

EXTENSION OF SALES AND USE TAX EXEMPTION

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ryan D. Wilcox

Senate Sponsor: Peter C. Knudson

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LONG TITLE

General Description:

This bill amends a sales and use tax exemption.

Highlighted Provisions:

This bill:

- ▶ extends a sales and use tax exemption related to a steel mill.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-104, as last amended by Laws of Utah 2013, Chapters 82, 223, 229, 234, and 441

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

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

29 **59-12-104. Exemptions.**

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

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

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

35 (a) construction materials except:

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

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

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

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

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

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

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

51 (i) food and food ingredients; or

52 (ii) prepared food;

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

54 (i) alcoholic beverages;

55 (ii) food and food ingredients; or

56 (iii) prepared food;

- 57 (b) sales of tangible personal property or a product transferred electronically:
- 58 (i) to a passenger;
- 59 (ii) by a commercial airline carrier; and
- 60 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 61 (c) services related to Subsection (4)(a) or (b);
- 62 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 63 and equipment:
- 64 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 65 North American Industry Classification System of the federal Executive Office of the
- 66 President, Office of Management and Budget; and
- 67 (II) for:
- 68 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 69 equipment in the aircraft;
- 70 (Bb) renovation of an aircraft; or
- 71 (Cc) repair of an aircraft; or
- 72 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 73 commerce; or
- 74 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 75 aircraft operated by a common carrier in interstate or foreign commerce; and
- 76 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 77 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
- 78 refund:
- 79 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- 80 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 81 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
- 82 the sale prior to filing for the refund;
- 83 (iv) for sales and use taxes paid under this chapter on the sale;
- 84 (v) in accordance with Section 59-1-1410; and

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

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

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

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

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

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

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

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

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

109 (a) not registered in this state; and

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

111 (ii) used in this state:

112 (A) if the vehicle is not used to conduct business, for a time period that does not

113 exceed the longer of:

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

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

116 (B) if the vehicle is used to conduct business, for the time period necessary to transport

117 the vehicle to the borders of this state;

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

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

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

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

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

123 (A) a drug;

124 (B) a syringe; or

125 (C) a stoma supply; and

126 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

127 commission may by rule define the terms:

128 (A) "syringe"; or

129 (B) "stoma supply";

130 (11) sales or use of property, materials, or services used in the construction of or

131 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;

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

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

134 general public:

135 (A) a church; or

136 (B) a charitable institution;

137 (ii) an institution of higher education if:

138 (A) the item described in Subsection (12)(c) is not available to the general public; or

139 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

140 offered by the institution of higher education; or

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

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

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

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

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

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

181 (i) machinery and equipment that:

182 (A) are used:

183 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
184 recycler described in Subsection 59-12-102(64)(b):

185 (Aa) in the manufacturing process;

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

187 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
188 (14)(a)(i)(A)(I) in the state; or

189 (II) for a manufacturing facility that is a scrap recycler described in Subsection
190 59-12-102(64)(b):

191 (Aa) to process an item sold as tangible personal property; and

192 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
193 (14)(a)(i)(A)(II) in the state; and

194 (B) have an economic life of three or more years; and

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

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

197 (B) are used:

198 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
199 recycler described in Subsection 59-12-102(64)(b):

200 (Aa) in the manufacturing process; and

201 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
202 state; or

203 (II) for a manufacturing facility that is a scrap recycler described in Subsection
204 59-12-102(64)(b):

205 (Aa) to process an item sold as tangible personal property; and

206 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
207 state;

208 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
209 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
210 of the following:

211 (i) machinery and equipment that:

212 (A) are used:

213 (I) in the manufacturing process;

214 (II) to manufacture an item sold as tangible personal property; and

215 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
216 (14)(b) in the state; and

217 (B) have an economic life of three or more years; and

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

219 (A) are used:

220 (I) in the manufacturing process; and

221 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and

222 (B) have an economic life of three or more years;

223 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
224 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or

225 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
226 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
227 of the 2002 North American Industry Classification System of the federal Executive Office of
228 the President, Office of Management and Budget, of the following:

229 (i) machinery and equipment that:

230 (A) are used:

231 (I) (Aa) in the production process, other than the production of real property; or

232 (Bb) in research and development; and

233 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)

234 in the state; and

235 (B) have an economic life of three or more years; and

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

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

238 (B) are used in:

239 (I) (Aa) the production process, except for the production of real property; and

240 (Bb) an establishment described in this Subsection (14)(c) in the state; or

241 (II) (Aa) research and development; and

242 (Bb) in an establishment described in this Subsection (14)(c) in the state;

243 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,

244 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web

245 Search Portals, of the 2002 North American Industry Classification System of the federal

246 Executive Office of the President, Office of Management and Budget, of the following:

247 (A) machinery and equipment that:

248 (I) are used in the operation of the web search portal;

249 (II) have an economic life of three or more years; and

250 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

251 in the state; and

252 (B) normal operating repair or replacement parts that:

253 (I) are used in the operation of the web search portal;
254 (II) have an economic life of three or more years; and
255 (III) are used in a new or expanding establishment described in this Subsection (14)(d)
256 in the state; or

257 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by
258 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North
259 American Industry Classification System of the federal Executive Office of the President,
260 Office of Management and Budget, of the following:

261 (A) machinery and equipment that:

262 (I) are used in the operation of the web search portal; and

263 (II) have an economic life of three or more years; and

264 (B) normal operating repair or replacement parts that:

265 (I) are used in the operation of the web search portal; and

266 (II) have an economic life of three or more years;

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

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

270 (ii) may by rule define what constitutes:

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

272 (B) the production process, except for the production of real property;

273 (C) research and development; or

274 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

275 (f) on or before October 1, 2011, and every five years after October 1, 2011, the

276 commission shall:

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

280 (ii) include in its report:

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

309 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
310 commission; and

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

314 (i) money;

315 (ii) electricity;

316 (iii) water;

317 (iv) gas; or

318 (v) steam;

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

323 (A) becomes part of real estate; or

324 (B) is installed by a:

325 (I) farmer;

326 (II) contractor; or

327 (III) subcontractor; or

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

331 (b) amounts paid or charged for the following are subject to the taxes imposed by this
332 chapter:

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

335 (I) machinery;

336 (II) equipment;

337 (III) materials; or
338 (IV) supplies; and
339 (B) tangible personal property that is considered to be used in a manner that is
340 incidental to farming includes:
341 (I) hand tools; or
342 (II) maintenance and janitorial equipment and supplies;
343 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
344 transferred electronically if the tangible personal property or product transferred electronically
345 is used in an activity other than farming; and
346 (B) tangible personal property or a product transferred electronically that is considered
347 to be used in an activity other than farming includes:
348 (I) office equipment and supplies; or
349 (II) equipment and supplies used in:
350 (Aa) the sale or distribution of farm products;
351 (Bb) research; or
352 (Cc) transportation; or
353 (iii) a vehicle required to be registered by the laws of this state during the period
354 ending two years after the date of the vehicle's purchase;
355 (19) sales of hay;
356 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
357 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
358 garden, farm, or other agricultural produce is sold by:
359 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
360 agricultural produce;
361 (b) an employee of the producer described in Subsection (20)(a); or
362 (c) a member of the immediate family of the producer described in Subsection (20)(a);
363 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
364 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

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

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

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

371 (i) the product is:

372 (A) purchased outside of this state;

373 (B) brought into this state:

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

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

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

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

380 (ii) for:

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

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

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

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

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

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

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

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

393 Subsection (24) as in Subsection (63);
394 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
395 as in Subsection (63); or
396 (iii) a purpose for which a product is designed if that phrase has the same meaning in
397 this Subsection (24) as in Subsection (63);
398 (25) a product purchased for resale in this state, in the regular course of business, either
399 in its original form or as an ingredient or component part of a manufactured or compounded
400 product;
401 (26) a product upon which a sales or use tax was paid to some other state, or one of its
402 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
403 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
404 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
405 Act;
406 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
407 person for use in compounding a service taxable under the subsections;
408 (28) purchases made in accordance with the special supplemental nutrition program for
409 women, infants, and children established in 42 U.S.C. Sec. 1786;
410 (29) [~~beginning on July 1, 1999, through June 30, 2014,~~] sales or leases of rolls, rollers,
411 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens
412 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification
413 Manual of the federal Executive Office of the President, Office of Management and Budget;
414 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
415 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
416 (a) not registered in this state; and
417 (b) (i) not used in this state; or
418 (ii) used in this state:
419 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
420 time period that does not exceed the longer of:

- 421 (I) 30 days in any calendar year; or
- 422 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
- 423 the borders of this state; or
- 424 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
- 425 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
- 426 state;
- 427 (31) sales of aircraft manufactured in Utah;
- 428 (32) amounts paid for the purchase of telecommunications service for purposes of
- 429 providing telecommunications service;
- 430 (33) sales, leases, or uses of the following:
- 431 (a) a vehicle by an authorized carrier; or
- 432 (b) tangible personal property that is installed on a vehicle:
- 433 (i) sold or leased to or used by an authorized carrier; and
- 434 (ii) before the vehicle is placed in service for the first time;
- 435 (34) (a) 45% of the sales price of any new manufactured home; and
- 436 (b) 100% of the sales price of any used manufactured home;
- 437 (35) sales relating to schools and fundraising sales;
- 438 (36) sales or rentals of durable medical equipment if:
- 439 (a) a person presents a prescription for the durable medical equipment; and
- 440 (b) the durable medical equipment is used for home use only;
- 441 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 442 Section [72-11-102](#); and
- 443 (b) the commission shall by rule determine the method for calculating sales exempt
- 444 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 445 (38) sales to a ski resort of:
- 446 (a) snowmaking equipment;
- 447 (b) ski slope grooming equipment;
- 448 (c) passenger ropeways as defined in Section [72-11-102](#); or

449 (d) parts used in the repairs or renovations of equipment or passenger ropeways
450 described in Subsections (38)(a) through (c);
451 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
452 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
453 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
454 [59-12-102](#);
455 (b) if a seller that sells or rents at the same business location the right to use or operate
456 for amusement, entertainment, or recreation one or more unassisted amusement devices and
457 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
458 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
459 amusement, entertainment, or recreation for the assisted amusement devices; and
460 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
461 Utah Administrative Rulemaking Act, the commission may make rules:
462 (i) governing the circumstances under which sales are at the same business location;
463 and
464 (ii) establishing the procedures and requirements for a seller to separately account for
465 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
466 assisted amusement devices;
467 (41) (a) sales of photocopies by:
468 (i) a governmental entity; or
469 (ii) an entity within the state system of public education, including:
470 (A) a school; or
471 (B) the State Board of Education; or
472 (b) sales of publications by a governmental entity;
473 (42) amounts paid for admission to an athletic event at an institution of higher
474 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
475 20 U.S.C. Sec. 1681 et seq.;
476 (43) (a) sales made to or by:

- 477 (i) an area agency on aging; or
- 478 (ii) a senior citizen center owned by a county, city, or town; or
- 479 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 480 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 481 materials regardless of whether the semiconductor fabricating, processing, research, or
- 482 development materials:
 - 483 (a) actually come into contact with a semiconductor; or
 - 484 (b) ultimately become incorporated into real property;
- 485 (45) an amount paid by or charged to a purchaser for accommodations and services
- 486 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
- 487 [59-12-104.2](#);
- 488 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 489 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
- 490 specified on the temporary sports event registration certificate;
- 491 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted
- 492 by the Public Service Commission of Utah only for purchase of electricity produced from a
- 493 new alternative energy source, as designated in the tariff by the Public Service Commission of
- 494 Utah; and
 - 495 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a
 - 496 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under
 - 497 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- 498 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 499 prescription for the mobility enhancing equipment;
- 500 (49) sales of water in a:
 - 501 (a) pipe;
 - 502 (b) conduit;
 - 503 (c) ditch; or
 - 504 (d) reservoir;

505 (50) sales of currency or coins that constitute legal tender of a state, the United States,
506 or a foreign nation;

507 (51) (a) sales of an item described in Subsection (51)(b) if the item:
508 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
509 (ii) has a gold, silver, or platinum content of 50% or more; and
510 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
511 (i) ingot;
512 (ii) bar;
513 (iii) medallion; or
514 (iv) decorative coin;

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

516 (53) sales of a prosthetic device:
517 (a) for use on or in a human; and
518 (b) (i) for which a prescription is required; or
519 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

520 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
521 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
522 or equipment is primarily used in the production or postproduction of the following media for
523 commercial distribution:
524 (i) a motion picture;
525 (ii) a television program;
526 (iii) a movie made for television;
527 (iv) a music video;
528 (v) a commercial;
529 (vi) a documentary; or
530 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
531 commission by administrative rule made in accordance with Subsection (54)(d); or
532 (b) purchases, leases, or rentals of machinery or equipment by an establishment

533 described in Subsection (54)(c) that is used for the production or postproduction of the
534 following are subject to the taxes imposed by this chapter:

535 (i) a live musical performance;

536 (ii) a live news program; or

537 (iii) a live sporting event;

538 (c) the following establishments listed in the 1997 North American Industry

539 Classification System of the federal Executive Office of the President, Office of Management
540 and Budget, apply to Subsections (54)(a) and (b):

541 (i) NAICS Code 512110; or

542 (ii) NAICS Code 51219; and

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

545 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

546 or

547 (ii) define:

548 (A) "commercial distribution";

549 (B) "live musical performance";

550 (C) "live news program"; or

551 (D) "live sporting event";

552 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
553 on or before June 30, 2027, of tangible personal property that:

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

555 (A) is an alternative energy electricity production facility;

556 (B) is located in the state; and

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

558 (II) has its generation capacity increased by one or more megawatts on or after July 1,
559 2004, as a result of the use of the tangible personal property;

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

561 (iii) is used to make the facility or the increase in capacity of the facility described in
562 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
563 transmission grid including:

- 564 (A) a wind turbine;
- 565 (B) generating equipment;
- 566 (C) a control and monitoring system;
- 567 (D) a power line;
- 568 (E) substation equipment;
- 569 (F) lighting;
- 570 (G) fencing;
- 571 (H) pipes; or
- 572 (I) other equipment used for locating a power line or pole; and

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

- 574 (i) tangible personal property used in construction of:
 - 575 (A) a new alternative energy electricity production facility; or
 - 576 (B) the increase in the capacity of an alternative energy electricity production facility;
- 577 (ii) contracted services required for construction and routine maintenance activities;

578 and

579 (iii) unless the tangible personal property is used or acquired for an increase in capacity
580 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
581 acquired after:

- 582 (A) the alternative energy electricity production facility described in Subsection
583 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 584 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
585 in Subsection (55)(a)(iii);

586 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
587 on or before June 30, 2027, of tangible personal property that:

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

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

617 in Subsection (56)(a)(iii);
618 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
619 or before June 30, 2027, of tangible personal property that:
620 (i) is leased or purchased for or by a facility that:
621 (A) is located in the state;
622 (B) produces fuel from alternative energy, including:
623 (I) methanol; or
624 (II) ethanol; and
625 (C) (I) becomes operational on or after July 1, 2004; or
626 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
627 a result of the installation of the tangible personal property;
628 (ii) has an economic life of five or more years; and
629 (iii) is installed on the facility described in Subsection (57)(a)(i);
630 (b) this Subsection (57) does not apply to:
631 (i) tangible personal property used in construction of:
632 (A) a new facility described in Subsection (57)(a)(i); or
633 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
634 (ii) contracted services required for construction and routine maintenance activities;
635 and
636 (iii) unless the tangible personal property is used or acquired for an increase in capacity
637 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
638 (A) the facility described in Subsection (57)(a)(i) is operational; or
639 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
640 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
641 product transferred electronically to a person within this state if that tangible personal property
642 or product transferred electronically is subsequently shipped outside the state and incorporated
643 pursuant to contract into and becomes a part of real property located outside of this state;
644 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other

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

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

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

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

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

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

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

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

660 (59) purchases:

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

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

663 (A) names; or

664 (B) addresses; or

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

666 (A) names; or

667 (B) addresses; and

668 (b) used to send direct mail;

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

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

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

673 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
674 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

675 and

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

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

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

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

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

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

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

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

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

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

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

693 (A) purchased outside of this state;

694 (B) brought into this state at any time after the purchase described in Subsection

695 (63)(a)(i)(A); and

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

697 (ii) for:

698 (A) tangible personal property or a product transferred electronically other than the

699 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

700 for a purpose for which the property is designed occurs outside of this state; or

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

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

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

705 or

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

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

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

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

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

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

718 (a) a person presents a prescription for the disposable home medical equipment or
719 supplies;

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

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

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

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

726 (65) sales:

727 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

728 District Act; or

- 729 (b) of tangible personal property to a subcontractor of a public transit district, if the
730 tangible personal property is:
- 731 (i) clearly identified; and
 - 732 (ii) installed or converted to real property owned by the public transit district;
- 733 (66) sales of construction materials:
- 734 (a) purchased on or after July 1, 2010;
 - 735 (b) purchased by, on behalf of, or for the benefit of an international airport:
- 736 (i) located within a county of the first class; and
 - 737 (ii) that has a United States customs office on its premises; and
- 738 (c) if the construction materials are:
- 739 (i) clearly identified;
 - 740 (ii) segregated; and
 - 741 (iii) installed or converted to real property:
- 742 (A) owned or operated by the international airport described in Subsection (66)(b); and
 - 743 (B) located at the international airport described in Subsection (66)(b);
- 744 (67) sales of construction materials:
- 745 (a) purchased on or after July 1, 2008;
 - 746 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 747 (i) located within a county of the second class; and
 - 748 (ii) that is owned or operated by a city in which an airline as defined in Section
749 [59-2-102](#) is headquartered; and
- 750 (c) if the construction materials are:
- 751 (i) clearly identified;
 - 752 (ii) segregated; and
 - 753 (iii) installed or converted to real property:
- 754 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 755 (B) located at the new airport described in Subsection (67)(b); and
 - 756 (C) as part of the construction of the new airport described in Subsection (67)(b);

757 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

758 (69) purchases and sales described in Section 63H-4-111;

759 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
760 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
761 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
762 lists a state or country other than this state as the location of registry of the fixed wing turbine
763 powered aircraft; or

764 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
765 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
766 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
767 lists a state or country other than this state as the location of registry of the fixed wing turbine
768 powered aircraft;

769 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

770 (a) to a person admitted to an institution of higher education; and

771 (b) by a seller, other than a bookstore owned by an institution of higher education, if
772 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
773 textbook for a higher education course;

774 (72) a license fee or tax a municipality imposes in accordance with Subsection
775 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
776 level of municipal services;

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

780 (a) clearly identified;

781 (b) segregated; and

782 (c) installed or converted to real property;

783 (74) amounts paid or charged for:

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

- 785 (i) are used in performing qualified research:
- 786 (A) as defined in Section 59-7-612;
- 787 (B) in the state; and
- 788 (C) with respect to which the purchaser pays or incurs a qualified research expense as
- 789 defined in Section 59-7-612; and
- 790 (ii) have an economic life of three or more years; and
- 791 (b) normal operating repair or replacement parts:
- 792 (i) for the machinery and equipment described in Subsection (74)(a); and
- 793 (ii) that have an economic life of three or more years;
- 794 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 795 food if:
- 796 (a) for a sale:
- 797 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 798 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 799 tangible personal property prior to making the sale; or
- 800 (b) for a lease:
- 801 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 802 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 803 personal property prior to making the lease;
- 804 (76) (a) purchases of machinery or equipment if:
- 805 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 806 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 807 System of the federal Executive Office of the President, Office of Management and Budget;
- 808 (ii) the machinery or equipment:
- 809 (A) has an economic life of three or more years; and
- 810 (B) is used by one or more persons who pay admission or user fees described in
- 811 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 812 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

813 (A) amounts paid or charged as admission or user fees described in Subsection
814 59-12-103(1)(f); and
815 (B) subject to taxation under this chapter;
816 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
817 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
818 previous calendar quarter is:
819 (i) amounts paid or charged as admission or user fees described in Subsection
820 59-12-103(1)(f); and
821 (ii) subject to taxation under this chapter; and
822 (c) on or before the November 2018 interim meeting, and every five years after the
823 November 2018 interim meeting, the commission shall review the exemption provided in this
824 Subsection (76) and report to the Revenue and Taxation Interim Committee on:
825 (i) the revenue lost to the state and local taxing jurisdictions as a result of the
826 exemption;
827 (ii) the purpose and effectiveness of the exemption; and
828 (iii) whether the exemption benefits the state;
829 (77) purchases of a short-term lodging consumable by a business that provides
830 accommodations and services described in Subsection 59-12-103(1)(i);
831 (78) amounts paid or charged to access a database:
832 (a) if the primary purpose for accessing the database is to view or retrieve information
833 from the database; and
834 (b) not including amounts paid or charged for a:
835 (i) digital audiowork;
836 (ii) digital audio-visual work; or
837 (iii) digital book;
838 (79) amounts paid or charged for a purchase or lease made by an electronic financial
839 payment service, of:
840 (a) machinery and equipment that:

- 841 (i) are used in the operation of the electronic financial payment service; and
- 842 (ii) have an economic life of three or more years; and
- 843 (b) normal operating repair or replacement parts that:
- 844 (i) are used in the operation of the electronic financial payment service; and
- 845 (ii) have an economic life of three or more years; and
- 846 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#).