

1 **SALES AND USE TAX - EXEMPTION FOR**
2 **ISOLATED OR OCCASIONAL SALES**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Lyle W. Hillyard**

6 House Sponsor: Wayne A. Harper

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies the Sales and Use Tax Act relating to sales and use tax exemptions.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ modifies the sales and use tax exemption for isolated and occasional sales to
14 provide the circumstances under which the exemption applies;
15 ▶ grants rulemaking authority to the State Tax Commission; and
16 ▶ makes technical changes.

17 **Monies Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 This bill takes effect on July 1, 2006.

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **59-12-104**, as last amended by Chapters 158, 203, 209, 240 and 246, Laws of Utah
24 2005

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

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



28 **59-12-104. Exemptions.**

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

30 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
31 under Chapter 13, Motor and Special Fuel Tax Act;32 (2) sales to the state, its institutions, and its political subdivisions; however, this
33 exemption does not apply to sales of:

34 (a) construction materials except:

35 (i) construction materials purchased by or on behalf of institutions of the public
36 education system as defined in Utah Constitution Article X, Section 2, provided the
37 construction materials are clearly identified and segregated and installed or converted to real
38 property which is owned by institutions of the public education system; and39 (ii) construction materials purchased by the state, its institutions, or its political
40 subdivisions which are installed or converted to real property by employees of the state, its
41 institutions, or its political subdivisions; or42 (b) tangible personal property in connection with the construction, operation,
43 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
44 providing additional project capacity, as defined in Section 11-13-103;

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

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

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

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

50 (i) food and food ingredients; or

51 (ii) prepared food;

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

53 (a) food and food ingredients;

54 (b) prepared food; or

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

56 (5) sales of parts and equipment for installation in aircraft operated by common carriers
57 in interstate or foreign commerce;

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

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

61 (7) sales of cleaning or washing of tangible personal property by a coin-operated
62 laundry or dry cleaning machine;

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

66 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of
67 this state which are made to bona fide nonresidents of this state and are not afterwards
68 registered or used in this state except as necessary to transport them to the borders of this state;

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

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

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

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

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

74 (A) a drug;

75 (B) a syringe; or

76 (C) a stoma supply; and

77 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
78 commission may by rule define the terms:

79 (A) "syringe"; or

80 (B) "stoma supply";

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

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

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

86 (A) a church; or

87 (B) a charitable institution;

88 (ii) an institution of higher education if:

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

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

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

93 (i) a medical facility; or

94 (ii) a nursing facility; and

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

96 (i) food and food ingredients;

97 (ii) prepared food; or

98 (iii) alcoholic beverages;

99 (13) ~~(a) [isolated or occasional sales by persons not regularly engaged in business,~~
100 ~~except] except as provided in Subsection (13)(b), the sale of tangible personal property by a~~
101 ~~person:~~

102 (i) regardless of the number of transactions involving the sale of that tangible personal
103 property by that person; and

104 (ii) not regularly engaged in the business of selling that type of tangible personal
105 property;

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

107 (i) the sale is one of a series of sales of a character to indicate that the person is
108 regularly engaged in the business of selling that type of tangible personal property;

109 (ii) the person holds that person out as regularly engaged in the business of selling that
110 type of tangible personal property;

111 (iii) the person sells an item of tangible personal property that the person purchased as
112 a sale that is exempt under Subsection (26); or

113 (iv) the sale is of ~~[vehicles] a vehicle or [vessels] vessel~~ required to be titled or
114 registered under the laws of this state in which case the tax is based upon:

115 ~~[(a)] (A)~~ (A) the bill of sale or other written evidence of value of the vehicle or vessel
116 being sold; or

117 ~~[(b)] (B)~~ (B) in the absence of a bill of sale or other written evidence of value, the ~~[then~~
118 existing] fair market value of the vehicle or vessel being sold at the time of the sale as
119 determined by the commission; and

120 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

121 commission shall make rules establishing the circumstances under which:

122 (i) a person is regularly engaged in the business of selling a type of tangible personal
123 property;

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

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

129 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:

130 (i) machinery and equipment:

131 (A) used in the manufacturing process;

132 (B) having an economic life of three or more years; and

133 (C) used:

134 (I) to manufacture an item sold as tangible personal property; and

135 (II) in new or expanding operations in a manufacturing facility in the state; and

136 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:

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

138 (B) are used in the manufacturing process in a manufacturing facility in the state;

139 (C) are used to replace or adapt an existing machine to extend the normal estimated
140 useful life of the machine; and

141 (D) do not include repairs and maintenance;

142 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:

143 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
144 Subsection (14)(a)(ii) is exempt;

145 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described
146 in Subsection (14)(a)(ii) is exempt; and

147 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
148 (14)(a)(ii) is exempt;

149 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
150 "new or expanding operations" and "establishment"; and

151 (d) on or before October 1, 1991, and every five years after October 1, 1991, the

152 commission shall:

153 (i) review the exemptions described in Subsection (14)(a) and make recommendations
154 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
155 continued, modified, or repealed; and

156 (ii) include in its report:

157 (A) the cost of the exemptions;

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

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

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

161 (i) tooling;

162 (ii) special tooling;

163 (iii) support equipment;

164 (iv) special test equipment; or

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

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

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

168 (i) the tooling, equipment, or parts are used or consumed exclusively in the
169 performance of any aerospace or electronics industry contract with the United States

170 government or any subcontract under that contract; and

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

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

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

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

177 (16) intrastate movements of:

178 (a) freight by common carriers; or

179 (b) passengers:

180 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial

181 Classification Manual of the federal Executive Office of the President, Office of Management
182 and Budget;

183 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard
184 Industrial Classification Manual of the federal Executive Office of the President, Office of
185 Management and Budget, if the transportation originates and terminates within a county of the
186 first, second, or third class; or

187 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard
188 Industrial Classification Manual of the federal Executive Office of the President, Office of
189 Management and Budget:

190 (A) a horse-drawn cab; or

191 (B) a horse-drawn carriage;

192 (17) sales of newspapers or newspaper subscriptions;

193 (18) (a) except as provided in Subsection (18)(b), tangible personal property traded in
194 as full or part payment of the purchase price, except that for purposes of calculating sales or use
195 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and
196 the tax is based upon:

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

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

202 (b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the
203 following items of tangible personal property traded in as full or part payment of the purchase
204 price:

205 (i) money;

206 (ii) electricity;

207 (iii) water;

208 (iv) gas; or

209 (v) steam;

210 (19) (a) (i) except as provided in Subsection (19)(b), sales of tangible personal property
211 used or consumed primarily and directly in farming operations, regardless of whether the
212 tangible personal property:

213 (A) becomes part of real estate; or

- 214 (B) is installed by a:
- 215 (I) farmer;
- 216 (II) contractor; or
- 217 (III) subcontractor; or
- 218 (ii) sales of parts used in the repairs or renovations of tangible personal property if the
- 219 tangible personal property is exempt under Subsection (19)(a)(i); and
- 220 (b) notwithstanding Subsection (19)(a), amounts paid or charged for the following
- 221 tangible personal property are subject to the taxes imposed by this chapter:
- 222 (i) (A) subject to Subsection (19)(b)(i)(B), the following tangible personal property if
- 223 the tangible personal property is used in a manner that is incidental to farming:
- 224 (I) machinery;
- 225 (II) equipment;
- 226 (III) materials; or
- 227 (IV) supplies; and
- 228 (B) tangible personal property that is considered to be used in a manner that is
- 229 incidental to farming includes:
- 230 (I) hand tools; or
- 231 (II) maintenance and janitorial equipment and supplies;
- 232 (ii) (A) subject to Subsection (19)(b)(ii)(B), tangible personal property if the tangible
- 233 personal property is used in an activity other than farming; and
- 234 (B) tangible personal property that is considered to be used in an activity other than
- 235 farming includes:
- 236 (I) office equipment and supplies; or
- 237 (II) equipment and supplies used in:
- 238 (Aa) the sale or distribution of farm products;
- 239 (Bb) research; or
- 240 (Cc) transportation; or
- 241 (iii) a vehicle required to be registered by the laws of this state during the period ending
- 242 two years after the date of the vehicle's purchase;
- 243 (20) sales of hay;
- 244 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or

245 other agricultural produce if sold by a producer during the harvest season;

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

248 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
249 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
250 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
251 manufacturer, processor, wholesaler, or retailer;

252 (24) property stored in the state for resale;

253 (25) property brought into the state by a nonresident for his or her own personal use or
254 enjoyment while within the state, except property purchased for use in Utah by a nonresident
255 living and working in Utah at the time of purchase;

256 (26) property purchased for resale in this state, in the regular course of business, either
257 in its original form or as an ingredient or component part of a manufactured or compounded
258 product;

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

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

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

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

272 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State
273 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of
274 this state and are not thereafter registered or used in this state except as necessary to transport
275 them to the borders of this state;

- 276 (32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah
- 277 where a sales or use tax is not imposed, even if the title is passed in Utah;
- 278 (33) amounts paid for the purchase of telephone service for purposes of providing
- 279 telephone service;
- 280 (34) fares charged to persons transported directly by a public transit district created
- 281 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;
- 282 (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
- 283 (36) (a) 45% of the sales price of any new manufactured home; and
- 284 (b) 100% of the sales price of any used manufactured home;
- 285 (37) sales relating to schools and fundraising sales;
- 286 (38) sales or rentals of durable medical equipment if:
- 287 (a) a person presents a prescription for the durable medical equipment; and
- 288 (b) the durable medical equipment is used for home use only;
- 289 (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 290 Section 72-11-102; and
- 291 (b) the commission shall by rule determine the method for calculating sales exempt
- 292 under Subsection (39)(a) that are not separately metered and accounted for in utility billings;
- 293 (40) sales to a ski resort of:
- 294 (a) snowmaking equipment;
- 295 (b) ski slope grooming equipment;
- 296 (c) passenger ropeways as defined in Section 72-11-102; or
- 297 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 298 described in Subsections (40)(a) through (c);
- 299 (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 300 (42) sales or rentals of the right to use or operate for amusement, entertainment, or
- 301 recreation a coin-operated amusement device as defined in Section 59-12-102;
- 302 (43) sales of cleaning or washing of tangible personal property by a coin-operated car
- 303 wash machine;
- 304 (44) sales by the state or a political subdivision of the state, except state institutions of
- 305 higher education as defined in Section 53B-3-102, of:
- 306 (a) photocopies; or

307 (b) other copies of records held or maintained by the state or a political subdivision of
308 the state;

309 (45) (a) amounts paid:

310 (i) to a person providing intrastate transportation to an employer's employee to or from
311 the employee's primary place of employment;

312 (ii) by an:

313 (A) employee; or

314 (B) employer; and

315 (iii) pursuant to a written contract between:

316 (A) the employer; and

317 (B) (I) the employee; or

318 (II) a person providing transportation to the employer's employee; and

319 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
320 commission may for purposes of Subsection (45)(a) make rules defining what constitutes an
321 employee's primary place of employment;

322 (46) amounts paid for admission to an athletic event at an institution of higher
323 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
324 20 U.S.C. Sec. 1681 et seq.;

325 (47) sales of telephone service charged to a prepaid telephone calling card;

326 (48) (a) sales of:

327 (i) hearing aids;

328 (ii) hearing aid accessories; or

329 (iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations
330 of hearing aids or hearing aid accessories; and

331 (b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii),
332 "parts" does not include batteries;

333 (49) (a) sales made to or by:

334 (i) an area agency on aging; or

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

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

337 (50) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection

338 (50)(b), a sale or lease of semiconductor fabricating or processing materials regardless of
339 whether the semiconductor fabricating or processing materials:
340 (i) actually come into contact with a semiconductor; or
341 (ii) ultimately become incorporated into real property;
342 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
343 described in Subsection (50)(a) is exempt;
344 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
345 described in Subsection (50)(a) is exempt; and
346 (iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or
347 lease described in Subsection (50)(a) is exempt; and
348 (c) each year on or before the November interim meeting, the Revenue and Taxation
349 Interim Committee shall:
350 (i) review the exemption described in this Subsection (50) and make recommendations
351 concerning whether the exemption should be continued, modified, or repealed; and
352 (ii) include in the review under this Subsection (50)(c):
353 (A) the cost of the exemption;
354 (B) the purpose and effectiveness of the exemption; and
355 (C) the benefits of the exemption to the state;
356 (51) an amount paid by or charged to a purchaser for accommodations and services
357 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
358 59-12-104.2;
359 (52) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
360 sports event registration certificate in accordance with Section 41-3-306 for the event period
361 specified on the temporary sports event registration certificate;
362 (53) sales or uses of electricity, if the sales or uses are:
363 (a) made under a tariff adopted by the Public Service Commission of Utah only for
364 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
365 source, as designated in the tariff by the Public Service Commission of Utah; and
366 (b) for an amount of electricity that is:
367 (i) unrelated to the amount of electricity used by the person purchasing the electricity
368 under the tariff described in Subsection (53)(a); and

- 369 (ii) equivalent to the number of kilowatthours specified in the tariff described in
370 Subsection (53)(a) that may be purchased under the tariff described in Subsection (53)(a);
371 (54) sales or rentals of mobility enhancing equipment if a person presents a
372 prescription for the mobility enhancing equipment;
- 373 (55) sales of water in a:
374 (a) pipe;
375 (b) conduit;
376 (c) ditch; or
377 (d) reservoir;
- 378 (56) sales of currency or coinage that constitute legal tender of the United States or of a
379 foreign nation;
- 380 (57) (a) sales of an item described in Subsection (57)(b) if the item:
381 (i) does not constitute legal tender of any nation; and
382 (ii) has a gold, silver, or platinum content of 80% or more; and
383 (b) Subsection (57)(a) applies to a gold, silver, or platinum:
384 (i) ingot;
385 (ii) bar;
386 (iii) medallion; or
387 (iv) decorative coin;
- 388 (58) amounts paid on a sale-leaseback transaction;
- 389 (59) sales of a prosthetic device:
390 (a) for use on or in a human;
391 (b) for which a prescription is issued; and
392 (c) to a person that presents a prescription for the prosthetic device;
- 393 (60) (a) except as provided in Subsection (60)(b), purchases, leases, or rentals of
394 machinery or equipment by an establishment described in Subsection (60)(c) if the machinery
395 or equipment is primarily used in the production or postproduction of the following media for
396 commercial distribution:
397 (i) a motion picture;
398 (ii) a television program;
399 (iii) a movie made for television;

400 (iv) a music video;
401 (v) a commercial;
402 (vi) a documentary; or
403 (vii) a medium similar to Subsections (60)(a)(i) through (vi) as determined by the
404 commission by administrative rule made in accordance with Subsection (60)(d); or
405 (b) notwithstanding Subsection (60)(a), purchases, leases, or rentals of machinery or
406 equipment by an establishment described in Subsection (60)(c) that is used for the production
407 or postproduction of the following are subject to the taxes imposed by this chapter:
408 (i) a live musical performance;
409 (ii) a live news program; or
410 (iii) a live sporting event;
411 (c) the following establishments listed in the 1997 North American Industry
412 Classification System of the federal Executive Office of the President, Office of Management
413 and Budget, apply to Subsections (60)(a) and (b):
414 (i) NAICS Code 512110; or
415 (ii) NAICS Code 51219; and
416 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
417 commission may by rule:
418 (i) prescribe what constitutes a medium similar to Subsections (60)(a)(i) through (vi);
419 or
420 (ii) define:
421 (A) "commercial distribution";
422 (B) "live musical performance";
423 (C) "live news program"; or
424 (D) "live sporting event";
425 (61) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
426 or before June 30, 2009, of machinery or equipment that:
427 (i) is leased or purchased for or by a facility that:
428 (A) is a renewable energy production facility;
429 (B) is located in the state; and
430 (C) (I) becomes operational on or after July 1, 2004; or

431 (II) has its generation capacity increased by one or more megawatts on or after July 1,
432 2004 as a result of the use of the machinery or equipment;

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

434 (iii) is used to make the facility or the increase in capacity of the facility described in
435 Subsection (61)(a)(i) operational up to the point of interconnection with an existing
436 transmission grid including:

437 (A) a wind turbine;

438 (B) generating equipment;

439 (C) a control and monitoring system;

440 (D) a power line;

441 (E) substation equipment;

442 (F) lighting;

443 (G) fencing;

444 (H) pipes; or

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

446 (b) this Subsection (61) does not apply to:

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

448 (A) a new renewable energy production facility; or

449 (B) the increase in the capacity of a renewable energy production facility;

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

451 and

452 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
453 of the facility described in Subsection (61)(a)(i)(C)(II), machinery or equipment used or
454 acquired after:

455 (A) the renewable energy production facility described in Subsection (61)(a)(i) is
456 operational as described in Subsection (61)(a)(iii); or

457 (B) the increased capacity described in Subsection (61)(a)(i) is operational as described
458 in Subsection (61)(a)(iii);

459 (62) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
460 or before June 30, 2009, of machinery or equipment that:

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

- 462 (A) is a waste energy production facility;
- 463 (B) is located in the state; and
- 464 (C) (I) becomes operational on or after July 1, 2004; or
- 465 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 466 2004 as a result of the use of the machinery or equipment;
- 467 (ii) has an economic life of five or more years; and
- 468 (iii) is used to make the facility or the increase in capacity of the facility described in
- 469 Subsection (62)(a)(i) operational up to the point of interconnection with an existing

470 transmission grid including:

- 471 (A) generating equipment;
- 472 (B) a control and monitoring system;
- 473 (C) a power line;
- 474 (D) substation equipment;
- 475 (E) lighting;
- 476 (F) fencing;
- 477 (G) pipes; or
- 478 (H) other equipment used for locating a power line or pole; and

479 (b) this Subsection (62) does not apply to:

- 480 (i) machinery or equipment used in construction of:
- 481 (A) a new waste energy facility; or
- 482 (B) the increase in the capacity of a waste energy facility;
- 483 (ii) contracted services required for construction and routine maintenance activities;

484 and

485 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
486 described in Subsection (62)(a)(i)(C)(II), machinery or equipment used or acquired after:

- 487 (A) the waste energy facility described in Subsection (62)(a)(i) is operational as
- 488 described in Subsection (62)(a)(iii); or
- 489 (B) the increased capacity described in Subsection (62)(a)(i) is operational as described
- 490 in Subsection (62)(a)(iii);

491 (63) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
492 or before June 30, 2009, of machinery or equipment that:

- 493 (i) is leased or purchased for or by a facility that:
494 (A) is located in the state;
495 (B) produces fuel from biomass energy including:
496 (I) methanol; or
497 (II) ethanol; and
498 (C) (I) becomes operational on or after July 1, 2004; or
499 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
500 a result of the installation of the machinery or equipment;
501 (ii) has an economic life of five or more years; and
502 (iii) is installed on the facility described in Subsection (63)(a)(i);
503 (b) this Subsection (63) does not apply to:
504 (i) machinery or equipment used in construction of:
505 (A) a new facility described in Subsection (63)(a)(i); or
506 (B) the increase in capacity of the facility described in Subsection (63)(a)(i); or
507 (ii) contracted services required for construction and routine maintenance activities;
508 and
509 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
510 described in Subsection (63)(a)(i)(C)(II), machinery or equipment used or acquired after:
511 (A) the facility described in Subsection (63)(a)(i) is operational; or
512 (B) the increased capacity described in Subsection (63)(a)(i) is operational;
513 (64) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
514 for purchasing the new vehicle;
515 (65) (a) subject to Subsection (65)(b), sales of tangible personal property to persons
516 within this state that is subsequently shipped outside the state and incorporated pursuant to
517 contract into and becomes a part of real property located outside of this state, except to the
518 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
519 transaction excise tax on it against which the other state or political entity allows a credit for
520 taxes imposed by this chapter; and
521 (b) the exemption provided for in Subsection (65)(a):
522 (i) is allowed only if the exemption is applied:
523 (A) in calculating the purchase price of the tangible personal property; and

524 (B) to a written contract that is in effect on July 1, 2004; and
525 (ii) (A) does not apply beginning on the day on which the contract described in
526 Subsection (65)(b)(i):
527 (I) is substantially modified; or
528 (II) terminates; and
529 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
530 the commission may by rule prescribe the circumstances under which a contract is substantially
531 modified;
532 (66) purchases:
533 (a) of one or more of the following items in printed or electronic format:
534 (i) a list containing information that includes one or more:
535 (A) names; or
536 (B) addresses; or
537 (ii) a database containing information that includes one or more:
538 (A) names; or
539 (B) addresses; and
540 (b) used to send direct mail; and
541 (67) redemptions or repurchases of property by a person if that property was:
542 (a) delivered to a pawnbroker as part of a pawn transaction; and
543 (b) redeemed or repurchased within the time period established in a written agreement
544 between the person and the pawnbroker for redeeming or repurchasing the property.
545 Section 2. **Effective date.**
546 This bill takes effect on July 1, 2006.

Legislative Review Note
as of 11-16-05 6:58 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Interim Committee Note

12-20-05 1:48 PM

S.B. 28

as of 12-20-05 12:55 PM

The Revenue and Taxation Interim Committee recommended this bill.

Mixed Membership Committee Note

as of 12-20-05 12:55 PM

The Tax Reform Task Force recommended this bill.

Membership: 13 legislators 2 non-legislators
Legislative Vote: 8 voting for 0 voting against 5 absent

Mixed Membership Committee Note

as of 12-20-05 12:55 PM

The Tax Review Commission recommended this bill.

Membership: 4 legislators 10 non-legislators
Legislative Vote: 3 voting for 0 voting against 1 absent