

SALES AND USE TAX REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill enacts sales and use tax exemptions.

Highlighted Provisions:

This bill:

- ▶ enacts a sales and use tax exemption for certain sales or leases if the ownership of the seller and the ownership of the purchaser are identical or the ownership of the lessor and the ownership of the lessee are identical;
- ▶ enacts a sales and use tax exemption for certain purchases of machinery and equipment if a certain percentage of the purchaser's sales revenues are certain admission or user fees subject to sales and use taxation;
- ▶ grants rulemaking authority to the State Tax Commission;
- ▶ requires the State Tax Commission to report to the Revenue and Taxation Interim Committee; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2013.

Utah Code Sections Affected:

AMENDS:

59-12-104, as last amended by Laws of Utah 2012, Chapters 255, 399, 405, and 410

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

Section 1. Section **59-12-104** is amended to read:

59-12-104. 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

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

34 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
35 subdivisions; however, this exemption does not apply to sales of:

36 (a) construction materials except:

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

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

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

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

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

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

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

52 (i) food and food ingredients; or

53 (ii) prepared food;

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

55 (i) alcoholic beverages;

56 (ii) food and food ingredients; or

57 (iii) prepared food;

58 (b) sales of tangible personal property or a product transferred electronically:

59 (i) to a passenger;

60 (ii) by a commercial airline carrier; and

61 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

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

63 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts

64 and equipment:

65 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
66 North American Industry Classification System of the federal Executive Office of the
67 President, Office of Management and Budget; and

68 (II) for:

69 (Aa) installation in an aircraft, including services relating to the installation of parts or
70 equipment in the aircraft;

71 (Bb) renovation of an aircraft; or

72 (Cc) repair of an aircraft; or

73 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
74 commerce; or

75 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
76 aircraft operated by a common carrier in interstate or foreign commerce; and

77 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
78 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
79 refund:

80 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

81 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

82 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
83 the sale prior to filing for the refund;

84 (iv) for sales and use taxes paid under this chapter on the sale;

85 (v) in accordance with Section 59-1-1410; and

86 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
87 the person files for the refund on or before September 30, 2011;

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

91 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
92 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
93 washing of tangible personal property;

94 (b) if a seller that sells at the same business location assisted cleaning or washing of

95 tangible personal property and cleaning or washing of tangible personal property that is not
96 assisted cleaning or washing of tangible personal property, the exemption described in
97 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
98 or washing of the tangible personal property; and

99 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
100 Utah Administrative Rulemaking Act, the commission may make rules:

101 (i) governing the circumstances under which sales are at the same business location;
102 and

103 (ii) establishing the procedures and requirements for a seller to separately account for
104 sales of assisted cleaning or washing of tangible personal property;

105 (8) sales made to or by religious or charitable institutions in the conduct of their regular
106 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
107 fulfilled;

108 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
109 this state if the vehicle is:

110 (a) not registered in this state; and

111 (b) (i) not used in this state; or

112 (ii) used in this state:

113 (A) if the vehicle is not used to conduct business, for a time period that does not
114 exceed the longer of:

115 (I) 30 days in any calendar year; or

116 (II) the time period necessary to transport the vehicle to the borders of this state; or

117 (B) if the vehicle is used to conduct business, for the time period necessary to transport
118 the vehicle to the borders of this state;

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

120 (i) the item is intended for human use; and

121 (ii) (A) a prescription was issued for the item; or

122 (B) the item was purchased by a hospital or other medical facility; and

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

124 (A) a drug;

125 (B) a syringe; or

- 126 (C) a stoma supply; and
- 127 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 128 commission may by rule define the terms:
- 129 (A) "syringe"; or
- 130 (B) "stoma supply";
- 131 (11) sales or use of property, materials, or services used in the construction of or
- 132 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 133 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 134 (i) the following if the item described in Subsection (12)(c) is not available to the
- 135 general public:
- 136 (A) a church; or
- 137 (B) a charitable institution;
- 138 (ii) an institution of higher education if:
- 139 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 140 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 141 offered by the institution of higher education; or
- 142 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 143 (i) a medical facility; or
- 144 (ii) a nursing facility; and
- 145 (c) Subsections (12)(a) and (b) apply to:
- 146 (i) food and food ingredients;
- 147 (ii) prepared food; or
- 148 (iii) alcoholic beverages;
- 149 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 150 or a product transferred electronically by a person:
- 151 (i) regardless of the number of transactions involving the sale of that tangible personal
- 152 property or product transferred electronically by that person; and
- 153 (ii) not regularly engaged in the business of selling that type of tangible personal
- 154 property or product transferred electronically;
- 155 (b) this Subsection (13) does not apply if:
- 156 (i) the sale is one of a series of sales of a character to indicate that the person is

157 regularly engaged in the business of selling that type of tangible personal property or product
158 transferred electronically;

159 (ii) the person holds that person out as regularly engaged in the business of selling that
160 type of tangible personal property or product transferred electronically;

161 (iii) the person sells an item of tangible personal property or product transferred
162 electronically that the person purchased as a sale that is exempt under Subsection (25); or

163 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
164 this state in which case the tax is based upon:

165 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
166 sold; or

167 (B) in the absence of a bill of sale or other written evidence of value, the fair market
168 value of the vehicle or vessel being sold at the time of the sale as determined by the
169 commission; and

170 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
171 commission shall make rules establishing the circumstances under which:

172 (i) a person is regularly engaged in the business of selling a type of tangible personal
173 property or product transferred electronically;

174 (ii) a sale of tangible personal property or a product transferred electronically is one of
175 a series of sales of a character to indicate that a person is regularly engaged in the business of
176 selling that type of tangible personal property or product transferred electronically; or

177 (iii) a person holds that person out as regularly engaged in the business of selling a type
178 of tangible personal property or product transferred electronically;

179 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after
180 July 1, 2006, for a purchase or lease by a manufacturing facility except for a cogeneration
181 facility, of the following:

182 (i) machinery and equipment that:

183 (A) are used:

184 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
185 recycler described in Subsection 59-12-102(60)(b):

186 (Aa) in the manufacturing process;

187 (Bb) to manufacture an item sold as tangible personal property; and

188 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
189 (14)(a)(i)(A)(I) in the state; or
190 (II) for a manufacturing facility that is a scrap recycler described in Subsection
191 59-12-102(60)(b):
192 (Aa) to process an item sold as tangible personal property; and
193 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
194 (14)(a)(i)(A)(II) in the state; and
195 (B) have an economic life of three or more years; and
196 (ii) normal operating repair or replacement parts that:
197 (A) have an economic life of three or more years; and
198 (B) are used:
199 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
200 recycler described in Subsection 59-12-102(60)(b):
201 (Aa) in the manufacturing process; and
202 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
203 state; or
204 (II) for a manufacturing facility that is a scrap recycler described in Subsection
205 59-12-102(60)(b):
206 (Aa) to process an item sold as tangible personal property; and
207 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
208 state;
209 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
210 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
211 of the following:
212 (i) machinery and equipment that:
213 (A) are used:
214 (I) in the manufacturing process;
215 (II) to manufacture an item sold as tangible personal property; and
216 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
217 (14)(b) in the state; and
218 (B) have an economic life of three or more years; and

- 219 (ii) normal operating repair or replacement parts that:
- 220 (A) are used:
- 221 (I) in the manufacturing process; and
- 222 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
- 223 (B) have an economic life of three or more years;
- 224 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
- 225 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
- 226 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
- 227 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
- 228 of the 2002 North American Industry Classification System of the federal Executive Office of
- 229 the President, Office of Management and Budget, of the following:
- 230 (i) machinery and equipment that:
- 231 (A) are used:
- 232 (I) (Aa) in the production process, other than the production of real property; or
- 233 (Bb) in research and development; and
- 234 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
- 235 in the state; and
- 236 (B) have an economic life of three or more years; and
- 237 (ii) normal operating repair or replacement parts that:
- 238 (A) have an economic life of three or more years; and
- 239 (B) are used in:
- 240 (I) (Aa) the production process, except for the production of real property; and
- 241 (Bb) an establishment described in this Subsection (14)(c) in the state; or
- 242 (II) (Aa) research and development; and
- 243 (Bb) in an establishment described in this Subsection (14)(c) in the state;
- 244 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
- 245 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
- 246 Search Portals, of the 2002 North American Industry Classification System of the federal
- 247 Executive Office of the President, Office of Management and Budget, of the following:
- 248 (A) machinery and equipment that:
- 249 (I) are used in the operation of the web search portal;

250 (II) have an economic life of three or more years; and
251 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
252 in the state; and
253 (B) normal operating repair or replacement parts that:
254 (I) are used in the operation of the web search portal;
255 (II) have an economic life of three or more years; and
256 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
257 in the state; or
258 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
259 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
260 American Industry Classification System of the federal Executive Office of the President,
261 Office of Management and Budget, of the following:
262 (A) machinery and equipment that:
263 (I) are used in the operation of the web search portal; and
264 (II) have an economic life of three or more years; and
265 (B) normal operating repair or replacement parts that:
266 (I) are used in the operation of the web search portal; and
267 (II) have an economic life of three or more years;
268 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
269 Utah Administrative Rulemaking Act, the commission:
270 (i) shall by rule define the term "establishment"; and
271 (ii) may by rule define what constitutes:
272 (A) processing an item sold as tangible personal property;
273 (B) the production process, except for the production of real property;
274 (C) research and development; or
275 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and
276 (f) on or before October 1, 2011, and every five years after October 1, 2011, the
277 commission shall:
278 (i) review the exemptions described in this Subsection (14) and make
279 recommendations to the Revenue and Taxation Interim Committee concerning whether the
280 exemptions should be continued, modified, or repealed; and

- 281 (ii) include in its report:
- 282 (A) an estimate of the cost of the exemptions;
- 283 (B) the purpose and effectiveness of the exemptions; and
- 284 (C) the benefits of the exemptions to the state;
- 285 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 286 (i) tooling;
- 287 (ii) special tooling;
- 288 (iii) support equipment;
- 289 (iv) special test equipment; or
- 290 (v) parts used in the repairs or renovations of tooling or equipment described in
- 291 Subsections (15)(a)(i) through (iv); and
- 292 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 293 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 294 performance of any aerospace or electronics industry contract with the United States
- 295 government or any subcontract under that contract; and
- 296 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 297 title to the tooling, equipment, or parts is vested in the United States government as evidenced
- 298 by:
- 299 (A) a government identification tag placed on the tooling, equipment, or parts; or
- 300 (B) listing on a government-approved property record if placing a government
- 301 identification tag on the tooling, equipment, or parts is impractical;
- 302 (16) sales of newspapers or newspaper subscriptions;
- 303 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
- 304 product transferred electronically traded in as full or part payment of the purchase price, except
- 305 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
- 306 trade-ins are limited to other vehicles only, and the tax is based upon:
- 307 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
- 308 vehicle being traded in; or
- 309 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
- 310 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
- 311 commission; and

312 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
313 following items of tangible personal property or products transferred electronically traded in as
314 full or part payment of the purchase price:

315 (i) money;

316 (ii) electricity;

317 (iii) water;

318 (iv) gas; or

319 (v) steam;

320 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
321 or a product transferred electronically used or consumed primarily and directly in farming
322 operations, regardless of whether the tangible personal property or product transferred
323 electronically:

324 (A) becomes part of real estate; or

325 (B) is installed by a:

326 (I) farmer;

327 (II) contractor; or

328 (III) subcontractor; or

329 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
330 product transferred electronically if the tangible personal property or product transferred
331 electronically is exempt under Subsection (18)(a)(i); and

332 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
333 subject to the taxes imposed by this chapter:

334 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
335 incidental to farming:

336 (I) machinery;

337 (II) equipment;

338 (III) materials; or

339 (IV) supplies; and

340 (B) tangible personal property that is considered to be used in a manner that is
341 incidental to farming includes:

342 (I) hand tools; or

- 343 (II) maintenance and janitorial equipment and supplies;
- 344 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
- 345 transferred electronically if the tangible personal property or product transferred electronically
- 346 is used in an activity other than farming; and
- 347 (B) tangible personal property or a product transferred electronically that is considered
- 348 to be used in an activity other than farming includes:
- 349 (I) office equipment and supplies; or
- 350 (II) equipment and supplies used in:
- 351 (Aa) the sale or distribution of farm products;
- 352 (Bb) research; or
- 353 (Cc) transportation; or
- 354 (iii) a vehicle required to be registered by the laws of this state during the period
- 355 ending two years after the date of the vehicle's purchase;
- 356 (19) sales of hay;
- 357 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 358 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 359 garden, farm, or other agricultural produce is sold by:
- 360 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
- 361 agricultural produce;
- 362 (b) an employee of the producer described in Subsection (20)(a); or
- 363 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 364 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 365 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 366 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 367 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 368 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 369 manufacturer, processor, wholesaler, or retailer;
- 370 (23) a product stored in the state for resale;
- 371 (24) (a) purchases of a product if:
- 372 (i) the product is:
- 373 (A) purchased outside of this state;

374 (B) brought into this state:
375 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
376 (II) by a nonresident person who is not living or working in this state at the time of the
377 purchase;
378 (C) used for the personal use or enjoyment of the nonresident person described in
379 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
380 (D) not used in conducting business in this state; and
381 (ii) for:
382 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
383 the product for a purpose for which the product is designed occurs outside of this state;
384 (B) a boat, the boat is registered outside of this state; or
385 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
386 outside of this state;
387 (b) the exemption provided for in Subsection (24)(a) does not apply to:
388 (i) a lease or rental of a product; or
389 (ii) a sale of a vehicle exempt under Subsection (33); and
390 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
391 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
392 following:
393 (i) conducting business in this state if that phrase has the same meaning in this
394 Subsection (24) as in Subsection (63);
395 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
396 as in Subsection (63); or
397 (iii) a purpose for which a product is designed if that phrase has the same meaning in
398 this Subsection (24) as in Subsection (63);
399 (25) a product purchased for resale in this state, in the regular course of business, either
400 in its original form or as an ingredient or component part of a manufactured or compounded
401 product;
402 (26) a product upon which a sales or use tax was paid to some other state, or one of its
403 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
404 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if

405 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
406 Act;

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

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

411 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,
412 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
413 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
414 Manual of the federal Executive Office of the President, Office of Management and Budget;

415 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
416 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

417 (a) not registered in this state; and

418 (b) (i) not used in this state; or

419 (ii) used in this state:

420 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
421 time period that does not exceed the longer of:

422 (I) 30 days in any calendar year; or

423 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
424 the borders of this state; or

425 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
426 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
427 state;

428 (31) sales of aircraft manufactured in Utah;

429 (32) amounts paid for the purchase of telecommunications service for purposes of
430 providing telecommunications service;

431 (33) sales, leases, or uses of the following:

432 (a) a vehicle by an authorized carrier; or

433 (b) tangible personal property that is installed on a vehicle:

434 (i) sold or leased to or used by an authorized carrier; and

435 (ii) before the vehicle is placed in service for the first time;

- 436 (34) (a) 45% of the sales price of any new manufactured home; and
437 (b) 100% of the sales price of any used manufactured home;
438 (35) sales relating to schools and fundraising sales;
439 (36) sales or rentals of durable medical equipment if:
440 (a) a person presents a prescription for the durable medical equipment; and
441 (b) the durable medical equipment is used for home use only;
442 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
443 Section 72-11-102; and
444 (b) the commission shall by rule determine the method for calculating sales exempt
445 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
446 (38) sales to a ski resort of:
447 (a) snowmaking equipment;
448 (b) ski slope grooming equipment;
449 (c) passenger ropeways as defined in Section 72-11-102; or
450 (d) parts used in the repairs or renovations of equipment or passenger ropeways
451 described in Subsections (38)(a) through (c);
452 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
453 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
454 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
455 59-12-102;
456 (b) if a seller that sells or rents at the same business location the right to use or operate
457 for amusement, entertainment, or recreation one or more unassisted amusement devices and
458 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
459 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
460 amusement, entertainment, or recreation for the assisted amusement devices; and
461 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
462 Utah Administrative Rulemaking Act, the commission may make rules:
463 (i) governing the circumstances under which sales are at the same business location;
464 and
465 (ii) establishing the procedures and requirements for a seller to separately account for
466 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for

467 assisted amusement devices;

468 (41) (a) sales of photocopies by:

469 (i) a governmental entity; or

470 (ii) an entity within the state system of public education, including:

471 (A) a school; or

472 (B) the State Board of Education; or

473 (b) sales of publications by a governmental entity;

474 (42) amounts paid for admission to an athletic event at an institution of higher

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

476 20 U.S.C. Sec. 1681 et seq.;

477 (43) (a) sales made to or by:

478 (i) an area agency on aging; or

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

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

481 (44) sales or leases of semiconductor fabricating, processing, research, or development

482 materials regardless of whether the semiconductor fabricating, processing, research, or

483 development materials:

484 (a) actually come into contact with a semiconductor; or

485 (b) ultimately become incorporated into real property;

486 (45) an amount paid by or charged to a purchaser for accommodations and services

487 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

488 59-12-104.2;

489 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

490 sports event registration certificate in accordance with Section 41-3-306 for the event period

491 specified on the temporary sports event registration certificate;

492 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted

493 by the Public Service Commission of Utah only for purchase of electricity produced from a

494 new alternative energy source, as designated in the tariff by the Public Service Commission of

495 Utah; and

496 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a

497 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under

498 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
499 (48) sales or rentals of mobility enhancing equipment if a person presents a
500 prescription for the mobility enhancing equipment;
501 (49) sales of water in a:
502 (a) pipe;
503 (b) conduit;
504 (c) ditch; or
505 (d) reservoir;
506 (50) sales of currency or coins that constitute legal tender of a state, the United States,
507 or a foreign nation;
508 (51) (a) sales of an item described in Subsection (51)(b) if the item:
509 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
510 (ii) has a gold, silver, or platinum content of 50% or more; and
511 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
512 (i) ingot;
513 (ii) bar;
514 (iii) medallion; or
515 (iv) decorative coin;
516 (52) amounts paid on a sale-leaseback transaction;
517 (53) sales of a prosthetic device:
518 (a) for use on or in a human; and
519 (b) (i) for which a prescription is required; or
520 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
521 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
522 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
523 or equipment is primarily used in the production or postproduction of the following media for
524 commercial distribution:
525 (i) a motion picture;
526 (ii) a television program;
527 (iii) a movie made for television;
528 (iv) a music video;

- 529 (v) a commercial;
- 530 (vi) a documentary; or
- 531 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
532 commission by administrative rule made in accordance with Subsection (54)(d); or
- 533 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
534 equipment by an establishment described in Subsection (54)(c) that is used for the production
535 or postproduction of the following are subject to the taxes imposed by this chapter:
- 536 (i) a live musical performance;
- 537 (ii) a live news program; or
- 538 (iii) a live sporting event;
- 539 (c) the following establishments listed in the 1997 North American Industry
540 Classification System of the federal Executive Office of the President, Office of Management
541 and Budget, apply to Subsections (54)(a) and (b):
- 542 (i) NAICS Code 512110; or
- 543 (ii) NAICS Code 51219; and
- 544 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
545 commission may by rule:
- 546 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
547 or
- 548 (ii) define:
- 549 (A) "commercial distribution";
- 550 (B) "live musical performance";
- 551 (C) "live news program"; or
- 552 (D) "live sporting event";
- 553 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
554 on or before June 30, 2027, of tangible personal property that:
- 555 (i) is leased or purchased for or by a facility that:
- 556 (A) is an alternative energy electricity production facility;
- 557 (B) is located in the state; and
- 558 (C) (I) becomes operational on or after July 1, 2004; or
- 559 (II) has its generation capacity increased by one or more megawatts on or after July 1,

560 2004, as a result of the use of the tangible personal property;

561 (ii) has an economic life of five or more years; and

562 (iii) is used to make the facility or the increase in capacity of the facility described in

563 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

564 transmission grid including:

565 (A) a wind turbine;

566 (B) generating equipment;

567 (C) a control and monitoring system;

568 (D) a power line;

569 (E) substation equipment;

570 (F) lighting;

571 (G) fencing;

572 (H) pipes; or

573 (I) other equipment used for locating a power line or pole; and

574 (b) this Subsection (55) does not apply to:

575 (i) tangible personal property used in construction of:

576 (A) a new alternative energy electricity production facility; or

577 (B) the increase in the capacity of an alternative energy electricity production facility;

578 (ii) contracted services required for construction and routine maintenance activities;

579 and

580 (iii) unless the tangible personal property is used or acquired for an increase in capacity

581 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

582 acquired after:

583 (A) the alternative energy electricity production facility described in Subsection

584 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

585 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

586 in Subsection (55)(a)(iii);

587 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

588 on or before June 30, 2027, of tangible personal property that:

589 (i) is leased or purchased for or by a facility that:

590 (A) is a waste energy production facility;

591 (B) is located in the state; and
592 (C) (I) becomes operational on or after July 1, 2004; or
593 (II) has its generation capacity increased by one or more megawatts on or after July 1,
594 2004, as a result of the use of the tangible personal property;
595 (ii) has an economic life of five or more years; and
596 (iii) is used to make the facility or the increase in capacity of the facility described in
597 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
598 transmission grid including:
599 (A) generating equipment;
600 (B) a control and monitoring system;
601 (C) a power line;
602 (D) substation equipment;
603 (E) lighting;
604 (F) fencing;
605 (G) pipes; or
606 (H) other equipment used for locating a power line or pole; and
607 (b) this Subsection (56) does not apply to:
608 (i) tangible personal property used in construction of:
609 (A) a new waste energy facility; or
610 (B) the increase in the capacity of a waste energy facility;
611 (ii) contracted services required for construction and routine maintenance activities;
612 and
613 (iii) unless the tangible personal property is used or acquired for an increase in capacity
614 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
615 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
616 described in Subsection (56)(a)(iii); or
617 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
618 in Subsection (56)(a)(iii);
619 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
620 or before June 30, 2027, of tangible personal property that:
621 (i) is leased or purchased for or by a facility that:

- 622 (A) is located in the state;
- 623 (B) produces fuel from alternative energy, including:
- 624 (I) methanol; or
- 625 (II) ethanol; and
- 626 (C) (I) becomes operational on or after July 1, 2004; or
- 627 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 628 a result of the installation of the tangible personal property;
- 629 (ii) has an economic life of five or more years; and
- 630 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 631 (b) this Subsection (57) does not apply to:
- 632 (i) tangible personal property used in construction of:
- 633 (A) a new facility described in Subsection (57)(a)(i); or
- 634 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 635 (ii) contracted services required for construction and routine maintenance activities;
- 636 and
- 637 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 638 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
- 639 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 640 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 641 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
- 642 product transferred electronically to a person within this state if that tangible personal property
- 643 or product transferred electronically is subsequently shipped outside the state and incorporated
- 644 pursuant to contract into and becomes a part of real property located outside of this state;
- 645 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 646 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 647 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 648 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
- 649 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 650 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
- 651 refund:
- 652 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

- 653 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
654 which the sale is made;
- 655 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
656 sale prior to filing for the refund;
- 657 (iv) for sales and use taxes paid under this chapter on the sale;
- 658 (v) in accordance with Section 59-1-1410; and
- 659 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
660 the person files for the refund on or before June 30, 2011;
- 661 (59) purchases:
- 662 (a) of one or more of the following items in printed or electronic format:
- 663 (i) a list containing information that includes one or more:
- 664 (A) names; or
- 665 (B) addresses; or
- 666 (ii) a database containing information that includes one or more:
- 667 (A) names; or
- 668 (B) addresses; and
- 669 (b) used to send direct mail;
- 670 (60) redemptions or repurchases of a product by a person if that product was:
- 671 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 672 (b) redeemed or repurchased within the time period established in a written agreement
673 between the person and the pawnbroker for redeeming or repurchasing the product;
- 674 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 675 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 676 and
- 677 (ii) has a useful economic life of one or more years; and
- 678 (b) the following apply to Subsection (61)(a):
- 679 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 680 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 681 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 682 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 683 (v) telecommunications transmission equipment, machinery, or software;

684 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
685 personal property or a product transferred electronically that are used in the research and
686 development of alternative energy technology; and

687 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
688 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
689 purchases of tangible personal property or a product transferred electronically that are used in
690 the research and development of alternative energy technology;

691 (63) (a) purchases of tangible personal property or a product transferred electronically
692 if:

693 (i) the tangible personal property or product transferred electronically is:

694 (A) purchased outside of this state;

695 (B) brought into this state at any time after the purchase described in Subsection
696 (63)(a)(i)(A); and

697 (C) used in conducting business in this state; and

698 (ii) for:

699 (A) tangible personal property or a product transferred electronically other than the
700 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
701 for a purpose for which the property is designed occurs outside of this state; or

702 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
703 outside of this state;

704 (b) the exemption provided for in Subsection (63)(a) does not apply to:

705 (i) a lease or rental of tangible personal property or a product transferred electronically;

706 or

707 (ii) a sale of a vehicle exempt under Subsection (33); and

708 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
709 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
710 following:

711 (i) conducting business in this state if that phrase has the same meaning in this
712 Subsection (63) as in Subsection (24);

713 (ii) the first use of tangible personal property or a product transferred electronically if
714 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

- 715 (iii) a purpose for which tangible personal property or a product transferred
716 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
717 Subsection (24);
- 718 (64) sales of disposable home medical equipment or supplies if:
- 719 (a) a person presents a prescription for the disposable home medical equipment or
720 supplies;
- 721 (b) the disposable home medical equipment or supplies are used exclusively by the
722 person to whom the prescription described in Subsection (64)(a) is issued; and
- 723 (c) the disposable home medical equipment and supplies are listed as eligible for
724 payment under:
- 725 (i) Title XVIII, federal Social Security Act; or
- 726 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 727 (65) sales:
- 728 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
729 District Act; or
- 730 (b) of tangible personal property to a subcontractor of a public transit district, if the
731 tangible personal property is:
- 732 (i) clearly identified; and
- 733 (ii) installed or converted to real property owned by the public transit district;
- 734 (66) sales of construction materials:
- 735 (a) purchased on or after July 1, 2010;
- 736 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 737 (i) located within a county of the first class; and
- 738 (ii) that has a United States customs office on its premises; and
- 739 (c) if the construction materials are:
- 740 (i) clearly identified;
- 741 (ii) segregated; and
- 742 (iii) installed or converted to real property:
- 743 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 744 (B) located at the international airport described in Subsection (66)(b);
- 745 (67) sales of construction materials:

- 746 (a) purchased on or after July 1, 2008;
- 747 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 748 (i) located within a county of the second class; and
- 749 (ii) that is owned or operated by a city in which an airline as defined in Section
- 750 59-2-102 is headquartered; and
- 751 (c) if the construction materials are:
- 752 (i) clearly identified;
- 753 (ii) segregated; and
- 754 (iii) installed or converted to real property:
- 755 (A) owned or operated by the new airport described in Subsection (67)(b);
- 756 (B) located at the new airport described in Subsection (67)(b); and
- 757 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 758 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 759 (69) purchases and sales described in Section 63H-4-111;
- 760 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 761 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 762 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 763 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 764 powered aircraft; or
- 765 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 766 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 767 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 768 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 769 powered aircraft;
- 770 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
- 771 (a) to a person admitted to an institution of higher education; and
- 772 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 773 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 774 textbook for a higher education course;
- 775 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 776 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

777 level of municipal services;

778 (73) amounts paid or charged for construction materials used in the construction of a
779 new or expanding life science research and development facility in the state, if the construction
780 materials are:

781 (a) clearly identified;

782 (b) segregated; and

783 (c) installed or converted to real property; ~~and~~

784 (74) amounts paid or charged for:

785 (a) a purchase or lease of machinery and equipment that:

786 (i) are used in performing qualified research:

787 (A) as defined in Section 59-7-612;

788 (B) in the state; and

789 (C) with respect to which the purchaser pays or incurs a qualified research expense as
790 defined in Section 59-7-612; and

791 (ii) have an economic life of three or more years; and

792 (b) normal operating repair or replacement parts:

793 (i) for the machinery and equipment described in Subsection (74)(a); and

794 (ii) that have an economic life of three or more years[-];

795 (75) a sale or lease of tangible personal property or a product transferred electronically

796 if:

797 (a) for a sale:

798 (i) the ownership of the seller and the ownership of the purchaser are identical; and

799 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

800 tangible personal property or product transferred electronically prior to making the sale; or

801 (b) for a lease:

802 (i) the ownership of the lessor and the ownership of the lessee are identical; and

803 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

804 personal property or product transferred electronically prior to making the lease; and

805 (76) (a) purchases of machinery or equipment if:

806 (i) the machinery or equipment has an economic life of three or more years; and

807 (ii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

808 (A) amounts paid or charged as admission or user fees described in Subsection
809 59-12-103(1)(f); and
810 (B) subject to taxation under this chapter;
811 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
812 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
813 previous calendar quarter is:
814 (i) amounts paid or charged as admission or user fees described in Subsection
815 59-12-103(1)(f); and
816 (ii) subject to taxation under this chapter; and
817 (c) on or before the November 2018 interim meeting, and every five years after the
818 November 2018 interim meeting, the commission shall review the exemption provided in this
819 Subsection (76) and report to the Revenue and Taxation Interim Committee on:
820 (i) the revenue lost to the state and local taxing jurisdictions as a result of the
821 exemption;
822 (ii) the purpose and effectiveness of the exemption; and
823 (iii) whether the exemption benefits the state.
824 Section 2. **Effective date.**
825 This bill takes effect on July 1, 2013.