

**Senator Howard A. Stephenson** proposes the following substitute bill:

**SALES AND USE TAX EXEMPTIONS AND  
REFUND FOR CERTAIN BUSINESS INPUTS**

2006 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Howard A. Stephenson**

House Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill amends the Sales and Use Tax Act to provide sales and use tax exemptions and a refund for certain business inputs.

**Highlighted Provisions:**

This bill:

- ▶ expands the definition of "industrial use" so that the use of natural gas, electricity, heat, coal, fuel oil, or other fuels are exempt from sales and use taxation if used:
  - in manufacturing tangible personal property at certain establishments listed under the North American Industry Classification System; or
  - in producing certain forms of energy or steam by a cogeneration facility as defined under the Public Utilities title;
- ▶ expands the definition of "manufacturing facility" to include:
  - certain establishments listed under the North American Industry Classification System; or
  - a cogeneration facility as defined under the Public Utilities title;
- ▶ addresses the requirements for a scrap recycler to be eligible for exemption from sales and use taxes;



- 26           ▶ deletes a requirement that machinery and equipment be used in new or expanding
- 27 operations in a manufacturing facility in the state to be eligible for exemption from
- 28 sales and use taxes;
- 29           ▶ provides that certain repair parts are exempt from sales and use taxes;
- 30           ▶ deletes a requirement that parts be used to replace or adapt an existing machine to
- 31 extend the normal estimated useful life of the machine to be eligible for exemption
- 32 from sales and use taxes;
- 33           ▶ provides a sales and use tax exemption and refund for certain machinery,
- 34 equipment, or repair or replacement parts purchased or leased by certain
- 35 establishments listed under the North American Industry Classification System;
- 36           ▶ grants rulemaking authority to the State Tax Commission;
- 37           ▶ modifies State Tax Commission rulemaking authority;
- 38           ▶ addresses study requirements related to these sales and use tax exemptions;
- 39           ▶ repeals obsolete language; and
- 40           ▶ makes technical changes.

41 **Monies Appropriated in this Bill:**

42           None

43 **Other Special Clauses:**

44           This bill takes effect on July 1, 2006.

45 **Utah Code Sections Affected:**

46 AMENDS:

47           **59-12-102**, as last amended by Chapters 158 and 246, Laws of Utah 2005

48           **59-12-104**, as last amended by Chapters 158, 203, 209, 240 and 246, Laws of Utah  
49 2005

50 ENACTS:

51           **59-12-104.4**, Utah Code Annotated 1953



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

54           Section 1. Section **59-12-102** is amended to read:

55           **59-12-102. Definitions.**

56           As used in this chapter:

- 57 (1) (a) "Admission or user fees" includes season passes.
- 58 (b) "Admission or user fees" does not include annual membership dues to private  
59 organizations.
- 60 (2) "Agreement" means the Streamlined Sales and Use Tax Agreement described in  
61 Section 59-12-102.1.
- 62 (3) "Agreement combined tax rate" means the sum of the tax rates:
- 63 (a) listed under Subsection (4); and
- 64 (b) that are imposed within a local taxing jurisdiction.
- 65 (4) "Agreement sales and use tax" means a tax imposed under:
- 66 (a) Subsection 59-12-103(2)(a)(i);
- 67 (b) Section 59-12-204;
- 68 (c) Section 59-12-401;
- 69 (d) Section 59-12-402;
- 70 (e) Section 59-12-501;
- 71 (f) Section 59-12-502;
- 72 (g) Section 59-12-703;
- 73 (h) Section 59-12-802;
- 74 (i) Section 59-12-804;
- 75 (j) Section 59-12-1001;
- 76 (k) Section 59-12-1102;
- 77 (l) Section 59-12-1302;
- 78 (m) Section 59-12-1402; or
- 79 (n) Section 59-12-1503.
- 80 (5) "Aircraft" is as defined in Section 72-10-102.
- 81 (6) "Alcoholic beverage" means a beverage that:
- 82 (a) is suitable for human consumption; and
- 83 (b) contains .5% or more alcohol by volume.
- 84 (7) "Area agency on aging" is as defined in Section 62A-3-101.
- 85 (8) "Authorized carrier" means:
- 86 (a) in the case of vehicles operated over public highways, the holder of credentials  
87 indicating that the vehicle is or will be operated pursuant to both the International Registration

88 Plan and the International Fuel Tax Agreement;

89 (b) in the case of aircraft, the holder of a Federal Aviation Administration operating  
90 certificate or air carrier's operating certificate; or

91 (c) in the case of locomotives, freight cars, railroad work equipment, or other rolling  
92 stock, the holder of a certificate issued by the United States Surface Transportation Board.

93 (9) (a) Except as provided in Subsection (9)(b), "biomass energy" means any of the  
94 following that is used as the primary source of energy to produce fuel or electricity:

95 (i) material from a plant or tree; or

96 (ii) other organic matter that is available on a renewable basis, including:

97 (A) slash and brush from forests and woodlands;

98 (B) animal waste;

99 (C) methane produced:

100 (I) at landfills; or

101 (II) as a byproduct of the treatment of wastewater residuals;

102 (D) aquatic plants; and

103 (E) agricultural products.

104 (b) "Biomass energy" does not include:

105 (i) black liquor;

106 (ii) treated woods; or

107 (iii) biomass from municipal solid waste other than methane produced:

108 (A) at landfills; or

109 (B) as a byproduct of the treatment of wastewater residuals.

110 (10) "Certified automated system" means software certified by the governing board of  
111 the agreement in accordance with Section 59-12-102.1 that:

112 (a) calculates the agreement sales and use tax imposed within a local taxing  
113 jurisdiction:

114 (i) on a transaction; and

115 (ii) in the states that are members of the agreement;

116 (b) determines the amount of agreement sales and use tax to remit to a state that is a  
117 member of the agreement; and

118 (c) maintains a record of the transaction described in Subsection (10)(a)(i).

119 (11) "Certified service provider" means an agent certified:

120 (a) by the governing board of the agreement in accordance with Section 59-12-102.1;

121 and

122 (b) to perform all of a seller's sales and use tax functions for an agreement sales and  
123 use tax other than the seller's obligation under Section 59-12-107.4 to remit a tax on the seller's  
124 own purchases.

125 (12) (a) Subject to Subsection (12)(b), "clothing" means all human wearing apparel  
126 suitable for general use.

127 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
128 commission shall make rules:

129 (i) listing the items that constitute "clothing"; and

130 (ii) that are consistent with the list of items that constitute "clothing" under the  
131 agreement.

132 (13) (a) For purposes of Subsection 59-12-104(42), "coin-operated amusement device"  
133 means:

134 (i) a coin-operated amusement, skill, or ride device;

135 (ii) that is not controlled through seller-assisted, over-the-counter, sales of tokens; and

136 (iii) includes a music machine, pinball machine, billiard machine, video game machine,  
137 arcade machine, and a mechanical or electronic skill game or ride.

138 (b) For purposes of Subsection 59-12-104(42), "coin-operated amusement device" does  
139 not mean a coin-operated amusement device possessing a coinage mechanism that:

140 (i) accepts and registers multiple denominations of coins; and

141 (ii) allows the seller to collect the sales and use tax at the time an amusement device is  
142 activated and operated by a person inserting coins into the device.

143 (14) "Commercial use" means the use of gas, electricity, heat, coal, fuel oil, or other  
144 fuels that does not constitute industrial use under Subsection (34) or residential use under  
145 Subsection (68).

146 (15) (a) "Common carrier" means a person engaged in or transacting the business of  
147 transporting passengers, freight, merchandise, or other property for hire within this state.

148 (b) (i) "Common carrier" does not include a person who, at the time the person is  
149 traveling to or from that person's place of employment, transports a passenger to or from the

150 passenger's place of employment.

151 (ii) For purposes of Subsection (15)(b)(i), in accordance with Title 63, Chapter 46a,  
152 Utah Administrative Rulemaking Act, the commission may make rules defining what  
153 constitutes a person's place of employment.

154 (16) "Component part" includes:

155 (a) poultry, dairy, and other livestock feed, and their components;

156 (b) baling ties and twine used in the baling of hay and straw;

157 (c) fuel used for providing temperature control of orchards and commercial  
158 greenhouses doing a majority of their business in wholesale sales, and for providing power for  
159 off-highway type farm machinery; and

160 (d) feed, seeds, and seedlings.

161 (17) "Computer" means an electronic device that accepts information:

162 (a) (i) in digital form; or

163 (ii) in a form similar to digital form; and

164 (b) manipulates that information for a result based on a sequence of instructions.

165 (18) "Computer software" means a set of coded instructions designed to cause:

166 (a) a computer to perform a task; or

167 (b) automatic data processing equipment to perform a task.

168 (19) "Construction materials" means any tangible personal property that will be  
169 converted into real property.

170 (20) "Delivered electronically" means delivered to a purchaser by means other than  
171 tangible storage media.

172 (21) (a) "Delivery charge" means a charge:

173 (i) by a seller of:

174 (A) tangible personal property; or

175 (B) services; and

176 (ii) for preparation and delivery of the tangible personal property or services described  
177 in Subsection (21)(a)(i) to a location designated by the purchaser.

178 (b) "Delivery charge" includes a charge for the following:

179 (i) transportation;

180 (ii) shipping;

- 181 (iii) postage;
- 182 (iv) handling;
- 183 (v) crating; or
- 184 (vi) packing.
- 185 (22) "Dietary supplement" means a product, other than tobacco, that:
- 186 (a) is intended to supplement the diet;
- 187 (b) contains one or more of the following dietary ingredients:
- 188 (i) a vitamin;
- 189 (ii) a mineral;
- 190 (iii) an herb or other botanical;
- 191 (iv) an amino acid;
- 192 (v) a dietary substance for use by humans to supplement the diet by increasing the total
- 193 dietary intake; or
- 194 (vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient
- 195 described in Subsections (22)(b)(i) through (v);
- 196 (c) (i) except as provided in Subsection (22)(c)(ii), is intended for ingestion in:
- 197 (A) tablet form;
- 198 (B) capsule form;
- 199 (C) powder form;
- 200 (D) softgel form;
- 201 (E) gelcap form; or
- 202 (F) liquid form; or
- 203 (ii) notwithstanding Subsection (22)(c)(i), if the product is not intended for ingestion in
- 204 a form described in Subsections (22)(c)(i)(A) through (F), is not represented:
- 205 (A) as conventional food; and
- 206 (B) for use as a sole item of:
- 207 (I) a meal; or
- 208 (II) the diet; and
- 209 (d) is required to be labeled as a dietary supplement:
- 210 (i) identifiable by the "Supplemental Facts" box found on the label; and
- 211 (ii) as required by 21 C.F.R. Sec. 101.36.

212 (23) (a) "Direct mail" means printed material delivered or distributed by United States  
213 mail or other delivery service:

214 (i) to:

215 (A) a mass audience; or

216 (B) addressees on a mailing list provided by a purchaser of the mailing list; and

217 (ii) if the cost of the printed material is not billed directly to the recipients.

218 (b) "Direct mail" includes tangible personal property supplied directly or indirectly by a  
219 purchaser to a seller of direct mail for inclusion in a package containing the printed material.

220 (c) "Direct mail" does not include multiple items of printed material delivered to a  
221 single address.

222 (24) (a) "Drug" means a compound, substance, or preparation, or a component of a  
223 compound, substance, or preparation that is:

224 (i) recognized in:

225 (A) the official United States Pharmacopoeia;

226 (B) the official Homeopathic Pharmacopoeia of the United States;

227 (C) the official National Formulary; or

228 (D) a supplement to a publication listed in Subsections (24)(a)(i)(A) through (C);

229 (ii) intended for use in the:

230 (A) diagnosis of disease;

231 (B) cure of disease;

232 (C) mitigation of disease;

233 (D) treatment of disease; or

234 (E) prevention of disease; or

235 (iii) intended to affect:

236 (A) the structure of the body; or

237 (B) any function of the body.

238 (b) "Drug" does not include:

239 (i) food and food ingredients;

240 (ii) a dietary supplement;

241 (iii) an alcoholic beverage; or

242 (iv) a prosthetic device.



243 (25) (a) Except as provided in Subsection (25)(c), "durable medical equipment" means  
244 equipment that:

- 245 (i) can withstand repeated use;
- 246 (ii) is primarily and customarily used to serve a medical purpose;
- 247 (iii) generally is not useful to a person in the absence of illness or injury; and
- 248 (iv) is not worn in or on the body.

249 (b) "Durable medical equipment" includes parts used in the repair or replacement of the  
250 equipment described in Subsection (25)(a).

251 (c) Notwithstanding Subsection (25)(a), "durable medical equipment" does not include  
252 mobility enhancing equipment.

253 (26) "Electronic" means:

- 254 (a) relating to technology; and
- 255 (b) having:
  - 256 (i) electrical capabilities;
  - 257 (ii) digital capabilities;
  - 258 (iii) magnetic capabilities;
  - 259 (iv) wireless capabilities;
  - 260 (v) optical capabilities;
  - 261 (vi) electromagnetic capabilities; or
  - 262 (vii) capabilities similar to Subsections (26)(b)(i) through (vi).

263 (27) (a) "Food and food ingredients" means substances:

- 264 (i) regardless of whether the substances are in:
  - 265 (A) liquid form;
  - 266 (B) concentrated form;
  - 267 (C) solid form;
  - 268 (D) frozen form;
  - 269 (E) dried form; or
  - 270 (F) dehydrated form; and
- 271 (ii) that are:
  - 272 (A) sold for:
  - 273 (I) ingestion by humans; or

- 274 (II) chewing by humans; and  
275 (B) consumed for the substance's:  
276 (I) taste; or  
277 (II) nutritional value.  
278 (b) "Food and food ingredients" does not include:  
279 (i) an alcoholic beverage;  
280 (ii) tobacco; or  
281 (iii) prepared food.  
282 (28) (a) "Fundraising sales" means sales:  
283 (i) (A) made by a school; or  
284 (B) made by a school student;  
285 (ii) that are for the purpose of raising funds for the school to purchase equipment,  
286 materials, or provide transportation; and  
287 (iii) that are part of an officially sanctioned school activity.  
288 (b) For purposes of Subsection (28)(a)(iii), "officially sanctioned school activity"  
289 means a school activity:  
290 (i) that is conducted in accordance with a formal policy adopted by the school or school  
291 district governing the authorization and supervision of fundraising activities;  
292 (ii) that does not directly or indirectly compensate an individual teacher or other  
293 educational personnel by direct payment, commissions, or payment in kind; and  
294 (iii) the net or gross revenues from which are deposited in a dedicated account  
295 controlled by the school or school district.  
296 (29) "Geothermal energy" means energy contained in heat that continuously flows  
297 outward from the earth that is used as the sole source of energy to produce electricity.  
298 (30) "Governing board of the agreement" means the governing board of the agreement  
299 that is:  
300 (a) authorized to administer the agreement; and  
301 (b) established in accordance with the agreement.  
302 (31) (a) "Hearing aid" means:  
303 (i) an instrument or device having an electronic component that is designed to:  
304 (A) (I) improve impaired human hearing; or

- 305 (II) correct impaired human hearing; and
- 306 (B) (I) be worn in the human ear; or
- 307 (II) affixed behind the human ear;
- 308 (ii) an instrument or device that is surgically implanted into the cochlea; or
- 309 (iii) a telephone amplifying device.
- 310 (b) "Hearing aid" does not include:
- 311 (i) except as provided in Subsection (31)(a)(i)(B) or (31)(a)(ii), an instrument or device
- 312 having an electronic component that is designed to be worn on the body;
- 313 (ii) except as provided in Subsection (31)(a)(iii), an assistive listening device or system
- 314 designed to be used by one individual, including:
- 315 (A) a personal amplifying system;
- 316 (B) a personal FM system;
- 317 (C) a television listening system; or
- 318 (D) a device or system similar to a device or system described in Subsections
- 319 (31)(b)(ii)(A) through (C); or
- 320 (iii) an assistive listening device or system designed to be used by more than one
- 321 individual, including:
- 322 (A) a device or system installed in:
- 323 (I) an auditorium;
- 324 (II) a church;
- 325 (III) a conference room;
- 326 (IV) a synagogue; or
- 327 (V) a theater; or
- 328 (B) a device or system similar to a device or system described in Subsections
- 329 (31)(b)(iii)(A)(I) through (V).
- 330 (32) (a) "Hearing aid accessory" means a hearing aid:
- 331 (i) component;
- 332 (ii) attachment; or
- 333 (iii) accessory.
- 334 (b) "Hearing aid accessory" includes:
- 335 (i) a hearing aid neck loop;

- 336 (ii) a hearing aid cord;
- 337 (iii) a hearing aid ear mold;
- 338 (iv) hearing aid tubing;
- 339 (v) a hearing aid ear hook; or
- 340 (vi) a hearing aid remote control.
- 341 (c) "Hearing aid accessory" does not include:
- 342 (i) a component, attachment, or accessory designed to be used only with an:
- 343 (A) instrument or device described in Subsection (31)(b)(i); or
- 344 (B) assistive listening device or system described in Subsection (31)(b)(ii) or (iii); or
- 345 (ii) a hearing aid battery.
- 346 (33) "Hydroelectric energy" means water used as the sole source of energy to produce
- 347 electricity.
- 348 (34) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
- 349 other fuels:
- 350 (a) in mining or extraction of minerals;
- 351 (b) in agricultural operations to produce an agricultural product up to the time of
- 352 harvest or placing the agricultural product into a storage facility, including:
- 353 (i) commercial greenhouses;
- 354 (ii) irrigation pumps;
- 355 (iii) farm machinery;
- 356 (iv) implements of husbandry as defined in Subsection 41-1a-102(23) that are not
- 357 registered under Title 41, Chapter 1a, Part 2, Registration; and
- 358 (v) other farming activities;
- 359 (c) in manufacturing tangible personal property at an establishment described in:
- 360 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of
- 361 the federal Executive Office of the President, Office of Management and Budget; or
- 362 (ii) NAICS Sectors 31 through 33, Manufacturing, of the 2002 North American
- 363 Industry Classification System of the federal Executive Office of the President, Office of
- 364 Management and Budget;
- 365 (d) by a scrap recycler if:
- 366 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process

367 one or more of the following items into prepared grades of processed materials for use in new  
368 products:

- 369 (A) iron;
- 370 (B) steel;
- 371 (C) nonferrous metal;
- 372 (D) paper;
- 373 (E) glass;
- 374 (F) plastic;
- 375 (G) textile; or
- 376 (H) rubber; and

377 (ii) the new products under Subsection (34)(d)(i) would otherwise be made with  
378 nonrecycled materials[-]; or

379 (e) in producing a form of energy or steam described in Subsection 54-2-1(2)(a) by a  
380 cogeneration facility as defined in Section 54-2-1.

381 (35) (a) Except as provided in Subsection (35)(b), "installation charge" means a charge  
382 for installing tangible personal property.

383 (b) Notwithstanding Subsection (35)(a), "installation charge" does not include a charge  
384 for repairs or renovations of tangible personal property.

385 (36) (a) "Lease" or "rental" means a transfer of possession or control of tangible  
386 personal property for:

- 387 (i) (A) a fixed term; or
- 388 (B) an indeterminate term; and
- 389 (ii) consideration.

390 (b) "Lease" or "rental" includes an agreement covering a motor vehicle and trailer if the  
391 amount of consideration may be increased or decreased by reference to the amount realized  
392 upon sale or disposition of the property as defined in Section 7701(h)(1), Internal Revenue  
393 Code.

394 (c) "Lease" or "rental" does not include:

- 395 (i) a transfer of possession or control of property under a security agreement or  
396 deferred payment plan that requires the transfer of title upon completion of the required  
397 payments;

398 (ii) a transfer of possession or control of property under an agreement that requires the  
399 transfer of title:

400 (A) upon completion of required payments; and

401 (B) if the payment of an option price does not exceed the greater of:

402 (I) \$100; or

403 (II) 1% of the total required payments; or

404 (iii) providing tangible personal property along with an operator for a fixed period of  
405 time or an indeterminate period of time if the operator is necessary for equipment to perform as  
406 designed.

407 (d) For purposes of Subsection (36)(c)(iii), an operator is necessary for equipment to  
408 perform as designed if the operator's duties exceed the:

409 (i) set-up of tangible personal property;

410 (ii) maintenance of tangible personal property; or

411 (iii) inspection of tangible personal property.

412 (37) "Load and leave" means delivery to a purchaser by use of a tangible storage media  
413 if the tangible storage media is not physically transferred to the purchaser.

414 (38) "Local taxing jurisdiction" means a:

415 (a) county that is authorized to impose an agreement sales and use tax;

416 (b) city that is authorized to impose an agreement sales and use tax; or

417 (c) town that is authorized to impose an agreement sales and use tax.

418 (39) "Manufactured home" is as defined in Section 58-56-3.

419 (40) For purposes of Subsection 59-12-104(14), "manufacturing facility" means:

420 (a) an establishment described in:

421 (i) SIC Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of  
422 the federal Executive Office of the President, Office of Management and Budget; or

423 (ii) NAICS Sectors 31 through 33, Manufacturing, of the 2002 North American  
424 Industry Classification System of the federal Executive Office of the President, Office of  
425 Management and Budget;

426 (b) a scrap recycler if:

427 (i) from a fixed location, the scrap recycler utilizes machinery or equipment to process  
428 one or more of the following items into prepared grades of processed materials for use in new

429 products:

430 (A) iron;

431 (B) steel;

432 (C) nonferrous metal;

433 (D) paper;

434 (E) glass;

435 (F) plastic;

436 (G) textile; or

437 (H) rubber; and

438 (ii) the new products under Subsection (40)(b)(i) would otherwise be made with

439 nonrecycled materials[-]; or

440 (c) a cogeneration facility as defined in Section 54-2-1.

441 (41) "Mobile home" is as defined in Section 58-56-3.

442 (42) "Mobile telecommunications service" is as defined in the Mobile

443 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

444 (43) (a) Except as provided in Subsection (43)(c), "mobility enhancing equipment"

445 means equipment that is:

446 (i) primarily and customarily used to provide or increase the ability to move from one

447 place to another;

448 (ii) appropriate for use in a:

449 (A) home; or

450 (B) motor vehicle; and

451 (iii) not generally used by persons with normal mobility.

452 (b) "Mobility enhancing equipment" includes parts used in the repair or replacement of

453 the equipment described in Subsection (43)(a).

454 (c) Notwithstanding Subsection (43)(a), "mobility enhancing equipment" does not

455 include:

456 (i) a motor vehicle;

457 (ii) equipment on a motor vehicle if that equipment is normally provided by the motor

458 vehicle manufacturer;

459 (iii) durable medical equipment; or

460 (iv) a prosthetic device.

461 (44) "Model 1 seller" means a seller that has selected a certified service provider as the  
462 seller's agent to perform all of the seller's sales and use tax functions for agreement sales and  
463 use taxes other than the seller's obligation under Section 59-12-107.4 to remit a tax on the  
464 seller's own purchases.

465 (45) "Model 2 seller" means a seller that:

466 (a) except as provided in Subsection (45)(b), has selected a certified automated system  
467 to perform the seller's sales tax functions for agreement sales and use taxes; and

468 (b) notwithstanding Subsection (45)(a), retains responsibility for remitting all of the  
469 sales tax:

470 (i) collected by the seller; and

471 (ii) to the appropriate local taxing jurisdiction.

472 (46) (a) Subject to Subsection (46)(b), "model 3 seller" means a seller that has:

473 (i) sales in at least five states that are members of the agreement;

474 (ii) total annual sales revenues of at least \$500,000,000;

475 (iii) a proprietary system that calculates the amount of tax:

476 (A) for an agreement sales and use tax; and

477 (B) due to each local taxing jurisdiction; and

478 (iv) entered into a performance agreement with the governing board of the agreement.

479 (b) For purposes of Subsection (46)(a), "model 3 seller" includes an affiliated group of  
480 sellers using the same proprietary system.

481 (47) "Modular home" means a modular unit as defined in Section 58-56-3.

482 (48) "Motor vehicle" is as defined in Section 41-1a-102.

483 (49) (a) "Other fuels" means products that burn independently to produce heat or  
484 energy.

485 (b) "Other fuels" includes oxygen when it is used in the manufacturing of tangible  
486 personal property.

487 (50) "Pawnbroker" is as defined in Section 13-32a-102.

488 (51) "Pawn transaction" is as defined in Section 13-32a-102.

489 (52) (a) "Permanently attached to real property" means that for tangible personal  
490 property attached to real property:



- 491 (i) the attachment of the tangible personal property to the real property:  
492 (A) is essential to the use of the tangible personal property; and  
493 (B) suggests that the tangible personal property will remain attached to the real  
494 property in the same place over the useful life of the tangible personal property; or  
495 (ii) if the tangible personal property is detached from the real property, the detachment  
496 would:  
497 (A) cause substantial damage to the tangible personal property; or  
498 (B) require substantial alteration or repair of the real property to which the tangible  
499 personal property is attached.
- 500 (b) "Permanently attached to real property" includes:  
501 (i) the attachment of an accessory to the tangible personal property if the accessory is:  
502 (A) essential to the operation of the tangible personal property; and  
503 (B) attached only to facilitate the operation of the tangible personal property; or  
504 (ii) a temporary detachment of tangible personal property from real property for a  
505 repair or renovation if the repair or renovation is performed where the tangible personal  
506 property and real property are located.
- 507 (c) "Permanently attached to real property" does not include:  
508 (i) the attachment of portable or movable tangible personal property to real property if  
509 that portable or movable tangible personal property is attached to real property only for:  
510 (A) convenience;  
511 (B) stability; or  
512 (C) for an obvious temporary purpose; or  
513 (ii) the detachment of tangible personal property from real property other than the  
514 detachment described in Subsection (52)(b)(ii).
- 515 (53) "Person" includes any individual, firm, partnership, joint venture, association,  
516 corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,  
517 municipality, district, or other local governmental entity of the state, or any group or  
518 combination acting as a unit.
- 519 (54) "Place of primary use":  
520 (a) for telephone service other than mobile telecommunications service, means the  
521 street address representative of where the purchaser's use of the telephone service primarily

522 occurs, which shall be:

523 (i) the residential street address of the purchaser; or

524 (ii) the primary business street address of the purchaser; or

525 (b) for mobile telecommunications service, is as defined in the Mobile

526 Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.

527 (55) "Postproduction" means an activity related to the finishing or duplication of a

528 medium described in Subsection 59-12-104(60)(a).

529 (56) (a) "Prepared food" means:

530 (i) food:

531 (A) sold in a heated state; or

532 (B) heated by a seller;

533 (ii) two or more food ingredients mixed or combined by the seller for sale as a single

534 item; or

535 (iii) except as provided in Subsection (56)(c), food sold with an eating utensil provided

536 by the seller, including a:

537 (A) plate;

538 (B) knife;

539 (C) fork;

540 (D) spoon;

541 (E) glass;

542 (F) cup;

543 (G) napkin; or

544 (H) straw.

545 (b) "Prepared food" does not include:

546 (i) food that a seller only:

547 (A) cuts;

548 (B) repackages; or

549 (C) pasteurizes; or

550 (ii) (A) the following:

551 (I) raw egg;

552 (II) raw fish;

553 (III) raw meat;  
554 (IV) raw poultry; or  
555 (V) a food containing an item described in Subsections (56)(b)(ii)(A)(I) through (IV);

556 and

557 (B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the  
558 Food and Drug Administration's Food Code that a consumer cook the items described in  
559 Subsection (56)(b)(ii)(A) to prevent food borne illness.

560 (c) Notwithstanding Subsection (56)(a)(iii), an eating utensil provided by the seller  
561 does not include the following used to transport the food:

562 (i) a container; or

563 (ii) packaging.

564 (57) "Prescription" means an order, formula, or recipe that is issued:

565 (a) (i) orally;

566 (ii) in writing;

567 (iii) electronically; or

568 (iv) by any other manner of transmission; and

569 (b) by a licensed practitioner authorized by the laws of a state.

570 (58) (a) Except as provided in Subsection (58)(b)(ii) or (iii), "prewritten computer  
571 software" means computer software that is not designed and developed:

572 (i) by the author or other creator of the computer software; and

573 (ii) to the specifications of a specific purchaser.

574 (b) "Prewritten computer software" includes:

575 (i) a prewritten upgrade to computer software if the prewritten upgrade to the computer  
576 software is not designed and developed:

577 (A) by the author or other creator of the computer software; and

578 (B) to the specifications of a specific purchaser;

579 (ii) notwithstanding Subsection (58)(a), computer software designed and developed by  
580 the author or other creator of the computer software to the specifications of a specific purchaser  
581 if the computer software is sold to a person other than the purchaser; or

582 (iii) notwithstanding Subsection (58)(a) and except as provided in Subsection (58)(c),  
583 prewritten computer software or a prewritten portion of prewritten computer software:

584 (A) that is modified or enhanced to any degree; and

585 (B) if the modification or enhancement described in Subsection (58)(b)(iii)(A) is  
586 designed and developed to the specifications of a specific purchaser.

587 (c) Notwithstanding Subsection (58)(b)(iii), "prewritten computer software" does not  
588 include a modification or enhancement described in Subsection (58)(b)(iii) if the charges for  
589 the modification or enhancement are:

590 (i) reasonable; and

591 (ii) separately stated on the invoice or other statement of price provided to the  
592 purchaser.

593 (59) (a) "Prosthetic device" means a device that is worn on or in the body to:

594 (i) artificially replace a missing portion of the body;

595 (ii) prevent or correct a physical deformity or physical malfunction; or

596 (iii) support a weak or deformed portion of the body.

597 (b) "Prosthetic device" includes:

598 (i) parts used in the repairs or renovation of a prosthetic device; or

599 (ii) replacement parts for a prosthetic device.

600 (c) "Prosthetic device" does not include:

601 (i) corrective eyeglasses;

602 (ii) contact lenses;

603 (iii) hearing aids; or

604 (iv) dental prostheses.

605 (60) (a) "Protective equipment" means an item:

606 (i) for human wear; and

607 (ii) that is:

608 (A) designed as protection:

609 (I) to the wearer against injury or disease; or

610 (II) against damage or injury of other persons or property; and

611 (B) not suitable for general use.

612 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
613 commission shall make rules:

614 (i) listing the items that constitute "protective equipment"; and

615 (ii) that are consistent with the list of items that constitute "protective equipment"  
616 under the agreement.

617 (61) (a) "Purchase price" and "sales price" mean the total amount of consideration:

618 (i) valued in money; and

619 (ii) for which tangible personal property or services are:

620 (A) sold;

621 (B) leased; or

622 (C) rented.

623 (b) "Purchase price" and "sales price" include:

624 (i) the seller's cost of the tangible personal property or services sold;

625 (ii) expenses of the seller, including:

626 (A) the cost of materials used;

627 (B) a labor cost;

628 (C) a service cost;

629 (D) interest;

630 (E) a loss;

631 (F) the cost of transportation to the seller; or

632 (G) a tax imposed on the seller; or

633 (iii) a charge by the seller for any service necessary to complete the sale.

634 (c) "Purchase price" and "sales price" do not include:

635 (i) a discount:

636 (A) in a form including:

637 (I) cash;

638 (II) term; or

639 (III) coupon;

640 (B) that is allowed by a seller;

641 (C) taken by a purchaser on a sale; and

642 (D) that is not reimbursed by a third party; or

643 (ii) the following if separately stated on an invoice, bill of sale, or similar document  
644 provided to the purchaser:

645 (A) the amount of a trade-in;

- 646 (B) the following from credit extended on the sale of tangible personal property or  
647 services:
- 648 (I) interest charges;
  - 649 (II) financing charges; or
  - 650 (III) carrying charges;
  - 651 (C) a tax or fee legally imposed directly on the consumer;
  - 652 (D) a delivery charge; or
  - 653 (E) an installation charge.
- 654 (62) "Purchaser" means a person to whom:
- 655 (a) a sale of tangible personal property is made; or
  - 656 (b) a service is furnished.
- 657 (63) "Regularly rented" means:
- 658 (a) rented to a guest for value three or more times during a calendar year; or
  - 659 (b) advertised or held out to the public as a place that is regularly rented to guests for  
660 value.
- 661 (64) "Renewable energy" means:
- 662 (a) biomass energy;
  - 663 (b) hydroelectric energy;
  - 664 (c) geothermal energy;
  - 665 (d) solar energy; or
  - 666 (e) wind energy.
- 667 (65) (a) "Renewable energy production facility" means a facility that:
- 668 (i) uses renewable energy to produce electricity; and
  - 669 (ii) has a production capacity of 20 kilowatts or greater.
- 670 (b) A facility is a renewable energy production facility regardless of whether the  
671 facility is:
- 672 (i) connected to an electric grid; or
  - 673 (ii) located on the premises of an electricity consumer.
- 674 (66) "Rental" is as defined in Subsection (36).
- 675 (67) "Repairs or renovations of tangible personal property" means:
- 676 (a) a repair or renovation of tangible personal property that is not permanently attached

677 to real property; or

678 (b) attaching tangible personal property to other tangible personal property if the other  
679 tangible personal property to which the tangible personal property is attached is not  
680 permanently attached to real property.

681 (68) "Residential use" means the use in or around a home, apartment building, sleeping  
682 quarters, and similar facilities or accommodations.

683 (69) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other  
684 than:

685 (a) resale;

686 (b) sublease; or

687 (c) subrent.

688 (70) (a) "Retailer" means any person engaged in a regularly organized business in  
689 tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and  
690 who is selling to the user or consumer and not for resale.

691 (b) "Retailer" includes commission merchants, auctioneers, and any person regularly  
692 engaged in the business of selling to users or consumers within the state.

693 (71) (a) "Sale" means any transfer of title, exchange, or barter, conditional or  
694 otherwise, in any manner, of tangible personal property or any other taxable transaction under  
695 Subsection 59-12-103(1), for consideration.

696 (b) "Sale" includes:

697 (i) installment and credit sales;

698 (ii) any closed transaction constituting a sale;

699 (iii) any sale of electrical energy, gas, services, or entertainment taxable under this  
700 chapter;

701 (iv) any transaction if the possession of property is transferred but the seller retains the  
702 title as security for the payment of the price; and

703 (v) any transaction under which right to possession, operation, or use of any article of  
704 tangible personal property is granted under a lease or contract and the transfer of possession  
705 would be taxable if an outright sale were made.

706 (72) "Sale at retail" is as defined in Subsection (69).

707 (73) "Sale-leaseback transaction" means a transaction by which title to tangible

708 personal property that is subject to a tax under this chapter is transferred:

709       (a) by a purchaser-lessee;

710       (b) to a lessor;

711       (c) for consideration; and

712       (d) if:

713           (i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase

714 of the tangible personal property;

715           (ii) the sale of the tangible personal property to the lessor is intended as a form of

716 financing:

717           (A) for the property; and

718           (B) to the purchaser-lessee; and

719           (iii) in accordance with generally accepted accounting principles, the purchaser-lessee

720 is required to:

721           (A) capitalize the property for financial reporting purposes; and

722           (B) account for the lease payments as payments made under a financing arrangement.

723       (74) "Sales price" is as defined in Subsection (61).

724       (75) (a) "Sales relating to schools" means the following sales by, amounts paid to, or

725 amounts charged by a school:

726           (i) sales that are directly related to the school's educational functions or activities

727 including:

728           (A) the sale of:

729               (I) textbooks;

730               (II) textbook fees;

731               (III) laboratory fees;

732               (IV) laboratory supplies; or

733               (V) safety equipment;

734           (B) the sale of a uniform, protective equipment, or sports or recreational equipment

735 that:

736           (I) a student is specifically required to wear as a condition of participation in a

737 school-related event or school-related activity; and

738           (II) is not readily adaptable to general or continued usage to the extent that it takes the



739 place of ordinary clothing;

740 (C) sales of the following if the net or gross revenues generated by the sales are

741 deposited into a school district fund or school fund dedicated to school meals:

742 (I) food and food ingredients; or

743 (II) prepared food; or

744 (D) transportation charges for official school activities; or

745 (ii) amounts paid to or amounts charged by a school for admission to a school-related

746 event or school-related activity.

747 (b) "Sales relating to schools" does not include:

748 (i) bookstore sales of items that are not educational materials or supplies;

749 (ii) except as provided in Subsection (75)(a)(i)(B):

750 (A) clothing;

751 (B) clothing accessories or equipment;

752 (C) protective equipment; or

753 (D) sports or recreational equipment; or

754 (iii) amounts paid to or amounts charged by a school for admission to a school-related

755 event or school-related activity if the amounts paid or charged are passed through to a person:

756 (A) other than a:

757 (I) school;

758 (II) nonprofit organization authorized by a school board or a governing body of a

759 private school to organize and direct a competitive secondary school activity; or

760 (III) nonprofit association authorized by a school board or a governing body of a

761 private school to organize and direct a competitive secondary school activity; and

762 (B) that is required to collect sales and use taxes under this chapter.

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

764 commission may make rules defining the term "passed through."

765 (76) For purposes of this section and Section 59-12-104, "school" means:

766 (a) an elementary school or a secondary school that:

767 (i) is a:

768 (A) public school; or

769 (B) private school; and

- 770 (ii) provides instruction for one or more grades kindergarten through 12; or
- 771 (b) a public school district.
- 772 (77) "Seller" means a person that makes a sale, lease, or rental of:
- 773 (a) tangible personal property; or
- 774 (b) a service.
- 775 (78) (a) "Semiconductor fabricating or processing materials" means tangible personal
- 776 property:
- 777 (i) used primarily in the process of:
- 778 (A) (I) manufacturing a semiconductor; or
- 779 (II) fabricating a semiconductor; or
- 780 (B) maintaining an environment suitable for a semiconductor; or
- 781 (ii) consumed primarily in the process of:
- 782 (A) (I) manufacturing a semiconductor; or
- 783 (II) fabricating a semiconductor; or
- 784 (B) maintaining an environment suitable for a semiconductor.
- 785 (b) "Semiconductor fabricating or processing materials" includes:
- 786 (i) parts used in the repairs or renovations of tangible personal property described in
- 787 Subsection (78)(a); or
- 788 (ii) a chemical, catalyst, or other material used to:
- 789 (A) produce or induce in a semiconductor a:
- 790 (I) chemical change; or
- 791 (II) physical change;
- 792 (B) remove impurities from a semiconductor; or
- 793 (C) improve the marketable condition of a semiconductor.
- 794 (79) "Senior citizen center" means a facility having the primary purpose of providing
- 795 services to the aged as defined in Section 62A-3-101.
- 796 (80) "Simplified electronic return" means the electronic return:
- 797 (a) described in Section 318(C) of the agreement; and
- 798 (b) approved by the governing board of the agreement.
- 799 (81) "Solar energy" means the sun used as the sole source of energy for producing
- 800 electricity.

- 801 (82) (a) "Sports or recreational equipment" means an item:  
802 (i) designed for human use; and  
803 (ii) that is:  
804 (A) worn in conjunction with:  
805 (I) an athletic activity; or  
806 (II) a recreational activity; and  
807 (B) not suitable for general use.  
808 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
809 commission shall make rules:  
810 (i) listing the items that constitute "sports or recreational equipment"; and  
811 (ii) that are consistent with the list of items that constitute "sports or recreational  
812 equipment" under the agreement.  
813 (83) "State" means the state of Utah, its departments, and agencies.  
814 (84) "Storage" means any keeping or retention of tangible personal property or any  
815 other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except  
816 sale in the regular course of business.  
817 (85) (a) "Tangible personal property" means personal property that:  
818 (i) may be:  
819 (A) seen;  
820 (B) weighed;  
821 (C) measured;  
822 (D) felt; or  
823 (E) touched; or  
824 (ii) is in any manner perceptible to the senses.  
825 (b) "Tangible personal property" includes:  
826 (i) electricity;  
827 (ii) water;  
828 (iii) gas;  
829 (iv) steam; or  
830 (v) prewritten computer software.  
831 (86) (a) "Telephone service" means a two-way transmission:

- 832 (i) by:
- 833 (A) wire;
- 834 (B) radio;
- 835 (C) lightwave; or
- 836 (D) other electromagnetic means; and
- 837 (ii) of one or more of the following:
- 838 (A) a sign;
- 839 (B) a signal;
- 840 (C) writing;
- 841 (D) an image;
- 842 (E) sound;
- 843 (F) a message;
- 844 (G) data; or
- 845 (H) other information of any nature.
- 846 (b) "Telephone service" includes:
- 847 (i) mobile telecommunications service;
- 848 (ii) private communications service; or
- 849 (iii) automated digital telephone answering service.
- 850 (c) "Telephone service" does not include a service or a transaction that a state or a
- 851 political subdivision of a state is prohibited from taxing as of July 1, 2001, under the Internet
- 852 Tax Freedom Act, Pub. L. No. 105-277.
- 853 (87) Notwithstanding where a call is billed or paid, "telephone service address" means:
- 854 (a) if the location described in this Subsection (87)(a) is known, the location of the
- 855 telephone service equipment:
- 856 (i) to which a call is charged; and
- 857 (ii) from which the call originates or terminates;
- 858 (b) if the location described in Subsection (87)(a) is not known but the location
- 859 described in this Subsection (87)(b) is known, the location of the origination point of the signal
- 860 of the telephone service first identified by:
- 861 (i) the telecommunications system of the seller; or
- 862 (ii) if the system used to transport the signal is not that of the seller, information

863 received by the seller from its service provider; or

864 (c) if the locations described in Subsection (87)(a) or (b) are not known, the location of  
865 a purchaser's primary place of use.

866 (88) (a) "Telephone service provider" means a person that:

867 (i) owns, controls, operates, or manages a telephone service; and

868 (ii) engages in an activity described in Subsection (88)(a)(i) for the shared use with or  
869 resale to any person of the telephone service.

870 (b) A person described in Subsection (88)(a) is a telephone service provider whether or  
871 not the Public Service Commission of Utah regulates:

872 (i) that person; or

873 (ii) the telephone service that the person owns, controls, operates, or manages.

874 (89) "Tobacco" means:

875 (a) a cigarette;

876 (b) a cigar;

877 (c) chewing tobacco;

878 (d) pipe tobacco; or

879 (e) any other item that contains tobacco.

880 (90) (a) "Use" means the exercise of any right or power over tangible personal property  
881 under Subsection 59-12-103(1), incident to the ownership or the leasing of that property, item,  
882 or service.

883 (b) "Use" does not include the sale, display, demonstration, or trial of that property in  
884 the regular course of business and held for resale.

885 (91) (a) Subject to Subsection (91)(b), "vehicle" means the following that are required  
886 to be titled, registered, or titled and registered:

887 (i) an aircraft as defined in Section 72-10-102;

888 (ii) a vehicle as defined in Section 41-1a-102;

889 (iii) an off-highway vehicle as defined in Section 41-22-2; or

890 (iv) a vessel as defined in Section 41-1a-102.

891 (b) For purposes of Subsection 59-12-104(35) only, "vehicle" includes:

892 (i) a vehicle described in Subsection (91)(a); or

893 (ii) (A) a locomotive;

- 894 (B) a freight car;
- 895 (C) railroad work equipment; or
- 896 (D) other railroad rolling stock.

897 (92) "Vehicle dealer" means a person engaged in the business of buying, selling, or  
898 exchanging a vehicle as defined in Subsection (91).

899 (93) (a) Except as provided in Subsection (93)(b), "waste energy facility" means a  
900 facility that generates electricity:

901 (i) using as the primary source of energy waste materials that would be placed in a  
902 landfill or refuse pit if it were not used to generate electricity, including:

- 903 (A) tires;
- 904 (B) waste coal; or
- 905 (C) oil shale; and

906 (ii) in amounts greater than actually required for the operation of the facility.

907 (b) "Waste energy facility" does not include a facility that incinerates:

- 908 (i) municipal solid waste;
- 909 (ii) hospital waste as defined in 40 C.F.R. 60.51c; or
- 910 (iii) medical/infectious waste as defined in 40 C.F.R. 60.51c.

911 (94) "Watercraft" means a vessel as defined in Section 73-18-2.

912 (95) "Wind energy" means wind used as the sole source of energy to produce  
913 electricity.

914 (96) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic  
915 location by the United States Postal Service.

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

917 **59-12-104. Exemptions.**

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

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

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

923 (a) construction materials except:

924 (i) construction materials purchased by or on behalf of institutions of the public

925 education system as defined in Utah Constitution Article X, Section 2, provided the  
926 construction materials are clearly identified and segregated and installed or converted to real  
927 property which is owned by institutions of the public education system; and

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

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

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

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

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

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

939 (i) food and food ingredients; or

940 (ii) prepared food;

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

942 (a) food and food ingredients;

943 (b) prepared food; or

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

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

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

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

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

955 (9) sales of vehicles of a type required to be registered under the motor vehicle laws of

956 this state which are made to bona fide nonresidents of this state and are not afterwards  
957 registered or used in this state except as necessary to transport them to the borders of this state;  
958 (10) (a) amounts paid for an item described in Subsection (10)(b) if:  
959 (i) the item is intended for human use; and  
960 (ii) (A) a prescription was issued for the item; or  
961 (B) the item was purchased by a hospital or other medical facility; and  
962 (b) (i) Subsection (10)(a) applies to:  
963 (A) a drug;  
964 (B) a syringe; or  
965 (C) a stoma supply; and  
966 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
967 commission may by rule define the terms:  
968 (A) "syringe"; or  
969 (B) "stoma supply";  
970 (11) sales or use of property, materials, or services used in the construction of or  
971 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;  
972 (12) (a) sales of an item described in Subsection (12)(c) served by:  
973 (i) the following if the item described in Subsection (12)(c) is not available to the  
974 general public:  
975 (A) a church; or  
976 (B) a charitable institution;  
977 (ii) an institution of higher education if:  
978 (A) the item described in Subsection (12)(c) is not available to the general public; or  
979 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
980 offered by the institution of higher education; or  
981 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
982 (i) a medical facility; or  
983 (ii) a nursing facility; and  
984 (c) Subsections (12)(a) and (b) apply to:  
985 (i) food and food ingredients;  
986 (ii) prepared food; or



987 (iii) alcoholic beverages;

988 (13) isolated or occasional sales by persons not regularly engaged in business, except  
989 the sale of vehicles or vessels required to be titled or registered under the laws of this state in  
990 which case the tax is based upon:

991 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;  
992 or

993 (b) in the absence of a bill of sale or other written evidence of value, the then existing  
994 fair market value of the vehicle or vessel being sold as determined by the commission;

995 (14) (a) the following purchases or leases on or after July 1, 2006, by a [manufacturer  
996 ~~on or after July 1, 1995~~] manufacturing facility:

997 (i) machinery and equipment that:

998 (A) is used;

999 (I) for a manufacturing facility other than a manufacturing facility that is a scrap  
1000 recycler described in Subsection 59-12-102(40)(b):

1001 (Aa) in the manufacturing process; and

1002 (Bb) to manufacture an item sold as tangible personal property; or

1003 (II) for a manufacturing facility that is a scrap recycler described in Subsection  
1004 59-12-102(40)(b), to process an item sold as tangible personal property; and

1005 (B) [~~having~~] has an economic life of three or more years; and

1006 [~~(C) used;~~]

1007 [~~(D) to manufacture an item sold as tangible personal property; and~~]

1008 [~~(H) in new or expanding operations in a manufacturing facility in the state; and~~]

1009 (ii) [~~subject to the provisions of Subsection (14)(b);~~] normal operating [~~replacements~~]  
1010 repair or replacement parts that:

1011 (A) have an economic life of three or more years; and

1012 (B) are used;

1013 (I) for a manufacturing facility in the state other than a manufacturing facility that is a  
1014 scrap recycler described in Subsection 59-12-102(40)(b), in the manufacturing process [in]; or

1015 (II) for a manufacturing facility in the state[;] that is a scrap recycler described in  
1016 Subsection 59-12-102(40)(b), to process an item sold as tangible personal property;

1017 [~~(C) are used to replace, or adapt an existing machine to extend the normal estimated~~]

1018 ~~useful life of the machine; and]~~  
1019  ~~[(D) do not include repairs and maintenance;]~~  
1020  ~~[(b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:]~~  
1021  ~~[(i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described~~  
1022  ~~in Subsection (14)(a)(ii) is exempt;]~~  
1023  ~~[(ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described~~  
1024  ~~in Subsection (14)(a)(ii) is exempt; and]~~  
1025  ~~[(iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection~~  
1026  ~~(14)(a)(ii) is exempt;]~~  
1027 (b) the following purchases or leases on or after July 1, 2009, by an establishment  
1028 described in NAICS Sector 21, Mining, or NAICS Code 511210, Software Publishers, 5415,  
1029 Computer Systems Design and Related Services, or 54171, Research and Development in the  
1030 Physical, Engineering, and Life Sciences, of the 2002 North American Industry Classification  
1031 System of the federal Executive Office of the President, Office of Management and Budget:  
1032 (i) machinery and equipment that:  
1033 (A) is used in:  
1034 (I) the production process, other than the production of real property; or  
1035 (II) research and development; and  
1036 (B) has an economic life of three or more years; and  
1037 (ii) normal operating repair or replacement parts that:  
1038 (A) have an economic life of three or more years; and  
1039 (B) are used in:  
1040 (I) the production process, other than the production of real property, in an  
1041 establishment described in this Subsection (14)(b) in the state; or  
1042 (II) research and development in an establishment described in this Subsection (14)(b)  
1043 in the state;  
1044 (c) for purposes of this Subsection (14) and in accordance with Title 63, Chapter 46a,  
1045 Utah Administrative Rulemaking Act, the commission;  
1046 (i) shall by rule define the [terms "new or expanding operations" and] term  
1047 "establishment"; and  
1048 (ii) may by rule define what constitutes:

- 1049            (A) the production process, other than the production of real property;  
1050            (B) research and development; or  
1051            (C) processing an item sold as tangible personal property; and  
1052            (d) on or before October 1, [~~1991~~] 2011, and every five years after October 1, [~~1991~~]  
1053 2011, the commission shall:  
1054            (i) review the exemptions described in this Subsection (14)[~~(a)~~] and make  
1055 recommendations to the Revenue and Taxation Interim Committee concerning whether the  
1056 exemptions should be continued, modified, or repealed; and  
1057            (ii) include in its report:  
1058            (A) the cost of the exemptions;  
1059            (B) the purpose and effectiveness of the exemptions; and  
1060            (C) the benefits of the exemptions to the state;  
1061            (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:  
1062            (i) tooling;  
1063            (ii) special tooling;  
1064            (iii) support equipment;  
1065            (iv) special test equipment; or  
1066            (v) parts used in the repairs or renovations of tooling or equipment described in  
1067 Subsections (15)(a)(i) through (iv); and  
1068            (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:  
1069            (i) the tooling, equipment, or parts are used or consumed exclusively in the  
1070 performance of any aerospace or electronics industry contract with the United States  
1071 government or any subcontract under that contract; and  
1072            (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
1073 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
1074 by:  
1075            (A) a government identification tag placed on the tooling, equipment, or parts; or  
1076            (B) listing on a government-approved property record if placing a government  
1077 identification tag on the tooling, equipment, or parts is impractical;  
1078            (16) intrastate movements of:  
1079            (a) freight by common carriers; or

- 1080 (b) passengers:
- 1081 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial  
1082 Classification Manual of the federal Executive Office of the President, Office of Management  
1083 and Budget;
- 1084 (ii) transported by an establishment described in SIC Code 4111 of the 1987 Standard  
1085 Industrial Classification Manual of the federal Executive Office of the President, Office of  
1086 Management and Budget, if the transportation originates and terminates within a county of the  
1087 first, second, or third class; or
- 1088 (iii) transported by the following described in SIC Code 4789 of the 1987 Standard  
1089 Industrial Classification Manual of the federal Executive Office of the President, Office of  
1090 Management and Budget:
- 1091 (A) a horse-drawn cab; or
- 1092 (B) a horse-drawn carriage;
- 1093 (17) sales of newspapers or newspaper subscriptions;
- 1094 (18) (a) except as provided in Subsection (18)(b), tangible personal property traded in  
1095 as full or part payment of the purchase price, except that for purposes of calculating sales or use  
1096 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and  
1097 the tax is based upon:
- 1098 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
1099 vehicle being traded in; or
- 1100 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
1101 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
1102 commission; and
- 1103 (b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the  
1104 following items of tangible personal property traded in as full or part payment of the purchase  
1105 price:
- 1106 (i) money;
- 1107 (ii) electricity;
- 1108 (iii) water;
- 1109 (iv) gas; or
- 1110 (v) steam;

1111 (19) (a) (i) except as provided in Subsection (19)(b), sales of tangible personal property  
1112 used or consumed primarily and directly in farming operations, regardless of whether the  
1113 tangible personal property:

1114 (A) becomes part of real estate; or

1115 (B) is installed by a:

1116 (I) farmer;

1117 (II) contractor; or

1118 (III) subcontractor; or

1119 (ii) sales of parts used in the repairs or renovations of tangible personal property if the  
1120 tangible personal property is exempt under Subsection (19)(a)(i); and

1121 (b) notwithstanding Subsection (19)(a), amounts paid or charged for the following  
1122 tangible personal property are subject to the taxes imposed by this chapter:

1123 (i) (A) subject to Subsection (19)(b)(i)(B), the following tangible personal property if  
1124 the tangible personal property is used in a manner that is incidental to farming:

1125 (I) machinery;

1126 (II) equipment;

1127 (III) materials; or

1128 (IV) supplies; and

1129 (B) tangible personal property that is considered to be used in a manner that is  
1130 incidental to farming includes:

1131 (I) hand tools; or

1132 (II) maintenance and janitorial equipment and supplies;

1133 (ii) (A) subject to Subsection (19)(b)(ii)(B), tangible personal property if the tangible  
1134 personal property is used in an activity other than farming; and

1135 (B) tangible personal property that is considered to be used in an activity other than  
1136 farming includes:

1137 (I) office equipment and supplies; or

1138 (II) equipment and supplies used in:

1139 (Aa) the sale or distribution of farm products;

1140 (Bb) research; or

1141 (Cc) transportation; or

- 1142 (iii) a vehicle required to be registered by the laws of this state during the period ending  
1143 two years after the date of the vehicle's purchase;
- 1144 (20) sales of hay;
- 1145 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or  
1146 other agricultural produce if sold by a producer during the harvest season;
- 1147 (22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
1148 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 1149 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
1150 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
1151 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
1152 manufacturer, processor, wholesaler, or retailer;
- 1153 (24) property stored in the state for resale;
- 1154 (25) property brought into the state by a nonresident for his or her own personal use or  
1155 enjoyment while within the state, except property purchased for use in Utah by a nonresident  
1156 living and working in Utah at the time of purchase;
- 1157 (26) property purchased for resale in this state, in the regular course of business, either  
1158 in its original form or as an ingredient or component part of a manufactured or compounded  
1159 product;
- 1160 (27) property upon which a sales or use tax was paid to some other state, or one of its  
1161 subdivisions, except that the state shall be paid any difference between the tax paid and the tax  
1162 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if  
1163 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax  
1164 Act;
- 1165 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a  
1166 person for use in compounding a service taxable under the subsections;
- 1167 (29) purchases made in accordance with the special supplemental nutrition program for  
1168 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 1169 (30) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
1170 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens  
1171 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
1172 Manual of the federal Executive Office of the President, Office of Management and Budget;

1173 (31) sales of boats of a type required to be registered under Title 73, Chapter 18, State  
1174 Boating Act, boat trailers, and outboard motors which are made to bona fide nonresidents of  
1175 this state and are not thereafter registered or used in this state except as necessary to transport  
1176 them to the borders of this state;

1177 (32) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah  
1178 where a sales or use tax is not imposed, even if the title is passed in Utah;

1179 (33) amounts paid for the purchase of telephone service for purposes of providing  
1180 telephone service;

1181 (34) fares charged to persons transported directly by a public transit district created  
1182 under the authority of Title 17A, Chapter 2, Part 10, Utah Public Transit District Act;

1183 (35) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

1184 (36) (a) 45% of the sales price of any new manufactured home; and

1185 (b) 100% of the sales price of any used manufactured home;

1186 (37) sales relating to schools and fundraising sales;

1187 (38) sales or rentals of durable medical equipment if:

1188 (a) a person presents a prescription for the durable medical equipment; and

1189 (b) the durable medical equipment is used for home use only;

1190 (39) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
1191 Section 72-11-102; and

1192 (b) the commission shall by rule determine the method for calculating sales exempt  
1193 under Subsection (39)(a) that are not separately metered and accounted for in utility billings;

1194 (40) sales to a ski resort of:

1195 (a) snowmaking equipment;

1196 (b) ski slope grooming equipment;

1197 (c) passenger ropeways as defined in Section 72-11-102; or

1198 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
1199 described in Subsections (40)(a) through (c);

1200 (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

1201 (42) sales or rentals of the right to use or operate for amusement, entertainment, or  
1202 recreation a coin-operated amusement device as defined in Section 59-12-102;

1203 (43) sales of cleaning or washing of tangible personal property by a coin-operated car

1204 wash machine;

1205 (44) sales by the state or a political subdivision of the state, except state institutions of  
1206 higher education as defined in Section 53B-3-102, of:

1207 (a) photocopies; or

1208 (b) other copies of records held or maintained by the state or a political subdivision of  
1209 the state;

1210 (45) (a) amounts paid:

1211 (i) to a person providing intrastate transportation to an employer's employee to or from  
1212 the employee's primary place of employment;

1213 (ii) by an:

1214 (A) employee; or

1215 (B) employer; and

1216 (iii) pursuant to a written contract between:

1217 (A) the employer; and

1218 (B) (I) the employee; or

1219 (II) a person providing transportation to the employer's employee; and

1220 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
1221 commission may for purposes of Subsection (45)(a) make rules defining what constitutes an  
1222 employee's primary place of employment;

1223 (46) amounts paid for admission to an athletic event at an institution of higher  
1224 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
1225 20 U.S.C. Sec. 1681 et seq.;

1226 (47) sales of telephone service charged to a prepaid telephone calling card;

1227 (48) (a) sales of:

1228 (i) hearing aids;

1229 (ii) hearing aid accessories; or

1230 (iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations  
1231 of hearing aids or hearing aid accessories; and

1232 (b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii),  
1233 "parts" does not include batteries;

1234 (49) (a) sales made to or by:



- 1235 (i) an area agency on aging; or  
1236 (ii) a senior citizen center owned by a county, city, or town; or  
1237 (b) sales made by a senior citizen center that contracts with an area agency on aging;  
1238 (50) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection  
1239 (50)(b), a sale or lease of semiconductor fabricating or processing materials regardless of  
1240 whether the semiconductor fabricating or processing materials:  
1241 (i) actually come into contact with a semiconductor; or  
1242 (ii) ultimately become incorporated into real property;  
1243 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease  
1244 described in Subsection (50)(a) is exempt;  
1245 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease  
1246 described in Subsection (50)(a) is exempt; and  
1247 (iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or  
1248 lease described in Subsection (50)(a) is exempt; and  
1249 (c) each year on or before the November interim meeting, the Revenue and Taxation  
1250 Interim Committee shall:  
1251 (i) review the exemption described in this Subsection (50) and make recommendations  
1252 concerning whether the exemption should be continued, modified, or repealed; and  
1253 (ii) include in the review under this Subsection (50)(c):  
1254 (A) the cost of the exemption;  
1255 (B) the purpose and effectiveness of the exemption; and  
1256 (C) the benefits of the exemption to the state;  
1257 (51) an amount paid by or charged to a purchaser for accommodations and services  
1258 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
1259 59-12-104.2;  
1260 (52) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
1261 sports event registration certificate in accordance with Section 41-3-306 for the event period  
1262 specified on the temporary sports event registration certificate;  
1263 (53) sales or uses of electricity, if the sales or uses are:  
1264 (a) made under a tariff adopted by the Public Service Commission of Utah only for  
1265 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy

1266 source, as designated in the tariff by the Public Service Commission of Utah; and  
1267 (b) for an amount of electricity that is:  
1268 (i) unrelated to the amount of electricity used by the person purchasing the electricity  
1269 under the tariff described in Subsection (53)(a); and  
1270 (ii) equivalent to the number of kilowatthours specified in the tariff described in  
1271 Subsection (53)(a) that may be purchased under the tariff described in Subsection (53)(a);  
1272 (54) sales or rentals of mobility enhancing equipment if a person presents a  
1273 prescription for the mobility enhancing equipment;  
1274 (55) sales of water in a:  
1275 (a) pipe;  
1276 (b) conduit;  
1277 (c) ditch; or  
1278 (d) reservoir;  
1279 (56) sales of currency or coinage that constitute legal tender of the United States or of a  
1280 foreign nation;  
1281 (57) (a) sales of an item described in Subsection (57)(b) if the item:  
1282 (i) does not constitute legal tender of any nation; and  
1283 (ii) has a gold, silver, or platinum content of 80% or more; and  
1284 (b) Subsection (57)(a) applies to a gold, silver, or platinum:  
1285 (i) ingot;  
1286 (ii) bar;  
1287 (iii) medallion; or  
1288 (iv) decorative coin;  
1289 (58) amounts paid on a sale-leaseback transaction;  
1290 (59) sales of a prosthetic device:  
1291 (a) for use on or in a human;  
1292 (b) for which a prescription is issued; and  
1293 (c) to a person that presents a prescription for the prosthetic device;  
1294 (60) (a) except as provided in Subsection (60)(b), purchases, leases, or rentals of  
1295 machinery or equipment by an establishment described in Subsection (60)(c) if the machinery  
1296 or equipment is primarily used in the production or postproduction of the following media for

1297 commercial distribution:

1298 (i) a motion picture;

1299 (ii) a television program;

1300 (iii) a movie made for television;

1301 (iv) a music video;

1302 (v) a commercial;

1303 (vi) a documentary; or

1304 (vii) a medium similar to Subsections (60)(a)(i) through (vi) as determined by the

1305 commission by administrative rule made in accordance with Subsection (60)(d); or

1306 (b) notwithstanding Subsection (60)(a), purchases, leases, or rentals of machinery or

1307 equipment by an establishment described in Subsection (60)(c) that is used for the production

1308 or postproduction of the following are subject to the taxes imposed by this chapter:

1309 (i) a live musical performance;

1310 (ii) a live news program; or

1311 (iii) a live sporting event;

1312 (c) the following establishments listed in the 1997 North American Industry

1313 Classification System of the federal Executive Office of the President, Office of Management

1314 and Budget, apply to Subsections (60)(a) and (b):

1315 (i) NAICS Code 512110; or

1316 (ii) NAICS Code 51219; and

1317 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1318 commission may by rule:

1319 (i) prescribe what constitutes a medium similar to Subsections (60)(a)(i) through (vi);

1320 or

1321 (ii) define:

1322 (A) "commercial distribution";

1323 (B) "live musical performance";

1324 (C) "live news program"; or

1325 (D) "live sporting event";

1326 (61) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on

1327 or before June 30, 2009, of machinery or equipment that:

- 1328 (i) is leased or purchased for or by a facility that:
- 1329 (A) is a renewable energy production facility;
- 1330 (B) is located in the state; and
- 1331 (C) (I) becomes operational on or after July 1, 2004; or
- 1332 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 1333 2004 as a result of the use of the machinery or equipment;
- 1334 (ii) has an economic life of five or more years; and
- 1335 (iii) is used to make the facility or the increase in capacity of the facility described in
- 1336 Subsection (61)(a)(i) operational up to the point of interconnection with an existing
- 1337 transmission grid including:
- 1338 (A) a wind turbine;
- 1339 (B) generating equipment;
- 1340 (C) a control and monitoring system;
- 1341 (D) a power line;
- 1342 (E) substation equipment;
- 1343 (F) lighting;
- 1344 (G) fencing;
- 1345 (H) pipes; or
- 1346 (I) other equipment used for locating a power line or pole; and
- 1347 (b) this Subsection (61) does not apply to:
- 1348 (i) machinery or equipment used in construction of:
- 1349 (A) a new renewable energy production facility; or
- 1350 (B) the increase in the capacity of a renewable energy production facility;
- 1351 (ii) contracted services required for construction and routine maintenance activities;
- 1352 and
- 1353 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 1354 of the facility described in Subsection (61)(a)(i)(C)(II), machinery or equipment used or
- 1355 acquired after:
- 1356 (A) the renewable energy production facility described in Subsection (61)(a)(i) is
- 1357 operational as described in Subsection (61)(a)(iii); or
- 1358 (B) the increased capacity described in Subsection (61)(a)(i) is operational as described

1359 in Subsection (61)(a)(iii);  
1360 (62) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on  
1361 or before June 30, 2009, of machinery or equipment that:  
1362 (i) is leased or purchased for or by a facility that:  
1363 (A) is a waste energy production facility;  
1364 (B) is located in the state; and  
1365 (C) (I) becomes operational on or after July 1, 2004; or  
1366 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
1367 2004 as a result of the use of the machinery or equipment;  
1368 (ii) has an economic life of five or more years; and  
1369 (iii) is used to make the facility or the increase in capacity of the facility described in  
1370 Subsection (62)(a)(i) operational up to the point of interconnection with an existing  
1371 transmission grid including:  
1372 (A) generating equipment;  
1373 (B) a control and monitoring system;  
1374 (C) a power line;  
1375 (D) substation equipment;  
1376 (E) lighting;  
1377 (F) fencing;  
1378 (G) pipes; or  
1379 (H) other equipment used for locating a power line or pole; and  
1380 (b) this Subsection (62) does not apply to:  
1381 (i) machinery or equipment used in construction of:  
1382 (A) a new waste energy facility; or  
1383 (B) the increase in the capacity of a waste energy facility;  
1384 (ii) contracted services required for construction and routine maintenance activities;  
1385 and  
1386 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
1387 described in Subsection (62)(a)(i)(C)(II), machinery or equipment used or acquired after:  
1388 (A) the waste energy facility described in Subsection (62)(a)(i) is operational as  
1389 described in Subsection (62)(a)(iii); or

1390 (B) the increased capacity described in Subsection (62)(a)(i) is operational as described  
1391 in Subsection (62)(a)(iii);

1392 (63) (a) leases of five or more years or purchases made on or after July 1, 2004 but on  
1393 or before June 30, 2009, of machinery or equipment that:

1394 (i) is leased or purchased for or by a facility that:

1395 (A) is located in the state;

1396 (B) produces fuel from biomass energy including:

1397 (I) methanol; or

1398 (II) ethanol; and

1399 (C) (I) becomes operational on or after July 1, 2004; or

1400 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as  
1401 a result of the installation of the machinery or equipment;

1402 (ii) has an economic life of five or more years; and

1403 (iii) is installed on the facility described in Subsection (63)(a)(i);

1404 (b) this Subsection (63) does not apply to:

1405 (i) machinery or equipment used in construction of:

1406 (A) a new facility described in Subsection (63)(a)(i); or

1407 (B) the increase in capacity of the facility described in Subsection (63)(a)(i); or

1408 (ii) contracted services required for construction and routine maintenance activities;

1409 and

1410 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
1411 described in Subsection (63)(a)(i)(C)(II), machinery or equipment used or acquired after:

1412 (A) the facility described in Subsection (63)(a)(i) is operational; or

1413 (B) the increased capacity described in Subsection (63)(a)(i) is operational;

1414 (64) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle  
1415 for purchasing the new vehicle;

1416 (65) (a) subject to Subsection (65)(b), sales of tangible personal property to persons  
1417 within this state that is subsequently shipped outside the state and incorporated pursuant to  
1418 contract into and becomes a part of real property located outside of this state, except to the  
1419 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar  
1420 transaction excise tax on it against which the other state or political entity allows a credit for

1421 taxes imposed by this chapter; and

1422 (b) the exemption provided for in Subsection (65)(a):

1423 (i) is allowed only if the exemption is applied:

1424 (A) in calculating the purchase price of the tangible personal property; and

1425 (B) to a written contract that is in effect on July 1, 2004; and

1426 (ii) (A) does not apply beginning on the day on which the contract described in

1427 Subsection (65)(b)(i):

1428 (I) is substantially modified; or

1429 (II) terminates; and

1430 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

1431 the commission may by rule prescribe the circumstances under which a contract is substantially

1432 modified;

1433 (66) purchases:

1434 (a) of one or more of the following items in printed or electronic format:

1435 (i) a list containing information that includes one or more:

1436 (A) names; or

1437 (B) addresses; or

1438 (ii) a database containing information that includes one or more:

1439 (A) names; or

1440 (B) addresses; and

1441 (b) used to send direct mail; and

1442 (67) redemptions or repurchases of property by a person if that property was:

1443 (a) delivered to a pawnbroker as part of a pawn transaction; and

1444 (b) redeemed or repurchased within the time period established in a written agreement

1445 between the person and the pawnbroker for redeeming or repurchasing the property.

1446 Section 3. Section **59-12-104.4** is enacted to read:

1447 **59-12-104.4. Refund for sales and use taxes paid for certain purchases or leases of**

1448 **machinery, equipment, or repair or replacement parts -- Rulemaking authority.**

1449 (1) Subject to the other provisions of this section, for a purchase or lease described in

1450 Subsection (2) made on or after July 1, 2006, but on or before June 30, 2009, an establishment

1451 described as follows in the 2002 North American Industry Classification System of the federal

1452 Executive Office of the President, Office of Management and Budget, may claim a refund for  
1453 sales and use taxes paid by that establishment:

1454 (a) NAICS Sector 21, Mining;

1455 (b) NAICS Code 511210, Software Publishers;

1456 (c) NAICS Code 5415, Computer Systems Design and Related Services; or

1457 (d) NAICS Code 54171, Research and Development in the Physical, Engineering, and  
1458 Life Sciences.

1459 (2) Subject to the other provisions of this section, an establishment described in  
1460 Subsection (1) may claim a refund for sales and use taxes paid by that establishment for a  
1461 purchase or lease of:

1462 (a) machinery and equipment that:

1463 (i) is used in:

1464 (A) the production process, other than the production of real property; or

1465 (B) research and development; and

1466 (ii) has an economic life of three or more years; and

1467 (b) normal operating repair or replacement parts that:

1468 (i) have an economic life of three or more years; and

1469 (ii) are used in:

1470 (A) the production process, other than the production of real property, in an  
1471 establishment described in Subsection (1) in the state; or

1472 (B) research and development in an establishment described in Subsection (1) in the  
1473 state.

1474 (3) The amount of the refund allowed by this section is:

1475 (a) for a purchase or lease described in Subsection (2) made by an establishment  
1476 described in Subsection (1) on or after July 1, 2006, but on or before June 30, 2007, the amount  
1477 of the refund is equal to the product of:

1478 (i) the amount of any sales and use tax paid under this chapter on the purchase or lease;  
1479 and

1480 (ii) 25%;

1481 (b) for a purchase or lease described in Subsection (2) made by an establishment

1482 described in Subsection (1) on or after July 1, 2007, but on or before June 30, 2008, the amount



1483 of the refund is equal to the product of:

1484 (i) the amount of any sales and use tax paid under this chapter on the purchase or lease;

1485 and

1486 (ii) 50%; and

1487 (c) for a purchase or lease described in Subsection (2) made by an establishment

1488 described in Subsection (1) on or after July 1, 2008, but on or before June 30, 2009, the amount

1489 of the refund is equal to the product of:

1490 (i) the amount of any sales and use tax paid under this chapter on the purchase or lease;

1491 and

1492 (ii) 75%.

1493 (4) An establishment described in Subsection (1) may apply to the commission for the

1494 refund of sales and use taxes allowed by this section on a form prescribed by the commission.

1495 (5) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

1496 commission may make rules:

1497 (a) providing procedures for applying for a refund of sales and use taxes under this

1498 section;

1499 (b) providing standards for submitting a request for a refund on a monthly basis if an

1500 establishment has accumulated \$100 or more in sales and use taxes for which the establishment

1501 claims a refund of sales and use taxes under this section;

1502 (c) providing procedures for submitting a request for a refund on a quarterly basis if an

1503 establishment has accumulated less than \$100 in sales and use taxes for which the

1504 establishment claims a refund of sales and use taxes under this section;

1505 (d) defining:

1506 (i) the term "establishment"; or

1507 (ii) what constitutes:

1508 (A) the production process, other than the production of real property; or

1509 (B) research and development; or

1510 (e) providing other procedures and requirements for administering the refund of sales

1511 and use taxes allowed by this section.

1512 **Section 4. Effective date.**

1513 This bill takes effect on July 1, 2006.

1514