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**TAXATION OF SOLAR ENERGY DEVICES**

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: John Knotwell**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to taxation of solar energy machinery, equipment, parts, and materials.

**Highlighted Provisions:**

This bill:

▶ creates a sales and use tax exemption for solar energy machinery, equipment, parts, and materials under certain circumstances.

**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 2015, Chapters 11, 294, and 353

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

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

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

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

(1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax



28 under Chapter 13, Motor and Special Fuel Tax Act;

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

31 (a) construction materials except:

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

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

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

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

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

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

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

47 (i) food and food ingredients; or

48 (ii) prepared food;

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

50 (i) alcoholic beverages;

51 (ii) food and food ingredients; or

52 (iii) prepared food;

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

54 (i) to a passenger;

55 (ii) by a commercial airline carrier; and

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

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

58 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts

59 and equipment:

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

63 (II) for:

64 (Aa) installation in an aircraft, including services relating to the installation of parts or  
65 equipment in the aircraft;

66 (Bb) renovation of an aircraft; or

67 (Cc) repair of an aircraft; or

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

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

72 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
73 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a  
74 refund:

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

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

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

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

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

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

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

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

89 (b) if a seller that sells at the same business location assisted cleaning or washing of

90 tangible personal property and cleaning or washing of tangible personal property that is not  
91 assisted cleaning or washing of tangible personal property, the exemption described in  
92 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
93 or washing of the tangible personal property; and

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

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

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

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

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

105 (a) not registered in this state; and

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

107 (ii) used in this state:

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

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

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

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

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

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

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

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

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

119 (A) a drug;

120 (B) a syringe; or

- 121 (C) a stoma supply; and
- 122 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 123 commission may by rule define the terms:
- 124 (A) "syringe"; or
- 125 (B) "stoma supply";
- 126 (11) purchases or leases exempt under Section [19-12-201](#);
- 127 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 128 (i) the following if the item described in Subsection (12)(c) is not available to the
- 129 general public:
- 130 (A) a church; or
- 131 (B) a charitable institution;
- 132 (ii) an institution of higher education if:
- 133 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 134 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 135 offered by the institution of higher education; or
- 136 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 137 (i) a medical facility; or
- 138 (ii) a nursing facility; and
- 139 (c) Subsections (12)(a) and (b) apply to:
- 140 (i) food and food ingredients;
- 141 (ii) prepared food; or
- 142 (iii) alcoholic beverages;
- 143 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 144 or a product transferred electronically by a person:
- 145 (i) regardless of the number of transactions involving the sale of that tangible personal
- 146 property or product transferred electronically by that person; and
- 147 (ii) not regularly engaged in the business of selling that type of tangible personal
- 148 property or product transferred electronically;
- 149 (b) this Subsection (13) does not apply if:
- 150 (i) the sale is one of a series of sales of a character to indicate that the person is
- 151 regularly engaged in the business of selling that type of tangible personal property or product

152 transferred electronically;

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

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

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

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

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

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

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

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

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

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

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

175 (ii) of machinery, equipment, or normal operating repair or replacement parts if the  
176 machinery, equipment, or normal operating repair or replacement parts have an economic life  
177 of three or more years and are used:

178 (A) in the manufacturing process to manufacture an item sold as tangible personal  
179 property; or

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

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

182 (i) by an establishment:

183 (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code  
184 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or  
185 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North  
186 American Industry Classification System of the federal Executive Office of the President,  
187 Office of Management and Budget; and

188 (B) located in the state; and

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

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

193 (B) research and development;

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

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

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

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

200 (i) by an establishment:

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

204 (B) located in the state; and

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

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

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

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

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

212 (ii) may by rule define what constitutes:

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

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

215 (C) research and development; and

216 (e) on or before October 1, 2016, and every five years after October 1, 2016, the

217 commission shall:

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

221 (ii) include in its report:

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

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

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

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

226 (i) tooling;

227 (ii) special tooling;

228 (iii) support equipment;

229 (iv) special test equipment; or

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

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

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

236 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
237 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
238 by:

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

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

242 (16) sales of newspapers or newspaper subscriptions;

243 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
244 product transferred electronically traded in as full or part payment of the purchase price, except

245 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
246 trade-ins are limited to other vehicles only, and the tax is based upon:

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

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

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

255 (i) money;

256 (ii) electricity;

257 (iii) water;

258 (iv) gas; or

259 (v) steam;

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

264 (A) becomes part of real estate; or

265 (B) is installed by a:

266 (I) farmer;

267 (II) contractor; or

268 (III) subcontractor; or

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

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

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

276 (I) machinery;  
277 (II) equipment;  
278 (III) materials; or  
279 (IV) supplies; and  
280 (B) tangible personal property that is considered to be used in a manner that is  
281 incidental to farming includes:  
282 (I) hand tools; or  
283 (II) maintenance and janitorial equipment and supplies;  
284 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
285 transferred electronically if the tangible personal property or product transferred electronically  
286 is used in an activity other than farming; and  
287 (B) tangible personal property or a product transferred electronically that is considered  
288 to be used in an activity other than farming includes:  
289 (I) office equipment and supplies; or  
290 (II) equipment and supplies used in:  
291 (Aa) the sale or distribution of farm products;  
292 (Bb) research; or  
293 (Cc) transportation; or  
294 (iii) a vehicle required to be registered by the laws of this state during the period  
295 ending two years after the date of the vehicle's purchase;  
296 (19) sales of hay;  
297 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
298 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
299 garden, farm, or other agricultural produce is sold by:  
300 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
301 agricultural produce;  
302 (b) an employee of the producer described in Subsection (20)(a); or  
303 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
304 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
305 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;  
306 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

307 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
308 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
309 manufacturer, processor, wholesaler, or retailer;

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

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

312 (i) the product is:

313 (A) purchased outside of this state;

314 (B) brought into this state:

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

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

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

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

321 (ii) for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

351 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
352 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code  
353 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
354 the President, Office of Management and Budget;

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

357 (a) not registered in this state; and

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

359 (ii) used in this state:

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

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

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

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

368 (31) sales of aircraft manufactured in Utah;

- 369 (32) amounts paid for the purchase of telecommunications service for purposes of  
370 providing telecommunications service;
- 371 (33) sales, leases, or uses of the following:
- 372 (a) a vehicle by an authorized carrier; or
- 373 (b) tangible personal property that is installed on a vehicle:
- 374 (i) sold or leased to or used by an authorized carrier; and
- 375 (ii) before the vehicle is placed in service for the first time;
- 376 (34) (a) 45% of the sales price of any new manufactured home; and
- 377 (b) 100% of the sales price of any used manufactured home;
- 378 (35) sales relating to schools and fundraising sales;
- 379 (36) sales or rentals of durable medical equipment if:
- 380 (a) a person presents a prescription for the durable medical equipment; and
- 381 (b) the durable medical equipment is used for home use only;
- 382 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
383 Section [72-11-102](#); and
- 384 (b) the commission shall by rule determine the method for calculating sales exempt  
385 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 386 (38) sales to a ski resort of:
- 387 (a) snowmaking equipment;
- 388 (b) ski slope grooming equipment;
- 389 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 390 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
391 described in Subsections (38)(a) through (c);
- 392 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 393 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
394 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
395 [59-12-102](#);
- 396 (b) if a seller that sells or rents at the same business location the right to use or operate  
397 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
398 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
399 applies if the seller separately accounts for the sales or rentals of the right to use or operate for

400 amusement, entertainment, or recreation for the assisted amusement devices; and  
401 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,  
402 Utah Administrative Rulemaking Act, the commission may make rules:  
403 (i) governing the circumstances under which sales are at the same business location;  
404 and  
405 (ii) establishing the procedures and requirements for a seller to separately account for  
406 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for  
407 assisted amusement devices;  
408 (41) (a) sales of photocopies by:  
409 (i) a governmental entity; or  
410 (ii) an entity within the state system of public education, including:  
411 (A) a school; or  
412 (B) the State Board of Education; or  
413 (b) sales of publications by a governmental entity;  
414 (42) amounts paid for admission to an athletic event at an institution of higher  
415 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
416 20 U.S.C. Sec. 1681 et seq.;  
417 (43) (a) sales made to or by:  
418 (i) an area agency on aging; or  
419 (ii) a senior citizen center owned by a county, city, or town; or  
420 (b) sales made by a senior citizen center that contracts with an area agency on aging;  
421 (44) sales or leases of semiconductor fabricating, processing, research, or development  
422 materials regardless of whether the semiconductor fabricating, processing, research, or  
423 development materials:  
424 (a) actually come into contact with a semiconductor; or  
425 (b) ultimately become incorporated into real property;  
426 (45) an amount paid by or charged to a purchaser for accommodations and services  
427 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
428 59-12-104.2;  
429 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
430 sports event registration certificate in accordance with Section 41-3-306 for the event period

431 specified on the temporary sports event registration certificate;

432 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted  
433 by the Public Service Commission of Utah only for purchase of electricity produced from a  
434 new alternative energy source, as designated in the tariff by the Public Service Commission of  
435 Utah; and

436 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a  
437 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under  
438 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

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

441 (49) sales of water in a:

442 (a) pipe;

443 (b) conduit;

444 (c) ditch; or

445 (d) reservoir;

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

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

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

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

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

452 (i) ingot;

453 (ii) bar;

454 (iii) medallion; or

455 (iv) decorative coin;

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

457 (53) sales of a prosthetic device:

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

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

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

461 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of

462 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery  
463 or equipment is primarily used in the production or postproduction of the following media for  
464 commercial distribution:

- 465 (i) a motion picture;
- 466 (ii) a television program;
- 467 (iii) a movie made for television;
- 468 (iv) a music video;
- 469 (v) a commercial;
- 470 (vi) a documentary; or
- 471 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

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

473 (b) purchases, leases, or rentals of machinery or equipment by an establishment  
474 described in Subsection (54)(c) that is used for the production or postproduction of the  
475 following are subject to the taxes imposed by this chapter:

- 476 (i) a live musical performance;
- 477 (ii) a live news program; or
- 478 (iii) a live sporting event;

479 (c) the following establishments listed in the 1997 North American Industry  
480 Classification System of the federal Executive Office of the President, Office of Management  
481 and Budget, apply to Subsections (54)(a) and (b):

- 482 (i) NAICS Code 512110; or
- 483 (ii) NAICS Code 51219; and

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

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

487 or

488 (ii) define:

- 489 (A) "commercial distribution";
- 490 (B) "live musical performance";
- 491 (C) "live news program"; or
- 492 (D) "live sporting event";

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

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

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

497 (B) is located in the state; and

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

499 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
500 2004, as a result of the use of the tangible personal property;

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

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

503 Subsection (55)(a)(i) operational up to the point of interconnection with an existing  
504 transmission grid including:

505 (A) a wind turbine;

506 (B) generating equipment;

507 (C) a control and monitoring system;

508 (D) a power line;

509 (E) substation equipment;

510 (F) lighting;

511 (G) fencing;

512 (H) pipes; or

513 (I) other equipment used for locating a power line or pole; and

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

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

516 (A) a new alternative energy electricity production facility; or

517 (B) the increase in the capacity of an alternative energy electricity production facility;

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

519 and

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

523 (A) the alternative energy electricity production facility described in Subsection

524 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or  
525 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described  
526 in Subsection (55)(a)(iii);  
527 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but  
528 on or before June 30, 2027, of tangible personal property that:  
529 (i) is leased or purchased for or by a facility that:  
530 (A) is a waste energy production facility;  
531 (B) is located in the state; and  
532 (C) (I) becomes operational on or after July 1, 2004; or  
533 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
534 2004, as a result of the use of the tangible personal property;  
535 (ii) has an economic life of five or more years; and  
536 (iii) is used to make the facility or the increase in capacity of the facility described in  
537 Subsection (56)(a)(i) operational up to the point of interconnection with an existing  
538 transmission grid including:  
539 (A) generating equipment;  
540 (B) a control and monitoring system;  
541 (C) a power line;  
542 (D) substation equipment;  
543 (E) lighting;  
544 (F) fencing;  
545 (G) pipes; or  
546 (H) other equipment used for locating a power line or pole; and  
547 (b) this Subsection (56) does not apply to:  
548 (i) tangible personal property used in construction of:  
549 (A) a new waste energy facility; or  
550 (B) the increase in the capacity of a waste energy facility;  
551 (ii) contracted services required for construction and routine maintenance activities;  
552 and  
553 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
554 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

555 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as  
556 described in Subsection (56)(a)(iii); or

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

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

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

562 (A) is located in the state;

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

564 (I) methanol; or

565 (II) ethanol; and

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

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

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

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

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

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

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

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

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

576 and

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

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

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

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

585 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other

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

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

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

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

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

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

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

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

601 (59) purchases:

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

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

604 (A) names; or

605 (B) addresses; or

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

607 (A) names; or

608 (B) addresses; and

609 (b) used to send direct mail;

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

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

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

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

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

616 and

- 617 (ii) has a useful economic life of one or more years; and
- 618 (b) the following apply to Subsection (61)(a):
  - 619 (i) telecommunications enabling or facilitating equipment, machinery, or software;
  - 620 (ii) telecommunications equipment, machinery, or software required for 911 service;
  - 621 (iii) telecommunications maintenance or repair equipment, machinery, or software;
  - 622 (iv) telecommunications switching or routing equipment, machinery, or software; or
  - 623 (v) telecommunications transmission equipment, machinery, or software;
- 624 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible  
625 personal property or a product transferred electronically that are used in the research and  
626 development of alternative energy technology; and
  - 627 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
628 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes  
629 purchases of tangible personal property or a product transferred electronically that are used in  
630 the research and development of alternative energy technology;
- 631 (63) (a) purchases of tangible personal property or a product transferred electronically  
632 if:
  - 633 (i) the tangible personal property or product transferred electronically is:
    - 634 (A) purchased outside of this state;
    - 635 (B) brought into this state at any time after the purchase described in Subsection  
636 (63)(a)(i)(A); and
    - 637 (C) used in conducting business in this state; and
  - 638 (ii) for:
    - 639 (A) tangible personal property or a product transferred electronically other than the  
640 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
641 for a purpose for which the property is designed occurs outside of this state; or
    - 642 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
643 outside of this state;
  - 644 (b) the exemption provided for in Subsection (63)(a) does not apply to:
    - 645 (i) a lease or rental of tangible personal property or a product transferred electronically;
    - 646 or
    - 647 (ii) a sale of a vehicle exempt under Subsection (33); and

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

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

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

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

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

659 (a) a person presents a prescription for the disposable home medical equipment or  
660 supplies;

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

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

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

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

667 (65) sales:

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

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

672 (i) clearly identified; and

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

674 (66) sales of construction materials:

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

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

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

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

- 679 (c) if the construction materials are:
- 680 (i) clearly identified;
- 681 (ii) segregated; and
- 682 (iii) installed or converted to real property:
- 683 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 684 (B) located at the international airport described in Subsection (66)(b);
- 685 (67) sales of construction materials:
- 686 (a) purchased on or after July 1, 2008;
- 687 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 688 (i) located within a county of the second class; and
- 689 (ii) that is owned or operated by a city in which an airline as defined in Section
- 690 [59-2-102](#) is headquartered; and
- 691 (c) if the construction materials are:
- 692 (i) clearly identified;
- 693 (ii) segregated; and
- 694 (iii) installed or converted to real property:
- 695 (A) owned or operated by the new airport described in Subsection (67)(b);
- 696 (B) located at the new airport described in Subsection (67)(b); and
- 697 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 698 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 699 (69) purchases and sales described in Section [63H-4-111](#);
- 700 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 701 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 702 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 703 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 704 powered aircraft; or
- 705 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 706 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 707 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 708 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 709 powered aircraft;

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

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

712 (b) by a seller, other than a bookstore owned by an institution of higher education, if

713 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

714 textbook for a higher education course;

715 (72) a license fee or tax a municipality imposes in accordance with Subsection

716 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

717 level of municipal services;

718 (73) amounts paid or charged for construction materials used in the construction of a

719 new or expanding life science research and development facility in the state, if the construction

720 materials are:

721 (a) clearly identified;

722 (b) segregated; and

723 (c) installed or converted to real property;

724 (74) amounts paid or charged for:

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

726 (i) are used in performing qualified research:

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

728 (B) in the state; and

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

730 (b) normal operating repair or replacement parts:

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

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

733 (75) a sale or lease of tangible personal property used in the preparation of prepared

734 food if:

735 (a) for a sale:

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

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

738 tangible personal property prior to making the sale; or

739 (b) for a lease:

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

741 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible  
742 personal property prior to making the lease;

743 (76) (a) purchases of machinery or equipment if:

744 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,  
745 Gambling, and Recreation Industries, of the 2012 North American Industry Classification  
746 System of the federal Executive Office of the President, Office of Management and Budget;

747 (ii) the machinery or equipment:

748 (A) has an economic life of three or more years; and

749 (B) is used by one or more persons who pay admission or user fees described in  
750 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

751 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

752 (A) amounts paid or charged as admission or user fees described in Subsection  
753 59-12-103(1)(f); and

754 (B) subject to taxation under this chapter;

755 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
756 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
757 previous calendar quarter is:

758 (i) amounts paid or charged as admission or user fees described in Subsection  
759 59-12-103(1)(f); and

760 (ii) subject to taxation under this chapter; and

761 (c) on or before the November 2018 interim meeting, and every five years after the  
762 November 2018 interim meeting, the commission shall review the exemption provided in this  
763 Subsection (76) and report to the Revenue and Taxation Interim Committee on:

764 (i) the revenue lost to the state and local taxing jurisdictions as a result of the  
765 exemption;

766 (ii) the purpose and effectiveness of the exemption; and

767 (iii) whether the exemption benefits the state;

768 (77) purchases of a short-term lodging consumable by a business that provides  
769 accommodations and services described in Subsection 59-12-103(1)(i);

770 (78) amounts paid or charged to access a database:

771 (a) if the primary purpose for accessing the database is to view or retrieve information

772 from the database; and

773 (b) not including amounts paid or charged for a:

774 (i) digital audiowork;

775 (ii) digital audio-visual work; or

776 (iii) digital book;

777 (79) amounts paid or charged for a purchase or lease made by an electronic financial

778 payment service, of:

779 (a) machinery and equipment that:

780 (i) are used in the operation of the electronic financial payment service; and

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

782 (b) normal operating repair or replacement parts that:

783 (i) are used in the operation of the electronic financial payment service; and

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

785 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

786 (81) amounts paid or charged for a purchase or lease of tangible personal property or a

787 product transferred electronically if the tangible personal property or product transferred

788 electronically:

789 (a) is stored, used, or consumed in the state; and

790 (b) is temporarily brought into the state from another state:

791 (i) during a disaster period as defined in Section 53-2a-1202;

792 (ii) by an out-of-state business as defined in Section 53-2a-1202;

793 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

794 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

795 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined

796 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and

797 Recreation Program;

798 (83) amounts paid or charged for a purchase or lease of molten magnesium; [and]

799 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a

800 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,

801 materials, or normal operating repair or replacement parts:

802 (i) that are used or consumed exclusively in the drilling equipment manufacturer's

- 803 manufacturing process; and
- 804 (ii) except for office:
- 805 (A) equipment; or
- 806 (B) supplies; and
- 807 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an
- 808 exemption described in Subsection (84)(a) only by filing for a refund:
- 809 (i) of 50% of the tax paid on the amounts paid or charged; and
- 810 (ii) in accordance with Section [59-1-1410](#)[~~-~~]; and
- 811 (85) amounts paid or charged for a purchase or lease by a consumer on or after July 1,
- 812 2016, of machinery, equipment, parts, or materials that are:
- 813 (a) used for generating solar energy;
- 814 (b) located in the state; and
- 815 (c) installed for residential use.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**