

1                                   **SALES AND USE TAX EXEMPTION FOR**  
2                                   **AIRCRAFT PARTS AND EQUIPMENT**

3                                   2008 SECOND SPECIAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Brad L. Dee**

6                                   Senate Sponsor: Mark B. Madsen

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8   **LONG TITLE**

9   **General Description:**

10           This bill amends the Sales and Use Tax Act relating to an exemption for aircraft parts  
11 and equipment.

12   **Highlighted Provisions:**

13           This bill:

- 14           ▶ modifies a sales and use tax exemption for aircraft parts and equipment;
- 15           ▶ provides that the exemption may be claimed by filing for a refund under certain
- 16 circumstances; and
- 17           ▶ makes technical changes.

18   **Monies Appropriated in this Bill:**

19           None

20   **Other Special Clauses:**

21           This bill provides an immediate effective date.

22           This bill has retrospective operation to July 1, 2008.

23   **Utah Code Sections Affected:**

24   AMENDS:

25           **59-12-104 (Superseded 01/01/09)**, as last amended by Laws of Utah 2008, Chapters 7,  
26 99, 174, 283, 320, and 382

27           **59-12-104 (Effective 01/01/09)**, as last amended by Laws of Utah 2008, Chapters 7,  
28 99, 174, 283, 320, 382, 384, and 389

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

31 Section 1. Section **59-12-104 (Superseded 01/01/09)** is amended to read:

32 **59-12-104 (Superseded 01/01/09). Exemptions.**

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

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

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

38 (a) construction materials except:

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

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

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

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

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

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

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

54 (i) food and food ingredients; or

55 (ii) prepared food;

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

57 (a) food and food ingredients;

58 (b) prepared food; or  
59 (c) services related to Subsection (4)(a) or (b);  
60 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts  
61 and equipment:

62 [~~(a)~~] (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the  
63 2002 North American Industry Classification System of the federal Executive Office of the  
64 President, Office of Management and Budget; and

65 [~~(b)~~] (II) for:

66 [(+)] (Aa) installation in an aircraft, including services relating to the installation of  
67 parts or equipment in the aircraft;

68 [(+)] (Bb) renovation of an aircraft; or

69 [(+)] (Cc) repair of an aircraft; or

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

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

74 (b) notwithstanding the time period of Subsection 59-12-110(2) for filing for a refund,  
75 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
76 refund:

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

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

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

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

82 (v) in accordance with Section 59-12-110; and

83 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110,  
84 if the person files for the refund on or before September 30, 2011;

85 (6) sales of commercials, motion picture films, prerecorded audio program tapes or

86 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
87 exhibitor, distributor, or commercial television or radio broadcaster;

88 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
89 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
90 washing of tangible personal property;

91 (b) if a seller that sells at the same business location assisted cleaning or washing of  
92 tangible personal property and cleaning or washing of tangible personal property that is not  
93 assisted cleaning or washing of tangible personal property, the exemption described in  
94 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
95 or washing of the tangible personal property; and

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

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

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

102 (8) sales made to or by religious or charitable institutions in the conduct of their  
103 regular religious or charitable functions and activities, if the requirements of Section  
104 59-12-104.1 are fulfilled;

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

107 (a) not registered in this state; and

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

109 (ii) used in this state:

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

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

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

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

116 (10) (a) amounts paid for an item described in Subsection (10)(b) if:  
117 (i) the item is intended for human use; and  
118 (ii) (A) a prescription was issued for the item; or  
119 (B) the item was purchased by a hospital or other medical facility; and  
120 (b) (i) Subsection (10)(a) applies to:  
121 (A) a drug;  
122 (B) a syringe; or  
123 (C) a stoma supply; and  
124 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
125 the commission may by rule define the terms:  
126 (A) "syringe"; or  
127 (B) "stoma supply";

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

130 (12) (a) sales of an item described in Subsection (12)(c) served by:  
131 (i) the following if the item described in Subsection (12)(c) is not available to the  
132 general public:  
133 (A) a church; or  
134 (B) a charitable institution;  
135 (ii) an institution of higher education if:  
136 (A) the item described in Subsection (12)(c) is not available to the general public; or  
137 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
138 offered by the institution of higher education; or  
139 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
140 (i) a medical facility; or  
141 (ii) a nursing facility; and

142 (c) Subsections (12)(a) and (b) apply to:  
143 (i) food and food ingredients;  
144 (ii) prepared food; or  
145 (iii) alcoholic beverages;  
146 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal  
147 property by a person:  
148 (i) regardless of the number of transactions involving the sale of that tangible personal  
149 property by that person; and  
150 (ii) not regularly engaged in the business of selling that type of tangible personal  
151 property;  
152 (b) this Subsection (13) does not apply if:  
153 (i) the sale is one of a series of sales of a character to indicate that the person is  
154 regularly engaged in the business of selling that type of tangible personal property;  
155 (ii) the person holds that person out as regularly engaged in the business of selling that  
156 type of tangible personal property;  
157 (iii) the person sells an item of tangible personal property that the person purchased as  
158 a sale that is exempt under Subsection (25); or  
159 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of  
160 this state in which case the tax is based upon:  
161 (A) the bill of sale or other written evidence of value of the vehicle or vessel being  
162 sold; or  
163 (B) in the absence of a bill of sale or other written evidence of value, the fair market  
164 value of the vehicle or vessel being sold at the time of the sale as determined by the  
165 commission; and  
166 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
167 commission shall make rules establishing the circumstances under which:  
168 (i) a person is regularly engaged in the business of selling a type of tangible personal  
169 property;

170 (ii) a sale of tangible personal property is one of a series of sales of a character to  
171 indicate that a person is regularly engaged in the business of selling that type of tangible  
172 personal property; or

173 (iii) a person holds that person out as regularly engaged in the business of selling a  
174 type of tangible personal property;

175 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after  
176 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration  
177 facility, for the following:

178 (i) machinery and equipment that:

179 (A) is used:

180 (I) for a manufacturing facility other than a manufacturing facility that is a scrap  
181 recycler described in Subsection 59-12-102(48)(b):

182 (Aa) in the manufacturing process; and

183 (Bb) to manufacture an item sold as tangible personal property; or

184 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
185 59-12-102(48)(b), to process an item sold as tangible personal property; and

186 (B) has an economic life of three or more years; and

187 (ii) normal operating repair or replacement parts that:

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

189 (B) are used:

190 (I) for a manufacturing facility in the state other than a manufacturing facility that is a  
191 scrap recycler described in Subsection 59-12-102(48)(b), in the manufacturing process; or

192 (II) for a manufacturing facility in the state that is a scrap recycler described in  
193 Subsection 59-12-102(48)(b), to process an item sold as tangible personal property;

194 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a  
195 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,  
196 for the following:

197 (A) machinery and equipment that:

198 (I) is used:  
199 (Aa) in the manufacturing process; and  
200 (Bb) to manufacture an item sold as tangible personal property; and  
201 (II) has an economic life of three or more years; and  
202 (B) normal operating repair or replacement parts that:  
203 (I) are used in the manufacturing process in a manufacturing facility in the state; and  
204 (II) have an economic life of three or more years; and  
205 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,  
206 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may  
207 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:  
208 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;  
209 and  
210 (B) in accordance with Section 59-12-110;  
211 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,  
212 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or  
213 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for  
214 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,  
215 of the 2002 North American Industry Classification System of the federal Executive Office of  
216 the President, Office of Management and Budget:  
217 (i) machinery and equipment that:  
218 (A) are used in:  
219 (I) the production process, other than the production of real property; or  
220 (II) research and development; and  
221 (B) have an economic life of three or more years; and  
222 (ii) normal operating repair or replacement parts that:  
223 (A) have an economic life of three or more years; and  
224 (B) are used in:  
225 (I) the production process, other than the production of real property, in an

226 establishment described in this Subsection (14)(c) in the state; or  
227 (II) research and development in an establishment described in this Subsection (14)(c)  
228 in the state;  
229 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,  
230 Utah Administrative Rulemaking Act, the commission:  
231 (i) shall by rule define the term "establishment"; and  
232 (ii) may by rule define what constitutes:  
233 (A) processing an item sold as tangible personal property;  
234 (B) the production process, other than the production of real property; or  
235 (C) research and development; and  
236 (e) on or before October 1, 2011, and every five years after October 1, 2011, the  
237 commission shall:  
238 (i) review the exemptions described in this Subsection (14) and make  
239 recommendations to the Revenue and Taxation Interim Committee concerning whether the  
240 exemptions should be continued, modified, or repealed; and  
241 (ii) include in its report:  
242 (A) the cost of the exemptions;  
243 (B) the purpose and effectiveness of the exemptions; and  
244 (C) the benefits of the exemptions to the state;  
245 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:  
246 (i) tooling;  
247 (ii) special tooling;  
248 (iii) support equipment;  
249 (iv) special test equipment; or  
250 (v) parts used in the repairs or renovations of tooling or equipment described in  
251 Subsections (15)(a)(i) through (iv); and  
252 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:  
253 (i) the tooling, equipment, or parts are used or consumed exclusively in the

254 performance of any aerospace or electronics industry contract with the United States  
255 government or any subcontract under that contract; and  
256 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
257 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
258 by:  
259 (A) a government identification tag placed on the tooling, equipment, or parts; or  
260 (B) listing on a government-approved property record if placing a government  
261 identification tag on the tooling, equipment, or parts is impractical;  
262 (16) sales of newspapers or newspaper subscriptions;  
263 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in  
264 as full or part payment of the purchase price, except that for purposes of calculating sales or  
265 use tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only,  
266 and the tax is based upon:  
267 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
268 vehicle being traded in; or  
269 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
270 fair market value of the vehicle being sold and the vehicle being traded in, as determined by  
271 the commission; and  
272 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the  
273 following items of tangible personal property traded in as full or part payment of the purchase  
274 price:  
275 (i) money;  
276 (ii) electricity;  
277 (iii) water;  
278 (iv) gas; or  
279 (v) steam;  
280 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal  
281 property used or consumed primarily and directly in farming operations, regardless of whether

282 the tangible personal property:

283       (A) becomes part of real estate; or

284       (B) is installed by a:

285           (I) farmer;

286           (II) contractor; or

287           (III) subcontractor; or

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

289 tangible personal property is exempt under Subsection (18)(a)(i); and

290       (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following

291 tangible personal property are subject to the taxes imposed by this chapter:

292       (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if

293 the tangible personal property is used in a manner that is incidental to farming:

294           (I) machinery;

295           (II) equipment;

296           (III) materials; or

297           (IV) supplies; and

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

299 incidental to farming includes:

300           (I) hand tools; or

301           (II) maintenance and janitorial equipment and supplies;

302       (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible

303 personal property is used in an activity other than farming; and

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

305 farming includes:

306           (I) office equipment and supplies; or

307           (II) equipment and supplies used in:

308           (Aa) the sale or distribution of farm products;

309           (Bb) research; or

- 310 (Cc) transportation; or
- 311 (iii) a vehicle required to be registered by the laws of this state during the period
- 312 ending two years after the date of the vehicle's purchase;
- 313 (19) sales of hay;
- 314 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
- 315 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
- 316 garden, farm, or other agricultural produce is sold by:
  - 317 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
  - 318 agricultural produce;
  - 319 (b) an employee of the producer described in Subsection (20)(a); or
  - 320 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 321 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
- 322 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 323 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
- 324 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
- 325 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
- 326 manufacturer, processor, wholesaler, or retailer;
- 327 (23) property stored in the state for resale;
- 328 (24) (a) purchases of property if:
  - 329 (i) the property is:
    - 330 (A) purchased outside of this state;
    - 331 (B) brought into this state:
      - 332 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
      - 333 (II) by a nonresident person who is not living or working in this state at the time of the
      - 334 purchase;
    - 335 (C) used for the personal use or enjoyment of the nonresident person described in
    - 336 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
    - 337 (D) not used in conducting business in this state; and

338 (ii) for:

339 (A) property other than the property described in Subsection (24)(a)(ii)(B), the first  
340 use of the property for a purpose for which the property is designed occurs outside of this  
341 state;

342 (B) a boat, the boat is registered outside of this state; or

343 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
344 outside of this state;

345 (b) the exemption provided for in Subsection (24)(a) does not apply to:

346 (i) a lease or rental of property; or

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

348 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
349 purposes of Subsection (24)(a), the commission may by rule define what constitutes the  
350 following:

351 (i) conducting business in this state if that phrase has the same meaning in this  
352 Subsection (24) as in Subsection (66);

353 (ii) the first use of property if that phrase has the same meaning in this Subsection (24)  
354 as in Subsection (66); or

355 (iii) a purpose for which property is designed if that phrase has the same meaning in  
356 this Subsection (24) as in Subsection (66);

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

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

365 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

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

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

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

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

376 (a) not registered in this state; and

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

378 (ii) used in this state:

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

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

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

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

387 (31) sales of aircraft manufactured in Utah;

388 (32) amounts paid for the purchase of telephone service for purposes of providing  
389 telephone service;

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

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

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

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

- 394 (ii) before the vehicle is placed in service for the first time;
- 395 (34) (a) 45% of the sales price of any new manufactured home; and
- 396 (b) 100% of the sales price of any used manufactured home;
- 397 (35) sales relating to schools and fundraising sales;
- 398 (36) sales or rentals of durable medical equipment if:
- 399 (a) a person presents a prescription for the durable medical equipment; and
- 400 (b) the durable medical equipment is used for home use only;
- 401 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 402 Section 72-11-102; and
- 403 (b) the commission shall by rule determine the method for calculating sales exempt
- 404 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 405 (38) sales to a ski resort of:
- 406 (a) snowmaking equipment;
- 407 (b) ski slope grooming equipment;
- 408 (c) passenger ropeways as defined in Section 72-11-102; or
- 409 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 410 described in Subsections (38)(a) through (c);
- 411 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial
- 412 use;
- 413 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 414 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 415 59-12-102;
- 416 (b) if a seller that sells or rents at the same business location the right to use or operate
- 417 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 418 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 419 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 420 amusement, entertainment, or recreation for the assisted amusement devices; and
- 421 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

422 Utah Administrative Rulemaking Act, the commission may make rules:

423 (i) governing the circumstances under which sales are at the same business location;

424 and

425 (ii) establishing the procedures and requirements for a seller to separately account for

426 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation

427 for assisted amusement devices;

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

429 (i) a governmental entity; or

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

431 (A) a school; or

432 (B) the State Board of Education; or

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

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

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

436 20 U.S.C. Sec. 1681 et seq.;

437 (43) sales of telephone service charged to a prepaid telephone calling card;

438 (44) (a) sales of:

439 (i) hearing aids;

440 (ii) hearing aid accessories; or

441 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations

442 of hearing aids or hearing aid accessories; and

443 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),

444 "parts" does not include batteries;

445 (45) (a) sales made to or by:

446 (i) an area agency on aging; or

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

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

449 (46) sales or leases of semiconductor fabricating, processing, research, or development

450 materials regardless of whether the semiconductor fabricating, processing, research, or  
451 development materials:

- 452 (a) actually come into contact with a semiconductor; or
- 453 (b) ultimately become incorporated into real property;
- 454 (47) an amount paid by or charged to a purchaser for accommodations and services  
455 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
456 59-12-104.2;
- 457 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
458 sports event registration certificate in accordance with Section 41-3-306 for the event period  
459 specified on the temporary sports event registration certificate;
- 460 (49) sales or uses of electricity, if the sales or uses are:
  - 461 (a) made under a tariff adopted by the Public Service Commission of Utah only for  
462 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy  
463 source, as designated in the tariff by the Public Service Commission of Utah; and
  - 464 (b) for an amount of electricity that is:
    - 465 (i) unrelated to the amount of electricity used by the person purchasing the electricity  
466 under the tariff described in Subsection (49)(a); and
    - 467 (ii) equivalent to the number of kilowatthours specified in the tariff described in  
468 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);
  - 469 (50) sales or rentals of mobility enhancing equipment if a person presents a  
470 prescription for the mobility enhancing equipment;
  - 471 (51) sales of water in a:
    - 472 (a) pipe;
    - 473 (b) conduit;
    - 474 (c) ditch; or
    - 475 (d) reservoir;
  - 476 (52) sales of currency or coinage that constitute legal tender of the United States or of  
477 a foreign nation;

478 (53) (a) sales of an item described in Subsection (53)(b) if the item:  
479 (i) does not constitute legal tender of any nation; and  
480 (ii) has a gold, silver, or platinum content of 80% or more; and  
481 (b) Subsection (53)(a) applies to a gold, silver, or platinum:  
482 (i) ingot;  
483 (ii) bar;  
484 (iii) medallion; or  
485 (iv) decorative coin;  
486 (54) amounts paid on a sale-leaseback transaction;  
487 (55) sales of a prosthetic device:  
488 (a) for use on or in a human; and  
489 (b) (i) for which a prescription is required; or  
490 (ii) if the prosthetic device is purchased by a hospital or other medical facility;  
491 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of  
492 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery  
493 or equipment is primarily used in the production or postproduction of the following media for  
494 commercial distribution:  
495 (i) a motion picture;  
496 (ii) a television program;  
497 (iii) a movie made for television;  
498 (iv) a music video;  
499 (v) a commercial;  
500 (vi) a documentary; or  
501 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the  
502 commission by administrative rule made in accordance with Subsection (56)(d); or  
503 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or  
504 equipment by an establishment described in Subsection (56)(c) that is used for the production  
505 or postproduction of the following are subject to the taxes imposed by this chapter:

506 (i) a live musical performance;  
507 (ii) a live news program; or  
508 (iii) a live sporting event;  
509 (c) the following establishments listed in the 1997 North American Industry  
510 Classification System of the federal Executive Office of the President, Office of Management  
511 and Budget, apply to Subsections (56)(a) and (b):  
512 (i) NAICS Code 512110; or  
513 (ii) NAICS Code 51219; and  
514 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
515 the commission may by rule:  
516 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);  
517 or  
518 (ii) define:  
519 (A) "commercial distribution";  
520 (B) "live musical performance";  
521 (C) "live news program"; or  
522 (D) "live sporting event";  
523 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but  
524 on or before June 30, 2009, of machinery or equipment that:  
525 (i) is leased or purchased for or by a facility that:  
526 (A) is a renewable energy production facility;  
527 (B) is located in the state; and  
528 (C) (I) becomes operational on or after July 1, 2004; or  
529 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
530 2004 as a result of the use of the machinery or equipment;  
531 (ii) has an economic life of five or more years; and  
532 (iii) is used to make the facility or the increase in capacity of the facility described in  
533 Subsection (57)(a)(i) operational up to the point of interconnection with an existing

- 534 transmission grid including:
- 535 (A) a wind turbine;
  - 536 (B) generating equipment;
  - 537 (C) a control and monitoring system;
  - 538 (D) a power line;
  - 539 (E) substation equipment;
  - 540 (F) lighting;
  - 541 (G) fencing;
  - 542 (H) pipes; or
  - 543 (I) other equipment used for locating a power line or pole; and
- 544 (b) this Subsection (57) does not apply to:
- 545 (i) machinery or equipment used in construction of:
    - 546 (A) a new renewable energy production facility; or
    - 547 (B) the increase in the capacity of a renewable energy production facility;
  - 548 (ii) contracted services required for construction and routine maintenance activities;
- 549 and
- 550 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
  - 551 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or
  - 552 acquired after:
    - 553 (A) the renewable energy production facility described in Subsection (57)(a)(i) is
    - 554 operational as described in Subsection (57)(a)(iii); or
    - 555 (B) the increased capacity described in Subsection (57)(a)(i) is operational as
    - 556 described in Subsection (57)(a)(iii);
- 557 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but
- 558 on or before June 30, 2009, of machinery or equipment that:
- 559 (i) is leased or purchased for or by a facility that:
    - 560 (A) is a waste energy production facility;
    - 561 (B) is located in the state; and

562 (C) (I) becomes operational on or after July 1, 2004; or  
563 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
564 2004 as a result of the use of the machinery or equipment;  
565 (ii) has an economic life of five or more years; and  
566 (iii) is used to make the facility or the increase in capacity of the facility described in  
567 Subsection (58)(a)(i) operational up to the point of interconnection with an existing  
568 transmission grid including:  
569 (A) generating equipment;  
570 (B) a control and monitoring system;  
571 (C) a power line;  
572 (D) substation equipment;  
573 (E) lighting;  
574 (F) fencing;  
575 (G) pipes; or  
576 (H) other equipment used for locating a power line or pole; and  
577 (b) this Subsection (58) does not apply to:  
578 (i) machinery or equipment used in construction of:  
579 (A) a new waste energy facility; or  
580 (B) the increase in the capacity of a waste energy facility;  
581 (ii) contracted services required for construction and routine maintenance activities;  
582 and  
583 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
584 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:  
585 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as  
586 described in Subsection (58)(a)(iii); or  
587 (B) the increased capacity described in Subsection (58)(a)(i) is operational as  
588 described in Subsection (58)(a)(iii);  
589 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on

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

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

592 (A) is located in the state;

593 (B) produces fuel from biomass energy including:

594 (I) methanol; or

595 (II) ethanol; and

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

597 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004

598 as a result of the installation of the machinery or equipment;

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

600 (iii) is installed on the facility described in Subsection (59)(a)(i);

601 (b) this Subsection (59) does not apply to:

602 (i) machinery or equipment used in construction of:

603 (A) a new facility described in Subsection (59)(a)(i); or

604 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or

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

606 and

607 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

608 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:

609 (A) the facility described in Subsection (59)(a)(i) is operational; or

610 (B) the increased capacity described in Subsection (59)(a)(i) is operational;

611 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle

612 for purchasing the new vehicle;

613 (61) (a) subject to Subsection (61)(b) or (c), sales of tangible personal property to a

614 person within this state if that tangible personal property is subsequently shipped outside the

615 state and incorporated pursuant to contract into and becomes a part of real property located

616 outside of this state;

617 (b) the exemption under Subsection (61)(a) is not allowed to the extent that the other

618 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
619 gross receipts, or other similar transaction excise tax on the transaction against which the other  
620 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

621 (c) notwithstanding the time period of Subsection 59-12-110(2)(b) for filing for a  
622 refund, a person may claim the exemption allowed by this Subsection (61) for a sale by filing  
623 for a refund:

624 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

625 (ii) as if this Subsection (61) as in effect on July 1, 2008, were in effect on the day on  
626 which the sale is made;

627 (iii) if the person did not claim the exemption allowed by this Subsection (61) for the  
628 sale prior to filing for the refund;

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

630 (v) in accordance with Section 59-12-110; and

631 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110,  
632 if the person files for the refund on or before June 30, 2011;

633 (62) purchases:

634 (a) of one or more of the following items in printed or electronic format:

635 (i) a list containing information that includes one or more:

636 (A) names; or

637 (B) addresses; or

638 (ii) a database containing information that includes one or more:

639 (A) names; or

640 (B) addresses; and

641 (b) used to send direct mail;

642 (63) redemptions or repurchases of property by a person if that property was:

643 (a) delivered to a pawnbroker as part of a pawn transaction; and

644 (b) redeemed or repurchased within the time period established in a written agreement  
645 between the person and the pawnbroker for redeeming or repurchasing the property;

646 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:

647 (i) is purchased or leased by, or on behalf of, a telephone service provider; and

648 (ii) has a useful economic life of one or more years; and

649 (b) the following apply to Subsection (64)(a):

650 (i) telecommunications enabling or facilitating equipment, machinery, or software;

651 (ii) telecommunications equipment, machinery, or software required for 911 service;

652 (iii) telecommunications maintenance or repair equipment, machinery, or software;

653 (iv) telecommunications switching or routing equipment, machinery, or software; or

654 (v) telecommunications transmission equipment, machinery, or software;

655 (65) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of  
656 tangible personal property used in the research and development of coal-to-liquids, oil shale,  
657 or tar sands technology; and

658 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
659 the commission may, for purposes of Subsection (65)(a), make rules defining what constitutes  
660 tangible personal property used in the research and development of coal-to-liquids, oil shale,  
661 and tar sands technology;

662 (66) (a) purchases of property if:

663 (i) the property is:

664 (A) purchased outside of this state;

665 (B) brought into this state at any time after the purchase described in Subsection  
666 (66)(a)(i)(A); and

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

668 (ii) for:

669 (A) property other than the property described in Subsection (66)(a)(ii)(B), the first  
670 use of the property for a purpose for which the property is designed occurs outside of this  
671 state; or

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

674 (b) the exemption provided for in Subsection (66)(a) does not apply to:  
675 (i) a lease or rental of property; or  
676 (ii) a sale of a vehicle exempt under Subsection (33); and  
677 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
678 purposes of Subsection (66)(a), the commission may by rule define what constitutes the  
679 following:  
680 (i) conducting business in this state if that phrase has the same meaning in this  
681 Subsection (66) as in Subsection (24);  
682 (ii) the first use of property if that phrase has the same meaning in this Subsection (66)  
683 as in Subsection (24); or  
684 (iii) a purpose for which property is designed if that phrase has the same meaning in  
685 this Subsection (66) as in Subsection (24);  
686 (67) sales of disposable home medical equipment or supplies if:  
687 (a) a person presents a prescription for the disposable home medical equipment or  
688 supplies;  
689 (b) the disposable home medical equipment or supplies are used exclusively by the  
690 person to whom the prescription described in Subsection (67)(a) is issued; and  
691 (c) the disposable home medical equipment and supplies are listed as eligible for  
692 payment under:  
693 (i) Title XVIII, federal Social Security Act; or  
694 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;  
695 (68) sales:  
696 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
697 District Act; or  
698 (b) of tangible personal property to a subcontractor of a public transit district, if the  
699 tangible personal property is:  
700 (i) clearly identified; and  
701 (ii) installed or converted to real property owned by the public transit district;

702 (69) sales of construction materials:  
703 (a) purchased on or after July 1, 2010;  
704 (b) purchased by, on behalf of, or for the benefit of an international airport:  
705 (i) located within a county of the first class; and  
706 (ii) that has a United States customs office on its premises; and  
707 (c) if the construction materials are:  
708 (i) clearly identified;  
709 (ii) segregated; and  
710 (iii) installed or converted to real property:  
711 (A) owned or operated by the international airport described in Subsection (69)(b);  
712 and  
713 (B) located at the international airport described in Subsection (69)(b); and  
714 (70) sales of construction materials:  
715 (a) purchased on or after July 1, 2008;  
716 (b) purchased by, on behalf of, or for the benefit of a new airport:  
717 (i) located within a county of the second class; and  
718 (ii) that is owned or operated by a city in which an airline as defined in Section  
719 59-2-102 is headquartered; and  
720 (c) if the construction materials are:  
721 (i) clearly identified;  
722 (ii) segregated; and  
723 (iii) installed or converted to real property:  
724 (A) owned or operated by the new airport described in Subsection (70)(b);  
725 (B) located at the new airport described in Subsection (70)(b); and  
726 (C) as part of the construction of the new airport described in Subsection (70)(b).  
727 Section 2. Section **59-12-104 (Effective 01/01/09)** is amended to read:  
728 **59-12-104 (Effective 01/01/09). Exemptions.**  
729 The following sales and uses are exempt from the taxes imposed by this chapter:

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

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

734 (a) construction materials except:

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

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

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

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

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

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

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

750 (i) food and food ingredients; or

751 (ii) prepared food;

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

753 (a) food and food ingredients;

754 (b) prepared food; or

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

756 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of  
757 parts and equipment:

758            ~~[(a)]~~ (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the  
759 2002 North American Industry Classification System of the federal Executive Office of the  
760 President, Office of Management and Budget; and

761            ~~[(b)]~~ (II) for:

762            ~~[(i)]~~ (Aa) installation in an aircraft, including services relating to the installation of  
763 parts or equipment in the aircraft;

764            ~~[(ii)]~~ (Bb) renovation of an aircraft; or

765            ~~[(iii)]~~ (Cc) repair of an aircraft; or

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

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

770            (b) notwithstanding the time period of Subsection 59-12-110(2) for filing for a refund,  
771 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
772 refund:

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

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

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

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

778            (v) in accordance with Section 59-12-110; and

779            (vi) subject to any extension allowed for filing for a refund under Section 59-12-110,  
780 if the person files for the refund on or before September 30, 2011;

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

784            (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
785 property if the cleaning or washing of the tangible personal property is not assisted cleaning or

786 washing of tangible personal property;

787 (b) if a seller that sells at the same business location assisted cleaning or washing of  
788 tangible personal property and cleaning or washing of tangible personal property that is not  
789 assisted cleaning or washing of tangible personal property, the exemption described in  
790 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
791 or washing of the tangible personal property; and

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

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

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

798 (8) sales made to or by religious or charitable institutions in the conduct of their  
799 regular religious or charitable functions and activities, if the requirements of Section  
800 59-12-104.1 are fulfilled;

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

803 (a) not registered in this state; and

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

805 (ii) used in this state:

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

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

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

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

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

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

- 814 (ii) (A) a prescription was issued for the item; or
- 815 (B) the item was purchased by a hospital or other medical facility; and
- 816 (b) (i) Subsection (10)(a) applies to:
  - 817 (A) a drug;
  - 818 (B) a syringe; or
  - 819 (C) a stoma supply; and
- 820 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 821 the commission may by rule define the terms:
  - 822 (A) "syringe"; or
  - 823 (B) "stoma supply";
- 824 (11) sales or use of property, materials, or services used in the construction of or
- 825 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 826 (12) (a) sales of an item described in Subsection (12)(c) served by:
  - 827 (i) the following if the item described in Subsection (12)(c) is not available to the
  - 828 general public:
    - 829 (A) a church; or
    - 830 (B) a charitable institution;
  - 831 (ii) an institution of higher education if:
    - 832 (A) the item described in Subsection (12)(c) is not available to the general public; or
    - 833 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
    - 834 offered by the institution of higher education; or
  - 835 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
    - 836 (i) a medical facility; or
    - 837 (ii) a nursing facility; and
  - 838 (c) Subsections (12)(a) and (b) apply to:
    - 839 (i) food and food ingredients;
    - 840 (ii) prepared food; or
    - 841 (iii) alcoholic beverages;

842 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal  
843 property or a product transferred electronically by a person:

844 (i) regardless of the number of transactions involving the sale of that tangible personal  
845 property or product transferred electronically by that person; and

846 (ii) not regularly engaged in the business of selling that type of tangible personal  
847 property or product transferred electronically;

848 (b) this Subsection (13) does not apply if:

849 (i) the sale is one of a series of sales of a character to indicate that the person is  
850 regularly engaged in the business of selling that type of tangible personal property or product  
851 transferred electronically;

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

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

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

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

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

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

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

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

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

872 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after  
873 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration  
874 facility, for the following:

875 (i) machinery and equipment that:

876 (A) is used:

877 (I) for a manufacturing facility other than a manufacturing facility that is a scrap  
878 recycler described in Subsection 59-12-102 (52)(b):

879 (Aa) in the manufacturing process; and

880 (Bb) to manufacture an item sold as tangible personal property; or

881 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
882 59-12-102 (52)(b), to process an item sold as tangible personal property; and

883 (B) has an economic life of three or more years; and

884 (ii) normal operating repair or replacement parts that:

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

886 (B) are used:

887 (I) for a manufacturing facility in the state other than a manufacturing facility that is a  
888 scrap recycler described in Subsection 59-12-102 (52)(b), in the manufacturing process; or

889 (II) for a manufacturing facility in the state that is a scrap recycler described in  
890 Subsection 59-12-102 (52)(b), to process an item sold as tangible personal property;

891 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a  
892 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,  
893 for the following:

894 (A) machinery and equipment that:

895 (I) is used:

896 (Aa) in the manufacturing process; and

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

898 (II) has an economic life of three or more years; and  
899 (B) normal operating repair or replacement parts that:  
900 (I) are used in the manufacturing process in a manufacturing facility in the state; and  
901 (II) have an economic life of three or more years; and  
902 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,  
903 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may  
904 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:  
905 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;  
906 and  
907 (B) in accordance with Section 59-12-110;  
908 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,  
909 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or  
910 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for  
911 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,  
912 of the 2002 North American Industry Classification System of the federal Executive Office of  
913 the President, Office of Management and Budget:  
914 (i) machinery and equipment that:  
915 (A) are used in:  
916 (I) the production process, other than the production of real property; or  
917 (II) research and development; and  
918 (B) have an economic life of three or more years; and  
919 (ii) normal operating repair or replacement parts that:  
920 (A) have an economic life of three or more years; and  
921 (B) are used in:  
922 (I) the production process, other than the production of real property, in an  
923 establishment described in this Subsection (14)(c) in the state; or  
924 (II) research and development in an establishment described in this Subsection (14)(c)  
925 in the state;

926 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,  
927 Utah Administrative Rulemaking Act, the commission:

928 (i) shall by rule define the term "establishment"; and

929 (ii) may by rule define what constitutes:

930 (A) processing an item sold as tangible personal property;

931 (B) the production process, other than the production of real property; or

932 (C) research and development; and

933 (e) on or before October 1, 2011, and every five years after October 1, 2011, the  
934 commission shall:

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

938 (ii) include in its report:

939 (A) the cost of the exemptions;

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

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

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

943 (i) tooling;

944 (ii) special tooling;

945 (iii) support equipment;

946 (iv) special test equipment; or

947 (v) parts used in the repairs or renovations of tooling or equipment described in  
948 Subsections (15)(a)(i) through (iv); and

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

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

953 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

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

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

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

959 (16) sales of newspapers or newspaper subscriptions;

960 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
961 product transferred electronically traded in as full or part payment of the purchase price,  
962 except that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle  
963 dealer, trade-ins are limited to other vehicles only, and the tax is based upon:

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

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

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

972 (i) money;

973 (ii) electricity;

974 (iii) water;

975 (iv) gas; or

976 (v) steam;

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

981 (A) becomes part of real estate; or

982 (B) is installed by a:

983 (I) farmer;

984 (II) contractor; or

985 (III) subcontractor; or

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

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

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

993 (I) machinery;

994 (II) equipment;

995 (III) materials; or

996 (IV) supplies; and

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

999 (I) hand tools; or

1000 (II) maintenance and janitorial equipment and supplies;

1001 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
1002 transferred electronically if the tangible personal property or product transferred electronically  
1003 is used in an activity other than farming; and

1004 (B) tangible personal property or a product transferred electronically that is considered  
1005 to be used in an activity other than farming includes:

1006 (I) office equipment and supplies; or

1007 (II) equipment and supplies used in:

1008 (Aa) the sale or distribution of farm products;

1009 (Bb) research; or

1010 (Cc) transportation; or  
1011 (iii) a vehicle required to be registered by the laws of this state during the period  
1012 ending two years after the date of the vehicle's purchase;  
1013 (19) sales of hay;  
1014 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
1015 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
1016 garden, farm, or other agricultural produce is sold by:  
1017 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
1018 agricultural produce;  
1019 (b) an employee of the producer described in Subsection (20)(a); or  
1020 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
1021 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
1022 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;  
1023 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
1024 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
1025 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
1026 manufacturer, processor, wholesaler, or retailer;  
1027 (23) a product stored in the state for resale;  
1028 (24) (a) purchases of a product if:  
1029 (i) the product is:  
1030 (A) purchased outside of this state;  
1031 (B) brought into this state:  
1032 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and  
1033 (II) by a nonresident person who is not living or working in this state at the time of the  
1034 purchase;  
1035 (C) used for the personal use or enjoyment of the nonresident person described in  
1036 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and  
1037 (D) not used in conducting business in this state; and

- 1038 (ii) for:
- 1039 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
- 1040 the product for a purpose for which the product is designed occurs outside of this state;
- 1041 (B) a boat, the boat is registered outside of this state; or
- 1042 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 1043 outside of this state;
- 1044 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 1045 (i) a lease or rental of a product; or
- 1046 (ii) a sale of a vehicle exempt under Subsection (33); and
- 1047 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 1048 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
- 1049 following:
- 1050 (i) conducting business in this state if that phrase has the same meaning in this
- 1051 Subsection (24) as in Subsection [~~66~~] (64);
- 1052 (ii) the first use of a product if that phrase has the same meaning in this Subsection
- 1053 (24) as in Subsection [~~66~~] (64); or
- 1054 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 1055 this Subsection (24) as in Subsection [~~66~~] (64);
- 1056 (25) a product purchased for resale in this state, in the regular course of business, either
- 1057 in its original form or as an ingredient or component part of a manufactured or compounded
- 1058 product;
- 1059 (26) a product upon which a sales or use tax was paid to some other state, or one of its
- 1060 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
- 1061 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
- 1062 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
- 1063 Act;
- 1064 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
- 1065 person for use in compounding a service taxable under the subsections;

1066 (28) purchases made in accordance with the special supplemental nutrition program  
1067 for women, infants, and children established in 42 U.S.C. Sec. 1786;

1068 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
1069 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or  
1070 ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial  
1071 Classification Manual of the federal Executive Office of the President, Office of Management  
1072 and Budget;

1073 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
1074 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

1075 (a) not registered in this state; and

1076 (b) (i) not used in this state; or

1077 (ii) used in this state:

1078 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a  
1079 time period that does not exceed the longer of:

1080 (I) 30 days in any calendar year; or

1081 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
1082 the borders of this state; or

1083 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
1084 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
1085 state;

1086 (31) sales of aircraft manufactured in Utah;

1087 (32) amounts paid for the purchase of telecommunications service for purposes of  
1088 providing telecommunications service;

1089 (33) sales, leases, or uses of the following:

1090 (a) a vehicle by an authorized carrier; or

1091 (b) tangible personal property that is installed on a vehicle:

1092 (i) sold or leased to or used by an authorized carrier; and

1093 (ii) before the vehicle is placed in service for the first time;

1094 (34) (a) 45% of the sales price of any new manufactured home; and  
1095 (b) 100% of the sales price of any used manufactured home;  
1096 (35) sales relating to schools and fundraising sales;  
1097 (36) sales or rentals of durable medical equipment if:  
1098 (a) a person presents a prescription for the durable medical equipment; and  
1099 (b) the durable medical equipment is used for home use only;  
1100 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
1101 Section 72-11-102; and  
1102 (b) the commission shall by rule determine the method for calculating sales exempt  
1103 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;  
1104 (38) sales to a ski resort of:  
1105 (a) snowmaking equipment;  
1106 (b) ski slope grooming equipment;  
1107 (c) passenger ropeways as defined in Section 72-11-102; or  
1108 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
1109 described in Subsections (38)(a) through (c);  
1110 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial  
1111 use;  
1112 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
1113 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
1114 59-12-102;  
1115 (b) if a seller that sells or rents at the same business location the right to use or operate  
1116 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
1117 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
1118 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
1119 amusement, entertainment, or recreation for the assisted amusement devices; and  
1120 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
1121 Utah Administrative Rulemaking Act, the commission may make rules:

- 1122 (i) governing the circumstances under which sales are at the same business location;
- 1123 and
- 1124 (ii) establishing the procedures and requirements for a seller to separately account for
- 1125 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation
- 1126 for assisted amusement devices;
- 1127 (41) (a) sales of photocopies by:
- 1128 (i) a governmental entity; or
- 1129 (ii) an entity within the state system of public education, including:
- 1130 (A) a school; or
- 1131 (B) the State Board of Education; or
- 1132 (b) sales of publications by a governmental entity;
- 1133 (42) amounts paid for admission to an athletic event at an institution of higher
- 1134 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 1135 20 U.S.C. Sec. 1681 et seq.;
- 1136 (43) sales of telecommunications service charged to a prepaid telephone calling card;
- 1137 (44) (a) sales made to or by:
- 1138 (i) an area agency on aging; or
- 1139 (ii) a senior citizen center owned by a county, city, or town; or
- 1140 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 1141 (45) sales or leases of semiconductor fabricating, processing, research, or development
- 1142 materials regardless of whether the semiconductor fabricating, processing, research, or
- 1143 development materials:
- 1144 (a) actually come into contact with a semiconductor; or
- 1145 (b) ultimately become incorporated into real property;
- 1146 (46) an amount paid by or charged to a purchaser for accommodations and services
- 1147 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 1148 59-12-104.2;
- 1149 (47) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

1150 sports event registration certificate in accordance with Section 41-3-306 for the event period  
1151 specified on the temporary sports event registration certificate;

1152 (48) sales or uses of electricity, if the sales or uses are:

1153 (a) made under a tariff adopted by the Public Service Commission of Utah only for  
1154 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy  
1155 source, as designated in the tariff by the Public Service Commission of Utah; and

1156 (b) for an amount of electricity that is:

1157 (i) unrelated to the amount of electricity used by the person purchasing the electricity  
1158 under the tariff described in Subsection (48)(a); and

1159 (ii) equivalent to the number of kilowatthours specified in the tariff described in  
1160 Subsection (48)(a) that may be purchased under the tariff described in Subsection (48)(a);

1161 (49) sales or rentals of mobility enhancing equipment if a person presents a  
1162 prescription for the mobility enhancing equipment;

1163 (50) sales of water in a:

1164 (a) pipe;

1165 (b) conduit;

1166 (c) ditch; or

1167 (d) reservoir;

1168 (51) sales of currency or coinage that constitute legal tender of the United States or of  
1169 a foreign nation;

1170 (52) (a) sales of an item described in Subsection (52)(b) if the item:

1171 (i) does not constitute legal tender of any nation; and

1172 (ii) has a gold, silver, or platinum content of 80% or more; and

1173 (b) Subsection (52)(a) applies to a gold, silver, or platinum:

1174 (i) ingot;

1175 (ii) bar;

1176 (iii) medallion; or

1177 (iv) decorative coin;

- 1178 (53) amounts paid on a sale-leaseback transaction;
- 1179 (54) sales of a prosthetic device:
  - 1180 (a) for use on or in a human; and
  - 1181 (b) (i) for which a prescription is required; or
  - 1182 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 1183 (55) (a) except as provided in Subsection (55)(b), purchases, leases, or rentals of
- 1184 machinery or equipment by an establishment described in Subsection (55)(c) if the machinery
- 1185 or equipment is primarily used in the production or postproduction of the following media for
- 1186 commercial distribution:
  - 1187 (i) a motion picture;
  - 1188 (ii) a television program;
  - 1189 (iii) a movie made for television;
  - 1190 (iv) a music video;
  - 1191 (v) a commercial;
  - 1192 (vi) a documentary; or
  - 1193 (vii) a medium similar to Subsections (55)(a)(i) through (vi) as determined by the
  - 1194 commission by administrative rule made in accordance with Subsection (55)(d); or
- 1195 (b) notwithstanding Subsection (55)(a), purchases, leases, or rentals of machinery or
- 1196 equipment by an establishment described in Subsection (55)(c) that is used for the production
- 1197 or postproduction of the following are subject to the taxes imposed by this chapter:
  - 1198 (i) a live musical performance;
  - 1199 (ii) a live news program; or
  - 1200 (iii) a live sporting event;
- 1201 (c) the following establishments listed in the 1997 North American Industry
- 1202 Classification System of the federal Executive Office of the President, Office of Management
- 1203 and Budget, apply to Subsections (55)(a) and (b):
  - 1204 (i) NAICS Code 512110; or
  - 1205 (ii) NAICS Code 51219; and

1206 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1207 the commission may by rule:

1208 (i) prescribe what constitutes a medium similar to Subsections (55)(a)(i) through (vi);  
1209 or

1210 (ii) define:

1211 (A) "commercial distribution";  
1212 (B) "live musical performance";  
1213 (C) "live news program"; or  
1214 (D) "live sporting event";

1215 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004 but  
1216 on or before June 30, 2019, of machinery or equipment that:

1217 (i) is leased or purchased for or by a facility that:

1218 (A) is a renewable energy production facility;  
1219 (B) is located in the state; and  
1220 (C) (I) becomes operational on or after July 1, 2004; or  
1221 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
1222 2004 as a result of the use of the machinery or equipment;

1223 (ii) has an economic life of five or more years; and  
1224 (iii) is used to make the facility or the increase in capacity of the facility described in  
1225 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
1226 transmission grid including:

1227 (A) a wind turbine;  
1228 (B) generating equipment;  
1229 (C) a control and monitoring system;  
1230 (D) a power line;  
1231 (E) substation equipment;  
1232 (F) lighting;  
1233 (G) fencing;

1234 (H) pipes; or  
1235 (I) other equipment used for locating a power line or pole; and  
1236 (b) this Subsection (56) does not apply to:  
1237 (i) machinery or equipment used in construction of:  
1238 (A) a new renewable energy production facility; or  
1239 (B) the increase in the capacity of a renewable energy production facility;  
1240 (ii) contracted services required for construction and routine maintenance activities;  
1241 and  
1242 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
1243 of the facility described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or  
1244 acquired after:  
1245 (A) the renewable energy production facility described in Subsection (56)(a)(i) is  
1246 operational as described in Subsection (56)(a)(iii); or  
1247 (B) the increased capacity described in Subsection (56)(a)(i) is operational as  
1248 described in Subsection (56)(a)(iii);  
1249 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but  
1250 on or before June 30, 2019, of machinery or equipment that:  
1251 (i) is leased or purchased for or by a facility that:  
1252 (A) is a waste energy production facility;  
1253 (B) is located in the state; and  
1254 (C) (I) becomes operational on or after July 1, 2004; or  
1255 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
1256 2004 as a result of the use of the machinery or equipment;  
1257 (ii) has an economic life of five or more years; and  
1258 (iii) is used to make the facility or the increase in capacity of the facility described in  
1259 Subsection (57)(a)(i) operational up to the point of interconnection with an existing  
1260 transmission grid including:  
1261 (A) generating equipment;

- 1262 (B) a control and monitoring system;
- 1263 (C) a power line;
- 1264 (D) substation equipment;
- 1265 (E) lighting;
- 1266 (F) fencing;
- 1267 (G) pipes; or
- 1268 (H) other equipment used for locating a power line or pole; and
- 1269 (b) this Subsection (57) does not apply to:
  - 1270 (i) machinery or equipment used in construction of:
    - 1271 (A) a new waste energy facility; or
    - 1272 (B) the increase in the capacity of a waste energy facility;
  - 1273 (ii) contracted services required for construction and routine maintenance activities;
- 1274 and
  - 1275 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
  - 1276 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
    - 1277 (A) the waste energy facility described in Subsection (57)(a)(i) is operational as
    - 1278 described in Subsection (57)(a)(iii); or
    - 1279 (B) the increased capacity described in Subsection (57)(a)(i) is operational as
    - 1280 described in Subsection (57)(a)(iii);
- 1281 (58) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 1282 or before June 30, 2019, of machinery or equipment that:
  - 1283 (i) is leased or purchased for or by a facility that:
    - 1284 (A) is located in the state;
    - 1285 (B) produces fuel from biomass energy including:
      - 1286 (I) methanol; or
      - 1287 (II) ethanol; and
    - 1288 (C) (I) becomes operational on or after July 1, 2004; or
    - 1289 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004

1290 as a result of the installation of the machinery or equipment;

1291 (ii) has an economic life of five or more years; and

1292 (iii) is installed on the facility described in Subsection (58)(a)(i);

1293 (b) this Subsection (58) does not apply to:

1294 (i) machinery or equipment used in construction of:

1295 (A) a new facility described in Subsection (58)(a)(i); or

1296 (B) the increase in capacity of the facility described in Subsection (58)(a)(i); or

1297 (ii) contracted services required for construction and routine maintenance activities;

1298 and

1299 (iii) unless the machinery or equipment is used or acquired for an increase in capacity

1300 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:

1301 (A) the facility described in Subsection (58)(a)(i) is operational; or

1302 (B) the increased capacity described in Subsection (58)(a)(i) is operational;

1303 (59) (a) subject to Subsection (59)(b) or (c), sales of tangible personal property or a

1304 product transferred electronically to a person within this state if that tangible personal property

1305 or product transferred electronically is subsequently shipped outside the state and incorporated

1306 pursuant to contract into and becomes a part of real property located outside of this state;

1307 (b) the exemption under Subsection (59)(a) is not allowed to the extent that the other

1308 state or political entity to which the tangible personal property is shipped imposes a sales, use,

1309 gross receipts, or other similar transaction excise tax on the transaction against which the other

1310 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

1311 (c) notwithstanding the time period of Subsection 59-12-110(2)(b) for filing for a

1312 refund, a person may claim the exemption allowed by this Subsection (59) for a sale by filing

1313 for a refund:

1314 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

1315 (ii) as if this Subsection (59) as in effect on July 1, 2008, were in effect on the day on

1316 which the sale is made;

1317 (iii) if the person did not claim the exemption allowed by this Subsection (59) for the

- 1318 sale prior to filing for the refund;
- 1319 (iv) for sales and use taxes paid under this chapter on the sale;
- 1320 (v) in accordance with Section 59-12-110; and
- 1321 (vi) subject to any extension allowed for filing for a refund under Section 59-12-110,
- 1322 if the person files for the refund on or before June 30, 2011;
- 1323 (60) purchases:
- 1324 (a) of one or more of the following items in printed or electronic format:
- 1325 (i) a list containing information that includes one or more:
- 1326 (A) names; or
- 1327 (B) addresses; or
- 1328 (ii) a database containing information that includes one or more:
- 1329 (A) names; or
- 1330 (B) addresses; and
- 1331 (b) used to send direct mail;
- 1332 (61) redemptions or repurchases of a product by a person if that product was:
- 1333 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 1334 (b) redeemed or repurchased within the time period established in a written agreement
- 1335 between the person and the pawnbroker for redeeming or repurchasing the product;
- 1336 (62) (a) purchases or leases of an item described in Subsection (62)(b) if the item:
- 1337 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 1338 and
- 1339 (ii) has a useful economic life of one or more years; and
- 1340 (b) the following apply to Subsection (62)(a):
- 1341 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 1342 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 1343 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 1344 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 1345 (v) telecommunications transmission equipment, machinery, or software;

1346 (63) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of  
1347 tangible personal property or a product transferred electronically that are used in the research  
1348 and development of coal-to-liquids, oil shale, or tar sands technology; and

1349 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
1350 the commission may, for purposes of Subsection (63)(a), make rules defining what constitutes  
1351 purchases of tangible personal property or a product transferred electronically that are used in  
1352 the research and development of coal-to-liquids, oil shale, and tar sands technology;

1353 (64) (a) purchases of tangible personal property or a product transferred electronically  
1354 if:

1355 (i) the tangible personal property or product transferred electronically is:

1356 (A) purchased outside of this state;

1357 (B) brought into this state at any time after the purchase described in Subsection  
1358 (64)(a)(i)(A); and

1359 (C) used in conducting business in this state; and

1360 (ii) for:

1361 (A) tangible personal property or a product transferred electronically other than the  
1362 tangible personal property described in Subsection (64)(a)(ii)(B), the first use of the property  
1363 for a purpose for which the property is designed occurs outside of this state; or

1364 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
1365 outside of this state;

1366 (b) the exemption provided for in Subsection (64)(a) does not apply to:

1367 (i) a lease or rental of tangible personal property or a product transferred  
1368 electronically; or

1369 (ii) a sale of a vehicle exempt under Subsection (33); and

1370 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
1371 purposes of Subsection (64)(a), the commission may by rule define what constitutes the  
1372 following:

1373 (i) conducting business in this state if that phrase has the same meaning in this

1374 Subsection (64) as in Subsection (24);  
1375       (ii) the first use of tangible personal property or a product transferred electronically if  
1376 that phrase has the same meaning in this Subsection (64) as in Subsection (24); or  
1377       (iii) a purpose for which tangible personal property or a product transferred  
1378 electronically is designed if that phrase has the same meaning in this Subsection (64) as in  
1379 Subsection (24);  
1380       (65) sales of disposable home medical equipment or supplies if:  
1381       (a) a person presents a prescription for the disposable home medical equipment or  
1382 supplies;  
1383       (b) the disposable home medical equipment or supplies are used exclusively by the  
1384 person to whom the prescription described in Subsection (65)(a) is issued; and  
1385       (c) the disposable home medical equipment and supplies are listed as eligible for  
1386 payment under:  
1387       (i) Title XVIII, federal Social Security Act; or  
1388       (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;  
1389       (66) sales:  
1390       (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
1391 District Act; or  
1392       (b) of tangible personal property to a subcontractor of a public transit district, if the  
1393 tangible personal property is:  
1394       (i) clearly identified; and  
1395       (ii) installed or converted to real property owned by the public transit district;  
1396       (67) sales of construction materials:  
1397       (a) purchased on or after July 1, 2010;  
1398       (b) purchased by, on behalf of, or for the benefit of an international airport:  
1399       (i) located within a county of the first class; and  
1400       (ii) that has a United States customs office on its premises; and  
1401       (c) if the construction materials are:

- 1402 (i) clearly identified;
- 1403 (ii) segregated; and
- 1404 (iii) installed or converted to real property:
- 1405 (A) owned or operated by the international airport described in Subsection (67)(b);
- 1406 and
- 1407 (B) located at the international airport described in Subsection (67)(b);
- 1408 (68) sales of construction materials:
- 1409 (a) purchased on or after July 1, 2008;
- 1410 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 1411 (i) located within a county of the second class; and
- 1412 (ii) that is owned or operated by a city in which an airline as defined in Section
- 1413 59-2-102 is headquartered; and
- 1414 (c) if the construction materials are:
- 1415 (i) clearly identified;
- 1416 (ii) segregated; and
- 1417 (iii) installed or converted to real property:
- 1418 (A) owned or operated by the new airport described in Subsection (68)(b);
- 1419 (B) located at the new airport described in Subsection (68)(b); and
- 1420 (C) as part of the construction of the new airport described in Subsection (68)(b); and
- 1421 (69) sales of fuel to a common carrier that is a railroad for use in a locomotive engine.

**Section 3. Effective date -- Retrospective operation.**

This bill:

- 1424 (1) if approved by two-thirds of all the members elected to each house, takes effect
- 1425 upon approval by the governor, or the day following the constitutional time limit of Utah
- 1426 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
- 1427 the date of veto override; and
- 1428 (2) has retrospective operation to July 1, 2008.