

Representative Ralph Becker 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

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

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

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

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



26 2004.

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

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

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

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

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

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

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

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

45 (B) the tangible personal property or services meet the requirements for exemption
46 provided in Subsections 19-2-123(2) and 59-12-104[~~(11)~~] (8), except for the certification
47 requirement; and

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

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

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

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

55 (A) the tangible personal property or services meet the requirements for exemption
56 provided in Subsections 19-2-123(2) and 59-12-104[~~(11)~~] (8); and

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

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

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

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

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

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

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

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

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

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

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

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

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

88 a certificate.

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

90 **59-1-403. Confidentiality -- Exceptions -- Penalty -- Application to property tax.**

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

94 (i) a tax commissioner;

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

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

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

101 (i) in accordance with judicial order;

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

103 (A) this title; or

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

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

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

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

112 (2) This section does not prohibit:

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

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

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

- 119 (i) who brings action to set aside or review a tax based on the report or return;
- 120 (ii) against whom an action or proceeding is contemplated or has been instituted under
- 121 this title; or
- 122 (iii) against whom the state has an unsatisfied money judgment.

123 (3) (a) Notwithstanding Subsection (1) and for purposes of administration, the

124 commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative

125 Rulemaking Act, provide for a reciprocal exchange of information with:

- 126 (i) the United States Internal Revenue Service; or
- 127 (ii) the revenue service of any other state.

128 (b) Notwithstanding Subsection (1) and for all taxes except individual income tax and

129 corporate franchise tax, the commission may by rule, made in accordance with Title 63,

130 Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns

131 and other written statements with the federal government, any other state, any of the political

132 subdivisions of another state, or any political subdivision of this state, except as limited by

133 Sections 59-12-209 and 59-12-210, if these political subdivisions or the federal government

134 grant substantially similar privileges to this state.

135 (c) Notwithstanding Subsection (1) and for all taxes except individual income tax and

136 corporate franchise tax, the commission may by rule, in accordance with Title 63, Chapter 46a,

137 Utah Administrative Rulemaking Act, provide for the issuance of information concerning the

138 identity and other information of taxpayers who have failed to file tax returns or to pay any tax

139 due.

140 (d) Notwithstanding Subsection (1), the commission shall provide to the Solid and

141 Hazardous Waste Control Board executive secretary, as defined in Section 19-6-102, as

142 requested by the executive secretary, any records, returns, or other information filed with the

143 commission under Chapter 13, Motor and Special Fuel Tax Act, or Section 19-6-410.5

144 regarding the environmental assurance program participation fee.

145 (e) Notwithstanding Subsection (1), at the request of any person the commission shall

146 provide that person sales and purchase volume data reported to the commission on a report,

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

- 148 (i) Chapter 13, Part 2, Motor Fuel; or
- 149 (ii) Chapter 13, Part 4, Aviation Fuel.

150 (f) Notwithstanding Subsection (1), upon request from a tobacco product manufacturer,
151 as defined in Section 59-22-202, the commission shall report to the manufacturer:

152 (i) the quantity of cigarettes, as defined in Section 59-22-202, produced by the
153 manufacturer and reported to the commission for the previous calendar year under Section
154 59-14-407; and

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

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

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

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

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

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

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

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

173 (j) Notwithstanding Subsection (1), the commission shall at the request of the
174 Legislature provide to the Legislature the total amount of sales or uses exempt under
175 Subsection 59-12-104[~~(52)~~] (45) reported to the commission in accordance with Section
176 59-12-105.

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

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

180 (b) After the three-year period provided in Subsection (4)(a) the commission may

181 destroy a report or return.

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

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

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

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

188 **59-12-102. Definitions.**

189 As used in this chapter:

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

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

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

194 (3) "Authorized carrier" means:

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

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

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

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

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

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

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

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

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

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

214 [~~(5)~~] (4) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or
215 other fuels that does not constitute industrial use under Subsection [~~(13)~~] (12) or residential use
216 under Subsection [~~(23)~~] (22).

217 [~~(6)~~] (5) (a) "Common carrier" means a person engaged in or transacting the business
218 of transporting passengers, freight, merchandise, or other property for hire within this state.

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

222 (ii) For purposes of Subsection [~~(6)~~] (5)(b)(i), in accordance with Title 63, Chapter
223 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what
224 constitutes a person's place of employment.

225 [~~(7)~~] (6) "Component part" includes:

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

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

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

231 (d) feed, seeds, and seedlings.

232 [~~(8)~~] (7) "Construction materials" means any tangible personal property that will be
233 converted into real property.

234 [~~(9)~~] (8) (a) "Fundraising sales" means sales:

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

236 (B) made by a school student;

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

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

240 (b) For purposes of Subsection [~~(9)~~] (8)(a)(iii), "officially sanctioned school activity"
241 means a school activity:

242 (i) that is conducted in accordance with a formal policy adopted by the school or school

243 district governing the authorization and supervision of fundraising activities;

244 (ii) that does not directly or indirectly compensate an individual teacher or other

245 educational personnel by direct payment, commissions, or payment in kind; and

246 (iii) the net or gross revenues from which are deposited in a dedicated account

247 controlled by the school or school district.

248 [~~(10)~~] (9) (a) "Hearing aid" means:

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

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

251 (II) correct impaired human hearing; and

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

253 (II) affixed behind the human ear;

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

255 (iii) a telephone amplifying device.

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

257 (i) except as provided in Subsection [~~(10)~~] (9)(a)(i)(B) or [~~(10)~~] (9)(a)(ii), an

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

259 (ii) except as provided in Subsection [~~(10)~~] (9)(a)(iii), an assistive listening device or

260 system designed to be used by one individual, including:

261 (A) a personal amplifying system;

262 (B) a personal FM system;

263 (C) a television listening system; or

264 (D) a device or system similar to a device or system described in Subsections [~~(10)~~]

265 (9)(b)(ii)(A) through (C); or

266 (iii) an assistive listening device or system designed to be used by more than one

267 individual, including:

268 (A) a device or system installed in:

269 (I) an auditorium;

270 (II) a church;

271 (III) a conference room;

272 (IV) a synagogue; or

273 (V) a theater; or

274 (B) a device or system similar to a device or system described in Subsections [~~(10)~~]
275 (9)(b)(iii)(A)(I) through (V).

276 [~~(11)~~] (10) (a) "Hearing aid accessory" means a hearing aid:

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

280 (b) "Hearing aid accessory" includes:

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

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

- 288 (i) a component, attachment, or accessory designed to be used only with an:
- 289 (A) instrument or device described in Subsection [~~(10)~~] (9)(b)(i); or
- 290 (B) assistive listening device or system described in Subsection [~~(10)~~] (9)(b)(ii) or (iii);

291 or

- 292 (ii) a hearing aid battery.

293 [~~(12)~~] (11) (a) Except as provided in Subsection [~~(12)~~] (11)(c), "home medical

294 equipment or supplies" means equipment or supplies that:

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

300 (iii) are listed as eligible for payment under:

- 301 (A) Title XVIII of the federal Social Security Act; or
- 302 (B) the state plan for medical assistance under Title XIX of the federal Social Security
- 303 Act.

304 (b) "Home medical equipment or supplies" includes parts used in the repairs or

305 renovations of equipment or supplies described in Subsection [~~(12)~~] (11)(a).

306 (c) Notwithstanding Subsection [~~(12)~~] (11)(a), "home medical equipment or supplies"
307 does not include:

308 (i) equipment or supplies purchased by, for, or on behalf of any:

309 (A) health care facility, as defined in Subsection [~~(12)~~] (11)(d); or

310 (B) one or more of the following for use in a professional practice:

311 (I) a doctor;

312 (II) a nurse; or

313 (III) another health care provider;

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

315 (iii) hearing aids or hearing aid accessories.

316 (d) For purposes of Subsection [~~(12)~~] (11)(c)(i)(A), "health care facility" includes:

317 (i) a clinic;

318 (ii) a doctor's office; or

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

320 [~~(13)~~] (12) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil,
321 or other fuels:

322 (a) in mining or extraction of minerals;

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

325 (i) commercial greenhouses;

326 (ii) irrigation pumps;

327 (iii) farm machinery;

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

330 (v) other farming activities;

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

334 (d) by a scrap recycler if:

335 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

336 one or more of the following items into prepared grades of processed materials for use in new
337 products:

- 338 (A) iron;
- 339 (B) steel;
- 340 (C) nonferrous metal;
- 341 (D) paper;
- 342 (E) glass;
- 343 (F) plastic;
- 344 (G) textile; or
- 345 (H) rubber; and

346 (ii) the new products under Subsection [~~(13)~~] (12)(d)(i) would otherwise be made with
347 nonrecycled materials.

348 [~~(14)~~] (13) "Manufactured home" means any manufactured home or mobile home as
349 defined in Title 58, Chapter 56, Utah Uniform Building Standards Act.

350 [~~(15)~~] (14) For purposes of Subsection 59-12-104[~~(14)~~] (11), "manufacturing facility"
351 means:

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

355 (b) a scrap recycler if:

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

- 359 (A) iron;
- 360 (B) steel;
- 361 (C) nonferrous metal;
- 362 (D) paper;
- 363 (E) glass;
- 364 (F) plastic;
- 365 (G) textile; or
- 366 (H) rubber; and

367 (ii) the new products under Subsection [~~(15)~~] (14)(b)(i) would otherwise be made with
368 nonrecycled materials.

369 [~~(16)~~] (15) (a) "Medicine" means:

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

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

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

378 (b) "Medicine" does not include:

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

380 (ii) any alcoholic beverage.

381 [~~(17)~~] (16) "Mobile telecommunications service" is as defined in the Mobile
382 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

383 [~~(18)~~] (17) "Olympic merchandise" means tangible personal property bearing an
384 Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology,
385 trademark, or other copyrighted or protected material, including:

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

387 (i) "Olympic";

388 (ii) "Olympiad"; or

389 (iii) "Citius Altius Fortius";

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

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

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

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

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

398 [~~(19)~~] (18) (a) "Other fuels" means products that burn independently to produce heat or
399 energy.

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

402 [~~(20)~~] (19) "Person" includes any individual, firm, partnership, joint venture,
403 association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county,
404 city, municipality, district, or other local governmental entity of the state, or any group or
405 combination acting as a unit.

406 [~~(21)~~] (20) "Purchase price" means the amount paid or charged for tangible personal
407 property or any other taxable transaction under Subsection 59-12-103(1), excluding only cash
408 discounts taken or any excise tax imposed on the purchase price by the federal government.

409 [~~(22)~~] (21) "Regularly rented" means:

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

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

413 [~~(23)~~] (22) "Residential use" means the use in or around a home, apartment building,
414 sleeping quarters, and similar facilities or accommodations.

415 [~~(24)~~] (23) (a) "Retail sale" means any sale within the state of tangible personal
416 property or any other taxable transaction under Subsection 59-12-103(1), other than resale of
417 such property, item, or service by a retailer or wholesaler to a user or consumer.

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

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

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

428 (ii) pursuant to generally accepted accounting principles, the purchaser-lessee is

429 required to capitalize the subject property for financial reporting purposes, and account for the
430 lease payments as payments made under a financing arrangement.

431 ~~[(25)]~~ (24) (a) "Retailer" means any person engaged in a regularly organized retail
432 business in tangible personal property or any other taxable transaction under Subsection
433 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

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

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

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

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

453 ~~[(26)]~~ (25) "Sale" means any transfer of title, exchange, or barter, conditional or
454 otherwise, in any manner, of tangible personal property or any other taxable transaction under
455 Subsection 59-12-103(1), for consideration. It includes:

456 (a) installment and credit sales;

457 (b) any closed transaction constituting a sale;

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

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

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

465 [~~27~~] (26) (a) "Sales relating to schools" means the following sales by, amounts paid
466 to, or amounts charged by a school:

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

469 (A) the sale of:

470 (I) textbooks;

471 (II) textbook fees;

472 (III) laboratory fees;

473 (IV) laboratory supplies; or

474 (V) safety equipment;

475 (B) the sale of clothing that:

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

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

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

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

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

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

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

487 (ii) except as provided in Subsection [~~27~~] (26)(a)(i)(B), clothing; or

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

490 (A) other than a:

- 491 (I) school;
- 492 (II) nonprofit organization authorized by a school board or a governing body of a
- 493 private school to organize and direct a competitive secondary school activity; or
- 494 (III) nonprofit association authorized by a school board or a governing body of a
- 495 private school to organize and direct a competitive secondary school activity; and
- 496 (B) that is required to collect sales and use taxes under this chapter.
- 497 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
- 498 commission may make rules defining the term "passed through."
- 499 [~~28~~] (27) For purposes of this section and Section 59-12-104, "school" means:
- 500 (a) an elementary school or a secondary school that:
- 501 (i) is a:
- 502 (A) public school; or
- 503 (B) private school; and
- 504 (ii) provides instruction for one or more grades kindergarten through 12; or
- 505 (b) a public school district.
- 506 [~~29~~] (28) (a) "Semiconductor fabricating or processing materials" means tangible
- 507 personal property:
- 508 (i) used primarily in the process of:
- 509 (A) (I) manufacturing a semiconductor; or
- 510 (II) fabricating a semiconductor; or
- 511 (B) maintaining an environment suitable for a semiconductor; or
- 512 (ii) consumed primarily in the process of:
- 513 (A) (I) manufacturing a semiconductor; or
- 514 (II) fabricating a semiconductor; or
- 515 (B) maintaining an environment suitable for a semiconductor.
- 516 (b) "Semiconductor fabricating or processing materials" includes:
- 517 (i) parts used in the repairs or renovations of tangible personal property described in
- 518 Subsection [~~29~~] (28)(a); or
- 519 (ii) a chemical, catalyst, or other material used to:
- 520 (A) produce or induce in a semiconductor a:
- 521 (I) chemical change; or

- 522 (II) physical change;
- 523 (B) remove impurities from a semiconductor; or
- 524 (C) improve the marketable condition of a semiconductor.
- 525 [~~(30)~~] (29) "Senior citizen center" means a facility having the primary purpose of
- 526 providing services to the aged as defined in Section 62A-3-101.
- 527 [~~(31)~~] (30) "State" means the state of Utah, its departments, and agencies.
- 528 [~~(32)~~] (31) "Storage" means any keeping or retention of tangible personal property or
- 529 any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose
- 530 except sale in the regular course of business.
- 531 [~~(33)~~] (32) (a) "Tangible personal property" means:
- 532 (i) all goods, wares, merchandise, produce, and commodities;
- 533 (ii) all tangible or corporeal things and substances which are dealt in or capable of
- 534 being possessed or exchanged;
- 535 (iii) water in bottles, tanks, or other containers; and
- 536 (iv) all other physically existing articles or things, including property severed from real
- 537 estate.
- 538 (b) "Tangible personal property" does not include:
- 539 (i) real estate or any interest or improvements in real estate;
- 540 (ii) bank accounts, stocks, bonds, mortgages, notes, and other evidence of debt;
- 541 (iii) insurance certificates or policies;
- 542 (iv) personal or governmental licenses;
- 543 (v) water in pipes, conduits, ditches, or reservoirs;
- 544 (vi) currency and coinage constituting legal tender of the United States or of a foreign
- 545 nation; and
- 546 (vii) all gold, silver, or platinum ingots, bars, medallions, or decorative coins, not
- 547 constituting legal tender of any nation, with a gold, silver, or platinum content of not less than
- 548 80%.
- 549 [~~(34)~~] (33) (a) For purposes of Subsection [~~(35)~~] (34) and Section 59-12-103,
- 550 "telephone service" means a two-way transmission:
- 551 (i) by:
- 552 (A) wire;

- 553 (B) radio;
- 554 (C) lightwave; or
- 555 (D) other electromagnetic means; and
- 556 (ii) of one or more of the following:
- 557 (A) a sign;
- 558 (B) a signal;
- 559 (C) writing;
- 560 (D) an image;
- 561 (E) sound;
- 562 (F) a message;
- 563 (G) data; or
- 564 (H) other information of any nature.
- 565 (b) "Telephone service" includes:
- 566 (i) cellular telephone service;
- 567 (ii) private communications service; or
- 568 (iii) automated digital telephone answering service.
- 569 (c) "Telephone service" does not include a service or a transaction that a state or a
- 570 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 571 Tax Freedom Act, Pub. L. No. 105-277.
- 572 [~~35~~] (34) (a) "Telephone service provider" means a person that:
- 573 (i) owns, controls, operates, or manages a telephone service; and
- 574 (ii) engages in an activity described in Subsection [~~35~~] (34)(a)(i) for the shared use
- 575 with or resale to any person of the telephone service.
- 576 (b) A person described in Subsection [~~35~~] (34)(a) is a telephone service provider
- 577 whether or not the Public Service Commission of Utah regulates:
- 578 (i) that person; or
- 579 (ii) the telephone service that the person owns, controls, operates, or manages.
- 580 [~~36~~] (35) (a) "Use" means the exercise of any right or power over tangible personal
- 581 property under Subsection 59-12-103(1), incident to the ownership or the leasing of that
- 582 property, item, or service.
- 583 (b) "Use" does not include the sale, display, demonstration, or trial of that property in

584 the regular course of business and held for resale.

585 ~~[(37)]~~ (36) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle,
586 as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and
587 any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both.

588 "Vehicle," for purposes of Subsection 59-12-104~~[(36)]~~ (34) only, also includes any locomotive,
589 freight car, railroad work equipment, or other railroad rolling stock.

590 ~~[(38)]~~ (37) "Vehicle dealer" means a person engaged in the business of buying, selling,
591 or exchanging vehicles as defined in Subsection ~~[(37)]~~ (36).

592 ~~[(39)]~~ (38) (a) "Vendor" means any person receiving any payment or consideration
593 upon a sale of tangible personal property or any other taxable transaction under Subsection
594 59-12-103(1), or to whom the payment or consideration is payable.

595 (b) "Vendor" does not mean a printer's facility described in Subsection (25)(d).

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

597 **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

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

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

601 (b) amounts paid:

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

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

604 (I) telephone service provider; or

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

606 (ii) for:

607 (A) all transportation;

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

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

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

613 (D) telegraph service;

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

- 615 (i) gas;
- 616 (ii) electricity;
- 617 (iii) heat;
- 618 (iv) coal;
- 619 (v) fuel oil; or
- 620 (vi) other fuels;
- 621 (d) sales of the following for residential use:
 - 622 (i) gas;
 - 623 (ii) electricity;
 - 624 (iii) heat;
 - 625 (iv) coal;
 - 626 (v) fuel oil; or
 - 627 (vi) other fuels;
 - 628 (e) sales of meals;
 - 629 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
 - 630 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
 - 631 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
 - 632 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
 - 633 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
 - 634 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
 - 635 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
 - 636 horseback rides, sports activities, or any other amusement, entertainment, recreation,
 - 637 exhibition, cultural, or athletic activity;
 - 638 (g) amounts paid or charged for services:
 - 639 (i) for repairs or renovations of tangible personal property, unless Section 59-12-104
 - 640 provides for an exemption from sales and use tax for:
 - 641 (A) the tangible personal property; and
 - 642 (B) parts used in the repairs or renovations of the tangible personal property described
 - 643 in Subsection (1)(g)(i)(A), whether or not any parts are actually used in the repairs or
 - 644 renovations of that tangible personal property; or
 - 645 (ii) to install tangible personal property in connection with other tangible personal

646 property, unless the tangible personal property being installed is exempt from sales and use tax
647 under Section 59-12-104;

648 (h) except as provided in Subsection 59-12-104[~~(7)~~] (4), amounts paid or charged for
649 cleaning or washing of tangible personal property;

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

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

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

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

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

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

657 (A) stored;

658 (B) used; or

659 (C) otherwise consumed;

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

662 (i) stored;

663 (ii) used; or

664 (iii) consumed; and

665 (m) amounts paid or charged for prepaid telephone calling cards.

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

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

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

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

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

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

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

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

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

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

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

685 (A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204,
686 but only if all of the counties, cities, and towns in the state impose the tax under Section
687 59-12-204; or

688 (II) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but
689 only if all of the counties, cities, and towns in the state impose the tax under Section
690 59-12-205; and

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

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

694 (i) Subsection (2)(a)(i);

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

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

697 (iv) Section 59-12-301;

698 (v) Section 59-12-352;

699 (vi) Section 59-12-353;

700 (vii) Section 59-12-401;

701 (viii) Section 59-12-402;

702 (ix) Section 59-12-501;

703 (x) Section 59-12-502;

704 (xi) Section 59-12-603;

705 (xii) Section 59-12-703;

706 (xiii) Section 59-12-802;

707 (xiv) Section 59-12-804;

708 (xv) Section 59-12-1001;

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

710 (xvii) Section 59-12-1302.

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

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

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

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

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

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

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

723 (A) calculating an amount equal to:

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

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

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

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

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

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

738 (4) (a) Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics

739 special revenue fund or funds as determined by the Division of Finance under Section 51-5-4,
740 for the use of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports
741 Authority Act:

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

744 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a
745 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under
746 Subsection (1); and

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

748 (b) These funds shall be used:

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

750 (A) to the extent funds are available, to transfer directly to a debt service fund or to
751 otherwise reimburse to the state any amount expended on debt service or any other cost of any
752 bonds issued by the state to construct any public sports facility as defined in Section
753 63A-7-103;

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

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

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

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

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

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

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

770 (c) A payment of salary, benefits, or administrative costs under Subsection
771 63A-10-103(3) is not considered an expenditure of the Utah Sports Authority.

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

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

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

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

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

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

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

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

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

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

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

792 (II) award grants, up to the amount authorized by the Legislature in an appropriations
793 act, to political subdivisions of the state to implement the measures described in Subsections
794 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

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

800 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources

801 Conservation and Development Fund created in Section 73-10-24;

802 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

803 Program Subaccount created in Section 73-10c-5; and

804 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

805 Program Subaccount created in Section 73-10c-5.

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

807 (5)(a)(i) shall be deposited in the Agriculture Resource Development Fund created in Section

808 4-18-6.

809 (iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection

810 (5)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover the

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

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

813 (I) 50% of any unexpended dedicated credits shall lapse to the Water Resources

814 Conservation and Development Fund created in Section 73-10-24;

815 (II) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

816 Program Subaccount created in Section 73-10c-5; and

817 (III) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan

818 Program Subaccount created in Section 73-10c-5.

819 (v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection

820 (5)(a)(i) that remains after making the transfers and deposits required by Subsections (5)(a)(ii)

821 through (iv) shall be deposited in the Water Resources Conservation and Development Fund

822 created in Section 73-10-24 for use by the Division of Water Resources.

823 (B) In addition to the uses allowed of the Water Resources Conservation and

824 Development Fund under Section 73-10-24, the Water Resources Conservation and

825 Development Fund may also be used to:

826 (I) provide a portion of the local cost share, not to exceed in fiscal year 2002-03 50%

827 of the funds made available to the Division of Water Resources under this section, of potential

828 project features of the Central Utah Project;

829 (II) conduct hydrologic and geotechnical investigations by the Department of Natural

830 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of

831 quantifying surface and ground water resources and describing the hydrologic systems of an

832 area in sufficient detail so as to enable local and state resource managers to plan for and
833 accommodate growth in water use without jeopardizing the resource;

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

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

837 (vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i)
838 that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through
839 (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section
840 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

841 (vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection (5)(a)(i)
842 that remains after making the transfers and deposits required by Subsections (5)(a)(ii) through
843 (iv) shall be deposited in the Drinking Water Loan Program Subaccount created in Section
844 73-10c-5 for use by the Division of Drinking Water to:

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

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

848 (C) develop surface water sources.

849 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
850 2003, the lesser of the following amounts shall be used as provided in Subsections (5)(b)(ii)
851 through (vii):

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

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

854 (II) for the fiscal year; or

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

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

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

861 (II) award grants, up to the amount authorized by the Legislature in an appropriations
862 act, to political subdivisions of the state to implement the measures described in Subsections

863 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

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

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

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

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

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

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

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

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

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

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

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

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

892 (B) In addition to the uses allowed of the Water Resources Conservation and
893 Development Fund under Section 73-10-24, the Water Resources Conservation and

894 Development Fund may also be used to:

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

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

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

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

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

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

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

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

915 (C) develop surface water sources.

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

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

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

921 (II) for the fiscal year; or

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

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

925 created in Section 72-2-117.

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

929 (iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection
930 (6)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of
931 Transportation for the State Park Access Highways Improvement Program created in Section
932 72-3-207.

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

937 (b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
938 2003, the lesser of the following amounts shall be used as provided in Subsections (6)(b)(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 a fiscal year beginning on or after July 1, 2003, 3% of the amount
945 described in Subsection (6)(b)(i) shall be deposited each year in the Transportation Corridor
946 Preservation Revolving Loan Fund 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)(b)(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 a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
951 Subsection (6)(b)(i) shall be transferred each year as nonlapsing dedicated credits to the
952 Department of Transportation for the State Park Access Highways Improvement Program
953 created in Section 72-3-207.

954 (iv) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described
955 in Subsection (6)(b)(i) shall be deposited in the class B and class C roads account to be

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

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

962 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,
963 1999, the revenues generated by the 1/64% tax rate:

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

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

968 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission
969 shall deposit into the Airport to University of Utah Light Rail Restricted Account created in
970 Section 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and
971 59-12-205 that is:

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

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

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

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

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

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

987 year 2000-01.

988 (10) (a) For purposes of amounts paid or charged as admission or user fees relating to
989 the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the
990 day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a
991 person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of
992 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in
993 Subsection (1)(f).

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

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

999 (i) \$25,000 shall be subtracted from the total amount required to be transferred to the
1000 Division of Water Rights in accordance with Subsection (5)(a)(iv);

1001 (ii) \$385,000 shall be subtracted from the total amount required to be deposited into the
1002 Agriculture Resource Development Fund in accordance with Subsection (5)(a)(iii);

1003 (iii) \$350,000 shall be subtracted from the total amount required to be transferred to the
1004 Department of Natural Resources in accordance with Subsection (5)(a)(ii);

1005 (iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into
1006 the Drinking Water Loan Program Subaccount in accordance with Subsection (5)(a)(vii);

1007 (v) \$3,012,500 shall be subtracted from the total amount required to be deposited into
1008 the Utah Wastewater Loan Program Subaccount in accordance with Subsection (5)(a)(vi); and

1009 (vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into
1010 the Water Resources Conservation and Development Fund in accordance with Subsection
1011 (5)(a)(v).

1012 (b) The amounts subtracted under Subsection (11)(a) shall be deposited into the
1013 General Fund.

1014 Section 5. Section **59-12-104** is amended to read:

1015 **59-12-104. Exemptions.**

1016 The following sales and uses are exempt from the taxes imposed by this chapter:

1017 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax

1018 under Chapter 13, Motor and Special Fuel Tax Act;

1019 (2) sales to the state, its institutions, and its political subdivisions; however, this
1020 exemption does not apply to sales of:

1021 (a) construction materials except:

1022 (i) construction materials purchased by or on behalf of institutions of the public
1023 education system as defined in Utah Constitution Article X, Section 2, provided the
1024 construction materials are clearly identified and segregated and installed or converted to real
1025 property which is owned by institutions of the public education system; and

1026 (ii) construction materials purchased by the state, its institutions, or its political
1027 subdivisions which are installed or converted to real property by employees of the state, its
1028 institutions, or its political subdivisions; or

1029 (b) tangible personal property in connection with the construction, operation,
1030 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
1031 providing additional project capacity, as defined in Section 11-13-103;

1032 [~~(3) sales of food, beverage, and dairy products from vending machines in which the~~
1033 ~~proceeds of each sale do not exceed \$1 if the vendor or operator of the vending machine reports~~
1034 ~~an amount equal to 150% of the cost of items as goods consumed;]~~

1035 [~~(4) sales of food, beverage, dairy products, similar confections, and related services to~~
1036 ~~commercial airline carriers for in-flight consumption;]~~

1037 [~~(5)~~ (3) sales of parts and equipment for installation in aircraft operated by common
1038 carriers in interstate or foreign commerce;

1039 [~~(6) sales of commercials, motion picture films, prerecorded audio program tapes or~~
1040 ~~records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture~~
1041 ~~exhibitor, distributor, or commercial television or radio broadcaster;]~~

1042 [~~(7)~~ (4) sales of cleaning or washing of tangible personal property by a coin-operated
1043 laundry or dry cleaning machine;

1044 [~~(8)~~ (5) (a) except as provided in Subsection [~~(8)~~ (5)(b), sales made to or by religious
1045 or charitable institutions in the conduct of their regular religious or charitable functions and
1046 activities, if the requirements of Section 59-12-104.1 are fulfilled;

1047 (b) the exemption provided for in Subsection [~~(8)~~ (5)(a) does not apply to the
1048 following sales, uses, leases, or rentals relating to the Olympic Winter Games of 2002 made to

1049 or by an organization exempt from federal income taxation under Section 501(c)(3), Internal
1050 Revenue Code:

1051 (i) retail sales of Olympic merchandise;

1052 (ii) except as provided in Subsection [~~(51)~~ (44)], admissions or user fees described in
1053 Subsection 59-12-103(1)(f);

1054 (iii) sales of accommodations and services as provided in Subsection 59-12-103(1)(i),
1055 except for accommodations and services:

1056 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
1057 Games of 2002;

1058 (B) exclusively used by:

1059 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
1060 Olympic Winter Games of 2002; or

1061 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
1062 Winter Games of 2002; and

1063 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
1064 2002 does not receive reimbursement; or

1065 (iv) a lease or rental of a vehicle as defined in Section 41-1a-102, except for a lease or
1066 rental of a vehicle:

1067 (A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter
1068 Games of 2002;

1069 (B) exclusively used by:

1070 (I) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the
1071 Olympic Winter Games of 2002; or

1072 (II) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic
1073 Winter Games of 2002; and

1074 (C) for which the Salt Lake Organizing Committee for the Olympic Winter Games of
1075 2002 does not receive reimbursement;

1076 [~~(9)~~ (6) sales of vehicles of a type required to be registered under the motor vehicle
1077 laws of this state which are made to bona fide nonresidents of this state and are not afterwards
1078 registered or used in this state except as necessary to transport them to the borders of this state;

1079 [~~(10)~~ (7) sales of medicine;

1080 [~~(11)~~] (8) sales or use of property, materials, or services used in the construction of or
1081 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

1082 [~~(12)~~] (9) (a) sales of meals served by:

1083 (i) the following if the meals are not available to the general public:

1084 (A) a church; or

1085 (B) a charitable institution;

1086 (ii) an institution of higher education if:

1087 (A) the meals are not available to the general public; or

1088 (B) the meals are prepaid as part of a student meal plan offered by the institution of
1089 higher education; or

1090 (b) inpatient meals provided at:

1091 (i) a medical facility; or

1092 (ii) a nursing facility;

1093 [~~(13)~~] (10) isolated or occasional sales by persons not regularly engaged in business,
1094 except the sale of vehicles or vessels required to be titled or registered under the laws of this
1095 state in which case the tax is based upon:

1096 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;

1097 or

1098 (b) in the absence of a bill of sale or other written evidence of value, the then existing
1099 fair market value of the vehicle or vessel being sold as determined by the commission;

1100 [~~(14)~~] (11) (a) subject to Subsection (11)(b), the following purchases or leases by a
1101 manufacturer on or after July 1, 1995:

1102 (i) machinery and equipment:

1103 (A) used in the manufacturing process;

1104 (B) having an economic life of three or more years; and

1105 (C) used:

1106 (I) to manufacture an item sold as tangible personal property; and

1107 (II) in new or expanding operations in a manufacturing facility in the state; and

1108 (ii) subject to [~~the provisions of~~] Subsection [~~(14)~~] (11)(b), purchases or leases of
1109 normal operating replacements that:

1110 (A) have an economic life of three or more years;

- 1111 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 1112 (C) are used to replace or adapt an existing machine to extend the normal estimated
1113 useful life of the machine; and
- 1114 (D) do not include repairs and maintenance;
- 1115 ~~[(b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:]~~
- 1116 ~~[(i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in~~
1117 ~~Subsection (14)(a)(ii) is exempt;]~~
- 1118 ~~[(ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described~~
1119 ~~in Subsection (14)(a)(ii) is exempt; and]~~
- 1120 ~~[(iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection~~
1121 ~~(14)(a)(ii) is exempt;]~~
- 1122 (b) (i) beginning on July 1, 2003, through June 30, 2005, 50% of a purchase or lease
1123 described in Subsection (11)(a) is exempt; and
- 1124 (ii) beginning on July 1, 2005, 100% of a purchase or lease described in Subsection
1125 (11)(a) is exempt;
- 1126 (c) for purposes of this Subsection [~~(14)~~] (11), the commission shall by rule define the
1127 terms "new or expanding operations" and "establishment"; and
- 1128 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
1129 commission shall:
- 1130 (i) review the exemptions described in Subsection [~~(14)~~] (11)(a) and make
1131 recommendations to the Revenue and Taxation Interim Committee concerning whether the
1132 exemptions should be continued, modified, or repealed; and
- 1133 (ii) include in its report:
- 1134 (A) the cost of the exemptions;
- 1135 (B) the purpose and effectiveness of the exemptions; and
- 1136 (C) the benefits of the exemptions to the state;
- 1137 [~~(15)~~] (12) (a) sales of the following if the requirements of Subsection [~~(15)~~] (12)(b)
1138 are met:
- 1139 (i) tooling;
- 1140 (ii) special tooling;
- 1141 (iii) support equipment;

1142 (iv) special test equipment; or
1143 (v) parts used in the repairs or renovations of tooling or equipment described in
1144 Subsections [~~15~~] (12)(a)(i) through (iv); and
1145 (b) sales of tooling, equipment, or parts described in Subsection [~~15~~] (12)(a) are
1146 exempt if:
1147 (i) the tooling, equipment, or parts are used or consumed exclusively in the
1148 performance of any aerospace or electronics industry contract with the United States
1149 government or any subcontract under that contract; and
1150 (ii) under the terms of the contract or subcontract described in Subsection [~~15~~]
1151 (12)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as
1152 evidenced by:
1153 (A) a government identification tag placed on the tooling, equipment, or parts; or
1154 (B) listing on a government-approved property record if placing a government
1155 identification tag on the tooling, equipment, or parts is impractical;
1156 [~~16~~] (13) intrastate movements of:
1157 (a) freight by common carriers; or
1158 (b) passengers:
1159 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
1160 Classification Manual of the federal Executive Office of the President, Office of Management
1161 and Budget;
1162 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
1163 Industrial Classification Manual of the federal Executive Office of the President, Office of
1164 Management and Budget, if the transportation originates and terminates within a county of the
1165 first, second, or third class; or
1166 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard
1167 Industrial Classification Manual of the federal Executive Office of the President, Office of
1168 Management and Budget:
1169 (A) a horse-drawn cab; or
1170 (B) a horse-drawn carriage[-];
1171 [~~17~~] (14) sales of newspapers or newspaper subscriptions;
1172 [~~18~~] (15) tangible personal property, other than money, traded in as full or part

1173 payment of the purchase price, except that for purposes of calculating sales or use tax upon
1174 vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is
1175 based upon:

1176 (a) the bill of sale or other written evidence of value of the vehicle being sold and the
1177 vehicle being traded in; or

1178 (b) in the absence of a bill of sale or other written evidence of value, the then existing
1179 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
1180 commission;

1181 [~~(19)~~] (16) sprays and insecticides used to control insects, diseases, and weeds for
1182 commercial production of fruits, vegetables, feeds, seeds, and animal products, but not those
1183 sprays and insecticides used in the processing of the products;

1184 [~~(20)~~] (17) (a) (i) sales of tangible personal property used or consumed primarily and
1185 directly in farming operations, including sales of irrigation equipment and supplies used for
1186 agricultural production purposes, whether or not they become part of real estate and whether or
1187 not installed by farmer, contractor, or subcontractor, but not sales of:

1188 (A) machinery, equipment, materials, and supplies used in a manner that is incidental
1189 to farming, such as hand tools with a unit purchase price not in excess of \$250, and
1190 maintenance and janitorial equipment and supplies;

1191 (B) tangible personal property used in any activities other than farming, such as office
1192 equipment and supplies, equipment and supplies used in sales or distribution of farm products,
1193 in research, or in transportation; or

1194 (C) any vehicle required to be registered by the laws of this state, without regard to the
1195 use to which the vehicle is put; or

1196 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
1197 tangible personal property is exempt under Subsection [~~(20)~~] (17)(a)(i); or

1198 (b) sales of hay;

1199 [~~(21)~~] (18) exclusive sale of locally grown seasonal crops, seedling plants, or garden,
1200 farm, or other agricultural produce if sold by a producer during the harvest season;

1201 [~~(22)~~] (19) purchases of food as defined in 7 U.S.C. Sec. 2012(g) under the Food
1202 Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

1203 [~~(23)~~] (20) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

1204 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
1205 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
1206 manufacturer, processor, wholesaler, or retailer;

1207 ~~[(24)]~~ (21) property stored in the state for resale;

1208 ~~[(25)]~~ (22) property brought into the state by a nonresident for his or her own personal
1209 use or enjoyment while within the state, except property purchased for use in Utah by a
1210 nonresident living and working in Utah at the time of purchase;

1211 ~~[(26)]~~ (23) property purchased for resale in this state, in the regular course of business,
1212 either in its original form or as an ingredient or component part of a manufactured or
1213 compounded product;

1214 ~~[(27)]~~ (24) property upon which a sales or use tax was paid to some other state, or one
1215 of its subdivisions, except that the state shall be paid any difference between the tax paid and
1216 the tax imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is
1217 allowed if the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and
1218 Use Tax Act;

1219 ~~[(28)]~~ (25) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d)
1220 to a person for use in compounding a service taxable under the subsections;

1221 ~~[(29)]~~ (26) purchases of supplemental foods as defined in 42 U.S.C. Sec. 1786(b)(14)
1222 under the special supplemental nutrition program for women, infants, and children established
1223 in 42 U.S.C. Sec. 1786;

1224 ~~[(30) beginning on July 1, 1999, through June 30, 2004, sales or leases of rolls, rollers,
1225 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
1226 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
1227 Manual of the federal Executive Office of the President, Office of Management and Budget;]~~

1228 ~~[(31)]~~ (27) sales of boats of a type required to be registered under Title 73, Chapter 18,
1229 State Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents
1230 of this state and are not thereafter registered or used in this state except as necessary to
1231 transport them to the borders of this state;

1232 ~~[(32)]~~ (28) sales of tangible personal property to persons within this state that is
1233 subsequently shipped outside the state and incorporated pursuant to contract into and becomes
1234 a part of real property located outside of this state, except to the extent that the other state or

1235 political entity imposes a sales, use, gross receipts, or other similar transaction excise tax on it
 1236 against which the other state or political entity allows a credit for taxes imposed by this
 1237 chapter;

1238 ~~[(33)]~~ (29) sales of aircraft manufactured in Utah if sold for delivery and use outside
 1239 Utah where a sales or use tax is not imposed, even if the title is passed in Utah;

1240 ~~[(34)]~~ (30) amounts paid for the purchase of telephone service for purposes of
 1241 providing telephone service;

1242 ~~[(35)]~~ (31) fares charged to persons transported directly by a public transit district
 1243 created under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

1244 ~~[(36)]~~ (32) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

1245 ~~[(37)]~~ (33) (a) 45% of the sales price of any new manufactured home; and

1246 (b) 100% of the sales price of any used manufactured home;

1247 ~~[(38)]~~ (34) sales relating to schools and fundraising sales;

1248 ~~[(39)]~~ (35) sales or rentals of home medical equipment or supplies;

1249 ~~[(40)]~~ (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
 1250 Section 72-11-102; and]

1251 ~~[(b) the commission shall by rule determine the method for calculating sales exempt
 1252 under Subsection (40)(a) that are not separately metered and accounted for in utility billings;]~~

1253 ~~[(41) sales to a ski resort of:]~~

1254 ~~[(a) snowmaking equipment;]~~

1255 ~~[(b) ski slope grooming equipment;]~~

1256 ~~[(c) passenger ropeways as defined in Section 72-11-102; or]~~

1257 ~~[(d) parts used in the repairs or renovations of equipment or passenger ropeways
 1258 described in Subsections (41)(a) through (c);]~~

1259 ~~[(42)]~~ (36) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for
 1260 industrial use;

1261 ~~[(43) sales or rentals of the right to use or operate for amusement, entertainment, or
 1262 recreation a coin-operated amusement device as defined in Section 59-12-102;]~~

1263 ~~[(44)]~~ (37) sales of cleaning or washing of tangible personal property by a
 1264 coin-operated car wash machine;

1265 ~~[(45)]~~ (38) sales by the state or a political subdivision of the state, except state

1266 institutions of higher education as defined in Section 53B-3-102, of:
1267 (a) photocopies; or
1268 (b) other copies of records held or maintained by the state or a political subdivision of
1269 the state;
1270 [~~46~~] (39) (a) amounts paid:
1271 (i) to a person providing intrastate transportation to an employer's employee to or from
1272 the employee's primary place of employment;
1273 (ii) by an:
1274 (A) employee; or
1275 (B) employer; and
1276 (iii) pursuant to a written contract between:
1277 (A) the employer; and
1278 (B) (I) the employee; or
1279 (II) a person providing transportation to the employer's employee; and
1280 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
1281 commission may for purposes of Subsection [~~46~~] (39)(a) make rules defining what constitutes
1282 an employee's primary place of employment;
1283 [~~47~~] (40) amounts paid for admission to an athletic event at an institution of higher
1284 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
1285 20 U.S.C. Sec. 1681 et seq.;
1286 [~~48~~] (41) sales of telephone service charged to a prepaid telephone calling card;
1287 [~~49~~] (42) (a) sales of:
1288 (i) hearing aids;
1289 (ii) hearing aid accessories; or
1290 (iii) except as provided in Subsection [~~49~~] (42)(b), parts used in the repairs or
1291 renovations of hearing aids or hearing aid accessories; and
1292 (b) for purposes of this Subsection [~~49~~] (42), notwithstanding Subsection [~~49~~]
1293 (42)(a)(iii), "parts" does not include batteries;
1294 [~~50~~] (43) (a) sales made to or by:
1295 (i) an area agency on aging; or
1296 (ii) a senior citizen center owned by a county, city, or town; or

1297 (b) sales made by a senior citizen center that contracts with an area agency on aging;
1298 [~~(51)~~] (44) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or
1299 charged as admission or user fees described in Subsection 59-12-103(1)(f) relating to the
1300 Olympic Winter Games of 2002 if the amounts paid or charged are established by the Salt Lake
1301 Organizing Committee for the Olympic Winter Games of 2002 in accordance with
1302 requirements of the International Olympic Committee; and

1303 (b) the State Olympic Officer and the Salt Lake Organizing Committee for the Olympic
1304 Winter Games of 2002 shall make at least two reports during the 2000 interim:

1305 (i) to the:

1306 (A) Olympic Coordination Committee; and
1307 (B) Revenue and Taxation Interim Committee; and

1308 (ii) regarding the status of:

1309 (A) agreements relating to the funding of public safety services for the Olympic Winter
1310 Games of 2002;

1311 (B) agreements relating to the funding of services, other than public safety services, for
1312 the Olympic Winter Games of 2002;

1313 (C) other agreements relating to the Olympic Winter Games of 2002 as requested by
1314 the Olympic Coordination Committee or the Revenue and Taxation Interim Committee;

1315 (D) other issues as requested by the Olympic Coordination Committee or the Revenue
1316 and Taxation Interim Committee; or

1317 (E) a combination of Subsections [~~(51)~~] (44)(b)(ii)(A) through (D);

1318 [~~(52)~~] (45) (a) beginning on July 1, 2001, through June 30, 2004, and subject to
1319 Subsection [~~(52)~~] (45)(b), a sale or lease of semiconductor fabricating or processing materials
1320 regardless of whether the semiconductor fabricating or processing materials:

1321 (i) actually come into contact with a semiconductor; or
1322 (ii) ultimately become incorporated into real property;

1323 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
1324 described in Subsection [~~(52)~~] (45)(a) is exempt;

1325 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
1326 described in Subsection [~~(52)~~] (45)(a) is exempt; and

1327 (iii) beginning on July 1, 2003, through June 30, 2004, the entire amount of the sale or

1328 lease described in Subsection [~~(52)~~] (45)(a) is exempt; and

1329 (c) each year on or before the November interim meeting, the Revenue and Taxation
1330 Interim Committee shall:

1331 (i) review the exemption described in this Subsection [~~(52)~~] (45) and make
1332 recommendations concerning whether the exemption should be continued, modified, or
1333 repealed; and

1334 (ii) include in the review under this Subsection [~~(52)~~] (45)(c):

1335 (A) the cost of the exemption;

1336 (B) the purpose and effectiveness of the exemption; and

1337 (C) the benefits of the exemption to the state;

1338 [~~(53)~~] (46) an amount paid by or charged to a purchaser for accommodations and
1339 services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under
1340 Section 59-12-104.2;

1341 [~~(54)~~] (47) beginning on September 1, 2001, the lease or use of a vehicle issued a
1342 temporary sports event registration certificate in accordance with Section 41-3-306 for the
1343 event period specified on the temporary sports event registration certificate; or

1344 [~~(55)~~] (48) sales or uses of electricity, if the sales or uses are:

1345 (a) made under a tariff adopted by the Public Service Commission of Utah only for
1346 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
1347 source, as designated in the tariff by the Public Service Commission of Utah; and

1348 (b) for an amount of electricity that is:

1349 (i) unrelated to the amount of electricity used by the person purchasing the electricity
1350 under the tariff described in Subsection [~~(55)~~] (48)(a); and

1351 (ii) equivalent to the number of kilowatthours specified in the tariff described in
1352 Subsection [~~(55)~~] (48)(a) that may be purchased under the tariff described in Subsection [~~(55)~~]
1353 (48)(a).

1354 Section 6. Section **59-12-104.5** is amended to read:

1355 **59-12-104.5. Review of sales tax exemptions.**

1356 (1) Beginning with the 2001 interim, the Utah Tax Review Commission, in cooperation
1357 with the governor's office and the tax commission, shall conduct a review of the sales and use
1358 tax exemptions created by Section 59-12-104 as provided in this section.

1359 (2) The Utah Tax Review Commission shall:

1360 (a) review each of the sales and use tax exemptions created by Section 59-12-104 one
1361 or more times every eight years; and

1362 (b) subject to Subsection (2)(a) and except as provided in Subsection (3), for each year
1363 select the exemptions that the Utah Tax Review Commission will review for that year.

1364 (3) Notwithstanding Subsection (2):

1365 (a) the Utah Tax Review Commission shall review Subsection 59-12-104[~~(29)~~] (26)
1366 before October 1 of the year after the year in which Congress permits a state to participate in
1367 the special supplemental nutrition program under 42 U.S.C. Sec. 1786 even if state or local
1368 sales taxes are collected within the state on purchases of food under that program; and

1369 (b) the Utah Tax Review Commission shall review Subsection 59-12-104[~~(22)~~] (19)
1370 before October 1 of the year after the year in which Congress permits a state to participate in
1371 the food stamp program under the Food Stamp Act, 7 U.S.C. Sec. 2011 et seq., even if state or
1372 local sales taxes are collected within the state on purchases of food under that program.

1373 (4) The Utah Tax Review Commission shall for each sales and use tax exemption the
1374 Utah Tax Review Commission reviews make a report to the governor and the Revenue and
1375 Taxation Interim Committee:

1376 (a) on or before the November interim meeting in the year in which the Utah Tax
1377 Review Commission reviews the sales and use tax exemption;

1378 (b) including:

1379 (i) a review of the cost of the sales and use tax exemption;

1380 (ii) a review of the following criteria for granting or extending incentives for
1381 businesses:

1382 (A) whether the business is willing to make a substantial capital investment in the state
1383 indicating that it will be a long-term member of the community in which the business is or will
1384 be located;

1385 (B) whether the business brings new dollars into the state, which generally means the
1386 business must export goods or services outside of the state, not just recirculate existing dollars;

1387 (C) subject to Subsection (5), whether the business pays higher than average wages in
1388 the area in which the business is or will be located, increasing the state's overall household
1389 income;

1390 (D) whether the same incentives offered to a new business locating in the state from
1391 another state are available to existing in-state businesses so as not to discriminate against the
1392 in-state businesses; and

1393 (E) whether the incentives clearly produce a positive return on investment as
1394 determined by state economic modeling formulas;

1395 (iii) a determination of whether the sales and use tax exemption is consistent with the
1396 Legislature's sales and use tax policy positions adopted in 1990 General Session H.J.R. 32;

1397 (iv) a review of the purpose of the sales and use tax exemption;

1398 (v) a review of the effectiveness of the sales and use tax exemption; and

1399 (vi) a review of the benefits of the sales and use tax exemption to the state;

1400 (c) recommending whether the sales and use tax exemption should be:

1401 (i) continued;

1402 (ii) modified; or

1403 (iii) repealed; and

1404 (d) reviewing any other issue the Utah Tax Review Commission determines to study.

1405 (5) For purposes of Subsection (4)(b)(ii)(C), in determining whether a business pays
1406 higher than average wages in the area in which the business is or will be located, the Utah Tax
1407 Review Commission may not include wages of the following in making average wage
1408 calculations:

1409 (a) wages of school district employees;

1410 (b) wages of county, city, or town employees;

1411 (c) wages of state employees; or

1412 (d) wages of federal government employees.

1413 Section 7. Section **59-12-105** is amended to read:

1414 **59-12-105. Certain exempt sales to be reported -- Penalties.**

1415 (1) An owner, vendor, or purchaser shall report to the commission the amount of sales
1416 or uses exempt under Subsection 59-12-104[~~(14), (20), (40), (41), or (52)~~] (11), (17), or (45).

1417 (2) Except as provided in Subsections (3) and (4), if the owner, vendor, or purchaser
1418 fails to report the full amount of the exemptions granted under Subsection 59-12-104[~~(14);~~
1419 ~~(20), (40), (41), or (52)~~] (11), (17), or (45) on the owner's, vendor's, or purchaser's original filed
1420 return, the commission shall impose a penalty equal to the lesser of:

1421 (a) 10% of the sales and use tax that would have been imposed if the exemption had not
1422 applied; or

1423 (b) \$1,000.

1424 (3) Notwithstanding Subsection (2), the commission may not impose a penalty under
1425 Subsection (2) if the owner, vendor, or purchaser files an amended return containing the
1426 amount of the exemption prior to the owner, vendor, or purchaser receiving a notice of audit
1427 from the commission.

1428 (4) (a) Notwithstanding Subsection (2), the commission may waive, reduce, or
1429 compromise a penalty imposed under this section if the commission finds there are reasonable
1430 grounds for the waiver, reduction, or compromise.

1431 (b) If the commission waives, reduces, or compromises a penalty under Subsection
1432 (4)(a), the commission shall make a record of the grounds for waiving, reducing, or
1433 compromising the penalty.

1434 **Section 8. Effective date.**

1435 This act takes effect on July 1, 2003.