

Representative Kraig Powell proposes the following substitute bill:

HEBER VALLEY HISTORIC RAILROAD

AUTHORITY

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kraig Powell

Senate Sponsor: Kevin T. Van Tassell

LONG TITLE

General Description:

This bill re-enacts the Heber Valley Historic Railroad Authority.

Highlighted Provisions:

This bill:

- ▶ creates an independent state entity and its membership;
- ▶ creates an executive director;
- ▶ requires disclosure of interests;
- ▶ creates the authority and powers of the railroad authority;
- ▶ provides for obligations of the authority;
- ▶ creates a duty to maintain the rails;
- ▶ provides for sunset review of the authority; and
- ▶ makes technical cross-reference changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill provides an effective date and retrospective operation for the provisions related to sales and use tax exemptions.



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **59-12-104**, as last amended by Laws of Utah 2009, Chapters 31, 203, 212, and 385

29 **63E-1-102**, as last amended by Laws of Utah 2009, Chapter 378

30 **63I-1-209**, as renumbered and amended by Laws of Utah 2008, Chapter 382

31 **63I-4-102**, as last amended by Laws of Utah 2009, Chapter 294

32 **63J-7-102**, as enacted by Laws of Utah 2008, Chapter 195

33 ENACTS:

34 **9-3-501**, Utah Code Annotated 1953

35 **9-3-502**, Utah Code Annotated 1953

36 **9-3-503**, Utah Code Annotated 1953

37 **9-3-504**, Utah Code Annotated 1953

38 **9-3-505**, Utah Code Annotated 1953

39 **9-3-506**, Utah Code Annotated 1953

40 **9-3-507**, Utah Code Annotated 1953

41 **9-3-508**, Utah Code Annotated 1953

42 **9-3-509**, Utah Code Annotated 1953

43 **9-3-510**, Utah Code Annotated 1953

44 **9-3-511**, Utah Code Annotated 1953



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

47 Section 1. Section **9-3-501** is enacted to read:

48 **Part 5. Heber Valley Historic Railroad Authority**

49 **9-3-501. Title.**

50 This part is known as the "Heber Valley Historic Railroad Authority."

51 Section 2. Section **9-3-502** is enacted to read:

52 **9-3-502. Creation -- Members -- Chair -- Powers -- Quorum -- Per diem and**
53 **expenses.**

54 (1) There is created an independent state agency and a body politic and corporate
55 known as the "Heber Valley Historic Railroad Authority."

56 (2) The authority shall be composed of eight members as follows:

- 57 (a) one member of the county legislative body of Wasatch County;
- 58 (b) the mayor of Heber City;
- 59 (c) the mayor of Midway;
- 60 (d) the executive director of the Department of Transportation or the executive
61 director's designee;
- 62 (e) one member from the Board of Parks and Recreation, appointed by the Board of
63 Parks and Recreation;
- 64 (f) three public members appointed by the governor with the consent of the Senate,
65 being private citizens of the state, as follows:
- 66 (i) two people representing the tourism industry, one each from Wasatch and Utah
67 counties; and
- 68 (ii) one person representing the public at large.
- 69 (3) All members shall be residents of the state.
- 70 (4) (a) Except as required by Subsection (4)(b), the three public members shall be
71 appointed for four-year terms beginning July 1, 2010.
- 72 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the
73 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
74 authority members are staggered so that approximately half of the authority is appointed every
75 two years.
- 76 (5) Any of the three public members may be removed from office by the governor or
77 for cause by an affirmative vote of any four members of the authority.
- 78 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
79 appointed for the unexpired term by the governor with consent of the Senate for the unexpired
80 term.
- 81 (7) Each public member shall hold office for the term of appointment and until a
82 successor has been appointed and qualified.
- 83 (8) Any public member is eligible for reappointment, but may not serve more than two
84 full consecutive terms.
- 85 (9) The governor shall appoint the chair of the authority from among its members.
- 86 (10) The members shall elect from among their number a vice chair and other officers
87 they may determine.

88 (11) The powers of the authority shall be vested in its members.

89 (12) Four members constitute a quorum for transaction of authority business. An
90 affirmative vote of at least four members is necessary for any action to be taken by the
91 authority.

92 (13) (a) (i) Members who are not government employees shall receive no
93 compensation or benefits for their services, but may receive per diem and expenses incurred in
94 the performance of the member's official duties at the rates established by the Division of
95 Finance under Sections 63A-3-106 and 63A-3-107.

96 (ii) Members may decline to receive per diem and expenses for their service.

97 (b) (i) State government officer and employee members who do not receive salary, per
98 diem, or expenses from their agency for their service may receive per diem and expenses
99 incurred in the performance of their official duties from the authority at the rates established by
100 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

101 (ii) State government officer and employee members may decline to receive per diem
102 and expenses for their service.

103 (c) (i) Local government members who do not receive salary, per diem, or expenses
104 from the entity that they represent for their service may receive per diem and expenses incurred
105 in the performance of their official duties at the rates established by the Division of Finance
106 under Sections 63A-3-106 and 63A-3-107.

107 (ii) Local government members may decline to receive per diem and expenses for their
108 service.

109 Section 3. Section **9-3-503** is enacted to read:

110 **9-3-503. Executive director -- Powers and duties.**

111 (1) The members shall appoint an executive director who shall be an employee of the
112 authority, but who may not be a member of the authority, and who shall serve at the pleasure of
113 the members and receive compensation as set by the members and approved by the governor.

114 (2) The executive director shall:

115 (a) administer, manage, and direct the affairs and activities of the authority in
116 accordance with the policies, control, and direction of the members;

117 (b) approve all accounts for allowable expenses of the authority or of any of its
118 employees and expenses incidental to the operation of the authority;

- 119 (c) attend the meetings of the authority;
- 120 (d) keep a record of the proceedings of the authority;
- 121 (e) maintain and be custodian of all books, documents, and papers filed with the
- 122 authority; and
- 123 (f) perform other duties as directed by the members in carrying out the purposes of this
- 124 part.

125 Section 4. Section **9-3-504** is enacted to read:

126 **9-3-504. Member or employee -- Disclosure of interest.**

127 Any member or employee of the authority who has, will have, or later acquires an

128 interest, direct or indirect, in any transaction with the authority shall immediately disclose the

129 nature and extent of that interest in writing to the authority as soon as the member or employee

130 has knowledge of the actual or prospective interest. This disclosure shall be entered upon the

131 minutes of the authority. Upon this disclosure that member or employee may participate in any

132 action by the authority authorizing the transaction.

133 Section 5. Section **9-3-505** is enacted to read:

134 **9-3-505. Officer or employee -- No forfeiture of office or employment.**

135 Notwithstanding the provisions of any other law, no officer or employee of this state

136 shall be considered to have forfeited or shall forfeit an officer's or employee's office or

137 employment by reason of acceptance of membership on the authority or service on it.

138 Section 6. Section **9-3-506** is enacted to read:

139 **9-3-506. Authority -- Powers.**

- 140 (1) The authority shall operate and maintain a scenic and historic railroad in and
- 141 around the Heber Valley.
- 142 (2) The authority has perpetual succession as a body politic and corporate and may:
- 143 (a) adopt, amend, and repeal rules, policies, and procedures for the regulation of its
- 144 affairs and the conduct of its business;
- 145 (b) sue and be sued in its own name;
- 146 (c) maintain an office at any place or places within this state it may designate;
- 147 (d) adopt, amend, and repeal bylaws and rules, not inconsistent with this part, to carry
- 148 into effect the powers and purposes of the authority and the conduct of its business;
- 149 (e) purchase, lease, sell, and otherwise dispose of property and rights-of-way;

- 150 (f) employ experts and other professionals it considers necessary;
- 151 (g) employ and retain independent legal counsel;
- 152 (h) make and execute contracts and all other instruments necessary or convenient for
153 the performance of its duties and the exercise of its duties under this part to operate and
154 maintain a scenic railroad in and around the Heber Valley;
- 155 (i) procure insurance for liability and against any loss in connection with its property
156 and other assets in amounts and from insurers it considers desirable;
- 157 (j) receive appropriation from the Legislature and receive other public moneys and
158 accept aid or contributions from any source of money, property, labor, or other things of value
159 to be held, used, and applied to carry out the purposes of this part subject to the conditions
160 upon which the grants and contributions are made, including, but not limited to, gifts or grants
161 from any department, agency, or instrumentality of the United States or of this state for any
162 purpose consistent with this part;
- 163 (k) enter into agreements with any department, agency, or instrumentality of the United
164 States or this state for the purpose of providing for the operation and maintenance of a scenic
165 railway in and around the Heber Valley; and
- 166 (l) do any act necessary or convenient to the exercise of the powers granted by this part.
- 167 (3) All monies received by the authority under Subsection (2)(j) and from any other
168 source shall be for the exclusive use of the authority to operate, maintain, improve, and provide
169 for a scenic and historic railway in and around the Heber Valley. The monies received by the
170 authority may not be used for any other purpose or by any other entity.

171 Section 7. Section **9-3-507** is enacted to read:

172 **9-3-507. Notes, bonds, other obligation -- Not debt liability -- Expenses payable**
173 **from funds provided -- Agency without authority to incur liability on behalf of state.**

174 (1) An obligation or liability of the authority does not constitute a debt or liability of
175 this state or of any of its political subdivisions nor does any obligation or liability constitute the
176 loaning of credit of the state or of any of its political subdivisions nor may any obligation or
177 liability of the authority be payable from funds other than those of the authority. All
178 obligations of the authority shall contain a statement to the effect that the authority is obligated
179 to pay them solely from the revenues or other funds of the authority and that this state or its
180 political subdivisions are not obligated to pay them and that neither the faith and credit nor the

181 taxing power of this state or any of its political subdivisions is pledged to the payment of them.

182 (2) All expenses incurred in carrying out this part shall be payable solely from funds of
183 the authority provided under this part, and nothing in this part may be construed to authorize
184 the authority to incur indebtedness or liability on behalf of or payable by this state or any of its
185 political subdivisions.

186 Section 8. Section **9-3-508** is enacted to read:

187 **9-3-508. Relation to certain acts.**

188 (1) The authority is exempt from:

189 (a) Title 51, Chapter 5, Funds Consolidation Act;

190 (b) Title 63A, Utah Administrative Services Code;

191 (c) Title 63G, Chapter 6, Utah Procurement Code;

192 (d) Title 63J, Chapter 1, Budgetary Procedures Act; and

193 (e) Title 67, Chapter 19, Utah State Personnel Management Act.

194 (2) The authority shall be subject to audit by the state auditor pursuant to Title 67,

195 Chapter 3, Auditor, and by the legislative auditor general pursuant to Section 36-12-15.

196 Section 9. Section **9-3-509** is enacted to read:

197 **9-3-509. Duty to maintain rails.**

198 The authority shall maintain the rails, bed, right-of-way, and related property upon
199 which the authority's train shall operate in compliance with state and federal statutes, rules, and
200 regulations.

201 Section 10. Section **9-3-510** is enacted to read:

202 **9-3-510. Lease of rails from Department of Transportation and Division of Parks**
203 **and Recreation.**

204 The Department of Transportation and the Division of Parks and Recreation shall
205 jointly lease the rails, bed, right-of-way, and related property for not more than \$1 per year to
206 the authority.

207 Section 11. Section **9-3-511** is enacted to read:

208 **9-3-511. Sales tax exemption.**

209 The authority and its operators are exempt from sales and use tax imposed under Title
210 59, Chapter 12, Sales and Use Tax Act, for their purchases and sales related to the operation
211 and maintenance of a scenic and historic railroad in and around the Heber Valley.

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

213 **59-12-104. Exemptions.**

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

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

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

219 (a) construction materials except:

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

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

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

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

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

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

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

235 (i) food and food ingredients; or

236 (ii) prepared food;

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

238 (i) alcoholic beverages;

239 (ii) food and food ingredients; or

240 (iii) prepared food;

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

242 (i) to a passenger;

243 (ii) by a commercial airline carrier; and
244 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
245 (c) services related to Subsection (4)(a) or (b);
246 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
247 and equipment:
248 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
249 North American Industry Classification System of the federal Executive Office of the
250 President, Office of Management and Budget; and
251 (II) for:
252 (Aa) installation in an aircraft, including services relating to the installation of parts or
253 equipment in the aircraft;
254 (Bb) renovation of an aircraft; or
255 (Cc) repair of an aircraft; or
256 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
257 commerce; or
258 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
259 aircraft operated by a common carrier in interstate or foreign commerce; and
260 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
261 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
262 refund:
263 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
264 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
265 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
266 the sale prior to filing for the refund;
267 (iv) for sales and use taxes paid under this chapter on the sale;
268 (v) in accordance with Section 59-1-1410; and
269 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
270 the person files for the refund on or before September 30, 2011;
271 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
272 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
273 exhibitor, distributor, or commercial television or radio broadcaster;

274 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
275 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
276 washing of tangible personal property;

277 (b) if a seller that sells at the same business location assisted cleaning or washing of
278 tangible personal property and cleaning or washing of tangible personal property that is not
279 assisted cleaning or washing of tangible personal property, the exemption described in
280 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
281 or washing of the tangible personal property; and

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

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

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

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

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

293 (a) not registered in this state; and

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

295 (ii) used in this state:

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

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

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

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

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

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

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

305 (B) the item was purchased by a hospital or other medical facility; and
306 (b) (i) Subsection (10)(a) applies to:
307 (A) a drug;
308 (B) a syringe; or
309 (C) a stoma supply; and
310 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
311 commission may by rule define the terms:
312 (A) "syringe"; or
313 (B) "stoma supply";
314 (11) sales or use of property, materials, or services used in the construction of or
315 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
316 (12) (a) sales of an item described in Subsection (12)(c) served by:
317 (i) the following if the item described in Subsection (12)(c) is not available to the
318 general public:
319 (A) a church; or
320 (B) a charitable institution;
321 (ii) an institution of higher education if:
322 (A) the item described in Subsection (12)(c) is not available to the general public; or
323 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
324 offered by the institution of higher education; or
325 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
326 (i) a medical facility; or
327 (ii) a nursing facility; and
328 (c) Subsections (12)(a) and (b) apply to:
329 (i) food and food ingredients;
330 (ii) prepared food; or
331 (iii) alcoholic beverages;
332 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
333 or a product transferred electronically by a person:
334 (i) regardless of the number of transactions involving the sale of that tangible personal
335 property or product transferred electronically by that person; and

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

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

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

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

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

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

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

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

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

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

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

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

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

365 (i) machinery and equipment that:

366 (A) are used:

367 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
368 recycler described in Subsection 59-12-102(52)(b):
369 (Aa) in the manufacturing process;
370 (Bb) to manufacture an item sold as tangible personal property; and
371 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
372 (14)(a)(i)(A)(I) in the state; or
373 (II) for a manufacturing facility that is a scrap recycler described in Subsection
374 59-12-102(52)(b):
375 (Aa) to process an item sold as tangible personal property; and
376 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
377 (14)(a)(i)(A)(II) in the state; and
378 (B) have an economic life of three or more years; and
379 (ii) normal operating repair or replacement parts that:
380 (A) have an economic life of three or more years; and
381 (B) are used:
382 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
383 recycler described in Subsection 59-12-102(52)(b):
384 (Aa) in the manufacturing process; and
385 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
386 state; or
387 (II) for a manufacturing facility that is a scrap recycler described in Subsection
388 59-12-102(52)(b):
389 (Aa) to process an item sold as tangible personal property; and
390 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
391 state;
392 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
393 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
394 for the following:
395 (i) machinery and equipment that:
396 (A) are used:
397 (I) in the manufacturing process;

398 (II) to manufacture an item sold as tangible personal property; and
399 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
400 (14)(b) in the state; and
401 (B) have an economic life of three or more years; and
402 (ii) normal operating repair or replacement parts that:
403 (A) are used:
404 (I) in the manufacturing process; and
405 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
406 (B) have an economic life of three or more years;
407 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
408 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
409 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
410 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
411 of the 2002 North American Industry Classification System of the federal Executive Office of
412 the President, Office of Management and Budget:
413 (i) machinery and equipment that:
414 (A) are used:
415 (I) (Aa) in the production process, other than the production of real property; or
416 (Bb) in research and development; and
417 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
418 in the state; and
419 (B) have an economic life of three or more years; and
420 (ii) normal operating repair or replacement parts that:
421 (A) have an economic life of three or more years; and
422 (B) are used in:
423 (I) (Aa) the production process, except for the production of real property; and
424 (Bb) an establishment described in this Subsection (14)(c) in the state; or
425 (II) (Aa) research and development; and
426 (Bb) in an establishment described in this Subsection (14)(c) in the state;
427 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
428 Utah Administrative Rulemaking Act, the commission:

429 (i) shall by rule define the term "establishment"; and
430 (ii) may by rule define what constitutes:
431 (A) processing an item sold as tangible personal property;
432 (B) the production process, except for the production of real property; or
433 (C) research and development; and
434 (e) on or before October 1, 2011, and every five years after October 1, 2011, the
435 commission shall:
436 (i) review the exemptions described in this Subsection (14) and make
437 recommendations to the Revenue and Taxation Interim Committee concerning whether the
438 exemptions should be continued, modified, or repealed; and
439 (ii) include in its report:
440 (A) an estimate of the cost of the exemptions;
441 (B) the purpose and effectiveness of the exemptions; and
442 (C) the benefits of the exemptions to the state;
443 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
444 (i) tooling;
445 (ii) special tooling;
446 (iii) support equipment;
447 (iv) special test equipment; or
448 (v) parts used in the repairs or renovations of tooling or equipment described in
449 Subsections (15)(a)(i) through (iv); and
450 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
451 (i) the tooling, equipment, or parts are used or consumed exclusively in the
452 performance of any aerospace or electronics industry contract with the United States
453 government or any subcontract under that contract; and
454 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
455 title to the tooling, equipment, or parts is vested in the United States government as evidenced
456 by:
457 (A) a government identification tag placed on the tooling, equipment, or parts; or
458 (B) listing on a government-approved property record if placing a government
459 identification tag on the tooling, equipment, or parts is impractical;

460 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

473 (i) money;

474 (ii) electricity;

475 (iii) water;

476 (iv) gas; or

477 (v) steam;

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

482 (A) becomes part of real estate; or

483 (B) is installed by a:

484 (I) farmer;

485 (II) contractor; or

486 (III) subcontractor; or

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

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

491 subject to the taxes imposed by this chapter:

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

494 (I) machinery;

495 (II) equipment;

496 (III) materials; or

497 (IV) supplies; and

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

499 incidental to farming includes:

500 (I) hand tools; or

501 (II) maintenance and janitorial equipment and supplies;

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

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

507 (I) office equipment and supplies; or

508 (II) equipment and supplies used in:

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

510 (Bb) research; or

511 (Cc) transportation; or

512 (iii) a vehicle required to be registered by the laws of this state during the period
513 ending two years after the date of the vehicle's purchase;

514 (19) sales of hay;

515 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
516 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
517 garden, farm, or other agricultural produce is sold by:

518 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
519 agricultural produce;

520 (b) an employee of the producer described in Subsection (20)(a); or

521 (c) a member of the immediate family of the producer described in Subsection (20)(a);

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

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

528 (23) a product stored in the state for resale;

529 (24) (a) purchases of a product if:

530 (i) the product is:

531 (A) purchased outside of this state;

532 (B) brought into this state:

533 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and

534 (II) by a nonresident person who is not living or working in this state at the time of the
535 purchase;

536 (C) used for the personal use or enjoyment of the nonresident person described in
537 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

538 (D) not used in conducting business in this state; and

539 (ii) for:

540 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
541 the product for a purpose for which the product is designed occurs outside of this state;

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

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

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

546 (i) a lease or rental of a product; or

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

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

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

553 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
554 as in Subsection (63); or

555 (iii) a purpose for which a product is designed if that phrase has the same meaning in
556 this Subsection (24) as in Subsection (63);

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

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

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

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

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

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

575 (a) not registered in this state; and

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

577 (ii) used in this state:

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

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

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

583 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time

584 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
585 state;

586 (31) sales of aircraft manufactured in Utah;

587 (32) amounts paid for the purchase of telecommunications service for purposes of
588 providing telecommunications service;

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

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

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

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

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

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

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

596 (35) sales relating to schools and fundraising sales;

597 (36) sales or rentals of durable medical equipment if:

598 (a) a person presents a prescription for the durable medical equipment; and

599 (b) the durable medical equipment is used for home use only;

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

602 (b) the commission shall by rule determine the method for calculating sales exempt
603 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

604 (38) sales to a ski resort of:

605 (a) snowmaking equipment;

606 (b) ski slope grooming equipment;

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

608 (d) parts used in the repairs or renovations of equipment or passenger ropeways
609 described in Subsections (38)(a) through (c);

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

611 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
612 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
613 59-12-102;

614 (b) if a seller that sells or rents at the same business location the right to use or operate

615 for amusement, entertainment, or recreation one or more unassisted amusement devices and
616 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
617 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
618 amusement, entertainment, or recreation for the assisted amusement devices; and

619 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
620 Utah Administrative Rulemaking Act, the commission may make rules:

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

623 (ii) establishing the procedures and requirements for a seller to separately account for
624 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
625 assisted amusement devices;

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

627 (i) a governmental entity; or

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

629 (A) a school; or

630 (B) the State Board of Education; or

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

632 (42) amounts paid for admission to an athletic event at an institution of higher
633 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
634 20 U.S.C. Sec. 1681 et seq.;

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

636 (i) an area agency on aging; or

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

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

639 (44) sales or leases of semiconductor fabricating, processing, research, or development
640 materials regardless of whether the semiconductor fabricating, processing, research, or
641 development materials:

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

643 (b) ultimately become incorporated into real property;

644 (45) an amount paid by or charged to a purchaser for accommodations and services
645 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

646 59-12-104.2;

647 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
648 sports event registration certificate in accordance with Section 41-3-306 for the event period
649 specified on the temporary sports event registration certificate;

650 (47) sales or uses of electricity, if the sales or uses are:

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

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

655 (i) unrelated to the amount of electricity used by the person purchasing the electricity
656 under the tariff described in Subsection (47)(a); and

657 (ii) equivalent to the number of kilowatthours specified in the tariff described in
658 Subsection (47)(a) that may be purchased under the tariff described in Subsection (47)(a);

659 (48) sales or rentals of mobility enhancing equipment if a person presents a
660 prescription for the mobility enhancing equipment;

661 (49) sales of water in a:

662 (a) pipe;

663 (b) conduit;

664 (c) ditch; or

665 (d) reservoir;

666 (50) sales of currency or coinage that constitute legal tender of the United States or of a
667 foreign nation;

668 (51) (a) sales of an item described in Subsection (51)(b) if the item:

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

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

671 (b) Subsection (51)(a) applies to a gold, silver, or platinum:

672 (i) ingot;

673 (ii) bar;

674 (iii) medallion; or

675 (iv) decorative coin;

676 (52) amounts paid on a sale-leaseback transaction;

677 (53) sales of a prosthetic device:
678 (a) for use on or in a human; and
679 (b) (i) for which a prescription is required; or
680 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
681 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
682 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
683 or equipment is primarily used in the production or postproduction of the following media for
684 commercial distribution:
685 (i) a motion picture;
686 (ii) a television program;
687 (iii) a movie made for television;
688 (iv) a music video;
689 (v) a commercial;
690 (vi) a documentary; or
691 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
692 commission by administrative rule made in accordance with Subsection (54)(d); or
693 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
694 equipment by an establishment described in Subsection (54)(c) that is used for the production
695 or postproduction of the following are subject to the taxes imposed by this chapter:
696 (i) a live musical performance;
697 (ii) a live news program; or
698 (iii) a live sporting event;
699 (c) the following establishments listed in the 1997 North American Industry
700 Classification System of the federal Executive Office of the President, Office of Management
701 and Budget, apply to Subsections (54)(a) and (b):
702 (i) NAICS Code 512110; or
703 (ii) NAICS Code 51219; and
704 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
705 commission may by rule:
706 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
707 or

- 708 (ii) define:
- 709 (A) "commercial distribution";
- 710 (B) "live musical performance";
- 711 (C) "live news program"; or
- 712 (D) "live sporting event";
- 713 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 714 or before June 30, 2019, of machinery or equipment that:
- 715 (i) is leased or purchased for or by a facility that:
- 716 (A) is a renewable energy production facility;
- 717 (B) is located in the state; and
- 718 (C) (I) becomes operational on or after July 1, 2004; or
- 719 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 720 2004 as a result of the use of the machinery or equipment;
- 721 (ii) has an economic life of five or more years; and
- 722 (iii) is used to make the facility or the increase in capacity of the facility described in
- 723 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 724 transmission grid including:
- 725 (A) a wind turbine;
- 726 (B) generating equipment;
- 727 (C) a control and monitoring system;
- 728 (D) a power line;
- 729 (E) substation equipment;
- 730 (F) lighting;
- 731 (G) fencing;
- 732 (H) pipes; or
- 733 (I) other equipment used for locating a power line or pole; and
- 734 (b) this Subsection (55) does not apply to:
- 735 (i) machinery or equipment used in construction of:
- 736 (A) a new renewable energy production facility; or
- 737 (B) the increase in the capacity of a renewable energy production facility;
- 738 (ii) contracted services required for construction and routine maintenance activities;

739 and

740 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
741 of the facility described in Subsection (55)(a)(i)(C)(II), machinery or equipment used or
742 acquired after:

743 (A) the renewable energy production facility described in Subsection (55)(a)(i) is
744 operational as described in Subsection (55)(a)(iii); or

745 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
746 in Subsection (55)(a)(iii);

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

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

750 (A) is a waste energy production facility;

751 (B) is located in the state; and

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

753 (II) has its generation capacity increased by one or more megawatts on or after July 1,
754 2004 as a result of the use of the machinery or equipment;

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

756 (iii) is used to make the facility or the increase in capacity of the facility described in
757 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
758 transmission grid including:

759 (A) generating equipment;

760 (B) a control and monitoring system;

761 (C) a power line;

762 (D) substation equipment;

763 (E) lighting;

764 (F) fencing;

765 (G) pipes; or

766 (H) other equipment used for locating a power line or pole; and

767 (b) this Subsection (56) does not apply to:

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

769 (A) a new waste energy facility; or

770 (B) the increase in the capacity of a waste energy facility;
771 (ii) contracted services required for construction and routine maintenance activities;
772 and
773 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
774 described in Subsection (56)(a)(i)(C)(II), machinery or equipment used or acquired after:
775 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
776 described in Subsection (56)(a)(iii); or
777 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
778 in Subsection (56)(a)(iii);
779 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
780 or before June 30, 2019, of machinery or equipment that:
781 (i) is leased or purchased for or by a facility that:
782 (A) is located in the state;
783 (B) produces fuel from biomass energy including:
784 (I) methanol; or
785 (II) ethanol; and
786 (C) (I) becomes operational on or after July 1, 2004; or
787 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
788 a result of the installation of the machinery or equipment;
789 (ii) has an economic life of five or more years; and
790 (iii) is installed on the facility described in Subsection (57)(a)(i);
791 (b) this Subsection (57) does not apply to:
792 (i) machinery or equipment used in construction of:
793 (A) a new facility described in Subsection (57)(a)(i); or
794 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
795 (ii) contracted services required for construction and routine maintenance activities;
796 and
797 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
798 described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or acquired after:
799 (A) the facility described in Subsection (57)(a)(i) is operational; or
800 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

801 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
802 product transferred electronically to a person within this state if that tangible personal property
803 or product transferred electronically is subsequently shipped outside the state and incorporated
804 pursuant to contract into and becomes a part of real property located outside of this state;

805 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
806 state or political entity to which the tangible personal property is shipped imposes a sales, use,
807 gross receipts, or other similar transaction excise tax on the transaction against which the other
808 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

809 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
810 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
811 refund:

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

813 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
814 which the sale is made;

815 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
816 sale prior to filing for the refund;

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

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

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

821 (59) purchases:

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

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

824 (A) names; or

825 (B) addresses; or

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

827 (A) names; or

828 (B) addresses; and

829 (b) used to send direct mail;

830 (60) redemptions or repurchases of a product by a person if that product was:

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

832 (b) redeemed or repurchased within the time period established in a written agreement
833 between the person and the pawnbroker for redeeming or repurchasing the product;

834 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

835 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

836 and

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

838 (b) the following apply to Subsection (61)(a):

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

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

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

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

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

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

847 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
848 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
849 purchases of tangible personal property or a product transferred electronically that are used in
850 the research and development of coal-to-liquids, oil shale, and tar sands technology;

851 (63) (a) purchases of tangible personal property or a product transferred electronically
852 if:

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

854 (A) purchased outside of this state;

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

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

858 (ii) for:

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

862 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

863 outside of this state;

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

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

866 or

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

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

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

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

875 (iii) a purpose for which tangible personal property or a product transferred
876 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
877 Subsection (24);

878 (64) sales of disposable home medical equipment or supplies if:

879 (a) a person presents a prescription for the disposable home medical equipment or
880 supplies;

881 (b) the disposable home medical equipment or supplies are used exclusively by the
882 person to whom the prescription described in Subsection (64)(a) is issued; and

883 (c) the disposable home medical equipment and supplies are listed as eligible for
884 payment under:

885 (i) Title XVIII, federal Social Security Act; or

886 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

887 (65) sales:

888 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
889 District Act; or

890 (b) of tangible personal property to a subcontractor of a public transit district, if the
891 tangible personal property is:

892 (i) clearly identified; and

893 (ii) installed or converted to real property owned by the public transit district;

- 894 (66) sales of construction materials:
- 895 (a) purchased on or after July 1, 2010;
- 896 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 897 (i) located within a county of the first class; and
- 898 (ii) that has a United States customs office on its premises; and
- 899 (c) if the construction materials are:
- 900 (i) clearly identified;
- 901 (ii) segregated; and
- 902 (iii) installed or converted to real property:
- 903 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 904 (B) located at the international airport described in Subsection (66)(b);
- 905 (67) sales of construction materials:
- 906 (a) purchased on or after July 1, 2008;
- 907 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 908 (i) located within a county of the second class; and
- 909 (ii) that is owned or operated by a city in which an airline as defined in Section
- 910 59-2-102 is headquartered; and
- 911 (c) if the construction materials are:
- 912 (i) clearly identified;
- 913 (ii) segregated; and
- 914 (iii) installed or converted to real property:
- 915 (A) owned or operated by the new airport described in Subsection (67)(b);
- 916 (B) located at the new airport described in Subsection (67)(b); and
- 917 (C) as part of the construction of the new airport described in Subsection (67)(b); ~~and~~
- 918 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive
- 919 engine[-]; and
- 920 (69) purchases and sales described in Section 9-3-511.
- 921 Section 13. Section **63E-1-102** is amended to read:
- 922 **63E-1-102. Definitions.**
- 923 As used in this title:
- 924 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

925 (2) "Committee" means the Retirement and Independent Entities Committee created in
926 Section 63E-1-201.

927 (3) "Independent corporation" means a corporation incorporated in accordance with
928 Chapter 2, Independent Corporations Act.

929 (4) (a) "Independent entity" means an entity having a public purpose relating to the
930 state or its citizens that is individually created by the state or is given by the state the right to
931 exist and conduct its affairs as an:

932 (i) independent state agency; or

933 (ii) independent corporation.

934 (b) "Independent entity" includes the:

935 (i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

936 (ii) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part [3] 5, Heber
937 Valley Historic Railroad Authority;

938 (iii) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science
939 Center Authority;

940 (iv) Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing
941 Corporation Act;

942 (v) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair
943 Corporation Act;

944 (vi) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
945 Compensation Fund;

946 (vii) Utah State Retirement Office created in Title 49, Chapter 11, Utah State
947 Retirement Systems Administration;

948 (viii) School and Institutional Trust Lands Administration created in Title 53C,
949 Chapter 1, Part 2, School and Institutional Trust Lands Administration;

950 (ix) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah
951 Communications Agency Network Act;

952 (x) Utah Generated Renewable Energy Electricity Network Authority created in Title
953 63H, Chapter 2, Utah Generated Renewable Energy Electricity Network Authority Act; and

954 (xi) Utah Capital Investment Corporation created in Title 63M, Chapter 1, Part 12,
955 Utah Venture Capital Enhancement Act.

- 956 (c) Notwithstanding this Subsection (4), "independent entity" does not include:
957 (i) the Public Service Commission of Utah created in Section 54-1-1;
958 (ii) an institution within the state system of higher education;
959 (iii) a city, county, or town;
960 (iv) a local school district;
961 (v) a local district under Title 17B, Limited Purpose Local Government Entities - Local
962 Districts; or
963 (vi) a special service district under Title 17D, Chapter 1, Special Service District Act.

964 (5) "Independent state agency" means an entity that is created by the state, but is
965 independent of the governor's direct supervisory control.

966 (6) "Monies held in trust" means monies maintained for the benefit of:

- 967 (a) one or more private individuals, including public employees;
968 (b) one or more public or private entities; or
969 (c) the owners of a quasi-public corporation.

970 (7) "Public corporation" means an artificial person, public in ownership, individually
971 created by the state as a body politic and corporate for the administration of a public purpose
972 relating to the state or its citizens.

973 (8) "Quasi-public corporation" means an artificial person, private in ownership,
974 individually created as a corporation by the state which has accepted from the state the grant of
975 a franchise or contract involving the performance of a public purpose relating to the state or its
976 citizens.

977 Section 14. Section **63I-1-209** is amended to read:

978 **63I-1-209. Repeal dates, Title 9.**

979 (1) Title 9, Chapter 1, Part 8, Commission on National and Community Service Act, is
980 repealed July 1, 2014.

981 (2) Title 9, Chapter 3, Part [3] 5, Heber Valley Historic Railroad Authority, is repealed
982 July 1, [~~2009~~] 2020.

983 (3) Title 9, Chapter 4, Part 9, Utah Housing Corporation Act, is repealed July 1, 2016.

984 Section 15. Section **63I-4-102** is amended to read:

985 **63I-4-102. Definitions.**

986 (1) (a) "Activity" means to provide a good or service.

- 987 (b) "Activity" includes to:
- 988 (i) manufacture a good or service;
- 989 (ii) process a good or service;
- 990 (iii) sell a good or service;
- 991 (iv) offer for sale a good or service;
- 992 (v) rent a good or service;
- 993 (vi) lease a good or service;
- 994 (vii) deliver a good or service;
- 995 (viii) distribute a good or service; or
- 996 (ix) advertise a good or service.
- 997 (2) (a) Except as provided in Subsection (2)(b), "agency" means:
- 998 (i) the state; or
- 999 (ii) an entity of the state including a department, office, division, authority,
- 1000 commission, or board.
- 1001 (b) "Agency" does not include:
- 1002 (i) the Legislature;
- 1003 (ii) an entity or agency of the Legislature;
- 1004 (iii) the state auditor;
- 1005 (iv) the state treasurer;
- 1006 (v) the Office of the Attorney General;
- 1007 (vi) the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;
- 1008 (vii) the Heber Valley Railroad Authority created in Title 9, Chapter 3, Part [3] 5,
- 1009 Heber Valley Historic Railroad Authority;
- 1010 (viii) the Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah
- 1011 Science Center Authority;
- 1012 (ix) the Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing
- 1013 Corporation Act;
- 1014 (x) the Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State
- 1015 Fair Corporation Act;
- 1016 (xi) the Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
- 1017 Compensation Fund;

- 1018 (xii) the Utah State Retirement Office created in Title 49, Chapter 11, Utah State
1019 Retirement Systems Administration;
- 1020 (xiii) a charter school chartered by the State Charter School Board under Title 53A,
1021 Chapter 1a, Part 5, The Utah Charter Schools Act;
- 1022 (xiv) the Utah Schools for the Deaf and the Blind created in Title 53A, Chapter 25b,
1023 Utah Schools for the Deaf and the Blind;
- 1024 (xv) an institution of higher education as defined in Section 53B-3-102;
- 1025 (xvi) the School and Institutional Trust Lands Administration created in Title 53C,
1026 Chapter 1, Part 2, School and Institutional Trust Lands Administration;
- 1027 (xvii) the Utah Communications Agency Network created in Title 63C, Chapter 7,
1028 Utah Communications Agency Network Act; or
- 1029 (xviii) the Utah Capital Investment Corporation created in Title 63M, Chapter 1, Part
1030 12, Utah Venture Capital Enhancement Act.
- 1031 (3) "Agency head" means the chief administrative officer of an agency.
- 1032 (4) "Board" means the Privatization Policy Board created in Section 63I-4-201.
- 1033 (5) "Commercial activity" means to engage in an activity that can be obtained in whole
1034 or in part from a private enterprise.
- 1035 (6) "Local entity" means:
- 1036 (a) a political subdivision of the state, including a:
- 1037 (i) county;
- 1038 (ii) city;
- 1039 (iii) town;
- 1040 (iv) local school district;
- 1041 (v) local district; or
- 1042 (vi) special service district;
- 1043 (b) an agency of an entity described in this Subsection (6), including a department,
1044 office, division, authority, commission, or board; and
- 1045 (c) an entity created by an interlocal cooperative agreement under Title 11, Chapter 13,
1046 Interlocal Cooperation Act, between two or more entities described in this Subsection (6).
- 1047 (7) "Private enterprise" means a person that for profit:
- 1048 (a) manufactures a good or service;

- 1049 (b) processes a good or service;
- 1050 (c) sells a good or service;
- 1051 (d) offers for sale a good or service;
- 1052 (e) rents a good or service;
- 1053 (f) leases a good or service;
- 1054 (g) delivers a good or service;
- 1055 (h) distributes a good or service; or
- 1056 (i) advertises a good or service.

1057 (8) "Privatize" means that an activity engaged in by an agency is transferred so that a
1058 private enterprise engages in the activity including a transfer by:

- 1059 (a) contract;
- 1060 (b) transfer of property; or
- 1061 (c) another arrangement.

1062 Section 16. Section **63J-7-102** is amended to read:

1063 **63J-7-102. Scope and applicability of chapter.**

1064 (1) Except as provided in Subsection (2), and except as otherwise provided by a statute
1065 superseding provisions of this chapter by explicit reference to this chapter, the provisions of
1066 this chapter apply to each agency and govern each grant received on or after May 5, 2008.

1067 (2) This chapter does not govern:

- 1068 (a) a grant deposited into a General Fund restricted account;
- 1069 (b) a grant deposited into a Trust and Agency Fund as defined in Section 51-5-4;
- 1070 (c) a grant deposited into an Enterprise Fund as defined in Section 51-5-4;
- 1071 (d) a grant made to the state without a restriction or other designated purpose that is
1072 deposited into the General Fund as free revenue;
- 1073 (e) a grant made to the state that is restricted only to "education" and that is deposited
1074 into the Education Fund or Uniform School Fund as free revenue;
- 1075 (f) in-kind donations;
- 1076 (g) a tax, fees, penalty, fine, surcharge, money judgment, or other monies due the state
1077 when required by state law or application of state law;
- 1078 (h) a contribution made under Title 59, Chapter 10, Part 13, Individual Income Tax
1079 Contribution Act;

- 1080 (i) a grant received by an agency from another agency or political subdivision;
- 1081 (j) a grant to the Dairy Commission created in Title 4, Chapter 22, Dairy Promotion
- 1082 Act;
- 1083 (k) a grant to the Heber Valley Railroad Authority created in Title 9, Chapter 3, Part
- 1084 [3] 5, Heber Valley Historic Railroad Authority;
- 1085 (l) a grant to the Utah Science Center Authority created in Title 9, Chapter 3, Part 4,
- 1086 Utah Science Center Authority;
- 1087 (m) a grant to the Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah
- 1088 Housing Corporation Act;
- 1089 (n) a grant to the Utah State Fair Corporation created in Title 9, Chapter 4, Part 11,
- 1090 Utah State Fair Corporation Act;
- 1091 (o) a grant to the Workers' Compensation Fund created in Title 31A, Chapter 33,
- 1092 Workers' Compensation Fund;
- 1093 (p) a grant to the Utah State Retirement Office created in Title 49, Chapter 11, Utah
- 1094 State Retirement Systems Administration;
- 1095 (q) a grant to the School and Institutional Trust Lands Administration created in Title
- 1096 53C, Chapter 1, Part 2, School and Institutional Trust Lands Administration;
- 1097 (r) a grant to the Utah Communications Agency Network created in Title 63C, Chapter
- 1098 7, Utah Communications Agency Network Act;
- 1099 (s) a grant to the Medical Education Program created in Section 63C-8-102;
- 1100 (t) a grant to the Utah Capital Investment Corporation created in Title 63M, Chapter 1,
- 1101 Part 12, Utah Venture Capital Enhancement Act;
- 1102 (u) a grant to the State Charter School Finance Authority created in Section
- 1103 53A-20b-103;
- 1104 (v) a grant to the State Building Ownership Authority created in Section 63B-1-304;
- 1105 (w) a grant to the Utah Comprehensive Health Insurance Pool created in Section
- 1106 31A-29-104; or
- 1107 (x) a grant to the Military Installation Development Authority created in Section
- 1108 63H-1-201.
- 1109 (3) An agency need not seek legislative review or approval of grants under Part 2,
- 1110 Grant Approval Requirements, when:

- 1111 (a) the governor has declared a state of emergency; and
1112 (b) the grant is donated to the agency to assist disaster victims under Subsection
1113 63K-4-201(2).
- 1114 Section 17. **Effective date -- Retrospective operation.**
- 1115 (1) This bill takes effect on May 11, 2010.
- 1116 (2) The amendments to Sections 9-3-511 and 59-12-104 shall have retrospective
1117 operation for taxable periods beginning on or after July 1, 2009.