



28 **tax -- Rate -- Imposition or repeal of tax -- Tax rate change -- Effective date -- Notice**  
29 **requirements -- Exemptions.**

30 (1) (a) Except as provided in Subsections (4) and (5), a municipality may levy a  
31 municipal energy sales and use tax on the sale or use of taxable energy within the municipality:

32 (i) by ordinance as provided in Section 10-1-305; and

33 (ii) of up to 6% of the delivered value of the taxable energy.

34 (b) Subject to Section 63H-1-203, the military installation development authority  
35 created in Section 63H-1-201 may levy a municipal energy sales and use tax under this part  
36 within a project area described in a project area plan adopted by the authority under Title 63H,  
37 Chapter 1, Military Installation Development Authority Act, as though the authority were a  
38 municipality.

39 (2) A municipal energy sales and use tax imposed under this part may be in addition to  
40 any sales and use tax imposed by the municipality under Title 59, Chapter 12, Sales and Use  
41 Tax Act.

42 (3) (a) For purposes of this Subsection (3):

43 (i) "Annexation" means an annexation to a municipality under Chapter 2, Part 4,  
44 Annexation.

45 (ii) "Annexing area" means an area that is annexed into a municipality.

46 (b) (i) If, on or after May 1, 2000, a city or town enacts or repeals a tax or changes the  
47 rate of a tax under this part, the enactment, repeal, or change shall take effect:

48 (A) on the first day of a calendar quarter; and

49 (B) after a 90-day period beginning on the date the commission receives notice meeting  
50 the requirements of Subsection (3)(b)(ii) from the municipality.

51 (ii) The notice described in Subsection (3)(b)(i)(B) shall state:

52 (A) that the city or town will enact or repeal a tax or change the rate of a tax under this  
53 part;

54 (B) the statutory authority for the tax described in Subsection (3)(b)(ii)(A);

55 (C) the effective date of the tax described in Subsection (3)(b)(ii)(A); and

56 (D) if the city or town enacts the tax or changes the rate of the tax described in  
57 Subsection (3)(b)(ii)(A), the new rate of the tax.

58 (c) (i) If, for an annexation that occurs on or after May 1, 2000, the annexation will

59 result in a change in the rate of a tax under this part for an annexing area, the change shall take  
60 effect:

61 (A) on the first day of a calendar quarter; and

62 (B) after a 90-day period beginning on the date the commission receives notice meeting  
63 the requirements of Subsection (3)(c)(ii) from the municipality that annexes the annexing area.

64 (ii) The notice described in Subsection (3)(c)(i)(B) shall state:

65 (A) that the annexation described in Subsection (3)(c)(i) will result in a change in the  
66 rate of a tax under this part for the annexing area;

67 (B) the statutory authority for the tax described in Subsection (3)(c)(ii)(A);

68 (C) the effective date of the tax described in Subsection (3)(c)(ii)(A); and

69 (D) the new rate of the tax described in Subsection (3)(c)(ii)(A).

70 (4) ~~[(a) Subject to Subsection (4)(b), a]~~ A sale or use of electricity within a municipality  
71 is exempt from the tax authorized by this section if the sale or use is made under a tariff  
72 adopted by the Public Service Commission of Utah only for purchase of electricity produced  
73 from a new source of alternative energy, as defined in Section 59-12-102, as designated in the  
74 tariff by the Public Service Commission of Utah.

75 ~~[(b) The exemption under Subsection (4)(a) applies to the portion of the tariff rate a~~  
76 ~~customer pays under the tariff described in Subsection (4)(a) that exceeds the tariff rate under~~  
77 ~~the tariff described in Subsection (4)(a) that the customer would have paid absent the tariff.]~~

78 (5) (a) A municipality may not levy a municipal energy sales and use tax within any  
79 portion of the municipality that is within a project area described in a project area plan adopted  
80 by the military installation development authority under Title 63H, Chapter 1, Military  
81 Installation Development Authority Act.

82 (b) Subsection (5)(a) does not apply to the military installation development authority's  
83 levy of a municipal energy sales and use tax.

84 Section 2. Section 59-12-104 is amended to read:

85 **59-12-104. Exemptions.**

86 Exemptions from the taxes imposed by this chapter are as follows:

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

89 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political

90 subdivisions; however, this exemption does not apply to sales of:

91 (a) construction materials except:

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

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

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

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

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

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

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

107 (i) food and food ingredients; or

108 (ii) prepared food;

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

110 (i) alcoholic beverages;

111 (ii) food and food ingredients; or

112 (iii) prepared food;

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

114 (i) to a passenger;

115 (ii) by a commercial airline carrier; and

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

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

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

120 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002

121 North American Industry Classification System of the federal Executive Office of the  
122 President, Office of Management and Budget; and  
123 (II) for:  
124 (Aa) installation in an aircraft, including services relating to the installation of parts or  
125 equipment in the aircraft;  
126 (Bb) renovation of an aircraft; or  
127 (Cc) repair of an aircraft; or  
128 (B) for installation in an aircraft operated by a common carrier in interstate or foreign  
129 commerce; or  
130 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an  
131 aircraft operated by a common carrier in interstate or foreign commerce; and  
132 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
133 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
134 refund:  
135 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;  
136 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;  
137 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for  
138 the sale prior to filing for the refund;  
139 (iv) for sales and use taxes paid under this chapter on the sale;  
140 (v) in accordance with Section 59-1-1410; and  
141 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
142 the person files for the refund on or before September 30, 2011;  
143 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
144 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
145 exhibitor, distributor, or commercial television or radio broadcaster;  
146 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
147 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
148 washing of tangible personal property;  
149 (b) if a seller that sells at the same business location assisted cleaning or washing of  
150 tangible personal property and cleaning or washing of tangible personal property that is not  
151 assisted cleaning or washing of tangible personal property, the exemption described in

152 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
153 or washing of the tangible personal property; and

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

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

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

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

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

165 (a) not registered in this state; and

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

167 (ii) used in this state:

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

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

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

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

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

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

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

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

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

179 (A) a drug;

180 (B) a syringe; or

181 (C) a stoma supply; and

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

183 commission may by rule define the terms:

184 (A) "syringe"; or

185 (B) "stoma supply";

186 (11) purchases or leases exempt under Section 19-12-201;

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

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

190 (A) a church; or

191 (B) a charitable institution;

192 (ii) an institution of higher education if:

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

194 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
195 offered by the institution of higher education; or

196 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

197 (i) a medical facility; or

198 (ii) a nursing facility; and

199 (c) Subsections (12)(a) and (b) apply to:

200 (i) food and food ingredients;

201 (ii) prepared food; or

202 (iii) alcoholic beverages;

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

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

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

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

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

213 (ii) the person holds that person out as regularly engaged in the business of selling that

214 type of tangible personal property or product transferred electronically;

215 (iii) the person sells an item of tangible personal property or product transferred

216 electronically that the person purchased as a sale that is exempt under Subsection (25); or

217 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of

218 this state in which case the tax is based upon:

219 (A) the bill of sale or other written evidence of value of the vehicle or vessel being

220 sold; or

221 (B) in the absence of a bill of sale or other written evidence of value, the fair market

222 value of the vehicle or vessel being sold at the time of the sale as determined by the

223 commission; and

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

225 commission shall make rules establishing the circumstances under which:

226 (i) a person is regularly engaged in the business of selling a type of tangible personal

227 property or product transferred electronically;

228 (ii) a sale of tangible personal property or a product transferred electronically is one of

229 a series of sales of a character to indicate that a person is regularly engaged in the business of

230 selling that type of tangible personal property or product transferred electronically; or

231 (iii) a person holds that person out as regularly engaged in the business of selling a type

232 of tangible personal property or product transferred electronically;

233 (14) (a) amounts paid or charged for a purchase or lease:

234 (i) by a manufacturing facility located in the state; and

235 (ii) of machinery, equipment, or normal operating repair or replacement parts if the

236 machinery, equipment, or normal operating repair or replacement parts have an economic life

237 of three or more years and are used:

238 (A) in the manufacturing process to manufacture an item sold as tangible personal

239 property; or

240 (B) for a scrap recycler, to process an item sold as tangible personal property;

241 (b) amounts paid or charged for a purchase or lease:

242 (i) by an establishment:

243 (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code

244 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or

245 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North  
246 American Industry Classification System of the federal Executive Office of the President,  
247 Office of Management and Budget; and

248 (B) located in the state; and

249 (ii) of machinery, equipment, or normal operating repair or replacement parts if the  
250 machinery, equipment, or normal operating repair or replacement parts have an economic life  
251 of three or more years and are used in:

252 (A) the production process to produce an item sold as tangible personal property;

253 (B) research and development;

254 (C) transporting, storing, or managing tailings, overburden, or similar waste materials  
255 produced from mining;

256 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in  
257 mining; or

258 (E) preventing, controlling, or reducing dust or other pollutants from mining;

259 (c) amounts paid or charged for a purchase or lease:

260 (i) by an establishment:

261 (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North  
262 American Industry Classification System of the federal Executive Office of the President,  
263 Office of Management and Budget; and

264 (B) located in the state; and

265 (ii) of machinery, equipment, or normal operating repair or replacement parts if the  
266 machinery, equipment, or normal operating repair or replacement parts:

267 (A) are used in the operation of the web search portal; and

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

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

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

272 (ii) may by rule define what constitutes:

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

274 (B) the production process, to produce an item sold as tangible personal property; or

275 (C) research and development; and

276 (e) on or before October 1, 2016, and every five years after October 1, 2016, the  
277 commission shall:

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

281 (ii) include in its report:

282 (A) an estimate of the cost of the exemptions;

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

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

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

286 (i) tooling;

287 (ii) special tooling;

288 (iii) support equipment;

289 (iv) special test equipment; or

290 (v) parts used in the repairs or renovations of tooling or equipment described in

291 Subsections (15)(a)(i) through (iv); and

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

293 (i) the tooling, equipment, or parts are used or consumed exclusively in the

294 performance of any aerospace or electronics industry contract with the United States

295 government or any subcontract under that contract; and

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

297 title to the tooling, equipment, or parts is vested in the United States government as evidenced

298 by:

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

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

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

302 (16) sales of newspapers or newspaper subscriptions;

303 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

304 product transferred electronically traded in as full or part payment of the purchase price, except

305 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

306 trade-ins are limited to other vehicles only, and the tax is based upon:

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

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

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

315 (i) money;

316 (ii) electricity;

317 (iii) water;

318 (iv) gas; or

319 (v) steam;

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

324 (A) becomes part of real estate; or

325 (B) is installed by a:

326 (I) farmer;

327 (II) contractor; or

328 (III) subcontractor; or

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

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

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

336 (I) machinery;

337 (II) equipment;

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

369 manufacturer, processor, wholesaler, or retailer;

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

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

372 (i) the product is:

373 (A) purchased outside of this state;

374 (B) brought into this state:

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

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

377 purchase;

378 (C) used for the personal use or enjoyment of the nonresident person described in

379 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

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

381 (ii) for:

382 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

383 the product for a purpose for which the product is designed occurs outside of this state;

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

385 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

386 outside of this state;

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

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

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

390 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

391 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

392 following:

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

394 Subsection (24) as in Subsection (63);

395 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

396 as in Subsection (63); or

397 (iii) a purpose for which a product is designed if that phrase has the same meaning in

398 this Subsection (24) as in Subsection (63);

399 (25) a product purchased for resale in this state, in the regular course of business, either

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

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

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

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

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

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

417 (a) not registered in this state; and

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

419 (ii) used in this state:

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

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

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

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

428 (31) sales of aircraft manufactured in Utah;

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

- 431 (33) sales, leases, or uses of the following:
- 432 (a) a vehicle by an authorized carrier; or
- 433 (b) tangible personal property that is installed on a vehicle:
- 434 (i) sold or leased to or used by an authorized carrier; and
- 435 (ii) before the vehicle is placed in service for the first time;
- 436 (34) (a) 45% of the sales price of any new manufactured home; and
- 437 (b) 100% of the sales price of any used manufactured home;
- 438 (35) sales relating to schools and fundraising sales;
- 439 (36) sales or rentals of durable medical equipment if:
- 440 (a) a person presents a prescription for the durable medical equipment; and
- 441 (b) the durable medical equipment is used for home use only;
- 442 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 443 Section [72-11-102](#); and
- 444 (b) the commission shall by rule determine the method for calculating sales exempt
- 445 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 446 (38) sales to a ski resort of:
- 447 (a) snowmaking equipment;
- 448 (b) ski slope grooming equipment;
- 449 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 450 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 451 described in Subsections (38)(a) through (c);
- 452 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 453 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 454 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 455 [59-12-102](#);
- 456 (b) if a seller that sells or rents at the same business location the right to use or operate
- 457 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 458 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 459 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 460 amusement, entertainment, or recreation for the assisted amusement devices; and
- 461 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

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

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

464 and

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

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

469 (i) a governmental entity; or

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

471 (A) a school; or

472 (B) the State Board of Education; or

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

474 (42) amounts paid for admission to an athletic event at an institution of higher  
475 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
476 20 U.S.C. Sec. 1681 et seq.;

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

478 (i) an area agency on aging; or

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

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

481 (44) sales or leases of semiconductor fabricating, processing, research, or development  
482 materials regardless of whether the semiconductor fabricating, processing, research, or  
483 development materials:

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

485 (b) ultimately become incorporated into real property;

486 (45) an amount paid by or charged to a purchaser for accommodations and services  
487 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
488 59-12-104.2;

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

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

493 by the Public Service Commission [~~of Utah~~] only for purchase of electricity produced from a  
494 new alternative energy source, as designated in the tariff by the Public Service Commission [~~of~~  
495 ~~Utah; and~~];

496 [~~(b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a~~  
497 ~~customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under~~  
498 ~~the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;]~~

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

501 (49) sales of water in a:

502 (a) pipe;

503 (b) conduit;

504 (c) ditch; or

505 (d) reservoir;

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

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

509 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

510 (ii) has a gold, silver, or platinum content of 50% or more; and

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

512 (i) ingot;

513 (ii) bar;

514 (iii) medallion; or

515 (iv) decorative coin;

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

517 (53) sales of a prosthetic device:

518 (a) for use on or in a human; and

519 (b) (i) for which a prescription is required; or

520 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

521 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of  
522 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery  
523 or equipment is primarily used in the production or postproduction of the following media for

524 commercial distribution:

525 (i) a motion picture;

526 (ii) a television program;

527 (iii) a movie made for television;

528 (iv) a music video;

529 (v) a commercial;

530 (vi) a documentary; or

531 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

532 commission by administrative rule made in accordance with Subsection (54)(d); or

533 (b) purchases, leases, or rentals of machinery or equipment by an establishment

534 described in Subsection (54)(c) that is used for the production or postproduction of the

535 following are subject to the taxes imposed by this chapter:

536 (i) a live musical performance;

537 (ii) a live news program; or

538 (iii) a live sporting event;

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

540 Classification System of the federal Executive Office of the President, Office of Management

541 and Budget, apply to Subsections (54)(a) and (b):

542 (i) NAICS Code 512110; or

543 (ii) NAICS Code 51219; and

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

545 commission may by rule:

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

547 or

548 (ii) define:

549 (A) "commercial distribution";

550 (B) "live musical performance";

551 (C) "live news program"; or

552 (D) "live sporting event";

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

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

555 (i) is leased or purchased for or by a facility that:  
556 (A) is an alternative energy electricity production facility;  
557 (B) is located in the state; and  
558 (C) (I) becomes operational on or after July 1, 2004; or  
559 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
560 2004, as a result of the use of the tangible personal property;  
561 (ii) has an economic life of five or more years; and  
562 (iii) is used to make the facility or the increase in capacity of the facility described in  
563 Subsection (55)(a)(i) operational up to the point of interconnection with an existing  
564 transmission grid including:  
565 (A) a wind turbine;  
566 (B) generating equipment;  
567 (C) a control and monitoring system;  
568 (D) a power line;  
569 (E) substation equipment;  
570 (F) lighting;  
571 (G) fencing;  
572 (H) pipes; or  
573 (I) other equipment used for locating a power line or pole; and  
574 (b) this Subsection (55) does not apply to:  
575 (i) tangible personal property used in construction of:  
576 (A) a new alternative energy electricity production facility; or  
577 (B) the increase in the capacity of an alternative energy electricity production facility;  
578 (ii) contracted services required for construction and routine maintenance activities;  
579 and  
580 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
581 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or  
582 acquired after:  
583 (A) the alternative energy electricity production facility described in Subsection  
584 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or  
585 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

586 in Subsection (55)(a)(iii);  
587 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
588 on or before June 30, 2027, of tangible personal property that:  
589 (i) is leased or purchased for or by a facility that:  
590 (A) is a waste energy production facility;  
591 (B) is located in the state; and  
592 (C) (I) becomes operational on or after July 1, 2004; or  
593 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
594 2004, as a result of the use of the tangible personal property;  
595 (ii) has an economic life of five or more years; and  
596 (iii) is used to make the facility or the increase in capacity of the facility described in  
597 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
598 transmission grid including:  
599 (A) generating equipment;  
600 (B) a control and monitoring system;  
601 (C) a power line;  
602 (D) substation equipment;  
603 (E) lighting;  
604 (F) fencing;  
605 (G) pipes; or  
606 (H) other equipment used for locating a power line or pole; and  
607 (b) this Subsection (56) does not apply to:  
608 (i) tangible personal property used in construction of:  
609 (A) a new waste energy facility; or  
610 (B) the increase in the capacity of a waste energy facility;  
611 (ii) contracted services required for construction and routine maintenance activities;  
612 and  
613 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
614 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:  
615 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as  
616 described in Subsection (56)(a)(iii); or

617 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described  
618 in Subsection (56)(a)(iii);

619 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on  
620 or before June 30, 2027, of tangible personal property that:

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

622 (A) is located in the state;

623 (B) produces fuel from alternative energy, including:

624 (I) methanol; or

625 (II) ethanol; and

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

627 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as  
628 a result of the installation of the tangible personal property;

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

630 (iii) is installed on the facility described in Subsection (57)(a)(i);

631 (b) this Subsection (57) does not apply to:

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

633 (A) a new facility described in Subsection (57)(a)(i); or

634 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

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

636 and

637 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
638 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

639 (A) the facility described in Subsection (57)(a)(i) is operational; or

640 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

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

645 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
646 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
647 gross receipts, or other similar transaction excise tax on the transaction against which the other

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

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

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

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

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

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

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

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

661 (59) purchases:

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

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

664 (A) names; or

665 (B) addresses; or

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

667 (A) names; or

668 (B) addresses; and

669 (b) used to send direct mail;

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

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

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

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

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

676 and

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

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

- 679 (i) telecommunications enabling or facilitating equipment, machinery, or software;  
680 (ii) telecommunications equipment, machinery, or software required for 911 service;  
681 (iii) telecommunications maintenance or repair equipment, machinery, or software;  
682 (iv) telecommunications switching or routing equipment, machinery, or software; or  
683 (v) telecommunications transmission equipment, machinery, or software;
- 684 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible  
685 personal property or a product transferred electronically that are used in the research and  
686 development of alternative energy technology; and
- 687 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
688 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes  
689 purchases of tangible personal property or a product transferred electronically that are used in  
690 the research and development of alternative energy technology;
- 691 (63) (a) purchases of tangible personal property or a product transferred electronically  
692 if:
- 693 (i) the tangible personal property or product transferred electronically is:  
694 (A) purchased outside of this state;  
695 (B) brought into this state at any time after the purchase described in Subsection  
696 (63)(a)(i)(A); and  
697 (C) used in conducting business in this state; and  
698 (ii) for:  
699 (A) tangible personal property or a product transferred electronically other than the  
700 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
701 for a purpose for which the property is designed occurs outside of this state; or  
702 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
703 outside of this state;
- 704 (b) the exemption provided for in Subsection (63)(a) does not apply to:  
705 (i) a lease or rental of tangible personal property or a product transferred electronically;  
706 or  
707 (ii) a sale of a vehicle exempt under Subsection (33); and  
708 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
709 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

710 following:

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

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

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

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

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

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

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

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

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

727 (65) sales:

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

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

732 (i) clearly identified; and

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

734 (66) sales of construction materials:

735 (a) purchased on or after July 1, 2010;

736 (b) purchased by, on behalf of, or for the benefit of an international airport:

737 (i) located within a county of the first class; and

738 (ii) that has a United States customs office on its premises; and

739 (c) if the construction materials are:

740 (i) clearly identified;

- 741 (ii) segregated; and
- 742 (iii) installed or converted to real property:
- 743 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 744 (B) located at the international airport described in Subsection (66)(b);
- 745 (67) sales of construction materials:
- 746 (a) purchased on or after July 1, 2008;
- 747 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 748 (i) located within a county of the second class; and
- 749 (ii) that is owned or operated by a city in which an airline as defined in Section
- 750 [59-2-102](#) is headquartered; and
- 751 (c) if the construction materials are:
- 752 (i) clearly identified;
- 753 (ii) segregated; and
- 754 (iii) installed or converted to real property:
- 755 (A) owned or operated by the new airport described in Subsection (67)(b);
- 756 (B) located at the new airport described in Subsection (67)(b); and
- 757 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 758 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 759 (69) purchases and sales described in Section [63H-4-111](#);
- 760 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 761 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 762 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 763 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 764 powered aircraft; or
- 765 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 766 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 767 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 768 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 769 powered aircraft;
- 770 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 771 (a) to a person admitted to an institution of higher education; and

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

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

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

781 (a) clearly identified;

782 (b) segregated; and

783 (c) installed or converted to real property;

784 (74) amounts paid or charged for:

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

786 (i) are used in performing qualified research:

787 (A) as defined in Section 41(d), Internal Revenue Code; and

788 (B) in the state; and

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

790 (b) normal operating repair or replacement parts:

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

792 (ii) that have an economic life of three or more years;

793 (75) a sale or lease of tangible personal property used in the preparation of prepared  
794 food if:

795 (a) for a sale:

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

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

798 tangible personal property prior to making the sale; or

799 (b) for a lease:

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

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

802 personal property prior to making the lease;

- 803 (76) (a) purchases of machinery or equipment if:
- 804 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 805 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 806 System of the federal Executive Office of the President, Office of Management and Budget;
- 807 (ii) the machinery or equipment:
- 808 (A) has an economic life of three or more years; and
- 809 (B) is used by one or more persons who pay admission or user fees described in
- 810 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 811 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 812 (A) amounts paid or charged as admission or user fees described in Subsection
- 813 59-12-103(1)(f); and
- 814 (B) subject to taxation under this chapter;
- 815 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 816 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 817 previous calendar quarter is:
- 818 (i) amounts paid or charged as admission or user fees described in Subsection
- 819 59-12-103(1)(f); and
- 820 (ii) subject to taxation under this chapter; and
- 821 (c) on or before the November 2018 interim meeting, and every five years after the
- 822 November 2018 interim meeting, the commission shall review the exemption provided in this
- 823 Subsection (76) and report to the Revenue and Taxation Interim Committee on:
- 824 (i) the revenue lost to the state and local taxing jurisdictions as a result of the
- 825 exemption;
- 826 (ii) the purpose and effectiveness of the exemption; and
- 827 (iii) whether the exemption benefits the state;
- 828 (77) purchases of a short-term lodging consumable by a business that provides
- 829 accommodations and services described in Subsection 59-12-103(1)(i);
- 830 (78) amounts paid or charged to access a database:
- 831 (a) if the primary purpose for accessing the database is to view or retrieve information
- 832 from the database; and
- 833 (b) not including amounts paid or charged for a:

- 834 (i) digital audiowork;
- 835 (ii) digital audio-visual work; or
- 836 (iii) digital book;
- 837 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 838 payment service, of:
  - 839 (a) machinery and equipment that:
    - 840 (i) are used in the operation of the electronic financial payment service; and
    - 841 (ii) have an economic life of three or more years; and
  - 842 (b) normal operating repair or replacement parts that:
    - 843 (i) are used in the operation of the electronic financial payment service; and
    - 844 (ii) have an economic life of three or more years;
- 845 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#);
- 846 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 847 product transferred electronically if the tangible personal property or product transferred
- 848 electronically:
  - 849 (a) is stored, used, or consumed in the state; and
  - 850 (b) is temporarily brought into the state from another state:
    - 851 (i) during a disaster period as defined in Section [53-2a-1202](#);
    - 852 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
    - 853 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
    - 854 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
- 855 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 856 in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 857 Recreation Program;
- 858 (83) amounts paid or charged for a purchase or lease of molten magnesium; and
- 859 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a
- 860 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
- 861 materials, or normal operating repair or replacement parts:
  - 862 (i) that are used or consumed exclusively in the drilling equipment manufacturer's
  - 863 manufacturing process; and
  - 864 (ii) except for office:

- 865 (A) equipment; or  
866 (B) supplies; and  
867 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an  
868 exemption described in Subsection (84)(a) only by filing for a refund:  
869 (i) of 50% of the tax paid on the amounts paid or charged; and  
870 (ii) in accordance with Section [59-1-1410](#).
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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**