

1 **SALES AND USE TAX AGRICULTURE**

2 **EXEMPTIONS**

3 2005 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ron Allen**

6

7 **LONG TITLE**

8 **General Description:**

9 This bill amends sales and use tax exemptions relating to agriculture.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ repeals a sales and use tax exemption for certain sprays and insecticides because
13 those sprays and insecticides are exempt from sales and use taxation under a
14 provision exempting certain sales of tangible personal property used or consumed
15 primarily and directly in farming operations;

16 ▶ repeals a provision exempting sales of irrigation equipment and supplies used for
17 agricultural production purposes because those sales are exempt from sales and use
18 taxation under the provision exempting certain sales of tangible personal property
19 used or consumed primarily and directly in farming operations; and

20 ▶ makes technical changes.

21 **Monies Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill takes effect on July 1, 2005.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **59-12-104**, as last amended by Chapters 1, 156, 255, 298 and 320, Laws of Utah 2004



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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 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~~)(b) 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);

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

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

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

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

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

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

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

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

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

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

77 (A) a drug;

78 (B) a syringe; or

79 (C) a stoma supply; and

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

82 (A) "syringe"; or

83 (B) "stoma supply";

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

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

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

89 (A) a church; or

- 90 (B) a charitable institution;
- 91 (ii) an institution of higher education if:
- 92 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 93 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 94 offered by the institution of higher education; or
- 95 (b) sales of an item described in Subsection (12)(c) provided at:
- 96 (i) a medical facility; or
- 97 (ii) a nursing facility; and
- 98 (c) Subsections (12)(a) and (b) apply to:
- 99 (i) food and food ingredients;
- 100 (ii) prepared food; or
- 101 (iii) alcoholic beverages;
- 102 (13) isolated or occasional sales by persons not regularly engaged in business, except
- 103 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
- 104 which case the tax is based upon:
- 105 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
- 106 or
- 107 (b) in the absence of a bill of sale or other written evidence of value, the then existing
- 108 fair market value of the vehicle or vessel being sold as determined by the commission;
- 109 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:
- 110 (i) machinery and equipment:
- 111 (A) used in the manufacturing process;
- 112 (B) having an economic life of three or more years; and
- 113 (C) used:
- 114 (I) to manufacture an item sold as tangible personal property; and
- 115 (II) in new or expanding operations in a manufacturing facility in the state; and
- 116 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
- 117 (A) have an economic life of three or more years;
- 118 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 119 (C) are used to replace or adapt an existing machine to extend the normal estimated
- 120 useful life of the machine; and

- 121 (D) do not include repairs and maintenance;
- 122 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
- 123 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
124 Subsection (14)(a)(ii) is exempt;
- 125 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described
126 in Subsection (14)(a)(ii) is exempt; and
- 127 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
128 (14)(a)(ii) is exempt;
- 129 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
130 "new or expanding operations" and "establishment"; and
- 131 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
132 commission shall:
- 133 (i) review the exemptions described in Subsection (14)(a) and make recommendations
134 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
135 continued, modified, or repealed; and
- 136 (ii) include in its report:
- 137 (A) the cost of the exemptions;
- 138 (B) the purpose and effectiveness of the exemptions; and
- 139 (C) the benefits of the exemptions to the state;
- 140 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 141 (i) tooling;
- 142 (ii) special tooling;
- 143 (iii) support equipment;
- 144 (iv) special test equipment; or
- 145 (v) parts used in the repairs or renovations of tooling or equipment described in
146 Subsections (15)(a)(i) through (iv); and
- 147 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 148 (i) the tooling, equipment, or parts are used or consumed exclusively in the
149 performance of any aerospace or electronics industry contract with the United States
150 government or any subcontract under that contract; and
- 151 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

152 title to the tooling, equipment, or parts is vested in the United States government as evidenced
153 by:

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

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

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

157 (16) intrastate movements of:

158 (a) freight by common carriers; or

159 (b) passengers:

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

161 Classification Manual of the federal Executive Office of the President, Office of Management
162 and Budget;

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

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

170 (A) a horse-drawn cab; or

171 (B) a horse-drawn carriage;

172 (17) sales of newspapers or newspaper subscriptions;

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

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

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

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

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

185 (i) money;

186 (ii) electricity;

187 (iii) water;

188 (iv) gas; or

189 (v) steam;

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

193 [~~(20)~~] (19) (a) (i) except as provided in Subsection (19)(b), sales of tangible personal
194 property used or consumed primarily and directly in farming operations, [including sales of
195 irrigation equipment and supplies used for agricultural production purposes,] regardless of
196 whether [or not they become] the tangible personal property:

197 (A) becomes part of real estate [and whether or not]; or

198 (B) is installed by a:

199 (I) farmer[;];

200 (II) contractor[;]; or

201 (III) subcontractor[; but not sales of:]; or

202 [~~(A) machinery, equipment, materials, and supplies]~~

203 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
204 tangible personal property is exempt under Subsection (19)(a)(i); and

205 (b) notwithstanding Subsection (19)(a), amounts paid or charged for the following
206 tangible personal property are subject to the taxes imposed by this chapter:

207 (i) (A) subject to Subsection (19)(b)(i)(B), the following tangible personal property if
208 the tangible personal property is used in a manner that is incidental to farming[; such as]:

209 (I) machinery;

210 (II) equipment;

211 (III) materials; or

212 (IV) supplies; and

213 (B) tangible personal property that is considered to be used in a manner that is

214 incidental to farming includes:

215 (I) hand tools ~~[and]~~ ; or

216 (II) maintenance and janitorial equipment and supplies;

217 ~~[(B)]~~ (ii) (A) subject to Subsection (19)(b)(ii)(B), tangible personal property if the

218 tangible personal property is used in [any activities] an activity other than farming~~[-such as];~~

219 and

220 (B) tangible personal property that is considered to be used in an activity other than

221 farming includes:

222 (I) office equipment and supplies~~[-];~~ or

223 (II) equipment and supplies used in ~~[sales];~~

224 (Aa) the sale or distribution of farm products~~[-in];~~

225 (Bb) research~~[-];~~ or ~~[in]~~

226 (Cc) transportation; or

227 ~~[(C)]~~ (iii) any vehicle required to be registered by the laws of this state, without regard

228 to the use to which the vehicle is put; ~~[or]~~

229 ~~[(ii) sales of parts used in the repairs or renovations of tangible personal property if the~~

230 ~~tangible personal property is exempt under Subsection (20)(a); or]~~

231 ~~[(b)]~~ (20) sales of hay;

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

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

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

240 (24) property stored in the state for resale;

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

244 (26) property purchased for resale in this state, in the regular course of business, either

245 in its original form or as an ingredient or component part of a manufactured or compounded
246 product;

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

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

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

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

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

264 (32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
265 where a sales or use tax is not imposed, even if the title is passed in Utah;

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

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

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

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

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

273 (37) sales relating to schools and fundraising sales;

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

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

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

280 (40) sales to a ski resort of:

281 (a) snowmaking equipment;

282 (b) ski slope grooming equipment;

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

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

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

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

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

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

293 (a) photocopies; or

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

296 (45) (a) amounts paid:

297 (i) to a person providing intrastate transportation to an employer's employee to or from
298 the employee's primary place of employment;

299 (ii) by an:

300 (A) employee; or

301 (B) employer; and

302 (iii) pursuant to a written contract between:

303 (A) the employer; and

304 (B) (I) the employee; or

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

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

307 commission may for purposes of Subsection (45)(a) make rules defining what constitutes an
308 employee's primary place of employment;

309 (46) amounts paid for admission to an athletic event at an institution of higher
310 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
311 20 U.S.C. Sec. 1681 et seq.;

312 (47) sales of telephone service charged to a prepaid telephone calling card;

313 (48) (a) sales of:

314 (i) hearing aids;

315 (ii) hearing aid accessories; or

316 (iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations
317 of hearing aids or hearing aid accessories; and

318 (b) for purposes of this Subsection (48) , notwithstanding Subsection (48)(a)(iii),

319 "parts" does not include batteries;

320 (49) (a) sales made to or by:

321 (i) an area agency on aging; or

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

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

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

327 (i) actually come into contact with a semiconductor; or

328 (ii) ultimately become incorporated into real property;

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

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

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

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

337 (i) review the exemption described in this Subsection (50) and make recommendations

338 concerning whether the exemption should be continued, modified, or repealed; and
339 (ii) include in the review under this Subsection (50)(c):
340 (A) the cost of the exemption;
341 (B) the purpose and effectiveness of the exemption; and
342 (C) the benefits of the exemption to the state;
343 (51) an amount paid by or charged to a purchaser for accommodations and services
344 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
345 59-12-104.2;
346 (52) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
347 sports event registration certificate in accordance with Section 41-3-306 for the event period
348 specified on the temporary sports event registration certificate;
349 (53) sales or uses of electricity, if the sales or uses are:
350 (a) made under a tariff adopted by the Public Service Commission of Utah only for
351 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
352 source, as designated in the tariff by the Public Service Commission of Utah; and
353 (b) for an amount of electricity that is:
354 (i) unrelated to the amount of electricity used by the person purchasing the electricity
355 under the tariff described in Subsection (53)(a); and
356 (ii) equivalent to the number of kilowatthours specified in the tariff described in
357 Subsection (53)(a) that may be purchased under the tariff described in Subsection (53)(a);
358 (54) sales or rentals of mobility enhancing equipment if a person presents a
359 prescription for the mobility enhancing equipment;
360 (55) sales of water in a:
361 (a) pipe;
362 (b) conduit;
363 (c) ditch; or
364 (d) reservoir;
365 (56) sales of currency or coinage that constitute legal tender of the United States or of a
366 foreign nation;
367 (57) (a) sales of an item described in Subsection (57)(b) if the item:
368 (i) does not constitute legal tender of any nation; and

- 369 (ii) has a gold, silver, or platinum content of 80% or more; and
370 (b) Subsection (57)(a) applies to a gold, silver, or platinum:
371 (i) ingot;
372 (ii) bar;
373 (iii) medallion; or
374 (iv) decorative coin;
375 (58) amounts paid on a sale-leaseback transaction;
376 (59) sales of a prosthetic device:
377 (a) for use on or in a human;
378 (b) for which a prescription is issued; and
379 (c) to a person that presents a prescription for the prosthetic device;
380 (60) (a) except as provided in Subsection (60)(b), purchases, leases, or rentals of
381 machinery or equipment by an establishment described in Subsection (60)(c) if the machinery
382 or equipment is primarily used in the production or postproduction of the following media for
383 commercial distribution:
384 (i) a motion picture;
385 (ii) a television program;
386 (iii) a movie made for television;
387 (iv) a music video;
388 (v) a commercial;
389 (vi) a documentary; or
390 (vii) a medium similar to Subsections (60)(a)(i) through (vi) as determined by the
391 commission by administrative rule made in accordance with Subsection (60)(d); or
392 (b) notwithstanding Subsection (60)(a), purchases, leases, or rentals of machinery or
393 equipment by an establishment described in Subsection (60)(c) that is used for the production
394 or postproduction of the following are subject to the taxes imposed by this chapter:
395 (i) a live musical performance;
396 (ii) a live news program; or
397 (iii) a live sporting event;
398 (c) the following establishments listed in the 1997 North American Industry
399 Classification System of the federal Executive Office of the President, Office of Management

400 and Budget, apply to Subsections (60)(a) and (b):

401 (i) NAICS Code 512110; or

402 (ii) NAICS Code 51219; and

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

404 commission may by rule:

405 (i) prescribe what constitutes a medium similar to Subsections (60)(a)(i) through (vi);

406 or

407 (ii) define:

408 (A) "commercial distribution";

409 (B) "live musical performance";

410 (C) "live news program"; or

411 (D) "live sporting event";

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

413 or before June 30, 2009, of machinery or equipment that:

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

415 (A) is a renewable energy production facility;

416 (B) is located in the state; and

417 (C) (I) becomes operational on or after July 1, 2004; or

418 (II) has its generation capacity increased by one or more megawatts on or after July 1,

419 2004 as a result of the use of the machinery or equipment;

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

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

422 Subsection (61)(a)(i) operational up to the point of interconnection with an existing

423 transmission grid including:

424 (A) a wind turbine;

425 (B) generating equipment;

426 (C) a control and monitoring system;

427 (D) a power line;

428 (E) substation equipment;

429 (F) lighting;

430 (G) fencing;

- 431 (H) pipes; or
- 432 (I) other equipment used for locating a power line or pole; and
- 433 (b) this Subsection (61) does not apply to:
- 434 (i) machinery or equipment used in construction of:
- 435 (A) a new renewable energy production facility; or
- 436 (B) the increase in the capacity of a renewable energy production facility;
- 437 (ii) contracted services required for construction and routine maintenance activities;
- 438 and
- 439 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 440 of the facility described in Subsection (61)(a)(i)(C)(II), machinery or equipment used or
- 441 acquired after:
- 442 (A) the renewable energy production facility described in Subsection (61)(a)(i) is
- 443 operational as described in Subsection (61)(a)(iii); or
- 444 (B) the increased capacity described in Subsection (61)(a)(i) is operational as described
- 445 in Subsection (61)(a)(iii);
- 446 (62) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 447 or before June 30, 2009, of machinery or equipment that:
- 448 (i) is leased or purchased for or by a facility that:
- 449 (A) is a waste energy production facility;
- 450 (B) is located in the state; and
- 451 (C) (I) becomes operational on or after July 1, 2004; or
- 452 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 453 2004 as a result of the use of the machinery or equipment;
- 454 (ii) has an economic life of five or more years; and
- 455 (iii) is used to make the facility or the increase in capacity of the facility described in
- 456 Subsection (62)(a)(i) operational up to the point of interconnection with an existing
- 457 transmission grid including:
- 458 (A) generating equipment;
- 459 (B) a control and monitoring system;
- 460 (C) a power line;
- 461 (D) substation equipment;

- 462 (E) lighting;
- 463 (F) fencing;
- 464 (G) pipes; or
- 465 (H) other equipment used for locating a power line or pole; and
- 466 (b) this Subsection (62) does not apply to:
 - 467 (i) machinery or equipment used in construction of:
 - 468 (A) a new waste energy facility; or
 - 469 (B) the increase in the capacity of a waste energy facility;
 - 470 (ii) contracted services required for construction and routine maintenance activities;
 - 471 and
 - 472 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
 - 473 described in Subsection (62)(a)(i)(C)(II), machinery or equipment used or acquired after:
 - 474 (A) the waste energy facility described in Subsection (62)(a)(i) is operational as
 - 475 described in Subsection (62)(a)(iii); or
 - 476 (B) the increased capacity described in Subsection (62)(a)(i) is operational as described
 - 477 in Subsection (62)(a)(iii); and
- 478 (63) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 479 or before June 30, 2009, of machinery or equipment that:
 - 480 (i) is leased or purchased for or by a facility that:
 - 481 (A) is located in the state;
 - 482 (B) produces fuel from biomass energy including:
 - 483 (I) methanol; or
 - 484 (II) ethanol; and
 - 485 (C) (I) becomes operational on or after July 1, 2004; or
 - 486 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
 - 487 a result of the installation of the machinery or equipment;
 - 488 (ii) has an economic life of five or more years; and
 - 489 (iii) is installed on the facility described in Subsection (63)(a)(i);
- 490 (b) this Subsection (63) does not apply to:
 - 491 (i) machinery or equipment used in construction of:
 - 492 (A) a new facility described in Subsection (63)(a)(i); or

493 (B) the increase in capacity of the facility described in Subsection (63)(a)(i); or
 494 (ii) contracted services required for construction and routine maintenance activities;
 495 and
 496 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
 497 described in Subsection (63)(a)(i)(C)(II), machinery or equipment used or acquired after:
 498 (A) the facility described in Subsection (63)(a)(i) is operational; or
 499 (B) the increased capacity described in Subsection (63)(a)(i) is operational.
 500 Section 2. **Effective date.**
 501 This bill takes effect on July 1, 2005.

Legislative Review Note
 as of 12-7-04 8:41 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note
 as of 12-09-04 12:02 PM

The Revenue and Taxation Interim Committee recommended this bill.

Mixed Membership Committee Note
 as of 12-09-04 12:02 PM

The Tax Review Commission recommended this bill.

Membership:	4 legislators	10 non-legislators	
Legislative Vote:	3 voting for	0 voting against	1 absent

Fiscal Note
Bill Number SB0006

Sales and Use Tax Agriculture Exemptions

17-Jan-05

1:36 PM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst