

1 **SALES AND USE TAX EXEMPTION FOR**
2 **CERTAIN ADMISSIONS TO OR RIGHTS TO**
3 **USE THE PREMISES OF A PRIVATE CLUB**

4 2006 GENERAL SESSION

5 STATE OF UTAH

6 **Chief Sponsor: Mike Dmitrich**

7 House Sponsor: Brad King

8
9 **LONG TITLE**

10 **General Description:**

11 This bill amends the Sales and Use Tax Act to provide a sales and use tax exemption.

12 **Highlighted Provisions:**

13 This bill:

14 ▶ exempts from sales and use taxation the sale of an admission to or right to use the
15 premises of a private club as a guest if the admission or right to use the premises of
16 the private club is allowed under certain provisions of the Alcoholic Beverage
17 Control Act; and

18 ▶ makes technical changes.

19 **Monies Appropriated in this Bill:**

20 None

21 **Other Special Clauses:**

22 This bill takes effect on July 1, 2006.

23 **Utah Code Sections Affected:**

24 AMENDS:

25 **59-12-104**, as last amended by Chapters 158, 203, 209, 240 and 246, Laws of Utah
26 2005



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

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

30 **59-12-104. Exemptions.**

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

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

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

36 (a) construction materials except:

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

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

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

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

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

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

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

52 (i) food and food ingredients; or

53 (ii) prepared food;

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

55 (a) food and food ingredients;

56 (b) prepared food; or

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

58 (5) sales of parts and equipment for installation in aircraft operated by common carriers

59 in interstate or foreign commerce;

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

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

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

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

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

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

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

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

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

76 (A) a drug;

77 (B) a syringe; or

78 (C) a stoma supply; and

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

81 (A) "syringe"; or

82 (B) "stoma supply";

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

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

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

88 (A) a church; or

89 (B) a charitable institution;

- 90 (ii) an institution of higher education if:
- 91 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 92 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 93 offered by the institution of higher education; or
- 94 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 95 (i) a medical facility; or
- 96 (ii) a nursing facility; and
- 97 (c) Subsections (12)(a) and (b) apply to:
- 98 (i) food and food ingredients;
- 99 (ii) prepared food; or
- 100 (iii) alcoholic beverages;
- 101 (13) isolated or occasional sales by persons not regularly engaged in business, except
- 102 the sale of vehicles or vessels required to be titled or registered under the laws of this state in
- 103 which case the tax is based upon:
- 104 (a) the bill of sale or other written evidence of value of the vehicle or vessel being sold;
- 105 or
- 106 (b) in the absence of a bill of sale or other written evidence of value, the then existing
- 107 fair market value of the vehicle or vessel being sold as determined by the commission;
- 108 (14) (a) the following purchases or leases by a manufacturer on or after July 1, 1995:
- 109 (i) machinery and equipment:
- 110 (A) used in the manufacturing process;
- 111 (B) having an economic life of three or more years; and
- 112 (C) used:
- 113 (I) to manufacture an item sold as tangible personal property; and
- 114 (II) in new or expanding operations in a manufacturing facility in the state; and
- 115 (ii) subject to the provisions of Subsection (14)(b), normal operating replacements that:
- 116 (A) have an economic life of three or more years;
- 117 (B) are used in the manufacturing process in a manufacturing facility in the state;
- 118 (C) are used to replace or adapt an existing machine to extend the normal estimated
- 119 useful life of the machine; and
- 120 (D) do not include repairs and maintenance;

- 121 (b) the rates for the exemption under Subsection (14)(a)(ii) are as follows:
- 122 (i) beginning July 1, 1996, through June 30, 1997, 30% of the sale or lease described in
- 123 Subsection (14)(a)(ii) is exempt;
- 124 (ii) beginning July 1, 1997, through June 30, 1998, 60% of the sale or lease described
- 125 in Subsection (14)(a)(ii) is exempt; and
- 126 (iii) beginning July 1, 1998, 100% of the sale or lease described in Subsection
- 127 (14)(a)(ii) is exempt;
- 128 (c) for purposes of this Subsection (14), the commission shall by rule define the terms
- 129 "new or expanding operations" and "establishment"; and
- 130 (d) on or before October 1, 1991, and every five years after October 1, 1991, the
- 131 commission shall:
- 132 (i) review the exemptions described in Subsection (14)(a) and make recommendations
- 133 to the Revenue and Taxation Interim Committee concerning whether the exemptions should be
- 134 continued, modified, or repealed; and
- 135 (ii) include in its report:
- 136 (A) the cost of the exemptions;
- 137 (B) the purpose and effectiveness of the exemptions; and
- 138 (C) the benefits of the exemptions to the state;
- 139 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
- 140 (i) tooling;
- 141 (ii) special tooling;
- 142 (iii) support equipment;
- 143 (iv) special test equipment; or
- 144 (v) parts used in the repairs or renovations of tooling or equipment described in
- 145 Subsections (15)(a)(i) through (iv); and
- 146 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
- 147 (i) the tooling, equipment, or parts are used or consumed exclusively in the
- 148 performance of any aerospace or electronics industry contract with the United States
- 149 government or any subcontract under that contract; and
- 150 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
- 151 title to the tooling, equipment, or parts is vested in the United States government as evidenced

152 by:

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

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

156 (16) intrastate movements of:

157 (a) freight by common carriers; or

158 (b) passengers:

159 (i) by taxicabs as described in SIC Code 4121 of the 1987 Standard Industrial
160 Classification Manual of the federal Executive Office of the President, Office of Management
161 and Budget;

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

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

169 (A) a horse-drawn cab; or

170 (B) a horse-drawn carriage;

171 (17) sales of newspapers or newspaper subscriptions;

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

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

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

181 (b) notwithstanding Subsection (18)(a), Subsection (18)(a) does not apply to the
182 following items of tangible personal property traded in as full or part payment of the purchase

183 price:

184 (i) money;

185 (ii) electricity;

186 (iii) water;

187 (iv) gas; or

188 (v) steam;

189 (19) (a) (i) except as provided in Subsection (19)(b), sales of tangible personal property

190 used or consumed primarily and directly in farming operations, regardless of whether the

191 tangible personal property:

192 (A) becomes part of real estate; or

193 (B) is installed by a:

194 (I) farmer;

195 (II) contractor; or

196 (III) subcontractor; or

197 (ii) sales of parts used in the repairs or renovations of tangible personal property if the

198 tangible personal property is exempt under Subsection (19)(a)(i); and

199 (b) notwithstanding Subsection (19)(a), amounts paid or charged for the following

200 tangible personal property are subject to the taxes imposed by this chapter:

201 (i) (A) subject to Subsection (19)(b)(i)(B), the following tangible personal property if

202 the tangible personal property is used in a manner that is incidental to farming:

203 (I) machinery;

204 (II) equipment;

205 (III) materials; or

206 (IV) supplies; and

207 (B) tangible personal property that is considered to be used in a manner that is

208 incidental to farming includes:

209 (I) hand tools; or

210 (II) maintenance and janitorial equipment and supplies;

211 (ii) (A) subject to Subsection (19)(b)(ii)(B), tangible personal property if the tangible

212 personal property is used in an activity other than farming; and

213 (B) tangible personal property that is considered to be used in an activity other than

214 farming includes:

215 (I) office equipment and supplies; or

216 (II) equipment and supplies used in:

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

218 (Bb) research; or

219 (Cc) transportation; or

220 (iii) a vehicle required to be registered by the laws of this state during the period ending

221 two years after the date of the vehicle's purchase;

222 (20) sales of hay;

223 (21) exclusive sale of locally grown seasonal crops, seedling plants, or garden, farm, or

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

225 (22) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued

226 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

227 (23) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,

228 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

229 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

230 manufacturer, processor, wholesaler, or retailer;

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

232 (25) property brought into the state by a nonresident for his or her own personal use or

233 enjoyment while within the state, except property purchased for use in Utah by a nonresident

234 living and working in Utah at the time of purchase;

235 (26) property purchased for resale in this state, in the regular course of business, either

236 in its original form or as an ingredient or component part of a manufactured or compounded

237 product;

238 (27) property upon which a sales or use tax was paid to some other state, or one of its

239 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

240 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if

241 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax

242 Act;

243 (28) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

244 person for use in compounding a service taxable under the subsections;

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

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

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

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

257 (33) amounts paid for the purchase of telephone service for purposes of providing
258 telephone service;

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

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

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

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

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

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

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

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

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

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

272 (40) sales to a ski resort of:

273 (a) snowmaking equipment;

274 (b) ski slope grooming equipment;

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

276 (d) parts used in the repairs or renovations of equipment or passenger ropeways
277 described in Subsections (40)(a) through (c);
278 (41) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
279 (42) sales or rentals of the right to use or operate for amusement, entertainment, or
280 recreation a coin-operated amusement device as defined in Section 59-12-102;
281 (43) sales of cleaning or washing of tangible personal property by a coin-operated car
282 wash machine;
283 (44) sales by the state or a political subdivision of the state, except state institutions of
284 higher education as defined in Section 53B-3-102, of:
285 (a) photocopies; or
286 (b) other copies of records held or maintained by the state or a political subdivision of
287 the state;
288 (45) (a) amounts paid:
289 (i) to a person providing intrastate transportation to an employer's employee to or from
290 the employee's primary place of employment;
291 (ii) by an:
292 (A) employee; or
293 (B) employer; and
294 (iii) pursuant to a written contract between:
295 (A) the employer; and
296 (B) (I) the employee; or
297 (II) a person providing transportation to the employer's employee; and
298 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
299 commission may for purposes of Subsection (45)(a) make rules defining what constitutes an
300 employee's primary place of employment;
301 (46) amounts paid for admission to an athletic event at an institution of higher
302 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
303 20 U.S.C. Sec. 1681 et seq.;
304 (47) sales of telephone service charged to a prepaid telephone calling card;
305 (48) (a) sales of:
306 (i) hearing aids;

307 (ii) hearing aid accessories; or
308 (iii) except as provided in Subsection (48)(b), parts used in the repairs or renovations
309 of hearing aids or hearing aid accessories; and
310 (b) for purposes of this Subsection (48), notwithstanding Subsection (48)(a)(iii),
311 "parts" does not include batteries;
312 (49) (a) sales made to or by:
313 (i) an area agency on aging; or
314 (ii) a senior citizen center owned by a county, city, or town; or
315 (b) sales made by a senior citizen center that contracts with an area agency on aging;
316 (50) (a) beginning on July 1, 2001, through June 30, 2007, and subject to Subsection
317 (50)(b), a sale or lease of semiconductor fabricating or processing materials regardless of
318 whether the semiconductor fabricating or processing materials:
319 (i) actually come into contact with a semiconductor; or
320 (ii) ultimately become incorporated into real property;
321 (b) (i) beginning on July 1, 2001, through June 30, 2002, 10% of the sale or lease
322 described in Subsection (50)(a) is exempt;
323 (ii) beginning on July 1, 2002, through June 30, 2003, 50% of the sale or lease
324 described in Subsection (50)(a) is exempt; and
325 (iii) beginning on July 1, 2003, through June 30, 2007, the entire amount of the sale or
326 lease described in Subsection (50)(a) is exempt; and
327 (c) each year on or before the November interim meeting, the Revenue and Taxation
328 Interim Committee shall:
329 (i) review the exemption described in this Subsection (50) and make recommendations
330 concerning whether the exemption should be continued, modified, or repealed; and
331 (ii) include in the review under this Subsection (50)(c):
332 (A) the cost of the exemption;
333 (B) the purpose and effectiveness of the exemption; and
334 (C) the benefits of the exemption to the state;
335 (51) an amount paid by or charged to a purchaser for accommodations and services
336 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
337 59-12-104.2;

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

341 (53) sales or uses of electricity, if the sales or uses are:

342 (a) made under a tariff adopted by the Public Service Commission of Utah only for
343 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy
344 source, as designated in the tariff by the Public Service Commission of Utah; and

345 (b) for an amount of electricity that is:

346 (i) unrelated to the amount of electricity used by the person purchasing the electricity
347 under the tariff described in Subsection (53)(a); and

348 (ii) equivalent to the number of kilowatthours specified in the tariff described in
349 Subsection (53)(a) that may be purchased under the tariff described in Subsection (53)(a);

350 (54) sales or rentals of mobility enhancing equipment if a person presents a
351 prescription for the mobility enhancing equipment;

352 (55) sales of water in a:

353 (a) pipe;

354 (b) conduit;

355 (c) ditch; or

356 (d) reservoir;

357 (56) sales of currency or coinage that constitute legal tender of the United States or of a
358 foreign nation;

359 (57) (a) sales of an item described in Subsection (57)(b) if the item:

360 (i) does not constitute legal tender of any nation; and

361 (ii) has a gold, silver, or platinum content of 80% or more; and

362 (b) Subsection (57)(a) applies to a gold, silver, or platinum:

363 (i) ingot;

364 (ii) bar;

365 (iii) medallion; or

366 (iv) decorative coin;

367 (58) amounts paid on a sale-leaseback transaction;

368 (59) sales of a prosthetic device;

369 (a) for use on or in a human;
370 (b) for which a prescription is issued; and
371 (c) to a person that presents a prescription for the prosthetic device;
372 (60) (a) except as provided in Subsection (60)(b), purchases, leases, or rentals of
373 machinery or equipment by an establishment described in Subsection (60)(c) if the machinery
374 or equipment is primarily used in the production or postproduction of the following media for
375 commercial distribution:

- 376 (i) a motion picture;
- 377 (ii) a television program;
- 378 (iii) a movie made for television;
- 379 (iv) a music video;
- 380 (v) a commercial;
- 381 (vi) a documentary; or
- 382 (vii) a medium similar to Subsections (60)(a)(i) through (vi) as determined by the
383 commission by administrative rule made in accordance with Subsection (60)(d); or

384 (b) notwithstanding Subsection (60)(a), purchases, leases, or rentals of machinery or
385 equipment by an establishment described in Subsection (60)(c) that is used for the production
386 or postproduction of the following are subject to the taxes imposed by this chapter:

- 387 (i) a live musical performance;
- 388 (ii) a live news program; or
- 389 (iii) a live sporting event;

390 (c) the following establishments listed in the 1997 North American Industry
391 Classification System of the federal Executive Office of the President, Office of Management
392 and Budget, apply to Subsections (60)(a) and (b):

- 393 (i) NAICS Code 512110; or
- 394 (ii) NAICS Code 51219; and

395 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
396 commission may by rule:

- 397 (i) prescribe what constitutes a medium similar to Subsections (60)(a)(i) through (vi);
398 or
- 399 (ii) define:

- 400 (A) "commercial distribution";
- 401 (B) "live musical performance";
- 402 (C) "live news program"; or
- 403 (D) "live sporting event";
- 404 (61) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 405 or before June 30, 2009, of machinery or equipment that:
- 406 (i) is leased or purchased for or by a facility that:
- 407 (A) is a renewable energy production facility;
- 408 (B) is located in the state; and
- 409 (C) (I) becomes operational on or after July 1, 2004; or
- 410 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 411 2004 as a result of the use of the machinery or equipment;
- 412 (ii) has an economic life of five or more years; and
- 413 (iii) is used to make the facility or the increase in capacity of the facility described in
- 414 Subsection (61)(a)(i) operational up to the point of interconnection with an existing
- 415 transmission grid including:
- 416 (A) a wind turbine;
- 417 (B) generating equipment;
- 418 (C) a control and monitoring system;
- 419 (D) a power line;
- 420 (E) substation equipment;
- 421 (F) lighting;
- 422 (G) fencing;
- 423 (H) pipes; or
- 424 (I) other equipment used for locating a power line or pole; and
- 425 (b) this Subsection (61) does not apply to:
- 426 (i) machinery or equipment used in construction of:
- 427 (A) a new renewable energy production facility; or
- 428 (B) the increase in the capacity of a renewable energy production facility;
- 429 (ii) contracted services required for construction and routine maintenance activities;
- 430 and

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

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

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

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

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

441 (A) is a waste energy production facility;

442 (B) is located in the state; and

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

444 (II) has its generation capacity increased by one or more megawatts on or after July 1,
445 2004 as a result of the use of the machinery or equipment;

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

447 (iii) is used to make the facility or the increase in capacity of the facility described in
448 Subsection (62)(a)(i) operational up to the point of interconnection with an existing
449 transmission grid including:

450 (A) generating equipment;

451 (B) a control and monitoring system;

452 (C) a power line;

453 (D) substation equipment;

454 (E) lighting;

455 (F) fencing;

456 (G) pipes; or

457 (H) other equipment used for locating a power line or pole; and

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

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

460 (A) a new waste energy facility; or

461 (B) the increase in the capacity of a waste energy facility;

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

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

466 (A) the waste energy facility described in Subsection (62)(a)(i) is operational as
467 described in Subsection (62)(a)(iii); or

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

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

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

473 (A) is located in the state;

474 (B) produces fuel from biomass energy including:

475 (I) methanol; or

476 (II) ethanol; and

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

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

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

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

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

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

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

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

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

487 and

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

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

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

492 (64) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle

493 for purchasing the new vehicle;

494 (65) (a) subject to Subsection (65)(b), sales of tangible personal property to persons
495 within this state that is subsequently shipped outside the state and incorporated pursuant to
496 contract into and becomes a part of real property located outside of this state, except to the
497 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
498 transaction excise tax on it against which the other state or political entity allows a credit for
499 taxes imposed by this chapter; and

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

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

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

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

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

505 Subsection (65)(b)(i):

506 (I) is substantially modified; or

507 (II) terminates; and

508 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
509 the commission may by rule prescribe the circumstances under which a contract is substantially
510 modified;

511 (66) purchases:

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

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

514 (A) names; or

515 (B) addresses; or

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

517 (A) names; or

518 (B) addresses; and

519 (b) used to send direct mail; [~~and~~]

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

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

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

523 between the person and the pawnbroker for redeeming or repurchasing the property[-]; and

524 (68) amounts paid or charged:
525 (a) for admission to or the right to use the premises of a private club as a visitor, as
526 defined in Section 32A-1-105; and
527 (b) as a fee charged for a visitor card in accordance with Subsection 32A-5-107(6).
528 Section 2. **Effective date.**
529 This bill takes effect on July 1, 2006.

Legislative Review Note
as of 1-16-06 3:47 PM

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

Fiscal Note
Bill Number SB0154

Sales and Use Tax Exemption for Certain Admissions to or 23-Jan-06
Rights to Use the Premises of a Private Club 11:40 AM

State Impact

Passage of this bill could reduce the General Fund by \$535,000 annually. There is a corresponding loss of local revenue of approximately \$208,600 annually.

	<u>FY 2007</u> <u>Approp.</u>	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2007</u> <u>Revenue</u>	<u>FY 2008</u> <u>Revenue</u>
General Fund	\$0	\$0	(\$535,000)	(\$535,000)
Local Revenue	\$0	\$0	(\$208,600)	(\$208,600)
TOTAL	\$0	\$0	(\$743,600)	(\$743,600)

Individual and Business Impact

Individuals would see a slight savings on the cost of a temporary membership.

Office of the Legislative Fiscal Analyst