

OLYMPIC LAW REVISIONS AND CLEANUP

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Beverly Ann Evans

LONG TITLE

General Description:

This bill modifies multiple titles in the code to remove provisions that relate to the 2002 Winter Olympic Games but that are no longer relevant to the code.

Highlighted Provisions:

This bill:

- ▶ deletes provisions related to the mayor appointing a commission, board, or committee of a public sports entity;
- ▶ deletes references to the State Olympic Officer, the State Olympic Public Safety Command, and Federal Olympic Officer;
- ▶ deletes citations to the State Olympic Coordination Act;
- ▶ deletes certain references to the Olympics;
- ▶ deletes Olympic related definitions from the Sales and Use Tax Act;
- ▶ deletes provisions in the Sales and Use Tax Act concerning admission or user fees relating to the Olympics;
- ▶ deletes provisions in the Sales and Use Tax Act concerning certain sales, uses, leases, or rentals related to the Olympics;
- ▶ deletes local tax provisions related to the Olympics;
- ▶ deletes provisions related to the motor vehicle rental tax that relates to the Olympics;
- ▶ repeals provisions related to the purchase of tangible assets used during the Olympics; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date.

Utah Code Sections Affected:

AMENDS:

10-3-1219, as last amended by Chapter 194, Laws of Utah 1996

49-13-203, as last amended by Chapter 154, Laws of Utah 2003

53-1-104, as last amended by Chapters 5 and 14, Laws of Utah 2002

53-13-106, as last amended by Chapter 11, Laws of Utah 2001, Second Special Session

53-13-107, as last amended by Chapter 11, Laws of Utah 2001, Second Special Session

58-1-307, as last amended by Chapter 3, Laws of Utah 2003

59-1-403 (Effective 07/01/04 Cont. Sup. 05/05), as last amended by Chapter 7, Laws of Utah 2003, Second Special Session

59-1-403 (Contingently Effective 05/02/05), as last amended by Chapter 7, Laws of Utah 2003, Second Special Session

59-12-102 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003

59-12-103 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003

59-12-104 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003

59-12-105 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003

59-12-301 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003

59-12-352, as last amended by Chapter 291, Laws of Utah 1998

59-12-353, as last amended by Chapter 291, Laws of Utah 1998

59-12-603 (Effective 07/01/04), as last amended by Chapter 312, Laws of Utah 2003

59-12-1201, as last amended by Chapters 270 and 291, Laws of Utah 1998

63-55b-163, as last amended by Chapter 212, Laws of Utah 2003

67-22-2, as last amended by Chapter 16, Laws of Utah 2003

REPEALS:

63-56-35.9, as enacted by Chapter 223, Laws of Utah 2001

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

Section 1. Section **10-3-1219** is amended to read:

10-3-1219. Council-mayor form -- Powers and duties of mayor.

(1) In the optional form of government known as the council-mayor form, the mayor shall be a registered voter of the municipality from which he is elected and shall be elected for a term of four years.

(2) The mayor shall be the chief executive and administrative officer of the municipality and shall:

- (a) enforce the laws and ordinances of the municipality;
- (b) execute the policies adopted by the council;
- (c) appoint and remove administrative assistants, including a chief administrative officer;

and

(d) with the advice and consent of the council, appoint department heads and all statutory officers, commissions, boards, and committees of the municipality, except as may otherwise be specifically limited by law;

(e) remove department heads and officers and employees, commissions, boards, and committees;

(f) exercise control of all departments, divisions, and bureaus within the municipal government;

(g) attend all meetings of the council with the right to take part in all discussions and the responsibility to inform the council of the condition and needs of the municipality and make recommendations and freely give advice to the council, except that the mayor may not vote in council meetings;

(h) appoint a budget officer to serve in place of the mayor for the purpose of conforming with the requirements of the Uniform Municipal Fiscal Procedures Act and in all other respects fulfill the requirements of that act;

(i) appoint, with the advice and consent of the council, a qualified person to each of the offices in cities of recorder, treasurer, engineer, and attorney and, in towns, town treasurer and

clerk;

(j) create any other offices that are considered necessary for the good government of the municipality, and make appointments to them;

(k) regulate and prescribe the powers and duties of all other officers of the municipality, within the general provisions of law and ordinance;

(l) furnish the municipal council with a report periodically, as determined by ordinance, that is available for public inspection and sets forth:

(i) the amounts of all budget appropriations;

(ii) the total disbursements to date from these appropriations;

(iii) the amount of indebtedness incurred or contracted against each appropriation, including disbursements and indebtedness incurred and not paid; and

(iv) the percentage of the appropriations encumbered to date;

(m) execute agreements within certified budget appropriations on behalf of the municipality, or delegate, by written executive order, the power to execute such agreements to executive officials, subject to the procedure described in Section 10-6-138; and

(n) perform other duties as may be prescribed by this part or may be required by ordinance not inconsistent with this part.

~~[(3) Notwithstanding Subsection 63A-7-107(4), the mayor may appoint a commission, board, or committee of a public sports entity as defined in Section 63A-7-103 pursuant to the bylaws of that public sports entity, if authorized or required by the legal documents creating or governing the public sports entity.]~~

Section 2. Section **49-13-203** is amended to read:

49-13-203. Exclusions from membership in system.

(1) The following employees are not eligible for service credit in this system:

(a) An employee whose employment status is temporary in nature due to the nature or the type of work to be performed, provided that:

(i) if the term of employment exceeds six months and the employee otherwise qualifies for service credit in this system, the participating employer shall report and certify to the office that

the employee is a regular full-time employee effective the beginning of the seventh month of employment; and

(ii) if an employee, previously terminated prior to becoming eligible for service credit in this system, is reemployed within three months of termination by the same participating employer, the participating employer shall report and certify to the office that the member is a regular full-time employee when the total of the periods of employment equals six months and the employee otherwise qualifies for service credit in this system.

(b) A full-time student or the spouse of a full-time student and another person employed in a trainee relationship who file a formal request for exemption.

(c) (i) A current or future employee of a two-year or four-year college or university who holds, or is entitled to hold, under Section 49-13-204, a retirement annuity contract with the Teachers' Insurance and Annuity Association of America or with any other public or private system, organization, or company during any period in which required contributions based on compensation have been paid on behalf of the employee by the employer.

(ii) The employee, upon cessation of the participating employer contributions, shall immediately become eligible for service credit in this system.

(d) An employee serving as an exchange employee from outside the state.

(e) An elected official who files a formal request for exemption.

(f) An executive department head of the state or a legislative director, senior executive employed by the governor's office, a member of the State Tax Commission, a member of the Public Service Commission, [~~the State Olympic Officer,~~] and a member of a full-time or part-time board or commission who files a formal request for exemption.

(g) An employee of the Department of Workforce Services who is covered under another retirement system allowed under Title 35A, Chapter 4, Employment Security Act.

(h) (i) A person appointed as a city manager or chief city administrator or another person employed by a municipality, county, or other political subdivision, who is not entitled to merit or civil service protection.

(ii) A person eligible for exclusion under Subsection (1)(h)(i) shall file a formal request

for exemption and be employed in a position designated as exempt under an employee exemption plan developed by the municipality, county, or political subdivision.

(2) (a) A municipality, county, or political subdivision may not exempt more than 50 positions or a number equal to 10% of the employees of the municipality, county, or political subdivision, whichever is lesser.

(b) A municipality, county, or political subdivision may exempt at least one regular full-time employee.

(3) Each participating employer shall:

- (a) file employee exemptions annually with the office; and
 - (b) update the employee exemptions in the event of any change.
- (4) The office may make rules to implement this section.

Section 3. Section **53-1-104** is amended to read:

53-1-104. Boards, bureaus, councils, divisions, and offices.

(1) The following are the policymaking boards within the department:

- (a) the Driver License Medical Advisory Board, created in Section 53-3-303;
- (b) the Concealed Weapon Review Board, created in Section 53-5-703;
- (c) the Utah Fire Prevention Board, created in Section 53-7-203;
- (d) the Liquified Petroleum Gas Board, created in Section 53-7-304; and
- (e) the Private Investigator Hearing and Licensure Board, created in Section 53-9-104.

(2) The following are the councils within the department:

- (a) the Peace Officer Standards and Training Council, created in Section 53-6-106; and
- (b) the Motor Vehicle Safety Inspection Advisory Council, created in Section 53-8-203.

(3) The following are the divisions within the department:

- (a) the Administrative Services Division, created in Section 53-1-203;
- (b) the Management Information Services Division, created in Section 53-1-303;
- (c) the Division of Emergency Services and Homeland Security, created in Section 53-2-103;
- (d) the Driver License Division, created in Section 53-3-103;

(e) the Criminal Investigations and Technical Services Division, created in Section 53-10-103;

(f) the Peace Officers Standards and Training Division, created in Section 53-6-103;

(g) the State Fire Marshal Division, created in Section 53-7-103; and

(h) the Utah Highway Patrol Division, created in Section 53-8-103.

(4) The Office of Executive Protection is created in Section 53-1-112.

(5) The following are bureaus within the department:

(a) Bureau of Criminal Identification, created in Section 53-10-201;

(b) State Bureau of Investigation, created in Section 53-10-301;

(c) Bureau of Forensic Services, created in Section 53-10-401; and

(d) Bureau of Communications, created in Section 53-10-501.

~~[(6) The State Olympic Public Safety Command is created within the department by Section 53-12-201.]~~

Section 4. Section **53-13-106** is amended to read:

53-13-106. Federal officers -- State law enforcement authority.

(1) (a) "Federal officer" includes:

(i) a special agent of the Federal Bureau of Investigation;

(ii) a special agent of the United States Secret Service;

(iii) a special agent of the United States Customs Service, excluding a customs inspector;

(iv) a special agent of the Bureau of Alcohol, Tobacco and Firearms;

(v) a special agent of the Federal Drug Enforcement Agency;

(vi) a United States marshal, deputy marshal, and special deputy United States marshal;

and

(vii) a U.S. Postal Inspector of the United States Postal Inspection Service.

(b) Notwithstanding Subsection (2), federal officers listed in Subsection (1)(a) have statewide law enforcement authority relating to felony offenses under the laws of this state.

(c) The council may designate other federal peace officers, as necessary, if the officers:

(i) are persons employed full-time by the United States government as federally

recognized law enforcement officers primarily responsible for the investigation and enforcement of the federal laws;

(ii) have successfully completed formal law enforcement training offered by an agency of the federal government consisting of not less than 400 hours; and

(iii) maintain in-service training in accordance with the standards set forth in Section 53-13-103.

(2) Except as otherwise provided under Title 63, Chapter 8, Federal Jurisdiction, and Title 77, Chapter 9, Uniform Act on Fresh Pursuit, a federal officer may exercise state law enforcement authority only if:

(a) the state law enforcement agencies and county sheriffs with jurisdiction enter into an agreement with the federal agency to be given authority; and

(b) except as provided in Subsection (3) ~~[of this section]~~, each federal officer employed by the federal agency meets the waiver requirements set forth in Section 53-6-206.

(3) A federal officer working as such in the state on or before July 1, 1995, may exercise state law enforcement authority without meeting the waiver requirement.

(4) At any time, consistent with any contract with a federal agency, a state or local law enforcement authority may withdraw state law enforcement authority from any individual federal officer by sending written notice to the federal agency and to the division.

(5) The authority of a federal officer under this section is limited to the jurisdiction of the authorizing state or local agency, and may be further limited by the state or local agency to enforcing specific statutes, codes, or ordinances.

~~[(6)(a) As used in this section, "Federal Olympic Officer" means any federally sworn law enforcement officer operating under the control of the United States Secret Service or the Olympic Public Safety Command created in Section 53-12-201, beginning on January 1, 2002, and ending at midnight on March 30, 2002.]~~

~~[(b) Federal Olympic Officers are exempt from the application of the provisions in Subsection (1)(c), Subsection (2), and Subsection (3) of this section.]~~

~~[(c) To the extent permitted by federal law or regulation, and notwithstanding any other~~

~~provision of this section, Federal Olympic Officers shall have full-spectrum peace officer authority in Utah as though the officer or agent were an employee of the state, as provided in Subsection 53-13-103(3)(b).]~~

Section 5. Section **53-13-107** is amended to read:

53-13-107. Basic training requirements for position -- Peace officers temporarily in the state.

(1) (a) Any person who has satisfactorily completed, before the effective date of this chapter, an approved basic training program required of the person's position may act in a certified capacity without completion of an additional basic training program.

(b) Any person hired, appointed, or elected to any position designated in this chapter, except federal officer, shall satisfactorily complete the required basic training required of that position before the person is authorized to exercise peace officer powers under this chapter.

(2) Any peace officer employed by a law enforcement agency of another state and functioning in that capacity within Utah on a temporary basis is considered certified under Utah law:

(a) while functioning as a peace officer within the state at the request of a Utah law enforcement agency; or

(b) when conducting business as a representative of a law enforcement agency from another state[~~;~~~~or~~].

~~[(c) while functioning in a law enforcement capacity under the jurisdiction of the Olympic Public Safety Command created in Section 53-12-201 beginning January 1, 2002, and ending at midnight on March 30, 2002.]~~

Section 6. Section **58-1-307** is amended to read:

58-1-307. Exemptions from licensure.

(1) Except as otherwise provided by statute or rule, the following persons may engage in the practice of their occupation or profession, subject to the stated circumstances and limitations, without being licensed under this title:

(a) a person serving in the armed forces of the United States, the United States Public

Health Service, the United States Department of Veterans Affairs, or other federal agencies while engaged in activities regulated under this chapter as a part of employment with that federal agency if the person holds a valid license to practice a regulated occupation or profession issued by any other state or jurisdiction recognized by the division;

(b) a student engaged in activities constituting the practice of a regulated occupation or profession while in training in a recognized school approved by the division to the extent the activities are supervised by qualified faculty, staff, or designee and the activities are a defined part of the training program;

(c) an individual engaged in an internship, residency, preceptorship, postceptorship, fellowship, apprenticeship, or on-the-job training program approved by the division while under the supervision of qualified persons;

(d) an individual residing in another state and licensed to practice a regulated occupation or profession in that state, who is called in for a consultation by an individual licensed in this state, and the services provided are limited to that consultation;

(e) an individual who is invited by a recognized school, association, society, or other body approved by the division to conduct a lecture, clinic, or demonstration of the practice of a regulated occupation or profession if the individual does not establish a place of business or regularly engage in the practice of the regulated occupation or profession in this state;

(f) an individual licensed under the laws of this state, other than under this title, to practice or engage in an occupation or profession, while engaged in the lawful, professional, and competent practice of that occupation or profession;

(g) an individual licensed in a health care profession in another state who performs that profession while attending to the immediate needs of a patient for a reasonable period during which the patient is being transported from outside of this state, into this state, or through this state;

(h) an individual licensed in another state or country who is in this state temporarily to attend to the needs of an athletic team or group, except that the practitioner may only attend to the needs of the athletic team or group, including all individuals who travel with the team or

group in any capacity except as a spectator;

(i) an individual licensed and in good standing in another state, who is in this state:

(i) temporarily, under the invitation and control of a sponsoring entity;

(ii) for a reason associated with a special purpose event, based upon needs that may exceed the ability of this state to address through its licensees, as determined by the division; and

(iii) for a limited period of time not to exceed the duration of that event, together with any necessary preparatory and conclusionary periods~~[- The requirements of Section 63A-10-105 do not apply to exemptions authorized by the division pursuant to this Subsection (1)(i)];~~

(j) an individual who:

(i) is certified as an athletic trainer by the National Athletic Trainers Association Board of Certification or another entity approved by the division;

(ii) is employed or officially associated with an educational institution, a professional sports organization, or a bona fide amateur sports organization; and

(iii) only provides athletic training services:

(A) to athletes of the educational institution or sports organization to which the individual is employed or officially associated;

(B) at an official athletic training, practice, or competition site; and

(C) that are within the scope of the individual's certification; and

(k) a law enforcement officer, as defined under Section 53-13-103, who:

(i) is operating a voice stress analyzer in the course of the officer's full-time employment with a federal, state, or local law enforcement agency;

(ii) has completed the manufacturer's training course and is certified by the manufacturer to operate that voice stress analyzer; and

(iii) is operating the voice stress analyzer in accordance with Section 58-64-601, regarding deception detection instruments.

(2) A practitioner temporarily in this state who is exempted from licensure under Subsection (1) shall comply with each requirement of the licensing jurisdiction from which the practitioner derives authority to practice. Violation of any limitation imposed by this section

constitutes grounds for removal of exempt status, denial of license, or other disciplinary proceedings.

(3) An individual who is licensed under a specific chapter of this title to practice or engage in an occupation or profession may engage in the lawful, professional, and competent practice of that occupation or profession without additional licensure under other chapters of this title, except as otherwise provided by this title.

(4) Upon the declaration of a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health-related activities, the division in collaboration with the board may:

(a) suspend the requirements for permanent or temporary licensure of persons who are licensed in another state. Persons exempt under this Subsection (4)(a) shall be exempt from licensure for the duration of the emergency while engaged in the scope of practice for which they are licensed in the other state;

(b) modify, under the circumstances described in [~~Subsections~~] this Subsection (4) and Subsection (5), the scope of practice restrictions under this title for persons who are licensed under this title as:

(i) a physician under Chapter 67, Utah Medical Practice Act, or Chapter 68, Utah Osteopathic Medical Practice Act;

(ii) a nurse under Chapter 31b, Nurse Practice Act, or Chapter 31c, Nurse Licensure Compact;

(iii) a certified nurse midwife under Chapter 44a, Nurse Midwife Practice Act;

(iv) a pharmacist, pharmacy technician, or pharmacy intern under Chapter 17a, Pharmacy Practice Act;

(v) a respiratory therapist under Chapter 57, Respiratory Care Practices Act; and

(vi) a dentist and dental hygienist under Chapter 69, Dentist and Dental Hygienist Practice Act;

(c) suspend the requirements for licensure under this title and modify the scope of

practice in the circumstances described in [~~Subsections~~] this Subsection (4) and Subsection (5) for medical services personnel or paramedics required to be certified under Section 26-8a-302; and

(d) suspend requirements in Subsections 58-17a-620(3) through (6) which require certain prescriptive procedures.

(5) Persons exempt under Subsection (4)(c) and persons operating under modified scope of practice provisions under Subsection (4)(b):

(a) shall be exempt from licensure or subject to modified scope of practice for the duration of the emergency;

(b) must be engaged in the distribution of medicines or medical devices in response to the emergency or declaration; and

(c) must be employed by or volunteering for a local or state department of health.

Section 7. Section **59-1-403 (Effective 07/01/04 Cont. Sup. 05/05)** is amended to read:

59-1-403 (Effective 07/01/04 Cont. Sup. 05/05). Confidentiality -- Exceptions --

Penalty -- Application to property tax.

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

(i) a tax commissioner;

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

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

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

(i) in accordance with judicial order;

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

(A) this title; or

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

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

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

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

(2) This section does not prohibit:

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

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

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

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

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

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

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

(i) the United States Internal Revenue Service; or

(ii) the revenue service of any other state.

(b) Notwithstanding Subsection (1) and for all taxes except individual income tax and corporate franchise tax, the commission may by rule, made in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, share information gathered from returns and other written statements with the federal government, any other state, any of the political subdivisions of another state, or any political subdivision of this state, except as limited by Sections 59-12-209

and 59-12-210, if these political subdivisions or the federal government grant substantially similar privileges to this state.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(j) Notwithstanding Subsection (1), the commission shall at the request of the Legislature provide to the Legislature the total amount of sales or uses exempt under Subsection 59-12-104[~~(51)~~] (50) reported to the commission in accordance with Section 59-12-105.

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

(l) Notwithstanding Subsection (1), the commission shall comply with the reporting requirements of Section 10-1-409.

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

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

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

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

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 8. Section **59-1-403 (Contingently Effective 05/02/05)** is amended to read:

59-1-403 (Contingently Effective 05/02/05). Confidentiality -- Exceptions -- Penalty -- Application to property tax.

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

- (i) a tax commissioner;
- (ii) an agent, clerk, or other officer or employee of the commission; or
- (iii) a representative, agent, clerk, or other officer or employee of any county, city, or town.

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

- (i) in accordance with judicial order;
- (ii) on behalf of the commission in any action or proceeding under:
 - (A) this title; or
 - (B) other law under which persons are required to file returns with the commission;
- (iii) on behalf of the commission in any action or proceeding to which the commission is a party; or
- (iv) on behalf of any party to any action or proceeding under this title if the report or facts shown by the return are directly involved in the action or proceeding.

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

(2) This section does not prohibit:

- (a) a person or that person's duly authorized representative from receiving a copy of any return or report filed in connection with that person's own tax;
- (b) the publication of statistics as long as the statistics are classified to prevent the identification of particular reports or returns; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) reported to the commission under Section 59-14-212; or
- (B) related to a violation under Section 59-14-211; and

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

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

(j) Notwithstanding Subsection (1), the commission shall at the request of the Legislature provide to the Legislature the total amount of sales or uses exempt under Subsection 59-12-104[~~(51)~~] (50) reported to the commission in accordance with Section 59-12-105.

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

(l) Notwithstanding Subsection (1), the commission shall comply with the reporting requirements of Section 10-1-409.

(m) Notwithstanding Subsection (1), the commission shall provide the notice to the commissioner of the Department of Financial Institutions required by Subsection 7-9-56(6).

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

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

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

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

(6) Except as provided in Section 59-1-404, this part does not apply to the property tax.

Section 9. Section **59-12-102 (Effective 07/01/04)** is amended to read:

59-12-102 (Effective 07/01/04). Definitions.

As used in this chapter:

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

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

(2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in Section 59-12-102.1.

(3) "Agreement combined tax rate" means the sum of the tax rates:

(a) listed under Subsection (4); and

(b) that are imposed within a local taxing jurisdiction.

(4) "Agreement sales and use tax" means a tax imposed under:

- (a) Subsection 59-12-103(2)(a)(i);
- (b) Section 59-12-204;
- (c) Section 59-12-401;
- (d) Section 59-12-402;
- (e) Section 59-12-501;
- (f) Section 59-12-502;
- (g) Section 59-12-703;
- (h) Section 59-12-802;
- (i) Section 59-12-804;
- (j) Section 59-12-1001;
- (k) Section 59-12-1102;
- (l) Section 59-12-1302; or
- (m) Section 59-12-1402.

(5) "Alcoholic beverage" means a beverage that:

- (a) is suitable for human consumption; and
- (b) contains .5% or more alcohol by volume.

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

(7) "Authorized carrier" means:

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

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

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

(8) "Certified automated system" means software certified by the governing board of the agreement in accordance with Section 59-12-102.1 that:

- (a) calculates the agreement sales and use tax imposed within a local taxing jurisdiction:
 - (i) on a transaction; and
 - (ii) in the states that are members of the agreement;
 - (b) determines the amount of agreement sales and use tax to remit to a state that is a member of the agreement; and
 - (c) maintains a record of the transaction described in Subsection (8)(a)(i).
- (9) "Certified service provider" means an agent certified:
- (a) by the governing board of the agreement in accordance with Section 59-12-102.1; and
 - (b) to perform all of a seller's sales and use tax functions for an agreement sales and use tax.
- (10) (a) Subject to Subsection (10)(b), "clothing" means all human wearing apparel suitable for general use.
- (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules:
- (i) listing the items that constitute "clothing"; and
 - (ii) that are consistent with the list of items that constitute "clothing" under the agreement.
- (11) (a) For purposes of Subsection 59-12-104 (42), "coin-operated amusement device" means:
- (i) a coin-operated amusement, skill, or ride device;
 - (ii) that is not controlled through seller-assisted, over-the-counter, sales of tokens; and
 - (iii) includes a music machine, pinball machine, billiard machine, video game machine, arcade machine, and a mechanical or electronic skill game or ride.
- (b) For purposes of Subsection 59-12-104 (42), "coin-operated amusement device" does not mean a coin-operated amusement device possessing a coinage mechanism that:
- (i) accepts and registers multiple denominations of coins; and
 - (ii) allows the seller to collect the sales and use tax at the time an amusement device is activated and operated by a person inserting coins into the device.

(12) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other fuels that does not constitute industrial use under Subsection (30) or residential use under Subsection [~~(54)~~] (53).

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

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

(ii) For purposes of Subsection (13)(b)(i), in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining what constitutes a person's place of employment.

(14) "Component part" includes:

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

(d) feed, seeds, and seedlings.

(15) "Computer" means an electronic device that accepts information:

- (a) (i) in digital form; or
- (ii) in a form similar to digital form; and
- (b) manipulates that information for a result based on a sequence of instructions.

(16) "Computer software" means a set of coded instructions designed to cause:

- (a) a computer to perform a task; or
- (b) automatic data processing equipment to perform a task.

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

(18) "Delivered electronically" means delivered to a purchaser by means other than

tangible storage media.

(19) (a) "Delivery charge" means a charge:

(i) by a seller of:

(A) tangible personal property; or

(B) services; and

(ii) for preparation and delivery of the tangible personal property or services described in

Subsection (19)(a)(i) to a location designated by the purchaser.

(b) "Delivery charge" includes a charge for the following:

(i) transportation;

(ii) shipping;

(iii) postage;

(iv) handling;

(v) crating; or

(vi) packing.

(20) "Dietary supplement" means a product, other than tobacco, that:

(a) is intended to supplement the diet;

(b) contains one or more of the following dietary ingredients:

(i) a vitamin;

(ii) a mineral;

(iii) an herb or other botanical;

(iv) an amino acid;

(v) a dietary substance for use by humans to supplement the diet by increasing the total dietary intake; or

(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient described in Subsections (20)(b)(i) through (v);

(c) (i) except as provided in Subsection (20)(c)(ii), is intended for ingestion in:

(A) tablet form;

(B) capsule form;

- (C) powder form;
- (D) softgel form;
- (E) gelcap form; or
- (F) liquid form; or

(ii) notwithstanding Subsection (20)(c)(i), if the product is not intended for ingestion in a form described in Subsections (20)(c)(i)(A) through (F), is not represented:

- (A) as conventional food; and
- (B) for use as a sole item of:
 - (I) a meal; or
 - (II) the diet; and
- (d) is required to be labeled as a dietary supplement:
 - (i) identifiable by the "Supplemental Facts" box found on the label; and
 - (ii) as required by 21 C.F.R. Sec. 101.36.

(21) (a) "Direct mail" means printed material delivered or distributed by United States mail or other delivery service:

- (i) to:
 - (A) a mass audience; or
 - (B) addressees on a mailing list provided by a purchaser of the mailing list; and
- (ii) if the cost of the printed material is not billed directly to the recipients.

(b) "Direct mail" includes tangible personal property supplied directly or indirectly by a purchaser to a seller of direct mail for inclusion in a package containing the printed material.

(c) "Direct mail" does not include multiple items of printed material delivered to a single address.

(22) (a) "Drug" means a compound, substance, or preparation, or a component of a compound, substance, or preparation that is:

- (i) recognized in:
 - (A) the official United States Pharmacopoeia;
 - (B) the official Homeopathic Pharmacopoeia of the United States;

- (C) the official National Formulary; or
- (D) a supplement to a publication listed in Subsections (22)(a)(i)(A) through (C);
- (ii) intended for use in the:
 - (A) diagnosis of disease;
 - (B) cure of disease;
 - (C) mitigation of disease;
 - (D) treatment of disease; or
 - (E) prevention of disease; or
- (iii) intended to affect:
 - (A) the structure of the body; or
 - (B) any function of the body.
- (b) "Drug" does not include:
 - (i) food and food ingredients;
 - (ii) a dietary supplement;
 - (iii) an alcoholic beverage; or
 - (iv) a prosthetic device.

(23) (a) Except as provided in Subsection (23)(c), "durable medical equipment" means equipment that:

- (i) can withstand repeated use;
- (ii) is primarily and customarily used to serve a medical purpose;
- (iii) generally is not useful to a person in the absence of illness or injury;
- (iv) is not worn in or on the body; and
- (v) is listed as eligible for payment under:
 - (A) Title XVIII of the federal Social Security Act; or
 - (B) the state plan for medical assistance under Title XIX of the federal Social Security

Act.

(b) "Durable medical equipment" includes parts used in the repair or replacement of the equipment described in Subsection (23)(a).

(c) Notwithstanding Subsection (23)(a), "durable medical equipment" does not include mobility enhancing equipment.

(24) "Electronic" means:

- (a) relating to technology; and
- (b) having:
 - (i) electrical capabilities;
 - (ii) digital capabilities;
 - (iii) magnetic capabilities;
 - (iv) wireless capabilities;
 - (v) optical capabilities;
 - (vi) electromagnetic capabilities; or
 - (vii) capabilities similar to Subsections (24)(b)(i) through (vi).

(25) (a) "Food and food ingredients" means substances:

(i) regardless of whether the substances are in:

- (A) liquid form;
- (B) concentrated form;
- (C) solid form;
- (D) frozen form;
- (E) dried form; or
- (F) dehydrated form; and

(ii) that are:

- (A) sold for:
 - (I) ingestion by humans; or
 - (II) chewing by humans; and
- (B) consumed for the substance's:
 - (I) taste; or
 - (II) nutritional value.

(b) "Food and food ingredients" does not include:

(i) an alcoholic beverage;

(ii) tobacco; or

(iii) prepared food.

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

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

(B) made by a school student;

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

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

(b) For purposes of Subsection (26)(a)(iii), "officially sanctioned school activity" means a school activity:

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

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

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

(27) "Governing board of the agreement" means the governing board of the agreement that is:

(a) authorized to administer the agreement; and

(b) established in accordance with the agreement.

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

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

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

(II) correct impaired human hearing; and

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

(II) affixed behind the human ear;

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

- (iii) a telephone amplifying device.
- (b) "Hearing aid" does not include:
 - (i) except as provided in Subsection (28)(a)(i)(B) or (28)(a)(ii), an instrument or device having an electronic component that is designed to be worn on the body;
 - (ii) except as provided in Subsection (28)(a)(iii), an assistive listening device or system designed to be used by one individual, including:
 - (A) a personal amplifying system;
 - (B) a personal FM system;
 - (C) a television listening system; or
 - (D) a device or system similar to a device or system described in Subsections (28)(b)(ii)(A) through (C); or
 - (iii) an assistive listening device or system designed to be used by more than one individual, including:
 - (A) a device or system installed in:
 - (I) an auditorium;
 - (II) a church;
 - (III) a conference room;
 - (IV) a synagogue; or
 - (V) a theater; or
 - (B) a device or system similar to a device or system described in Subsections (28)(b)(iii)(A)(I) through (V).
- (29) (a) "Hearing aid accessory" means a hearing aid:
 - (i) component;
 - (ii) attachment; or
 - (iii) accessory.
- (b) "Hearing aid accessory" includes:
 - (i) a hearing aid neck loop;
 - (ii) a hearing aid cord;

- (iii) a hearing aid ear mold;
- (iv) hearing aid tubing;
- (v) a hearing aid ear hook; or
- (vi) a hearing aid remote control.
- (c) "Hearing aid accessory" does not include:
 - (i) a component, attachment, or accessory designed to be used only with an:
 - (A) instrument or device described in Subsection (28)(b)(i); or
 - (B) assistive listening device or system described in Subsection (28)(b)(ii) or (iii); or
 - (ii) a hearing aid battery.
- (30) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or other fuels:
 - (a) in mining or extraction of minerals;
 - (b) in agricultural operations to produce an agricultural product up to the time of harvest or placing the agricultural product into a storage facility, including:
 - (i) commercial greenhouses;
 - (ii) irrigation pumps;
 - (iii) farm machinery;
 - (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not registered under Title 41, Chapter 1a, Part 2, Registration; and
 - (v) other farming activities;
 - (c) in manufacturing tangible personal property at an establishment described in SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget; or
 - (d) by a scrap recycler if:
 - (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process one or more of the following items into prepared grades of processed materials for use in new products:
 - (A) iron;

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

(ii) the new products under Subsection (30)(d)(i) would otherwise be made with nonrecycled materials.

(31) (a) "Lease" or "rental" means a transfer of possession or control of tangible personal property for:

- (i) (A) a fixed term; or
- (B) an indeterminate term; and
- (ii) consideration.

(b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the amount of consideration may be increased or decreased by reference to the amount realized upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue Code.

(c) "Lease" or "rental" does not include:

(i) a transfer of possession or control of property under a security agreement or deferred payment plan that requires the transfer of title upon completion of the required payments;

(ii) a transfer of possession or control of property under an agreement:

- (A) that requires the transfer of title upon completion of required payments; and
- (B) in which the payment of an option price does not exceed the greater of:

- (I) \$100; or
- (II) 1% of the total required payments; or

(iii) providing tangible personal property along with an operator for a fixed period of time or an indeterminate period of time if the operator is necessary for equipment to perform as designed.

(d) For purposes of Subsection (31)(c)(iii), an operator is necessary for equipment to perform as designed if the operator's duties exceed the:

- (i) set-up of tangible personal property;
- (ii) maintenance of tangible personal property; or
- (iii) inspection of tangible personal property.

(32) "Local taxing jurisdiction" means a:

- (a) county that is authorized to impose an agreement sales and use tax;
- (b) city that is authorized to impose an agreement sales and use tax; or
- (c) town that is authorized to impose an agreement sales and use tax.

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

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

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

(b) a scrap recycler if:

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

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

(ii) the new products under Subsection (34)(b)(i) would otherwise be made with

nonrecycled materials.

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

(36) (a) Except as provided in Subsection (36)(c), "mobility enhancing equipment" means equipment that is:

(i) primarily and customarily used to provide or increase the ability to move from one place to another;

(ii) appropriate for use in a:

(A) home; or

(B) motor vehicle;

(iii) not generally used by persons with normal mobility; and

(iv) listed as eligible for payment under:

(A) Title XVIII of the federal Social Security Act; or

(B) the state plan for medical assistance under Title XIX of the federal Social Security Act.

(b) "Mobility enhancing equipment" includes parts used in the repair or replacement of the equipment described in Subsection (36)(a).

(c) Notwithstanding Subsection (36)(a), "mobility enhancing equipment" does not include:

(i) a motor vehicle;

(ii) equipment on a motor vehicle if that equipment is normally provided by the motor vehicle manufacturer;

(iii) durable medical equipment; or

(iv) a prosthetic device.

(37) "Model 1 seller" means a seller that has selected a certified service provider as the seller's agent to perform all of the seller's sales tax functions for agreement sales and use taxes.

(38) "Model 2 seller" means a seller that:

(a) except as provided in Subsection (38)(b), has selected a certified automated system to

perform the seller's sales tax functions for agreement sales and use taxes; and

(b) notwithstanding Subsection (38)(a), retains responsibility for remitting all of the sales tax:

- (i) collected by the seller; and
- (ii) to the appropriate local taxing jurisdiction.

(39) (a) Subject to Subsection (39)(b), "model 3 seller" means a seller that has:

- (i) sales in at least five states that are members of the agreement;
- (ii) total annual sales revenues of at least \$500,000,000;
- (iii) a proprietary system that calculates the amount of tax:
 - (A) for an agreement sales and use tax; and
 - (B) due to each local taxing jurisdiction; and
- (iv) entered into a performance agreement with the governing board of the agreement.

(b) For purposes of Subsection (39)(a), "model 3 seller" includes an affiliated group of sellers using the same proprietary system.

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

- (i) provides multi-channel video or audio service and directly or indirectly owns a significant interest in the multi-channel video or audio service; or
- (ii) otherwise controls or is responsible through any arrangement, the management and operation of the multi-channel video or audio service.

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

- (i) a cable operator;
- (ii) a CATV provider;
- (iii) a multi-point distribution provider;
- (iv) a MMDS provider;
- (v) a SMATV operator;
- (vi) a direct-to-home satellite service provider; or

(vii) a DBS provider.

~~[(41) "Olympic merchandise" means tangible personal property bearing an Olympic designation, emblem, insignia, mark, logo, service mark, symbol, terminology, trademark, or other copyrighted or protected material, including:]~~

~~[(a) one or more of the following terms:]~~

~~[(i) "Olympic";]~~

~~[(ii) "Olympiad"; or]~~

~~[(iii) "Citius Altius Fortius";]~~

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

~~[(c) the emblem of the International Olympic Committee Corporation;]~~

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

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

~~[(f) the mascot of the Olympic Winter Games of 2002.]~~

~~[(42)] (41) (a) "Other fuels" means products that burn independently to produce heat or energy.~~

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

~~[(43)] (42) "Person" includes any individual, firm, partnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city, municipality, district, or other local governmental entity of the state, or any group or combination acting as a unit.~~

~~[(44)] (43) "Place of primary use":~~

(a) for telephone service other than mobile telecommunications service, means the street address representative of where the purchaser's use of the telephone service primarily occurs, which shall be:

- (i) the residential street address of the purchaser; or
- (ii) the primary business street address of the purchaser; or
- (b) for mobile telecommunications service, is as defined in the Mobile

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

~~[(45)]~~ (44) (a) "Prepared food" means:

- (i) food:
 - (A) sold in a heated state; or
 - (B) heated by a seller;
- (ii) two or more food ingredients mixed or combined by the seller for sale as a single item;

or

(iii) except as provided in Subsection ~~[(45)]~~ (44)(c), food sold with an eating utensil provided by the seller, including a:

- (A) plate;
- (B) knife;
- (C) fork;
- (D) spoon;
- (E) glass;
- (F) cup;
- (G) napkin; or
- (H) straw.

(b) "Prepared food" does not include:

- (i) food that a seller only:
 - (A) cuts;
 - (B) repackages; or
 - (C) pasteurizes; or
- (ii) (A) the following:
 - (I) raw egg;
 - (II) raw fish;

(III) raw meat;
(IV) raw poultry; or
(V) a food containing an item described in Subsections [~~(45)~~] (44)(b)(ii)(A)(I) through (IV); and

(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the Food and Drug Administration's Food Code that a consumer cook the items described in Subsection [~~(45)~~] (44)(b)(ii)(A) to prevent food borne illness.

(c) Notwithstanding Subsection [~~(45)~~] (44)(a)(iii), an eating utensil provided by the seller does not include the following used to transport the food:

- (i) a container; or
- (ii) packaging.

[~~(46)~~] (45) "Prescription" means an order, formula, or recipe that is issued:

- (a) (i) orally;
- (ii) in writing;
- (iii) electronically; or
- (iv) by any other manner of transmission; and
- (b) by a licensed practitioner authorized by the laws of a state.

[~~(47)~~] (46) (a) Except as provided in Subsection [~~(47)~~] (46)(b)(ii) or (iii), "prewritten computer software" means computer software that is not designed and developed:

- (i) by the author or other creator of the computer software; and
- (ii) to the specifications of a specific purchaser.
- (b) "Prewritten computer software" includes:

(i) a prewritten upgrade to computer software if the prewritten upgrade to the computer software is not designed and developed:

- (A) by the author or other creator of the computer software; and
- (B) to the specifications of a specific purchaser;

(ii) notwithstanding Subsection [~~(47)~~] (46)(a), computer software designed and developed by the author or other creator of the computer software to the specifications of a

specific purchaser if the computer software is sold to a person other than the purchaser; or

(iii) notwithstanding Subsection ~~[(47)]~~ (46)(a) and except as provided in Subsection ~~[(47)]~~ (46)(c), prewritten computer software or a prewritten portion of prewritten computer software:

(A) that is modified or enhanced to any degree; and

(B) if the modification or enhancement described in Subsection ~~[(47)]~~ (46)(b)(iii)(A) is designed and developed to the specifications of a specific purchaser.

(c) Notwithstanding Subsection ~~[(47)]~~ (46)(b)(iii), "prewritten computer software" does not include a modification or enhancement described in Subsection ~~[(47)]~~ (46)(b)(iii) if the charges for the modification or enhancement are:

(i) reasonable; and

(ii) separately stated on the invoice or other statement of price provided to the purchaser.

~~[(48)]~~ (47) (a) "Prosthetic device" means a device that is:

(i) worn on or in the body to:

(A) artificially replace a missing portion of the body;

(B) prevent or correct a physical deformity or physical malfunction; or

(C) support a weak or deformed portion of the body; and

(ii) listed as eligible for payment under:

(A) Title XVIII of the federal Social Security Act; or

(B) the state plan for medical assistance under Title XIX of the federal Social Security

Act.

(b) "Prosthetic device" includes:

(i) parts used in the repairs or renovation of a prosthetic device; or

(ii) replacement parts for a prosthetic device.

(c) "Prosthetic device" does not include:

(i) corrective eyeglasses;

(ii) contact lenses;

(iii) hearing aids; or

(iv) dental prostheses.

[~~(49)~~] (48) (a) "Protective equipment" means an item:

(i) for human wear; and

(ii) that is:

(A) designed as protection:

(I) to the wearer against injury or disease; or

(II) against damage or injury of other persons or property; and

(B) not suitable for general use.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules:

(i) listing the items that constitute "protective equipment"; and

(ii) that are consistent with the list of items that constitute "protective equipment" under the agreement.

[~~(50)~~] (49) (a) "Purchase price" and "sales price" mean the total amount of consideration:

(i) valued in money; and

(ii) for which tangible personal property or services are:

(A) sold;

(B) leased; or

(C) rented.

(b) "Purchase price" and "sales price" include:

(i) the seller's cost of the tangible personal property or services sold;

(ii) expenses of the seller, including:

(A) the cost of materials used;

(B) a labor cost;

(C) a service cost;

(D) interest;

(E) a loss;

(F) the cost of transportation to the seller; or

- (G) a tax imposed on the seller;
 - (iii) a charge by the seller for any service necessary to complete the sale;
 - (iv) a delivery charge; or
 - (v) an installation charge.
 - (c) "Purchase price" and "sales price" do not include:
 - (i) a discount:
 - (A) in a form including:
 - (I) cash;
 - (II) term; or
 - (III) coupon;
 - (B) that is allowed by a seller;
 - (C) taken by a purchaser on a sale; and
 - (D) that is not reimbursed by a third party; or
 - (ii) the following if separately stated on an invoice, bill of sale, or similar document provided to the purchaser:
 - (A) the amount of a trade-in;
 - (B) the following from credit extended on the sale of tangible personal property or services:
 - (I) interest charges;
 - (II) financing charges; or
 - (III) carrying charges; or
 - (C) a tax or fee legally imposed directly on the consumer.
- [~~(51)~~] (50) "Purchaser" means a person to whom:
- (a) a sale of tangible personal property is made; or
 - (b) a service is furnished.
- [~~(52)~~] (51) "Regularly rented" means:
- (a) rented to a guest for value three or more times during a calendar year; or
 - (b) advertised or held out to the public as a place that is regularly rented to guests for

value.

~~[(53)]~~ (52) "Rental" is as defined in Subsection (31).

~~[(54)]~~ (53) "Residential use" means the use in or around a home, apartment building, sleeping quarters, and similar facilities or accommodations.

~~[(55)]~~ (54) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other than:

- (a) resale;
- (b) sublease; or
- (c) subrent.

~~[(56)]~~ (55) (a) "Retailer" means any person engaged in a regularly organized business in tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and who is selling to the user or consumer and not for resale.

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

~~[(57)]~~ (56) (a) "Sale" means any transfer of title, exchange, or barter, conditional or otherwise, in any manner, of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), for consideration.

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

~~[(58)]~~ (57) "Sale at retail" is as defined in Subsection ~~[(55)]~~ (54).

~~[(59)]~~ (58) "Sale-leaseback transaction" means a transaction by which title to tangible personal property that is subject to a tax under this chapter is transferred:

- (a) by a purchaser-lessee;
- (b) to a lessor;
- (c) for consideration; and
- (d) if:
 - (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase of the tangible personal property;
 - (ii) the sale of the tangible personal property to the lessor is intended as a form of financing:
 - (A) for the property; and
 - (B) to the purchaser-lessee; and
 - (iii) in accordance with generally accepted accounting principles, the purchaser-lessee is required to:
 - (A) capitalize the property for financial reporting purposes; and
 - (B) account for the lease payments as payments made under a financing arrangement.

~~[(60)]~~ (59) "Sales price" is as defined in Subsection ~~[(50)]~~ (49).

~~[(61)]~~ (60) (a) "Sales relating to schools" means the following sales by, amounts paid to, or amounts charged by a school:

- (i) sales that are directly related to the school's educational functions or activities including:
 - (A) the sale of:
 - (I) textbooks;
 - (II) textbook fees;
 - (III) laboratory fees;
 - (IV) laboratory supplies; or
 - (V) safety equipment;
 - (B) the sale of a uniform, protective equipment, or sports or recreational equipment that:

- (I) a student is specifically required to wear as a condition of participation in a school-related event or school-related activity; and
- (II) is not readily adaptable to general or continued usage to the extent that it takes the place of ordinary clothing;
- (C) sales of the following if the net or gross revenues generated by the sales are deposited into a school district fund or school fund dedicated to school meals:
 - (I) food and food ingredients; or
 - (II) prepared food; or
 - (D) transportation charges for official school activities; or
 - (ii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity.
- (b) "Sales relating to schools" does not include:
 - (i) bookstore sales of items that are not educational materials or supplies;
 - (ii) except as provided in Subsection [~~(61)~~] (60)(a)(i)(B):
 - (A) clothing;
 - (B) clothing accessories or equipment;
 - (C) protective equipment; or
 - (D) sports or recreational equipment; or
 - (iii) amounts paid to or amounts charged by a school for admission to a school-related event or school-related activity if the amounts paid or charged are passed through to a person:
 - (A) other than a:
 - (I) school;
 - (II) nonprofit organization authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; or
 - (III) nonprofit association authorized by a school board or a governing body of a private school to organize and direct a competitive secondary school activity; and
 - (B) that is required to collect sales and use taxes under this chapter.
 - (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

commission may make rules defining the term "passed through."

~~[(62)]~~ (61) For purposes of this section and Section 59-12-104, "school" means:

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

(i) is a:

(A) public school; or

(B) private school; and

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

(b) a public school district.

~~[(63)]~~ (62) "Seller" means a person that makes a sale, lease, or rental of:

(a) tangible personal property; or

(b) a service.

~~[(64)]~~ (63) (a) "Semiconductor fabricating or processing materials" means tangible personal property:

(i) used primarily in the process of:

(A) (I) manufacturing a semiconductor; or

(II) fabricating a semiconductor; or

(B) maintaining an environment suitable for a semiconductor; or

(ii) consumed primarily in the process of:

(A) (I) manufacturing a semiconductor; or

(II) fabricating a semiconductor; or

(B) maintaining an environment suitable for a semiconductor.

(b) "Semiconductor fabricating or processing materials" includes:

(i) parts used in the repairs or renovations of tangible personal property described in

Subsection ~~[(64)]~~ (63)(a); or

(ii) a chemical, catalyst, or other material used to:

(A) produce or induce in a semiconductor a:

(I) chemical change; or

(II) physical change;

- (B) remove impurities from a semiconductor; or
- (C) improve the marketable condition of a semiconductor.

~~[(65)]~~ (64) "Senior citizen center" means a facility having the primary purpose of providing services to the aged as defined in Section 62A-3-101.

~~[(66)]~~ (65) (a) "Sports or recreational equipment" means an item:

- (i) designed for human use; and
- (ii) that is:
 - (A) worn in conjunction with:

- (I) an athletic activity; or
- (II) a recreational activity; and
- (B) not suitable for general use.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules:

- (i) listing the items that constitute "sports or recreational equipment"; and
- (ii) that are consistent with the list of items that constitute "sports or recreational equipment" under the agreement.

~~[(67)]~~ (66) "State" means the state of Utah, its departments, and agencies.

~~[(68)]~~ (67) "Storage" means any keeping or retention of tangible personal property or any other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except sale in the regular course of business.

~~[(69)]~~ (68) (a) "Tangible personal property" means personal property that:

- (i) may be:
 - (A) seen;
 - (B) weighed;
 - (C) measured;
 - (D) felt; or
 - (E) touched; or
- (ii) is in any manner perceptible to the senses.

(b) "Tangible personal property" includes:

- (i) electricity;
- (ii) water;
- (iii) gas;
- (iv) steam; or
- (v) prewritten computer software.

~~[(70)]~~ (69) (a) "Telephone service" means a two-way transmission:

- (i) by:
 - (A) wire;
 - (B) radio;
 - (C) lightwave; or
 - (D) other electromagnetic means; and
- (ii) of one or more of the following:
 - (A) a sign;
 - (B) a signal;
 - (C) writing;
 - (D) an image;
 - (E) sound;
 - (F) a message;
 - (G) data; or
 - (H) other information of any nature.

(b) "Telephone service" includes:

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

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

~~[(71)]~~ (70) Notwithstanding where a call is billed or paid, "telephone service address" means:

(a) if the location described in this Subsection ~~[(71)]~~ (70)(a) is known, the location of the telephone service equipment:

- (i) to which a call is charged; and
- (ii) from which the call originates or terminates;

(b) if the location described in Subsection ~~[(71)]~~ (70)(a) is not known but the location described in this Subsection ~~[(71)]~~ (70)(b) is known, the location of the origination point of the signal of the telephone service first identified by:

- (i) the telecommunications system of the seller; or
- (ii) if the system used to transport the signal is not that of the seller, information received by the seller from its service provider; or

(c) if the locations described in Subsection ~~[(71)]~~ (70)(a) or (b) are not known, the location of a purchaser's primary place of use.

~~[(72)]~~ (71) (a) "Telephone service provider" means a person that:

- (i) owns, controls, operates, or manages a telephone service; and
- (ii) engages in an activity described in Subsection ~~[(72)]~~ (71)(a)(i) for the shared use with or resale to any person of the telephone service.

(b) A person described in Subsection ~~[(72)]~~ (71)(a) is a telephone service provider whether or not the Public Service Commission of Utah regulates:

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

~~[(73)]~~ (72) "Tobacco" means:

- (a) a cigarette;
- (b) a cigar;
- (c) chewing tobacco;
- (d) pipe tobacco; or
- (e) any other item that contains tobacco.

~~[(74)]~~ (73) (a) "Use" means the exercise of any right or power over tangible personal property under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item, or service.

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

~~[(75)]~~ (74) "Vehicle" means any aircraft, as defined in Section 72-10-102; any vehicle, as defined in Section 41-1a-102; any off-highway vehicle, as defined in Section 41-22-2; and any vessel, as defined in Section 41-1a-102; that is required to be titled, registered, or both.

"Vehicle," for purposes of Subsection 59-12-104 (35) only, also includes any locomotive, freight car, railroad work equipment, or other railroad rolling stock.

~~[(76)]~~ (75) "Vehicle dealer" means a person engaged in the business of buying, selling, or exchanging vehicles as defined in Subsection ~~[(75)]~~ (74).

Section 10. Section **59-12-103 (Effective 07/01/04)** is amended to read:

59-12-103 (Effective 07/01/04). Sales and use tax base -- Rates -- Effective dates --

Use of sales and use tax revenues.

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

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

(b) amounts paid:

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

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

(I) telephone service provider; or

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

(ii) for:

(A) all transportation;

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

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

boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(D) telegraph service;

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

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

(g) amounts paid or charged for services:

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

(A) the tangible personal property; and

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

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

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

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

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

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

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

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

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

(A) stored;

(B) used; or

(C) otherwise consumed;

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

(i) stored;

(ii) used; or

(iii) consumed;

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

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

multi-channel video or audio service provider:

- (i) within the state; and
- (ii) to the extent permitted by federal law.

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

- (i) a state tax imposed on the transaction at a rate of 4.75%; and
- (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

transaction under this chapter other than this part.

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

- (i) a state tax imposed on the transaction at a rate of 2%; and
- (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

transaction under this chapter other than this part.

(c) Subject to Subsections (2)(d) and (e), a tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

- (i) Subsection (2)(a)(i); or
- (ii) Subsection (2)(b)(i).

(d) (i) For a transaction described in Subsection (2)(d)(iii), a tax rate increase shall take effect on the first day of the first billing period:

- (A) that begins after the effective date of the tax rate increase; and
- (B) if the billing period for the transaction begins before the effective date of a tax rate

increase imposed under:

- (I) Subsection (2)(a)(i); or
- (II) Subsection (2)(b)(i).

(ii) For a transaction described in Subsection (2)(d)(iii), a tax rate decrease shall take effect on the first day of the last billing period:

- (A) that began before the effective date of the tax rate decrease; and
- (B) if the billing period for the transaction begins before the effective date of a tax rate

decrease imposed under:

- (I) Subsection (2)(a)(i); or
- (II) Subsection (2)(b)(i).
- (iii) Subsections (2)(d)(i) and (ii) apply to transactions subject to a tax under:
 - (A) Subsection (1)(b);
 - (B) Subsection (1)(c);
 - (C) Subsection (1)(d);
 - (D) Subsection (1)(e);
 - (E) Subsection (1)(f);
 - (F) Subsection (1)(g);
 - (G) Subsection (1)(h);
 - (H) Subsection (1)(i);
 - (I) Subsection (1)(j); or
 - (J) Subsection (1)(k).

(e) (i) If a tax due under Subsection (2)(a)(i) on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a change in a tax rate imposed under Subsection (2)(a)(i) takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate change under Subsection (2)(a)(i).

(ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) Except as provided in Subsections (4) through [~~(7) and (9)~~] (8), the following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i); or
- (ii) the tax imposed by Subsection (2)(b)(i).

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

(4) (a) (i) Notwithstanding Subsection (3)(a) and except as provided in Subsection [~~(9)~~]
(8), for fiscal year 2002-03 only, the lesser of the following amounts shall be transferred or
deposited as provided in Subsections (4)(a)(ii) through (vii):

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

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

(II) for fiscal year 2002-03; or

(B) \$18,743,000.

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

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

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

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

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

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

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

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

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

(iv) (A) For fiscal year 2002-03 only, \$100,000 of the amount described in Subsection (4)(a)(i) shall be transferred as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

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

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

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

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

(v) (A) For fiscal year 2002-03 only, 50% of the amount described in Subsection (4)(a)(i) that remains after making the transfers and deposits required by Subsections (4)(a)(ii) through (iv) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

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

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

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

(III) fund state required dam safety improvements; and

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

(vi) For fiscal year 2002-03 only, 25% of the amount described in Subsection (4)(a)(i) that remains after making the transfers and deposits required by Subsections (4)(a)(ii) through (iv) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(vii) For fiscal year 2002-03 only, 25% of the amount described in Subsection (4)(a)(i) that remains after making the transfers and deposits required by Subsections (4)(a)(ii) through (iv) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

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

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

(C) develop surface water sources.

(b) (i) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)(ii) through (vii):

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

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

(II) for the fiscal year; or

(B) \$17,500,000.

(ii) (A) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(b)(i) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

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

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

(B) Money transferred to the Department of Natural Resources under Subsection

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

(C) At the end of each fiscal year:

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

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

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

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

(iv) (A) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(b)(i) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(B) At the end of each fiscal year:

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

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

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

(v) (A) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(b)(i) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

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

Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

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

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

(III) fund state required dam safety improvements; and

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

(vi) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(b)(i) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(vii) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(b)(i) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

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

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

(C) develop surface water sources.

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

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

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

(II) for the fiscal year; or

(B) \$18,743,000.

(ii) (A) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection (5)(a)(i) shall be deposited in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

(B) At least 50% of the money deposited in the Transportation Corridor Preservation Revolving Loan Fund under Subsection (5)(a)(ii)(A) shall be used to fund loan applications made by the Department of Transportation at the request of local governments.

(iii) For fiscal year 2002-03 only, \$500,000 of the amount described in Subsection (5)(a)(i) shall be transferred as nonlapsing dedicated credits to the Department of Transportation for the State Park Access Highways Improvement Program created in Section 72-3-207.

(iv) For fiscal year 2002-03 only, the amount described in Subsection (5)(a)(i) that remains after making the transfers and deposits required by Subsections (5)(a)(ii) and (iii) shall be deposited in the class B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

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

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

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

(II) for the fiscal year; or

(B) \$18,743,000.

(ii) (A) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (5)(b)(i) shall be deposited each year in the Transportation Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

(B) At least 50% of the money deposited in the Transportation Corridor Preservation Revolving Loan Fund under Subsection (5)(b)(ii)(A) shall be used to fund loan applications made by the Department of Transportation at the request of local governments.

(iii) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (5)(b)(i) shall be transferred each year as nonlapsing dedicated credits to the Department of Transportation for the State Park Access Highways Improvement Program created in Section 72-3-207.

(iv) For a fiscal year beginning on or after July 1, 2003, 94% of the amount described in Subsection (5)(b)(i) shall be deposited in the class B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation Finances Act, for the use of class B and C roads.

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

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

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

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

~~[(8) (a) For purposes of amounts paid or charged as admission or user fees relating to the Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the day on which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a person designated by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 sends a purchaser confirmation of the purchase of an admission or user fee described in Subsection (1)(f).]~~

~~[(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules defining what constitutes sending a purchaser confirmation under Subsection (8)(a).]~~

~~[(9)]~~ (8) (a) For fiscal year 2002-03 only, the following amounts shall be subtracted from the total amount required to be deposited or transferred in accordance with Subsection (4):

(i) \$25,000 shall be subtracted from the total amount required to be transferred to the Division of Water Rights in accordance with Subsection (4)(a)(iv);

(ii) \$385,000 shall be subtracted from the total amount required to be deposited into the Agriculture Resource Development Fund in accordance with Subsection (4)(a)(iii);

(iii) \$350,000 shall be subtracted from the total amount required to be transferred to the Department of Natural Resources in accordance with Subsection (4)(a)(ii);

(iv) \$3,012,500 shall be subtracted from the total amount required to be deposited into the Drinking Water Loan Program Subaccount in accordance with Subsection (4)(a)(vii);

(v) \$3,012,500 shall be subtracted from the total amount required to be deposited into the Utah Wastewater Loan Program Subaccount in accordance with Subsection (4)(a)(vi); and

(vi) \$5,715,000 shall be subtracted from the total amount required to be deposited into the Water Resources Conservation and Development Fund in accordance with Subsection (4)(a)(v).

(b) The amounts subtracted under Subsection ~~[(9)]~~ (8)(a) shall be deposited into the General Fund.

Section 11. Section **59-12-104 (Effective 07/01/04)** is amended to read:

59-12-104 (Effective 07/01/04). Exemptions.

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

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

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

(a) construction materials except:

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

institutions of the public education system; and

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

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

(3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:

(i) the proceeds of each sale do not exceed \$1; and

(ii) the seller or operator of the vending machine reports an amount equal to 150% of the cost of the item described in Subsection (3)(a) as goods consumed; and

(b) Subsection (3)(a) applies to:

(i) food and food ingredients; or

(ii) prepared food;

(4) sales of the following to a commercial airline carrier for in-flight consumption:

(a) food and food ingredients;

(b) prepared food; or

(c) services related to Subsection (4)(a) or (b);

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

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

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

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

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

~~[(i) retail sales of Olympic merchandise;]~~

~~[(ii) except as provided in Subsection (50), admissions or user fees described in Subsection 59-12-103(1)(f);]~~

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

~~[(A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;]~~

~~[(B) exclusively used by:]~~

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

~~[(H) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and]~~

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

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

~~[(A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;]~~

~~[(B) exclusively used by:]~~

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

~~[(H) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and]~~

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

~~2002 does not receive reimbursement;]~~

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

(10) (a) amounts paid for an item described in Subsection (10)(b) if:

- (i) the item is intended for human use; and
- (ii) the purchaser presents a prescription for the item; and

(b) (i) Subsection (10)(a) applies to:

- (A) a drug;
- (B) a syringe; or
- (C) a stoma supply; and

(ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

- (A) "syringe"; or
- (B) "stoma supply";

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

(12) (a) sales of an item described in Subsection (12)(c) served by:

(i) the following if the item described in Subsection (12)(c) is not available to the general public:

- (A) a church; or
- (B) a charitable institution;
- (ii) an institution of higher education if:
 - (A) the item described in Subsection (12)(c) is not available to the general public; or
 - (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

offered by the institution of higher education; or

(b) sales of an item described in Subsection (12)(c) provided at:

- (i) a medical facility; or

- (ii) a nursing facility; and
- (c) Subsections (12)(a) and (b) apply to:
 - (i) food and food ingredients;
 - (ii) prepared food; or
 - (iii) alcoholic beverages;

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

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

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

- (i) machinery and equipment:
 - (A) used in the manufacturing process;
 - (B) having an economic life of three or more years; and
 - (C) used:
 - (I) to manufacture an item sold as tangible personal property; and
 - (II) in new or expanding operations in a manufacturing facility in the state; and
- (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
 - (A) have an economic life of three or more years;
 - (B) are used in the manufacturing process in a manufacturing facility in the state;
 - (C) are used to replace or adapt an existing machine to extend the normal estimated

useful life of the machine; and

- (D) do not include repairs and maintenance;
- (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
 - (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in Subsection (14)(a)(ii) is exempt;
 - (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described in

Subsection (14)(a)(ii) is exempt; and

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

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

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

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

(ii) include in its report:

(A) the cost of the exemptions;

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

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

(15) (a) sales of the following if the requirements of Subsection (15)(b) are met:

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in

Subsections (15)(a)(i) through (iv); and

(b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

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

(B) listing on a government-approved property record if placing a government identification tag on the tooling, equipment, or parts is impractical;

(16) intrastate movements of:

(a) freight by common carriers; or

(b) passengers:

(i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget, if the transportation originates and terminates within a county of the first, second, or third class; or

(iii) transported by the following described in SIC Code 4789 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget:

(A) a horse-drawn cab; or

(B) a horse-drawn carriage;

(17) sales of newspapers or newspaper subscriptions;

(18) (a) except as provided in Subsection (18)(b), tangible personal property traded in as full or part payment of the purchase price, except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

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

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

(b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the

following items of tangible personal property traded in as full or part payment of the purchase price:

- (i) money;
- (ii) electricity;
- (iii) water;
- (iv) gas; or
- (v) steam;

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

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

(A) machinery, equipment, materials, and supplies used in a manner that is incidental to farming, such as hand tools and maintenance and janitorial equipment and supplies;

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

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

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

- (b) sales of hay;

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

(22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

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

(24) property stored in the state for resale;

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

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

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

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

(29) purchases made in accordance with the special supplemental nutrition program for women, infants, and children established in 42 U.S.C. Sec. 1786;

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

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

(32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah where

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

(33) amounts paid for the purchase of telephone service for purposes of providing telephone service;

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

(35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

(36) (a) 45% of the sales price of any new manufactured home; and

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

(37) sales relating to schools and fundraising sales;

(38) sales or rentals of durable medical equipment if a person presents a prescription for the durable medical equipment;

(39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in Section 72-11-102; and

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

(40) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

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

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (40)(a) through (c);

(41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

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

(43) sales of cleaning or washing of tangible personal property by a coin-operated car wash machine;

(44) sales by the state or a political subdivision of the state, except state institutions of higher education as defined in Section 53B-3-102, of:

- (a) photocopies; or
 - (b) other copies of records held or maintained by the state or a political subdivision of the state;
- (45) (a) amounts paid:
- (i) to a person providing intrastate transportation to an employer's employee to or from the employee's primary place of employment;
 - (ii) by an:
 - (A) employee; or
 - (B) employer; and
 - (iii) pursuant to a written contract between:
 - (A) the employer; and
 - (B) (I) the employee; or
 - (II) a person providing transportation to the employer's employee; and
 - (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may for purposes of Subsection (45)(a) make rules defining what constitutes an employee's primary place of employment;
- (46) amounts paid for admission to an athletic event at an institution of higher education that is subject to the provisions of Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.;
- (47) sales of telephone service charged to a prepaid telephone calling card;
- (48) (a) sales of:
- (i) hearing aids;
 - (ii) hearing aid accessories; or
 - (iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations of hearing aids or hearing aid accessories; and
- (b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii), "parts" does not include batteries;
- (49) (a) sales made to or by:

- (i) an area agency on aging; or
- (ii) a senior citizen center owned by a county, city, or town; or
- (b) sales made by a senior citizen center that contracts with an area agency on aging;

~~[(50) (a) beginning on July 1, 2000, through June 30, 2002, amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f) relating to the Olympic Winter Games of 2002 if the amounts paid or charged are established by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 in accordance with requirements of the International Olympic Committee; and]~~

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

~~[(i) to the:]~~

~~[(A) Olympic Coordination Committee; and]~~

~~[(B) Revenue and Taxation Interim Committee; and]~~

~~[(ii) regarding the status of:]~~

~~[(A) agreements relating to the funding of public safety services for the Olympic Winter Games of 2002;]~~

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

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

~~[(D) other issues as requested by the Olympic Coordination Committee or the Revenue and Taxation Interim Committee; or]~~

~~[(E) a combination of Subsections (50)(b)(ii)(A) through (D);]~~

~~[(51)]~~ (50) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection ~~[(51)]~~ (50)(b), a sale or lease of semiconductor fabricating or processing materials regardless of whether the semiconductor fabricating or processing materials:

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

(b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease described in Subsection [~~(51)~~] (50)(a) is exempt;

(ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease described in Subsection [~~(51)~~] (50)(a) is exempt; and

(iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or lease described in Subsection [~~(51)~~] (50)(a) is exempt; and

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

(i) review the exemption described in this Subsection [~~(51)~~] (50) and make recommendations concerning whether the exemption should be continued, modified, or repealed; and

(ii) include in the review under this Subsection [~~(51)~~] (50)(c):

(A) the cost of the exemption;

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

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

[~~(52)~~] (51) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;

[~~(53)~~] (52) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;

[~~(54)~~] (53) sales or uses of electricity, if the sales or uses are:

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

(b) for an amount of electricity that is:

(i) unrelated to the amount of electricity used by the person purchasing the electricity under the tariff described in Subsection [~~(54)~~] (53)(a); and

(ii) equivalent to the number of kilowatthours specified in the tariff described in Subsection ~~[(54)]~~ (53)(a) that may be purchased under the tariff described in Subsection ~~[(54)]~~ (53)(a);

~~[(55)]~~ (54) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;

~~[(56)]~~ (55) sales of water in a:

- (a) pipe;
- (b) conduit;
- (c) ditch; or
- (d) reservoir;

~~[(57)]~~ (56) sales of currency or coinage that constitute legal tender of the United States or of a foreign nation;

~~[(58)]~~ (57) (a) sales of an item described in Subsection ~~[(58)]~~ (57)(b) if the item:

- (i) does not constitute legal tender of any nation; and
 - (ii) has a gold, silver, or platinum content of 80% or more; and
- (b) Subsection ~~[(58)]~~ (57)(a) applies to a gold, silver, or platinum:
- (i) ingot;
 - (ii) bar;
 - (iii) medallion; or
 - (iv) decorative coin;

~~[(59)]~~ (58) amounts paid on a sale-leaseback transaction; and

~~[(60)]~~ (59) sales of a prosthetic device:

- (a) for use on or in a human;
- (b) for which a prescription is issued; and
- (c) to a person that presents a prescription for the prosthetic device.

Section 12. Section **59-12-105 (Effective 07/01/04)** is amended to read:

59-12-105 (Effective 07/01/04). Certain exempt sales to be reported -- Penalties.

(1) (a) An owner or purchaser shall report to the commission the amount of sales or uses

exempt under Subsection 59-12-104(14), (39), (40), or [~~51~~] (50).

(b) The report required by Subsection (1)(a) shall be filed:

- (i) with the commission; and
- (ii) on a form prescribed by the commission.

(c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules providing:

(i) the information required to be included in the report described in Subsection (1)(a);
and

(ii) one or more due dates for filing the report described in Subsection (1)(a).

(2) Except as provided in Subsections (3) and (4), if the owner or purchaser fails to report the full amount of the exemptions granted under Subsection 59-12-104(14), (39), (40), or [~~51~~] (50) on the report required by Subsection (1)(a), the commission shall impose a penalty equal to the lesser of:

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

(b) \$1,000.

(3) Notwithstanding Subsection (2), the commission may not impose a penalty under Subsection (2) if the owner or purchaser files an amended report:

- (a) containing the amount of the exemption; and
- (b) before the owner or purchaser receives a notice of audit from the commission.

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

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

Section 13. Section **59-12-301 (Effective 07/01/04)** is amended to read:

59-12-301 (Effective 07/01/04). Transient room tax -- Rate -- Enactment or repeal

of tax -- Tax rate change -- Effective date -- Notice requirements.

(1) (a) Any county legislative body may impose a transient room tax not to exceed 3% of the rent for every occupancy of a suite or room:

(i) on the following entities doing business as motor courts, motels, hotels, inns, or providing similar public accommodations:

(A) a person;

(B) a company;

(C) a corporation; or

(D) a person, group, or organization similar to Subsections (1)(a)(i)(A) through (C); and

(ii) if the suite or room is regularly rented for less than 30 consecutive days.

(b) The revenues raised from the tax imposed under Subsection (1)(a) shall be used for the purposes listed in Section 17-31-2.

(c) The tax imposed under Subsection (1)(a) shall be in addition to the tourism, recreation, cultural, and convention tax imposed under Part 6, Tourism, Recreation, Cultural, and Convention Facilities Tax.

~~[(d) A county legislative body imposing a tax under this part shall impose the tax on the rents described in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for rents described in Subsection (1)(a):]~~

~~[(i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;]~~

~~[(ii) exclusively used by:]~~

~~[(A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or]~~

~~[(B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and]~~

~~[(iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement.]~~

(2) Subject to Subsection (3), a county legislative body:

(a) may increase or decrease the transient room tax; and

(b) shall regulate the transient room tax by ordinance.

(3) (a) For purposes of this Subsection (3):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (3)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b)(ii) from the county.

(ii) The notice described in Subsection (3)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

(B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (3)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection (3)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (3)(b)(i), for a transaction described in Subsection (3)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last

billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease;

and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (3)(c)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

(d) (i) Except as provided in Subsection (3)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or a change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (3)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (3)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (3)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (3)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (3)(d)(ii)(A), the rate of the tax.

(e) (i) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection (3)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase;

and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under this section.

(ii) Notwithstanding Subsection (3)(d)(i), for a transaction described in Subsection

(3)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under this section.

(iii) Subsections (3)(e)(i) and (ii) apply to transactions subject to a tax under Subsection 59-12-103(1)(i).

Section 14. Section **59-12-352** is amended to read:

59-12-352. Transient room tax authority for municipalities -- Purposes for which revenues may be used.

(1) ~~[(a)]~~ The governing body of a municipality may impose a transient room tax on the rents charged to transients occupying public accommodations in an amount that is less than or equal to 1% of the rents charged.

~~[(b) A governing body of a municipality imposing a tax under this section shall impose the tax on the rents described in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for rents described in Subsection (1)(a):]~~

~~[(i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;]~~

~~[(ii) exclusively used by:]~~

~~[(A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or]~~

~~[(B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and]~~

~~[(iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement:]~~

(2) Subject to the limitations of Subsection (1), a governing body of a municipality may,

by ordinance, increase or decrease the transient room tax under this part.

(3) A governing body of a municipality shall regulate the transient room tax under this part by ordinance.

(4) Revenues generated by the transient room tax under this part may be used for general fund purposes.

Section 15. Section **59-12-353** is amended to read:

59-12-353. Additional municipal transient room tax to repay bonded or other indebtedness.

(1) ~~[(a)]~~ Subject to the limitations of Subsection (2), the governing body of a municipality may, in addition to the municipal transient room tax authorized under Section 59-12-352, impose a transient room tax on the rents described in Subsection 59-12-352(1)~~[(a)]~~ in an amount that is less than or equal to 1/2% if the governing body of the municipality:

~~[(i)]~~ (a) before January 1, 1996, levied and collected a license fee or tax under Section 10-1-203; and

~~[(ii)]~~ (b) before January 1, 1997, took official action to obligate the municipality in reliance on the license fees or taxes under Subsection (1)(a)~~[(i)]~~ to the payment of debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement.

~~[(b) A governing body of a municipality imposing a tax under this section shall impose the tax on the rents described in Subsection 59-12-352(1)(a) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for rents described in Subsection 59-12-352(1)(a):]~~

~~[(i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;]~~

~~[(ii) exclusively used by:]~~

~~[(A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or]~~

~~[(B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and]~~

~~[(iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement.]~~

(2) The governing body of a municipality may impose the transient room tax under this section until the sooner of:

(a) the day on which the following have been paid in full:

(i) the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)~~[(a)(ii)]~~ (b); and

(ii) refunding obligations that the municipality incurred as a result of the debt service on bonds or other indebtedness, including lease payments under a lease purchase agreement described in Subsection (1)~~[(a)(ii)]~~ (b); or

(b) 25 years from the day on which the municipality levied the transient room tax under this section.

Section 16. Section **59-12-603 (Effective 07/01/04)** is amended to read:

59-12-603 (Effective 07/01/04). County tax -- Bases -- Rates -- Use of revenues -- Collection -- Adoption of ordinance required -- Administration -- Distribution -- Enactment or repeal of tax or tax rate change -- Effective date -- Notice requirements.

(1) In addition to any other taxes, a county legislative body may, as provided in this part, impose a tourism, recreation, cultural, and convention tax as follows:

(a) (i) a county legislative body of any county may impose a tax of not to exceed 3% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(ii) beginning on or after January 1, 1999, a county legislative body of any county imposing a tax under Subsection (1)(a)(i) may, in addition to imposing the tax under Subsection (1)(a)(i), impose a tax of not to exceed 4% on all short-term leases and rentals of motor vehicles not exceeding 30 days, except for leases and rentals of motor vehicles made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair or an insurance agreement;

(b) a county legislative body of any county may impose a tax of not to exceed 1% of all sales of prepared foods and beverages that are sold by restaurants; and

(c) a county legislative body of any county may impose a tax of not to exceed 1/2% of the rent for every occupancy of a suite or room:

(i) on the following entities doing business as motor courts, motels, hotels, inns, or providing similar public accommodations:

(A) a person;

(B) a company;

(C) a corporation; or

(D) a person, group, or organization similar to Subsections (1)(c)(i)(A) through (C); and

(ii) if the suite or room is regularly rented for less than 30 consecutive days.

(2) The revenue from the imposition of the taxes provided for in Subsections (1)(a) through (c) may be used for the purposes of financing tourism promotion, and the development, operation, and maintenance of tourist, recreation, cultural, and convention facilities as defined in Section 59-12-602.

(3) The tax imposed under Subsection (1)(c) shall be in addition to the transient room tax imposed under Part 3, Transient Room Tax, and may be imposed only by a county of the first class.

(4) (a) (i) Except as provided in Subsection (4)(a)(ii), a tax imposed under this part shall be levied at the same time and collected in the same manner as provided in Part 2, Local Sales and Use Tax Act.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-205(2) through (5).

(b) A tax imposed under this part may be pledged as security for bonds, notes, or other evidences of indebtedness incurred by a county under Title 11, Chapter 14, Utah Municipal Bond Act, to finance tourism, recreation, cultural, and convention facilities.

(5) (a) In order to impose the tax under Subsection (1), each county legislative body shall annually adopt an ordinance imposing the tax.

(b) ~~[(i)]~~ The ordinance under Subsection (5)(a) shall include provisions substantially the same as those contained in Part 1, Tax Collection, except that the tax shall be imposed only on those items and sales described in Subsection (1).

~~[(ii) A county legislative body imposing a tax under this part shall impose the tax as provided in this section on the leases, rentals, and sales described in Subsection (1) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for leases, rentals, and sales described in Subsection (1);]~~

~~[(A) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;]~~

~~[(B) exclusively used by:]~~

~~[(F) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or]~~

~~[(H) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and]~~

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

(c) The name of the county as the taxing agency shall be substituted for that of the state where necessary, and an additional license is not required if one has been or is issued under Section 59-12-106.

(6) In order to maintain in effect its tax ordinance adopted under this part, each county legislative body shall, within 30 days of any amendment of any applicable provisions of Part 1, Tax Collection, adopt amendments to its tax ordinance to conform with the applicable amendments to Part 1, Tax Collection.

(7) The commission shall:

(a) administer, collect, and enforce the tax authorized under this part pursuant to:

(i) the same procedures used to administer, collect, and enforce the sales and use tax under Part 1, Tax Collection; and

(ii) Chapter 1, General Taxation Policies;

(b) (i) except as provided in Subsection (7)(c), for a tax under this part other than the tax under Subsection (1)(a)(ii), distribute the revenues to the county imposing the tax; and

(ii) except as provided in Subsection (7)(c), for a tax under Subsection (1)(a)(ii), distribute the revenues according to the distribution formula provided in Subsection (8); and

(c) deduct from the distributions under Subsection (7)(b) an administrative charge for collecting the tax as provided in Section 59-12-206.

(8) The commission shall distribute the revenues generated by the tax under Subsection (1)(a)(ii) to each county collecting a tax under Subsection (1)(a)(ii) according to the following formula:

(a) the commission shall distribute 70% of the revenues based on the percentages generated by dividing the revenues collected by each county under Subsection (1)(a)(ii) by the total revenues collected by all counties under Subsection (1)(a)(ii); and

(b) the commission shall distribute 30% of the revenues based on the percentages generated by dividing the population of each county collecting a tax under Subsection (1)(a)(ii) by the total population of all counties collecting a tax under Subsection (1)(a)(ii).

(9) (a) For purposes of this Subsection (9):

(i) "Annexation" means an annexation to a county under Title 17, Chapter 2, Annexation to County.

(ii) "Annexing area" means an area that is annexed into a county.

(b) (i) Except as provided in Subsection (9)(c), if, on or after July 1, 2004, a county enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:

(A) on the first day of a calendar quarter; and

(B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(b)(ii) from the county.

(ii) The notice described in Subsection (9)(b)(i)(B) shall state:

(A) that the county will enact or repeal a tax or change the rate of a tax under this part;

- (B) the statutory authority for the tax described in Subsection (9)(b)(ii)(A);
- (C) the effective date of the tax described in Subsection (9)(b)(ii)(A); and
- (D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(b)(ii)(A), the rate of the tax.

(c) (i) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection (9)(c)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) Notwithstanding Subsection (9)(b)(i), for a transaction described in Subsection (9)(c)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(iii) Subsections (9)(c)(i) and (ii) apply to transactions subject to a tax under:

- (A) Subsection 59-12-103(1)(e);
- (B) Subsection 59-12-103(1)(i); or
- (C) Subsection 59-12-103(1)(k).

(d) (i) Except as provided in Subsection (9)(e), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:

- (A) on the first day of a calendar quarter; and
- (B) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (9)(d)(ii) from the county that annexes the annexing area.

(ii) The notice described in Subsection (9)(d)(i)(B) shall state:

(A) that the annexation described in Subsection (9)(d)(i) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(B) the statutory authority for the tax described in Subsection (9)(d)(ii)(A);

(C) the effective date of the tax described in Subsection (9)(d)(ii)(A); and

(D) if the county enacts the tax or changes the rate of the tax described in Subsection (9)(d)(ii)(A), the rate of the tax described in Subsection (9)(d)(ii)(A).

(e) (i) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the enactment of a tax or a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the enactment of the tax or the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Subsection (1).

(ii) Notwithstanding Subsection (9)(d)(i), for a transaction described in Subsection (9)(e)(iii), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(iii) Subsections (9)(e)(i) and (ii) apply to transactions subject to a tax under:

(A) Subsection 59-12-103(1)(e);

(B) Subsection 59-12-103(1)(i); or

(C) Subsection 59-12-103(1)(k).

Section 17. Section **59-12-1201** is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Collection -- Deposits.

(1) (a) Except as provided under Subsection (2), there is imposed a tax of 2.5% on all

short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

~~[(c) A tax under this part shall be imposed on the short-term leases and rentals described in Subsection (1)(a) relating to the Olympic Winter Games of 2002 made to or by an organization exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code, except for short-term leases and rentals described in Subsection (1)(a):]~~

~~[(i) paid for in full by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002;]~~

~~[(ii) exclusively used by:]~~

~~[(A) an officer, a trustee, or an employee of the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; or]~~

~~[(B) a volunteer supervised by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002; and]~~

~~[(iii) for which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 does not receive reimbursement:]~~

(2) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an insurance agreement.

(3) (a) The commission shall administer, collect, and enforce the tax authorized under this section pursuant to the same procedures used in the administration, collection, and enforcement of the sales and use tax under Title 59, Chapter 12, Part 1, Tax Collection, and Title 59, Chapter 1, General Taxation Policies.

(b) The commission may retain a maximum of 1-1/2% of the tax collected under this section for the costs of rendering its services under this section.

(c) Except as provided under Subsection (3)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section 72-2-117.

(4) The tax under this section is not subject to the distribution of tax revenues provided under Sections 59-12-205 and 59-12-103.

Section 18. Section **63-55b-163** is amended to read:

63-55b-163. Repeal dates, Title 63.

(1) Section 63-38a-105 is repealed July 1, 2007.

~~[(2) Section 63-56-35.9 is repealed July 1, 2005.]~~

~~[(3)]~~ (2) Sections 63-63b-101 and 63-63b-102 are repealed on July 1, 2007.

~~[(4)]~~ (3) Title 63, Chapter 95, Parts 2 and 3 are repealed July 1, 2004.

Section 19. Section **67-22-2** is amended to read:

67-22-2. Compensation -- Other state officers.

(1) The governor shall establish salaries for the following state officers within the following salary ranges fixed by the Legislature:

| State Officer | Salary Range |
|--------------------------------------|---------------------|
| Commissioner of Agriculture and Food | \$64,600 - \$87,500 |
| Commissioner of Insurance | \$64,600 - \$87,500 |
| Commissioner of the Labor Commission | \$64,600 - \$87,500 |
| Director, Alcoholic Beverage Control | |
| Commission | \$64,600 - \$87,500 |
| Commissioner, Department of | |
| Financial Institutions | \$64,600 - \$87,500 |
| Members, Board of Pardons and Parole | \$64,600 - \$87,500 |
| Executive Director, Department | |
| of Commerce | \$64,600 - \$87,500 |
| Executive Director, Commission on | |
| Criminal and Juvenile Justice | \$64,600 - \$87,500 |

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| Adjutant General | \$64,600 - \$87,500 |
| Chair, Tax Commission | \$69,900 - \$94,300 |
| Commissioners, Tax Commission | \$69,900 - \$94,300 |
| Executive Director, Department of Community and Economic Development | \$69,900 - \$94,300 |
| Executive Director, Tax Commission | \$69,900 - \$94,300 |
| Chair, Public Service Commission | \$69,900 - \$94,300 |
| Commissioner, Public Service Commission | \$69,900 - \$94,300 |
| Executive Director, Department of Corrections | \$76,000 - \$102,600 |
| Commissioner, Department of Public Safety | \$76,000 - \$102,600 |
| Executive Director, Department of Natural Resources | \$76,000 - \$102,600 |
| Director, Governor's Office of Planning and Budget | \$76,000 - \$102,600 |
| Executive Director, Department of Administrative Services | \$76,000 - \$102,600 |
| Executive Director, Department of Human Resource Management | \$76,000 - \$102,600 |
| Executive Director, Department of Environmental Quality | \$76,000 - \$102,600 |
| [State Olympic Officer | \$82,800 - \$111,800] |
| Executive Director, Department of Workforce Services | \$82,800 - \$111,800 |
| Executive Director, Department of Health | \$82,800 - \$111,800 |
| Executive Director, Department | |

| | |
|--------------------------------|----------------------|
| of Human Services | \$82,800 - \$111,800 |
| Executive Director, Department | |
| of Transportation | \$82,800 - \$111,800 |
| Chief Information Officer | \$82,800 - \$111,800 |

(2) (a) The Legislature fixes benefits for the state offices outlined in Subsection (1) as follows:

(i) the option of participating in a state retirement system established by Title 49, Utah State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered by the State Retirement Office in accordance with the Internal Revenue Code and its accompanying rules and regulations;

(ii) health insurance;

(iii) dental insurance;

(iv) basic life insurance;

(v) unemployment compensation;

(vi) workers' compensation;

(vii) required employer contribution to Social Security;

(viii) long-term disability income insurance;

(ix) the same additional state-paid life insurance available to other noncareer service employees;

(x) the same severance pay available to other noncareer service employees;

(xi) the same sick leave, converted sick leave, educational allowances, and holidays granted to Schedule B state employees, and the same annual leave granted to Schedule B state employees with more than ten years of state service;

(xii) the option to convert accumulated sick leave to cash or insurance benefits as provided by law or rule upon resignation or retirement according to the same criteria and procedures applied to Schedule B state employees;

(xiii) the option to purchase additional life insurance at group insurance rates according to the same criteria and procedures applied to Schedule B state employees; and

(xiv) professional memberships if being a member of the professional organization is a requirement of the position.

(b) Each department shall pay the cost of additional state-paid life insurance for its executive director from its existing budget.

(3) The Legislature fixes the following additional benefits:

(a) for the executive director of the State Tax Commission a vehicle for official and personal use;

(b) for the executive director of the Department of Transportation a vehicle for official and personal use;

(c) for the executive director of the Department of Natural Resources a vehicle for commute and official use;

(d) for the Commissioner of Public Safety:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(e) for the executive director of the Department of Corrections:

(i) an accidental death insurance policy if POST certified; and

(ii) a public safety vehicle for official and personal use;

(f) for the Adjutant General a vehicle for official and personal use; and

(g) for each member of the Board of Pardons and Parole a vehicle for commute and official use.

(4) (a) The governor has the discretion to establish a specific salary for each office listed in Subsection (1), and, within that discretion, may provide salary increases within the range fixed by the Legislature.

(b) The governor shall apply the same overtime regulations applicable to other FLSA exempt positions.

(c) The governor may develop standards and criteria for reviewing the performance of the state officers listed in Subsection (1).

(5) Salaries for other Schedule A employees, as defined in Section 67-19-15, which are

not provided for in this chapter, or in Title 67, Chapter 8, Utah Executive and Judicial Salary Act, shall be established as provided in Section 67-19-15.

Section 20. Repealer.

This bill repeals:

Section 63-56-35.9, Purchase of tangible assets used during Olympics.

Section 21. Effective date.

This bill takes effect on July 1, 2004, except that Section 59-1-403 (Contingently Effective 05/02/05) takes effect when Section 59-1-403 (Contingently Effective 05/02/05) takes effect under Laws of Utah 2003, Chapter 327.