212 service described in Subsection (4)(a).

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

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

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

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

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

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

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

225 (5) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other
226 fuels that does not constitute industrial use under Subsection ~~[(13)]~~ (14) or residential use
227 under Subsection ~~[(23)]~~ (24).

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

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

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

236 (7) "Component part" includes:

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

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

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

242 (d) feed, seeds, and seedlings.

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

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

247 [~~9~~] (10) (a) "Fundraising sales" means sales:

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

249 (B) made by a school student;

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

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

253 (b) For purposes of Subsection [~~9~~] (10)(a)(iii), "officially sanctioned school activity"
254 means a school activity:

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

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

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

261 [~~10~~] (11) (a) "Hearing aid" means:

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

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

264 (II) correct impaired human hearing; and

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

266 (II) affixed behind the human ear;

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

268 (iii) a telephone amplifying device.

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

270 (i) except as provided in Subsection [~~10~~] (11)(a)(i)(B) or [~~10~~] (11)(a)(ii), an

271 instrument or device having an electronic component that is designed to be worn on the body;

272 (ii) except as provided in Subsection [~~10~~] (11)(a)(iii), an assistive listening device or
273 system designed to be used by one individual, including:

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

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

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

338 (i) commercial greenhouses;

339 (ii) irrigation pumps;

340 (iii) farm machinery;

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

343 (v) other farming activities;

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

347 (d) by a scrap recycler if:

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

351 (A) iron;

352 (B) steel;

353 (C) nonferrous metal;

354 (D) paper;

355 (E) glass;

356 (F) plastic;

357 (G) textile; or

358 (H) rubber; and

359 (ii) the new products under Subsection [~~(13)~~] (14)(d)(i) would otherwise be made with
360 nonrecycled materials.

361 [~~(14)~~] (15) "Manufactured home" means any manufactured home or mobile home as
362 defined in Title 58, Chapter 56, Utah Uniform Building Standards Act.

363 [~~(15)~~] (16) For purposes of Subsection 59-12-104[~~(14)~~] (13), "manufacturing facility"
364 means:

365 (a) an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard
366 Industrial Classification Manual of the federal Executive Office of the President, Office of

367 Management and Budget; or

368 (b) a scrap recycler if:

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

372 (A) iron;

373 (B) steel;

374 (C) nonferrous metal;

375 (D) paper;

376 (E) glass;

377 (F) plastic;

378 (G) textile; or

379 (H) rubber; and

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

382 [~~(16)~~] (17) (a) "Medicine" means:

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

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

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

391 (b) "Medicine" does not include:

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

393 (ii) any alcoholic beverage.

394 [~~(17)~~] (18) "Mobile telecommunications service" is as defined in the Mobile
395 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

396 [~~(18)~~] (19) "Olympic merchandise" means tangible personal property bearing an
397 Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,

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

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

400 (i) "Olympic";

401 (ii) "Olympiad"; or

402 (iii) "Citius Altius Fortius";

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

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

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

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

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

411 [~~19~~] (20) (a) "Other fuels" means products that burn independently to produce heat or
412 energy.

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

415 [~~20~~] (21) "Person" includes any individual, firm, partnership, joint venture,
416 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
417 city, municipality, district, or other local governmental entity of the state, or any group or
418 combination acting as a unit.

419 [~~21~~] (22) "Purchase price" means the amount paid or charged for tangible personal
420 property or any other taxable transaction under Subsection 59-12-103(1), excluding only cash
421 discounts taken or any excise tax imposed on the purchase price by the federal government.

422 [~~22~~] (23) "Regularly rented" means:

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

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

426 [~~23~~] (24) "Residential use" means the use in or around a home, apartment building,
427 sleeping quarters, and similar facilities or accommodations.

428 [~~24~~] (25) (a) "Retail sale" means any sale within the state of tangible personal

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

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

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

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

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

444 [~~25~~] (26) (a) "Retailer" means any person engaged in a regularly organized retail
445 business in tangible personal property or any other taxable transaction under Subsection
446 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

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

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

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

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

466 [~~26~~] (27) "Sale" means any transfer of title, exchange, or barter, conditional or
467 otherwise, in any manner, of tangible personal property or any other taxable transaction under
468 Subsection 59-12-103(1), for consideration. It includes:

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

478 [~~27~~] (28) (a) "Sales relating to schools" means the following sales by, amounts paid
479 to, or amounts charged by a school:

- 480 (i) sales that are directly related to the school's educational functions or activities
481 including:
 - 482 (A) the sale of:
 - 483 (I) textbooks;
 - 484 (II) textbook fees;
 - 485 (III) laboratory fees;
 - 486 (IV) laboratory supplies; or
 - 487 (V) safety equipment;
 - 488 (B) the sale of clothing that:
 - 489 (I) a student is specifically required to wear as a condition of participation in a
490 school-related event or school-related activity; and

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

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

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

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

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

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

500 (ii) except as provided in Subsection [~~(27)~~] (28)(a)(i)(B), clothing; or

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

503 (A) other than a:

504 (I) school;

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

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

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

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

512 [~~(28)~~] (29) For purposes of this section and Section 59-12-104, "school" means:

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

514 (i) is a:

515 (A) public school; or

516 (B) private school; and

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

518 (b) a public school district.

519 [~~(29)~~] (30) (a) "Semiconductor fabricating or processing materials" means tangible
520 personal property:

521 (i) used primarily in the process of:

- 522 (A) (I) manufacturing a semiconductor; or
523 (II) fabricating a semiconductor; or
524 (B) maintaining an environment suitable for a semiconductor; or
525 (ii) consumed primarily in the process of:
526 (A) (I) manufacturing a semiconductor; or
527 (II) fabricating a semiconductor; or
528 (B) maintaining an environment suitable for a semiconductor.
529 (b) "Semiconductor fabricating or processing materials" includes:
530 (i) parts used in the repairs or renovations of tangible personal property described in
531 Subsection [~~(29)~~] (30)(a); or
532 (ii) a chemical, catalyst, or other material used to:
533 (A) produce or induce in a semiconductor a:
534 (I) chemical change; or
535 (II) physical change;
536 (B) remove impurities from a semiconductor; or
537 (C) improve the marketable condition of a semiconductor.
538 [~~(30)~~] (31) "Senior citizen center" means a facility having the primary purpose of
539 providing services to the aged as defined in Section 62A-3-101.
540 [~~(31)~~] (32) "State" means the state of Utah, its departments, and agencies.
541 [~~(32)~~] (33) "Storage" means any keeping or retention of tangible personal property or
542 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
543 except sale in the regular course of business.
544 [~~(33)~~] (34) (a) "Tangible personal property" means:
545 (i) all goods, wares, merchandise, produce, and commodities;
546 (ii) all tangible or corporeal things and substances which are dealt in or capable of
547 being possessed or exchanged;
548 (iii) water in bottles, tanks, or other containers; and
549 (iv) all other physically existing articles or things, including property severed from real
550 estate.
551 (b) "Tangible personal property" does not include:
552 (i) real estate or any interest or improvements in real estate;

- 553 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;
- 554 (iii) insurance certificates or policies;
- 555 (iv) personal or governmental licenses;
- 556 (v) water in pipes, conduits, ditches, or reservoirs;
- 557 (vi) currency and coinage constituting legal tender of the United States or of a foreign
- 558 nation; and
- 559 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
- 560 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
- 561 80%.

562 [~~(34)~~] (35) (a) For purposes of Subsection [~~(35)~~] (36) and Section 59-12-103,

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

- 564 (i) by:
 - 565 (A) wire;
 - 566 (B) radio;
 - 567 (C) lightwave; or
 - 568 (D) other electromagnetic means; and
- 569 (ii) of one or more of the following:
 - 570 (A) a sign;
 - 571 (B) a signal;
 - 572 (C) writing;
 - 573 (D) an image;
 - 574 (E) sound;
 - 575 (F) a message;
 - 576 (G) data; or
 - 577 (H) other information of any nature.
- 578 (b) "Telephone service" includes:
 - 579 (i) cellular telephone service;
 - 580 (ii) private communications service; or
 - 581 (iii) automated digital telephone answering service.
- 582 (c) "Telephone service" does not include a service or a transaction that a state or a
- 583 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet

584 Tax Freedom Act, Pub. L. No. 105-277.

585 ~~[(35)]~~ (36) (a) "Telephone service provider" means a person that:

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

587 (ii) engages in an activity described in Subsection ~~[(35)]~~ (36)(a)(i) for the shared use

588 with or resale to any person of the telephone service.

589 (b) A person described in Subsection ~~[(35)]~~ (36)(a) is a telephone service provider

590 whether or not the Public Service Commission of Utah regulates:

591 (i) that person; or

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

593 ~~[(36)]~~ (37) (a) "Use" means the exercise of any right or power over tangible personal

594 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that

595 property, item, or service.

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

597 the regular course of business and held for resale.

598 ~~[(37)]~~ (38) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle,

599 as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and

600 any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both.

601 "Vehicle," for purposes of Subsection 59-12-104~~[(36)]~~ (34) only, also includes any locomotive,

602 freight car, railroad work equipment, or other railroad rolling stock.

603 ~~[(38)]~~ (39) "Vehicle dealer" means a person engaged in the business of buying, selling,

604 or exchanging vehicles as defined in Subsection ~~[(37)]~~ (38).

605 ~~[(39)]~~ (40) (a) "Vendor" means any person receiving any payment or consideration

606 upon a sale of tangible personal property or any other taxable transaction under Subsection

607 59-12-103(1), or to whom the payment or consideration is payable.

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

609 Section 4. Section **59-12-103** is amended to read:

610 **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

611 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or

612 charged for the following transactions:

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

614 (i) tangible personal property; or

- 615 (ii) subscriptions to tangible personal property:
- 616 (b) amounts paid:
- 617 (i) (A) to a common carrier; or
- 618 (B) whether the following are municipally or privately owned, to a:
- 619 (I) telephone service provider; or
- 620 (II) telegraph corporation as defined in Section 54-2-1; and
- 621 (ii) for:
- 622 (A) all transportation;
- 623 (B) telephone service, other than mobile telecommunications service, that originates
- 624 and terminates within the boundaries of this state;
- 625 (C) mobile telecommunications service that originates and terminates within the
- 626 boundaries of one state only to the extent permitted by the Mobile Telecommunications
- 627 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or
- 628 (D) telegraph service;
- 629 (c) sales of the following for commercial use:
- 630 (i) gas;
- 631 (ii) electricity;
- 632 (iii) heat;
- 633 (iv) coal;
- 634 (v) fuel oil; or
- 635 (vi) other fuels;
- 636 (d) sales of the following for residential use:
- 637 (i) gas;
- 638 (ii) electricity;
- 639 (iii) heat;
- 640 (iv) coal;
- 641 (v) fuel oil; or
- 642 (vi) other fuels;
- 643 (e) sales of meals;
- 644 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 645 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,

646 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
647 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
648 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
649 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
650 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
651 horseback rides, sports activities, or any other amusement, entertainment, recreation,
652 exhibition, cultural, or athletic activity;

653 (g) amounts paid or charged for services:

654 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
655 provides for an exemption from sales and use tax for:

656 (A) the tangible personal property; and

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

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

663 (h) except as provided in Subsection 59-12-104[~~(7)~~] (6), amounts paid or charged for
664 cleaning or washing of tangible personal property;

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

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

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

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

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

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

672 (A) stored;

673 (B) used; or

674 (C) otherwise consumed;

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

- 677 (i) stored;
- 678 (ii) used; or
- 679 (iii) consumed; [~~and~~]
- 680 (m) amounts paid or charged for prepaid telephone calling cards[-];
- 681 (n) amounts paid or charged for cable service:
- 682 (i) within the state; and
- 683 (ii) to the extent permitted by federal law; and
- 684 (o) amounts paid or charged for direct-to-home satellite service:
- 685 (i) within the state; and
- 686 (ii) to the extent permitted by federal law.
- 687 (2) (a) Except as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a
- 688 state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the
- 689 sum of:
- 690 (i) a state tax imposed on the transaction at a rate of 4.75%; and
- 691 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 692 transaction under this chapter other than this part.
- 693 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a
- 694 local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:
- 695 (i) a state tax imposed on the transaction at a rate of 2%; 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 (c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor
- 699 collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a
- 700 state tax and a local tax is imposed on the transaction equal to the sum of:
- 701 (i) a state tax imposed on the transaction at a rate of:
- 702 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or
- 703 (B) 2% for a transaction described in Subsection (1)(d); and
- 704 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a
- 705 rate equal to the sum of the following tax rates:
- 706 (A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204,
- 707 but only if all of the counties, cities, and towns in the state impose the tax under Section

708 59-12-204; or

709 (II) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but
710 only if all of the counties, cities, and towns in the state impose the tax under Section
711 59-12-205; and

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

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

715 (i) Subsection (2)(a)(i);

716 (ii) Subsection (2)(b)(i);

717 (iii) Subsection (2)(c)(i);

718 (iv) Section 59-12-301;

719 (v) Section 59-12-352;

720 (vi) Section 59-12-353;

721 (vii) Section 59-12-401;

722 (viii) Section 59-12-402;

723 (ix) Section 59-12-501;

724 (x) Section 59-12-502;

725 (xi) Section 59-12-603;

726 (xii) Section 59-12-703;

727 (xiii) Section 59-12-802;

728 (xiv) Section 59-12-804;

729 (xv) Section 59-12-1001;

730 (xvi) Section 59-12-1201; or

731 (xvii) Section 59-12-1302.

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

734 (i) the tax imposed by Subsection (2)(a)(i);

735 (ii) the tax imposed by Subsection (2)(b)(i); and

736 (iii) the tax imposed by Subsection (2)(c)(i).

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

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

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

744 (A) calculating an amount equal to:

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

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

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

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

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

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

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

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

765 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a
766 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under
767 Subsection (1); and

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

769 (b) These funds shall be used:

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

771 (A) to the extent funds are available, to transfer directly to a debt service fund or to
772 otherwise reimburse to the state any amount expended on debt service or any other cost of any
773 bonds issued by the state to construct any public sports facility as defined in Section
774 63A-7-103;

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

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

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

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

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

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

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

791 (c) A payment of salary, benefits, or administrative costs under Subsection
792 63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.

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

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

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

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

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

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

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

807 (II) for fiscal year 2002-03; or

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

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

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

813 (II) award grants, up to the amount authorized by the Legislature in an appropriations
814 act, to political subdivisions of the state to implement the measures described in Subsections
815 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

827 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection
828 (5)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section
829 4-18-6.

830 (iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection
831 (5)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover the

832 costs incurred in hiring legal and technical staff for the adjudication of water rights.

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

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

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

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

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

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

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

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

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

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

858 (vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i)
859 that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through
860 (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section
861 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

862 (vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i)

863 that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through
864 (iv) shall be deposited in the Drinking Water Loan Program Subaccount created in Section
865 73-10c-5 for use by the Division of Drinking Water to:

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

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

869 (C) develop surface water sources.

870 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
871 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)(ii)
872 through (vii):

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

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

875 (II) for the fiscal year; or

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

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

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

882 (II) award grants, up to the amount authorized by the Legislature in an appropriations
883 act, to political subdivisions of the state to implement the measures described in Subsections
884 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

889 (C) At the end of each fiscal year:

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

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

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

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

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

903 (B) At the end of each fiscal year:

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

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

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

910 (v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount
911 described in Subsection (5)(b)(i) shall be deposited in the Water Resources Conservation and
912 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

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

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

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

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

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

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

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

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

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

936 (C) develop surface water sources.

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

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

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

942 (II) for the fiscal year; or

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

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

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

950 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection
951 (6)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of
952 Transportation for the State Park Access Highways Improvement Program created in Section
953 72-3-207.

954 (iv) For fiscal year 2002-03 only, the amount described in Subsection (6)(a)(i) that
955 remains after making the transfers and deposits required by Subsections (6)(a)(ii) and (iii) shall

956 be deposited in the class B and class C roads account to be expended as provided in Title 72,
957 Chapter 2, Transportation Finances Act, for the use of class B and C roads.

958 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
959 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)(ii)
960 through (iv):

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

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

963 (II) for the fiscal year; or

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

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

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

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

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

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

983 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,
984 1999, the revenues generated by the 1/64% tax rate:

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

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

989 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission
990 shall deposit into the Airport to University of Utah Light Rail Restricted Account created in
991 Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and
992 59-12-205 that is:

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

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

998 (9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal
999 year 2002-03, the commission shall on or before September 30 of each year deposit the
1000 difference described in Subsection (9)(b) into the Remote Sales Restricted Account created in
1001 Section 59-12-103.2 if that difference is greater than \$0.

1002 (b) The difference described in Subsection (9)(a) is equal to the difference between:

1003 (i) the total amount of revenues under Subsection (2)(c)(i) the commission received
1004 from vendors collecting a tax under Subsection 59-12-107(1)(b) for the fiscal year immediately
1005 preceding the September 30 described in Subsection (9)(a); and

1006 (ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates
1007 that the commission received from vendors described in Subsection 59-12-107(1)(b) for fiscal
1008 year 2000-01.

1009 (10) (a) For purposes of amounts paid or charged as admission or user fees relating to
1010 the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the
1011 day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a
1012 person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of
1013 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in
1014 Subsection (1)(f).

1015 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1016 commission shall make rules defining what constitutes sending a purchaser confirmation under
1017 Subsection (10)(a).

1018 (11) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from
1019 the total amount required to be deposited or transferred in accordance with Subsection (5):

1020 (i) \$25,000 shall be subtracted from the total amount required to be transferred to the
1021 Division of Water Rights in accordance with Subsection (5)(a)(iv);

1022 (ii) \$385,000 shall be subtracted from the total amount required to be deposited into the
1023 Agriculture Resource Development Fund in accordance with Subsection (5)(a)(iii);

1024 (iii) \$350,000 shall be subtracted from the total amount required to be transferred to the
1025 Department of Natural Resources in accordance with Subsection (5)(a)(ii);

1026 (iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into
1027 the Drinking Water Loan Program Subaccount in accordance with Subsection (5)(a)(vii);

1028 (v) \$3,012,500 shall be subtracted from the total amount required to be deposited into
1029 the Utah Wastewater Loan Program Subaccount in accordance with Subsection (5)(a)(vi); and

1030 (vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into
1031 the Water Resources Conservation and Development Fund in accordance with Subsection
1032 (5)(a)(v).

1033 (b) The amounts subtracted under Subsection (11)(a) shall be deposited into the
1034 General Fund.

1035 Section 5. Section **59-12-104** is amended to read:

1036 **59-12-104. Exemptions.**

1037 The following sales and uses are exempt from the taxes imposed by this chapter:

1038 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
1039 under Chapter 13, Motor and Special Fuel Tax Act;

1040 (2) sales to the state, its institutions, and its political subdivisions; however, this
1041 exemption does not apply to sales of:

1042 (a) construction materials except:

1043 (i) construction materials purchased by or on behalf of institutions of the public
1044 education system as defined in Utah Constitution Article X, Section 2, provided the
1045 construction materials are clearly identified and segregated and installed or converted to real
1046 property which is owned by institutions of the public education system; and

1047 (ii) construction materials purchased by the state, its institutions, or its political
1048 subdivisions which are installed or converted to real property by employees of the state, its

1049 institutions, or its political subdivisions; or

1050 (b) tangible personal property in connection with the construction, operation,
1051 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1052 providing additional project capacity, as defined in Section 11-13-103;

1053 [~~(3)~~] sales of food, beverage, and dairy products from vending machines in which the
1054 proceeds of each sale do not exceed \$1 if the vendor or operator of the vending machine reports
1055 an amount equal to 150% of the cost of items as goods consumed;]

1056 [~~(4)~~] (3) sales of food, beverage, dairy products, similar confections, and related
1057 services to commercial airline carriers for in-flight consumption;

1058 [~~(5)~~] (4) sales of parts and equipment for installation in aircraft operated by common
1059 carriers in interstate or foreign commerce;

1060 [~~(6)~~] (5) sales of commercials, motion picture films, prerecorded audio program tapes
1061 or records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
1062 exhibitor, distributor, or commercial television or radio broadcaster;

1063 [~~(7)~~] (6) sales of cleaning or washing of tangible personal property by a coin-operated
1064 laundry or dry cleaning machine;

1065 [~~(8)~~] (7) (a) except as provided in Subsection [~~(8)~~] (7)(b), sales made to or by religious
1066 or charitable institutions in the conduct of their regular religious or charitable functions and
1067 activities, if the requirements of Section 59-12-104.1 are fulfilled;

1068 (b) the exemption provided for in Subsection [~~(8)~~] (7)(a) does not apply to the
1069 following sales, uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to
1070 or by an organization exempt from federal income taxation under Section 501(c)(3), Internal
1071 Revenue Code:

1072 (i) retail sales of Olympic merchandise;

1073 (ii) except as provided in Subsection [~~(51)~~] (49), admissions or user fees described in
1074 Subsection 59-12-103(1)(f);

1075 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),
1076 except for accommodations and services:

1077 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
1078 Games of 2002;

1079 (B) exclusively used by:

1080 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
1081 Olympic Winter Games of 2002; or

1082 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
1083 Winter Games of 2002; and

1084 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
1085 2002 does not receive reimbursement; or

1086 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
1087 rental of a vehicle:

1088 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
1089 Games of 2002;

1090 (B) exclusively used by:

1091 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
1092 Olympic Winter Games of 2002; or

1093 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
1094 Winter Games of 2002; and

1095 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
1096 2002 does not receive reimbursement;

1097 [~~9~~] (8) sales of vehicles of a type required to be registered under the motor vehicle
1098 laws of this state which are made to bona fide nonresidents of this state and are not afterwards
1099 registered or used in this state except as necessary to transport them to the borders of this state;

1100 [~~10~~] (9) sales of medicine;

1101 [~~11~~] (10) sales or use of property, materials, or services used in the construction of or
1102 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

1103 [~~12~~] (11) (a) sales of meals served by:

1104 (i) the following if the meals are not available to the general public:

1105 (A) a church; or

1106 (B) a charitable institution;

1107 (ii) an institution of higher education if:

1108 (A) the meals are not available to the general public; or

1109 (B) the meals are prepaid as part of a student meal plan offered by the institution of
1110 higher education; or

- 1111 (b) inpatient meals provided at:
- 1112 (i) a medical facility; or
- 1113 (ii) a nursing facility;
- 1114 ~~[(13)]~~ (12) isolated or occasional sales by persons not regularly engaged in business,
- 1115 except the sale of vehicles or vessels required to be titled or registered under the laws of this
- 1116 state in which case the tax is based upon:
- 1117 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
- 1118 or
- 1119 (b) in the absence of a bill of sale or other written evidence of value, the then existing
- 1120 fair market value of the vehicle or vessel being sold as determined by the commission;
- 1121 ~~[(14)]~~ (13) (a) subject to Subsection (13)(b), the following purchases or leases by a
- 1122 manufacturer on or after July 1, 1995:
- 1123 (i) machinery and equipment:
- 1124 (A) used in the manufacturing process;
- 1125 (B) having an economic life of three or more years; and
- 1126 (C) used:
- 1127 (I) to manufacture an item sold as tangible personal property; and
- 1128 (II) in new or expanding operations in a manufacturing facility in the state; and
- 1129 (ii) subject to ~~[the provisions of]~~ Subsection ~~[(14)]~~ (13)(b), purchases or leases of
- 1130 normal operating replacements that:
- 1131 (A) have an economic life of three or more years;
- 1132 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 1133 (C) are used to replace or adapt an existing machine to extend the normal estimated
- 1134 useful life of the machine; and
- 1135 (D) do not include repairs and maintenance;
- 1136 ~~[(b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:]~~
- 1137 ~~[(i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in~~
- 1138 ~~Subsection (14)(a)(ii) is exempt;]~~
- 1139 ~~[(ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described~~
- 1140 ~~in Subsection (14)(a)(ii) is exempt, and]~~
- 1141 ~~[(iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection~~

1142 ~~(14)(a)(ii) is exempt;~~
1143 (b) (i) beginning on July 1, 2003, through June 30, 2005, 10% of a purchase or lease
1144 described in Subsection (13)(a) is exempt; and
1145 (ii) beginning on July 1, 2005, 100% of a purchase or lease described in Subsection
1146 (13)(a) is exempt;
1147 (c) for purposes of this Subsection [~~(14)~~] (13), the commission shall by rule define the
1148 terms "new or expanding operations" and "establishment"; and
1149 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
1150 commission shall:
1151 (i) review the exemptions described in Subsection [~~(14)~~] (13)(a) and make
1152 recommendations to the Revenue and Taxation Interim Committee concerning whether the
1153 exemptions should be continued, modified, or repealed; and
1154 (ii) include in its report:
1155 (A) the cost of the exemptions;
1156 (B) the purpose and effectiveness of the exemptions; and
1157 (C) the benefits of the exemptions to the state;
1158 [~~(15)~~] (14) (a) sales of the following if the requirements of Subsection [~~(15)~~] (14)(b)
1159 are met:
1160 (i) tooling;
1161 (ii) special tooling;
1162 (iii) support equipment;
1163 (iv) special test equipment; or
1164 (v) parts used in the repairs or renovations of tooling or equipment described in
1165 Subsections [~~(15)~~] (14)(a)(i) through (iv); and
1166 (b) sales of tooling, equipment, or parts described in Subsection [~~(15)~~] (14)(a) are
1167 exempt if:
1168 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1169 performance of any aerospace or electronics industry contract with the United States
1170 government or any subcontract under that contract; and
1171 (ii) under the terms of the contract or subcontract described in Subsection [~~(15)~~]
1172 (14)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as

1173 evidenced by:

1174 (A) a government identification tag placed on the tooling, equipment, or parts; or

1175 (B) listing on a government-approved property record if placing a government

1176 identification tag on the tooling, equipment, or parts is impractical;

1177 [~~(16)~~] (15) intrastate movements of:

1178 (a) freight by common carriers; or

1179 (b) passengers:

1180 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial

1181 Classification Manual of the federal Executive Office of the President, Office of Management

1182 and Budget;

1183 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard

1184 Industrial Classification Manual of the federal Executive Office of the President, Office of

1185 Management and Budget, if the transportation originates and terminates within a county of the

1186 first, second, or third class; or

1187 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard

1188 Industrial Classification Manual of the federal Executive Office of the President, Office of

1189 Management and Budget:

1190 (A) a horse-drawn cab; or

1191 (B) a horse-drawn carriage[-];

1192 [~~(17) sales of newspapers or newspaper subscriptions;~~]

1193 [~~(18)~~] (16) tangible personal property, other than money, traded in as full or part

1194 payment of the purchase price, except that for purposes of calculating sales or use tax upon

1195 vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is

1196 based upon:

1197 (a) the bill of sale or other written evidence of value of the vehicle being sold and the

1198 vehicle being traded in; or

1199 (b) in the absence of a bill of sale or other written evidence of value, the then existing

1200 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

1201 commission;

1202 [~~(19)~~] (17) sprays and insecticides used to control insects, diseases, and weeds for

1203 commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those

1204 sprays and insecticides used in the processing of the products;

1205 ~~[(20)]~~ (18) (a) (i) sales of tangible personal property used or consumed primarily and
1206 directly in farming operations, including sales of irrigation equipment and supplies used for
1207 agricultural production purposes, whether or not they become part of real estate and whether or
1208 not installed by farmer, contractor, or subcontractor, but not sales of:

1209 (A) machinery, equipment, materials, and supplies used in a manner that is incidental
1210 to farming, such as hand tools with a unit purchase price not in excess of \$250, and
1211 maintenance and janitorial equipment and supplies;

1212 (B) tangible personal property used in any activities other than farming, such as office
1213 equipment and supplies, equipment and supplies used in sales or distribution of farm products,
1214 in research, or in transportation; or

1215 (C) any vehicle required to be registered by the laws of this state, without regard to the
1216 use to which the vehicle is put; or

1217 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
1218 tangible personal property is exempt under Subsection ~~[(20)]~~ (18)(a)(i); or

1219 (b) sales of hay;

1220 ~~[(21)]~~ (19) exclusive sale of locally grown seasonal crops, seedling plants, or garden,
1221 farm, or other agricultural produce if:

1222 (a) sold by a producer during the harvest season; and

1223 (b) if the producer's total sales of the crops, plants, or produce described in this
1224 Subsection (19) for the calendar year immediately preceding the current calendar quarter are
1225 \$10,000 or less;

1226 ~~[(22)]~~ (20) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food
1227 Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1228 ~~[(23)]~~ (21) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
1229 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1230 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1231 manufacturer, processor, wholesaler, or retailer;

1232 ~~[(24)]~~ (22) property stored in the state for resale;

1233 ~~[(25)]~~ (23) property brought into the state by a nonresident for his or her own personal
1234 use or enjoyment while within the state, except property purchased for use in Utah by a

1235 nonresident living and working in Utah at the time of purchase;

1236 [~~(26)~~] (24) property purchased for resale in this state, in the regular course of business,

1237 either in its original form or as an ingredient or component part of a manufactured or

1238 compounded product;

1239 [~~(27)~~] (25) property upon which a sales or use tax was paid to some other state, or one

1240 of its subdivisions, except that the state shall be paid any difference between the tax paid and

1241 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is

1242 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and

1243 Use Tax Act;

1244 [~~(28)~~] (26) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d)

1245 to a person for use in compounding a service taxable under the subsections;

1246 [~~(29)~~] (27) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14)

1247 under the special supplemental nutrition program for women, infants, and children established

1248 in 42 U.S.C. Sec. 1786;

1249 [~~(30)~~] (28) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls,

1250 rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills,

1251 or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial

1252 Classification Manual of the federal Executive Office of the President, Office of Management

1253 and Budget;

1254 [~~(31)~~] (29) sales of boats of a type required to be registered under Title 73, Chapter 18,

1255 State Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents

1256 of this state and are not thereafter registered or used in this state except as necessary to

1257 transport them to the borders of this state;

1258 [~~(32)~~] (30) sales of tangible personal property to persons within this state that is

1259 subsequently shipped outside the state and incorporated pursuant to contract into and becomes

1260 a part of real property located outside of this state, except to the extent that the other state or

1261 political entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it

1262 against which the other state or political entity allows a credit for taxes imposed by this

1263 chapter;

1264 [~~(33)~~] (31) sales of aircraft manufactured in Utah if sold for delivery and use outside

1265 Utah where a sales or use tax is not imposed, even if the title is passed in Utah;

1266 [(34)] (32) amounts paid for the purchase of telephone service for purposes of
1267 providing telephone service;

1268 [(35)] (33) fares charged to persons transported directly by a public transit district
1269 created under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

1270 [(36)] (34) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

1271 [(37)] (35) (a) 45% of the sales price of any new manufactured home; and
1272 (b) 100% of the sales price of any used manufactured home;

1273 [(38)] (36) sales relating to schools and fundraising sales;

1274 [(39)] (37) sales or rentals of home medical equipment or supplies;

1275 [(40)] (38) (a) sales to a ski resort of electricity to operate a passenger ropeway as
1276 defined in Section 72-11-102; and

1277 (b) the commission shall by rule determine the method for calculating sales exempt
1278 under Subsection [(40)] (38)(a) that are not separately metered and accounted for in utility
1279 billings;

1280 [(41)] (39) sales to a ski resort of:

1281 (a) snowmaking equipment;

1282 (b) ski slope grooming equipment;

1283 (c) passenger ropeways as defined in Section 72-11-102; or

1284 (d) parts used in the repairs or renovations of equipment or passenger ropeways
1285 described in Subsections [(41)] (39)(a) through (c);

1286 [(42)] (40) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for
1287 industrial use;

1288 ~~[(43)] sales or rentals of the right to use or operate for amusement, entertainment, or
1289 recreation a coin-operated amusement device as defined in Section 59-12-102;~~

1290 [(44)] (41) sales of cleaning or washing of tangible personal property by a
1291 coin-operated car wash machine;

1292 [(45)] (42) sales by the state or a political subdivision of the state, except state
1293 institutions of higher education as defined in Section 53B-3-102, of:

1294 (a) photocopies; or
1295 (b) other copies of records held or maintained by the state or a political subdivision of
1296 the state;

1297 [~~(46)~~] (43) (a) amounts paid:

1298 (i) to a person providing intrastate transportation to an employer's employee to or from

1299 the employee's primary place of employment;

1300 (ii) by an:

1301 (A) employee; or

1302 (B) employer; and

1303 (iii) pursuant to a written contract between:

1304 (A) the employer; and

1305 (B) (I) the employee; or

1306 (II) a person providing transportation to the employer's employee; and

1307 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1308 commission may for purposes of Subsection [~~(46)~~] (43)(a) make rules defining what constitutes

1309 an employee's primary place of employment;

1310 [~~(47)~~] (44) amounts paid for admission to an athletic event at an institution of higher

1311 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

1312 20 U.S.C. Sec. 1681 et seq.;

1313 [~~(48)~~] (45) sales of telephone service charged to a prepaid telephone calling card;

1314 [~~(49)~~] (46) (a) sales of:

1315 (i) hearing aids;

1316 (ii) hearing aid accessories; or

1317 (iii) except as provided in Subsection [~~(49)~~] (46)(b), parts used in the repairs or

1318 renovations of hearing aids or hearing aid accessories; and

1319 (b) for purposes of this Subsection [~~(49)~~] (46), notwithstanding Subsection [~~(49)~~]

1320 (46)(a)(iii), "parts" does not include batteries;

1321 [~~(50)~~] (47) (a) sales made to or by:

1322 (i) an area agency on aging; or

1323 (ii) a senior citizen center owned by a county, city, or town; or

1324 (b) sales made by a senior citizen center that contracts with an area agency on aging;

1325 [~~(51)~~] (48) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or

1326 charged as admission or user fees described in Subsection 59-12-103(1)(f) relating to the

1327 Olympic Winter Games of 2002 if the amounts paid or charged are established by the Salt Lake

1328 Organizing Committee for the Olympic Winter Games of 2002 in accordance with
1329 requirements of the International Olympic Committee; and
1330 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
1331 Winter Games of 2002 shall make at least two reports during the 2000 interim:
1332 (i) to the:
1333 (A) Olympic Coordination Committee; and
1334 (B) Revenue and Taxation Interim Committee; and
1335 (ii) regarding the status of:
1336 (A) agreements relating to the funding of public safety services for the Olympic Winter
1337 Games of 2002;
1338 (B) agreements relating to the funding of services, other than public safety services, for
1339 the Olympic Winter Games of 2002;
1340 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by
1341 the Olympic Coordination Committee or the Revenue and Taxation Interim Committee;
1342 (D) other issues as requested by the Olympic Coordination Committee or the Revenue
1343 and Taxation Interim Committee; or
1344 (E) a combination of Subsections [~~51~~] (48)(b)(ii)(A) through (D);
1345 [~~52~~] (49) (a) beginning on July 1, 2001, through June 30, 2004, and subject to
1346 Subsection [~~52~~] (49)(b), a sale or lease of semiconductor fabricating or processing materials
1347 regardless of whether the semiconductor fabricating or processing materials:
1348 (i) actually come into contact with a semiconductor; or
1349 (ii) ultimately become incorporated into real property;
1350 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
1351 described in Subsection [~~52~~] (49)(a) is exempt;
1352 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
1353 described in Subsection [~~52~~] (49)(a) is exempt; and
1354 (iii) beginning on July 1, 2003, through June 30, 2004, the entire amount of the sale or
1355 lease described in Subsection [~~52~~] (49)(a) is exempt; and
1356 (c) each year on or before the November interim meeting, the Revenue and Taxation
1357 Interim Committee shall:
1358 (i) review the exemption described in this Subsection [~~52~~] (49) and make

1359 recommendations concerning whether the exemption should be continued, modified, or
1360 repealed; and

1361 (ii) include in the review under this Subsection [~~(52)~~] (49)(c):

1362 (A) the cost of the exemption;

1363 (B) the purpose and effectiveness of the exemption; and

1364 (C) the benefits of the exemption to the state;

1365 [~~(53)~~] (50) an amount paid by or charged to a purchaser for accommodations and
1366 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
1367 Section 59-12-104.2;

1368 [~~(54)~~] (51) beginning on September 1, 2001, the lease or use of a vehicle issued a
1369 temporary sports event registration certificate in accordance with Section 41-3-306 for the
1370 event period specified on the temporary sports event registration certificate; or

1371 [~~(55)~~] (52) sales or uses of electricity, if the sales or uses are:

1372 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1373 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1374 source, as designated in the tariff by the Public Service Commission of Utah; and

1375 (b) for an amount of electricity that is:

1376 (i) unrelated to the amount of electricity used by the person purchasing the electricity
1377 under the tariff described in Subsection [~~(55)~~] (52)(a); and

1378 (ii) equivalent to the number of kilowatthours specified in the tariff described in
1379 Subsection [~~(55)~~] (52)(a) that may be purchased under the tariff described in Subsection [~~(55)~~]
1380 (52)(a).

1381 Section 6. Section **59-12-104.5** is amended to read:

1382 **59-12-104.5. Review of sales tax exemptions.**

1383 (1) Beginning with the 2001 interim, the Utah Tax Review Commission, in cooperation
1384 with the governor's office and the tax commission, shall conduct a review of the sales and use
1385 tax exemptions created by Section 59-12-104 as provided in this section.

1386 (2) The Utah Tax Review Commission shall:

1387 (a) review each of the sales and use tax exemptions created by Section 59-12-104 one
1388 or more times every eight years; and

1389 (b) subject to Subsection (2)(a) and except as provided in Subsection (3), for each year

1390 select the exemptions that the Utah Tax Review Commission will review for that year.

1391 (3) Notwithstanding Subsection (2):

1392 (a) the Utah Tax Review Commission shall review Subsection 59-12-104[~~(29)~~] (27)

1393 before October 1 of the year after the year in which Congress permits a state to participate in

1394 the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local

1395 sales taxes are collected within the state on purchases of food under that program; and

1396 (b) the Utah Tax Review Commission shall review Subsection 59-12-104[~~(22)~~] (20)

1397 before October 1 of the year after the year in which Congress permits a state to participate in

1398 the food stamp program under the Food Stamp Act, 7 U.S.C. Sec. 2011 et seq., even if state or

1399 local sales taxes are collected within the state on purchases of food under that program.

1400 (4) The Utah Tax Review Commission shall for each sales and use tax exemption the

1401 Utah Tax Review Commission reviews make a report to the governor and the Revenue and

1402 Taxation Interim Committee:

1403 (a) on or before the November interim meeting in the year in which the Utah Tax

1404 Review Commission reviews the sales and use tax exemption;

1405 (b) including:

1406 (i) a review of the cost of the sales and use tax exemption;

1407 (ii) a review of the following criteria for granting or extending incentives for

1408 businesses:

1409 (A) whether the business is willing to make a substantial capital investment in the state

1410 indicating that it will be a long-term member of the community in which the business is or will

1411 be located;

1412 (B) whether the business brings new dollars into the state, which generally means the

1413 business must export goods or services outside of the state, not just recirculate existing dollars;

1414 (C) subject to Subsection (5), whether the business pays higher than average wages in

1415 the area in which the business is or will be located, increasing the state's overall household

1416 income;

1417 (D) whether the same incentives offered to a new business locating in the state from

1418 another state are available to existing in-state businesses so as not to discriminate against the

1419 in-state businesses; and

1420 (E) whether the incentives clearly produce a positive return on investment as

- 1421 determined by state economic modeling formulas;
- 1422 (iii) a determination of whether the sales and use tax exemption is consistent with the
1423 Legislature's sales and use tax policy positions adopted in 1990 General Session H.J.R. 32;
- 1424 (iv) a review of the purpose of the sales and use tax exemption;
- 1425 (v) a review of the effectiveness of the sales and use tax exemption; and
- 1426 (vi) a review of the benefits of the sales and use tax exemption to the state;
- 1427 (c) recommending whether the sales and use tax exemption should be:
- 1428 (i) continued;
- 1429 (ii) modified; or
- 1430 (iii) repealed; and
- 1431 (d) reviewing any other issue the Utah Tax Review Commission determines to study.
- 1432 (5) For purposes of Subsection (4)(b)(ii)(C), in determining whether a business pays
1433 higher than average wages in the area in which the business is or will be located, the Utah Tax
1434 Review Commission may not include wages of the following in making average wage
1435 calculations:
- 1436 (a) wages of school district employees;
- 1437 (b) wages of county, city, or town employees;
- 1438 (c) wages of state employees; or
- 1439 (d) wages of federal government employees.
- 1440 Section 7. Section **59-12-105** is amended to read:
- 1441 **59-12-105. Certain exempt sales to be reported -- Penalties.**
- 1442 (1) An owner, vendor, or purchaser shall report to the commission the amount of sales
1443 or uses exempt under Subsection 59-12-104[~~(14), (20), (40), (41), or (52)~~] (13), (18), (38),
1444 (39), or (49).
- 1445 (2) Except as provided in Subsections (3) and (4), if the owner, vendor, or purchaser
1446 fails to report the full amount of the exemptions granted under Subsection 59-12-104[~~(14),~~
1447 ~~(20), (40), (41), or (52)~~] (13), (18), (38), (39), or (49) on the owner's, vendor's, or purchaser's
1448 original filed return, the commission shall impose a penalty equal to the lesser of:
- 1449 (a) 10% of the sales and use tax that would have been imposed if the exemption had not
1450 applied; or
- 1451 (b) \$1,000.

1452 (3) Notwithstanding Subsection (2), the commission may not impose a penalty under
1453 Subsection (2) if the owner, vendor, or purchaser files an amended return containing the
1454 amount of the exemption prior to the owner, vendor, or purchaser receiving a notice of audit
1455 from the commission.

1456 (4) (a) Notwithstanding Subsection (2), the commission may waive, reduce, or
1457 compromise a penalty imposed under this section if the commission finds there are reasonable
1458 grounds for the waiver, reduction, or compromise.

1459 (b) If the commission waives, reduces, or compromises a penalty under Subsection
1460 (4)(a), the commission shall make a record of the grounds for waiving, reducing, or
1461 compromising the penalty.

1462 Section 8. Section **59-12-107** is amended to read:

1463 **59-12-107. Collection, remittance, and payment of tax by vendors or other**
1464 **persons -- Returns -- Direct payment by purchaser of vehicle -- Other liability for**
1465 **collection -- Credits -- Deposit and sale of security -- Penalties.**

1466 (1) (a) [~~Each~~] Except as provided in Section 59-12-107.1, each vendor shall pay or
1467 collect and remit the sales and use taxes imposed by this chapter if within this state the vendor:

1468 (i) has or utilizes:

1469 (A) an office;

1470 (B) a distribution house;

1471 (C) a sales house;

1472 (D) a warehouse;

1473 (E) a service enterprise; or

1474 (F) a place of business similar to Subsections (1)(a)(i)(A) through (E);

1475 (ii) maintains a stock of goods;

1476 (iii) regularly solicits orders, regardless of whether or not the orders are accepted in the
1477 state, unless the vendor's only activity in the state is:

1478 (A) advertising; or

1479 (B) solicitation by:

1480 (I) direct mail;

1481 (II) electronic mail;

1482 (III) the Internet;

- 1483 (IV) telephone; or
- 1484 (V) a means similar to Subsections (1)(a)(iii)(A) or (B);
- 1485 (iv) regularly engages in the delivery of property in the state other than by:
- 1486 (A) common carrier; or
- 1487 (B) United States mail; or
- 1488 (v) regularly engages in an activity directly related to the leasing or servicing of
- 1489 property located within the state.
- 1490 (b) If a vendor does not meet one or more of the criteria provided for in Subsection
- 1491 (1)(a), the vendor:
- 1492 (i) except as provided in Subsection (1)(b)(ii), may voluntarily:
- 1493 (A) collect a tax as provided in Subsection 59-12-103(2)(c) on a transaction described
- 1494 in Subsection 59-12-103(1); and
- 1495 (B) remit the tax to the commission as provided in this part; or
- 1496 (ii) notwithstanding Subsection (1)(b)(i), shall collect a tax as provided in Subsection
- 1497 59-12-103(2)(c) on a transaction described in Subsection 59-12-103(1) if Section 59-12-103.1
- 1498 requires the vendor to collect the tax.
- 1499 (c) A person shall pay a use tax imposed by this chapter on a transaction described in
- 1500 Subsection 59-12-103(1) if:
- 1501 (i) the vendor did not collect a use tax imposed by this chapter on the transaction; and
- 1502 (ii) the person:
- 1503 (A) stores the tangible personal property in the state;
- 1504 (B) uses the tangible personal property in the state; or
- 1505 (C) consumes the tangible personal property in the state.
- 1506 (d) Notwithstanding the provisions of Subsection (1)(a), the ownership of property that
- 1507 is located at the premises of a printer's facility with which the retailer has contracted for
- 1508 printing and that consists of the final printed product, property that becomes a part of the final
- 1509 printed product, or copy from which the printed product is produced, shall not result in the
- 1510 retailer being considered to have or maintain an office, distribution house, sales house,
- 1511 warehouse, service enterprise, or other place of business, or to maintain a stock of goods,
- 1512 within this state.
- 1513 (2) (a) ~~Each~~ Except as provided in Section 59-12-107.1, each vendor shall collect the

1514 sales or use tax from the purchaser.

1515 (b) A vendor may not collect as tax an amount, without regard to fractional parts of one
1516 cent, in excess of the tax computed at the rates prescribed by this chapter.

1517 (c) (i) Each vendor shall:

1518 (A) give the purchaser a receipt for the use tax collected; or

1519 (B) bill the use tax as a separate item and declare the name of this state and the
1520 vendor's use tax license number on the invoice for the sale.

1521 (ii) The receipt or invoice is prima facie evidence that the vendor has collected the use
1522 tax and relieves the purchaser of the liability for reporting the use tax to the commission as a
1523 consumer.

1524 (d) A vendor is not required to maintain a separate account for the tax collected, but is
1525 considered to be a person charged with receipt, safekeeping, and transfer of public moneys.

1526 (e) Taxes collected by a vendor pursuant to this chapter shall be held in trust for the
1527 benefit of the state and for payment to the commission in the manner and at the time provided
1528 for in this chapter.

1529 (f) If any vendor, during any reporting period, collects as a tax an amount in excess of
1530 the lawful state and local percentage of total taxable sales allowed under this part and Part 2,
1531 Local Sales and Use Tax Act, the vendor shall remit to the commission the full amount of the
1532 tax imposed under this part and Part 2, Local Sales and Use Tax Act, plus any excess.

1533 (g) If the accounting methods regularly employed by the vendor in the transaction of
1534 the vendor's business are such that reports of sales made during a calendar month or quarterly
1535 period will impose unnecessary hardships, the commission may accept reports at intervals that
1536 will, in its opinion, better suit the convenience of the taxpayer or vendor and will not
1537 jeopardize collection of the tax.

1538 (3) (a) Except as provided in Subsection (4) and in Section 59-12-108, the sales or use
1539 tax imposed by this chapter is due and payable to the commission quarterly on or before the
1540 last day of the month next succeeding each calendar quarterly period.

1541 (b) (i) Each vendor shall, on or before the last day of the month next succeeding each
1542 calendar quarterly period, file with the commission a return for the preceding quarterly period.

1543 (ii) The vendor shall remit with the return under Subsection (3)(b)(i) the amount of the
1544 tax required under this chapter to be collected or paid for the period covered by the return.

1545 (c) Each return shall contain information and be in a form the commission prescribes
1546 by rule.

1547 (d) The sales tax as computed in the return shall be based upon the total nonexempt
1548 sales made during the period, including both cash and charge sales.

1549 (e) The use tax as computed in the return shall be based upon the total amount of sales
1550 or purchases for storage, use, or other consumption in this state made during the period,
1551 including both by cash and by charge.

1552 (f) The commission may by rule extend the time for making returns and paying the
1553 taxes. No extension may be for more than 90 days.

1554 (g) The commission may require returns and payment of the tax to be made for other
1555 than quarterly periods if it considers it necessary in order to ensure the payment of the tax
1556 imposed by this chapter.

1557 (4) On each vehicle sale made by other than a regular licensed vehicle dealer, the
1558 purchaser shall pay the sales or use tax directly to the commission if the vehicle is subject to
1559 titling or registration under the laws of this state. The commission shall collect the tax when
1560 the vehicle is titled or registered.

1561 (5) If any sale of tangible personal property or any other taxable transaction under
1562 Subsection 59-12-103(1), is made by a wholesaler to a retailer, the wholesaler is not
1563 responsible for the collection or payment of the tax imposed on the sale if the retailer
1564 represents that the personal property is purchased by the retailer for resale and the personal
1565 property thereafter is not resold. Instead, the retailer is solely liable for the tax.

1566 (6) If any sale of property or service subject to the tax is made to a person prepaying
1567 sales or use tax in accordance with Title 63, Chapter 51, Resource Development, or to a
1568 contractor or subcontractor of that person, the person to whom such payment or consideration
1569 is payable is not responsible for the collection or payment of the sales or use tax if the person
1570 prepaying the sales or use tax represents that the amount prepaid as sales or use tax has not
1571 been fully credited against sales or use tax due and payable under the rules promulgated by the
1572 commission. Instead, the person prepaying the sales or use tax is solely liable for the tax.

1573 (7) Credit is allowed for prepaid taxes and for taxes paid on that portion of an account
1574 determined to be worthless and actually charged off for income tax purposes or on the portion
1575 of the purchase price remaining unpaid at the time of a repossession made under the terms of a

1576 conditional sales contract.

1577 (8) (a) The commission may require any person subject to the tax imposed under this
1578 chapter to deposit with it security as the commission determines, if the commission considers it
1579 necessary to ensure compliance with this chapter.

1580 (b) The commission may sell the security at public sale if it becomes necessary to do so
1581 in order to recover any tax, interest, or penalty due.

1582 (c) (i) The commission shall serve notice of the sale upon the person who deposited the
1583 securities.

1584 (ii) Notice under Subsection (8)(c)(i) sent to the last-known address as it appears in the
1585 records of the commission is sufficient for the purposes of this requirement.

1586 (d) The commission shall return to the person who deposited the security any amount
1587 of the sale proceeds that exceed the amounts due under this chapter.

1588 (9) (a) A vendor may not, with intent to evade any tax, fail to timely remit the full
1589 amount of tax required by this chapter.

1590 (b) A violation of this section is punishable as provided in Section 59-1-401.

1591 (c) Each person who fails to pay any tax to the state or any amount of tax required to be
1592 paid to the state, except amounts determined to be due by the commission under Sections
1593 59-12-110 and 59-12-111, within the time required by this chapter, or who fails to file any
1594 return as required by this chapter, shall pay, in addition to the tax, penalties and interest as
1595 provided in Section 59-12-110.

1596 (d) For purposes of prosecution under this section, each quarterly tax period in which a
1597 vendor, with intent to evade any tax, collects a tax and fails to timely remit the full amount of
1598 the tax required to be remitted, constitutes a separate offense.

1599 Section 9. Section **59-12-107.1** is enacted to read:

1600 **59-12-107.1. Collection and remittance of tax for newspapers delivered by a**
1601 **newspaper carrier.**

1602 (1) As used in this section, "newspaper carrier" means an individual who delivers a
1603 newspaper:

1604 (a) on a regularly established newspaper route; and

1605 (b) to a:

1606 (i) vending machine;

1607 (ii) business; or

1608 (iii) residence.

1609 (2) Notwithstanding Section 59-12-107, if a newspaper carrier delivers a newspaper:

1610 (a) the newspaper carrier is not liable to collect and remit a tax under this chapter to the
1611 commission;

1612 (b) except as provided in Subsection (2)(c), the person that supplies the newspaper
1613 carrier with the newspaper shall collect and remit the taxes imposed under this chapter to the
1614 commission; and

1615 (c) notwithstanding Subsection (2)(b), the owner of a business or residence shall
1616 collect and remit the taxes imposed under this chapter to the commission if after the newspaper
1617 carrier delivers the newspaper to the business or residence the owner of the business or
1618 residence resells the newspaper.

1619 (3) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1620 commission may make rules defining "the person that supplies the newspaper carrier with the
1621 newspaper."

1622 Section 10. **Effective date.**

1623 This act takes effect on July 1, 2003.