

1                                   **SALES AND USE TAX EXEMPTIONS FOR**  
2                                   **CERTAIN PROPERTY BROUGHT INTO THE**  
3                                   **STATE**

4                                   2007 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Chief Sponsor: Rebecca D. Lockhart**

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

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9                                   **LONG TITLE**

10                                  **General Description:**

11                                  This bill amends the Sales and Use Tax Act by modifying and enacting sales and use  
12 tax exemptions.

13                                  **Highlighted Provisions:**

14                                  This bill:

15                                  ▶ modifies a sales and use tax exemption for sales, leases, or rentals of certain  
16 property brought into the state by a nonresident if that property is not used to  
17 conduct business in the state;

18                                  ▶ enacts a sales and use tax exemption under certain circumstances for sales of  
19 property:

- 20                                   • sold outside of the state;
- 21                                   • brought into the state; and
- 22                                   • used to conduct business in the state; and

23                                  ▶ makes technical changes.

24                                  **Monies Appropriated in this Bill:**

25                                  None

26                                  **Other Special Clauses:**

27                                  This bill takes effect on July 1, 2007.



28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-12-104**, as last amended by Chapters 181, 182, 217, 218, 219, 220, 246, 268 and  
31 346, Laws of Utah 2006

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

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

35 **59-12-104. Exemptions.**

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

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

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

41 (a) construction materials except:

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

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

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

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

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

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

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

57 (i) food and food ingredients; or

58 (ii) prepared food;

- 59 (4) sales of the following to a commercial airline carrier for in-flight consumption:  
60 (a) food and food ingredients;  
61 (b) prepared food; or  
62 (c) services related to Subsection (4)(a) or (b);  
63 (5) sales of parts and equipment for installation in aircraft operated by common carriers  
64 in interstate or foreign commerce;  
65 (6) sales of commercials, motion picture films, prerecorded audio program tapes or  
66 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture  
67 exhibitor, distributor, or commercial television or radio broadcaster;  
68 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal  
69 property if the cleaning or washing of the tangible personal property is not assisted cleaning or  
70 washing of tangible personal property;  
71 (b) if a seller that sells at the same business location assisted cleaning or washing of  
72 tangible personal property and cleaning or washing of tangible personal property that is not  
73 assisted cleaning or washing of tangible personal property, the exemption described in  
74 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning  
75 or washing of the tangible personal property; and  
76 (c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a,  
77 Utah Administrative Rulemaking Act, the commission may make rules:  
78 (i) governing the circumstances under which sales are at the same business location;  
79 and  
80 (ii) establishing the procedures and requirements for a seller to separately account for  
81 sales of assisted cleaning or washing of tangible personal property;  
82 (8) sales made to or by religious or charitable institutions in the conduct of their regular  
83 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are  
84 fulfilled;  
85 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of  
86 this state if the vehicle is both not:  
87 (a) registered in this state; and  
88 (b) used in this state except as necessary to transport the vehicle to the borders of this  
89 state;

90 (10) (a) amounts paid for an item described in Subsection (10)(b) if:  
91 (i) the item is intended for human use; and  
92 (ii) (A) a prescription was issued for the item; or  
93 (B) the item was purchased by a hospital or other medical facility; and  
94 (b) (i) Subsection (10)(a) applies to:  
95 (A) a drug;  
96 (B) a syringe; or  
97 (C) a stoma supply; and  
98 (ii) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
99 commission may by rule define the terms:  
100 (A) "syringe"; or  
101 (B) "stoma supply";  
102 (11) sales or use of property, materials, or services used in the construction of or  
103 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;  
104 (12) (a) sales of an item described in Subsection (12)(c) served by:  
105 (i) the following if the item described in Subsection (12)(c) is not available to the  
106 general public:  
107 (A) a church; or  
108 (B) a charitable institution;  
109 (ii) an institution of higher education if:  
110 (A) the item described in Subsection (12)(c) is not available to the general public; or  
111 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan  
112 offered by the institution of higher education; or  
113 (b) sales of an item described in Subsection (12)(c) provided for a patient by:  
114 (i) a medical facility; or  
115 (ii) a nursing facility; and  
116 (c) Subsections (12)(a) and (b) apply to:  
117 (i) food and food ingredients;  
118 (ii) prepared food; or  
119 (iii) alcoholic beverages;  
120 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

121 by a person:

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

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

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

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

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

131 (iii) the person sells an item of tangible personal property that the person purchased as  
132 a sale that is exempt under Subsection (25); or

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

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

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

140 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
141 commission shall make rules establishing the circumstances under which:

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

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

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

149 (14) (a) except as provided in Subsection (14)(b), amounts paid or charged on or after  
150 July 1, 2006, for a purchase or lease by a manufacturing facility other than a cogeneration  
151 facility, for the following:

- 152 (i) machinery and equipment that:
- 153 (A) is used:
- 154 (I) for a manufacturing facility other than a manufacturing facility that is a scrap
- 155 recycler described in Subsection 59-12-102(45)(b):
- 156 (Aa) in the manufacturing process; and
- 157 (Bb) to manufacture an item sold as tangible personal property; or
- 158 (II) for a manufacturing facility that is a scrap recycler described in Subsection
- 159 59-12-102(45)(b), to process an item sold as tangible personal property; and
- 160 (B) has an economic life of three or more years; and
- 161 (ii) normal operating repair or replacement parts that:
- 162 (A) have an economic life of three or more years; and
- 163 (B) are used:
- 164 (I) for a manufacturing facility in the state other than a manufacturing facility that is a
- 165 scrap recycler described in Subsection 59-12-102(45)(b), in the manufacturing process; or
- 166 (II) for a manufacturing facility in the state that is a scrap recycler described in
- 167 Subsection 59-12-102(45)(b), to process an item sold as tangible personal property;
- 168 (b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
- 169 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
- 170 for the following:
- 171 (A) machinery and equipment that:
- 172 (I) is used:
- 173 (Aa) in the manufacturing process; and
- 174 (Bb) to manufacture an item sold as tangible personal property; and
- 175 (II) has an economic life of three or more years; and
- 176 (B) normal operating repair or replacement parts that:
- 177 (I) are used in the manufacturing process in a manufacturing facility in the state; and
- 178 (II) have an economic life of three or more years; and
- 179 (ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30,
- 180 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may
- 181 claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:
- 182 (A) for sales and use taxes paid under this chapter on the purchase or lease payment;

183 and

184 (B) in accordance with Section 59-12-110;

185 (c) for purposes of this Subsection (14) and in accordance with Title 63, Chapter 46a,

186 Utah Administrative Rulemaking Act, the commission:

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

188 (ii) may by rule define what constitutes processing an item sold as tangible personal

189 property; and

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

191 commission shall:

192 (i) review the exemptions described in this Subsection (14) and make

193 recommendations to the Revenue and Taxation Interim Committee concerning whether the

194 exemptions should be continued, modified, or repealed; and

195 (ii) include in its report:

196 (A) the cost of the exemptions;

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

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

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

200 (i) tooling;

201 (ii) special tooling;

202 (iii) support equipment;

203 (iv) special test equipment; or

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

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

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

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

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

209 government or any subcontract under that contract; and

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

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

212 by:

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

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

216 (16) sales of newspapers or newspaper subscriptions;

217 (17) (a) except as provided in Subsection (17)(b), tangible personal property traded in  
218 as full or part payment of the purchase price, except that for purposes of calculating sales or use  
219 tax upon vehicles not sold by a vehicle dealer, trade-ins are limited to other vehicles only, and  
220 the tax is based upon:

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

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

226 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the  
227 following items of tangible personal property traded in as full or part payment of the purchase  
228 price:

229 (i) money;

230 (ii) electricity;

231 (iii) water;

232 (iv) gas; or

233 (v) steam;

234 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
235 used or consumed primarily and directly in farming operations, regardless of whether the  
236 tangible personal property:

237 (A) becomes part of real estate; or

238 (B) is installed by a:

239 (I) farmer;

240 (II) contractor; or

241 (III) subcontractor; or

242 (ii) sales of parts used in the repairs or renovations of tangible personal property if the  
243 tangible personal property is exempt under Subsection (18)(a)(i); and

244 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following



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

246 (i) (A) subject to Subsection (18)(b)(i)(B), the following tangible personal property if  
247 the tangible personal property is used in a manner that is incidental to farming:

248 (I) machinery;

249 (II) equipment;

250 (III) materials; or

251 (IV) supplies; and

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

254 (I) hand tools; or

255 (II) maintenance and janitorial equipment and supplies;

256 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property if the tangible  
257 personal property is used in an activity other than farming; and

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

260 (I) office equipment and supplies; or

261 (II) equipment and supplies used in:

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

263 (Bb) research; or

264 (Cc) transportation; or

265 (iii) a vehicle required to be registered by the laws of this state during the period  
266 ending two years after the date of the vehicle's purchase;

267 (19) sales of hay;

268 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
269 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
270 garden, farm, or other agricultural produce is sold by:

271 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
272 agricultural produce;

273 (b) an employee of the producer described in Subsection (20)(a); or

274 (c) a member of the immediate family of the producer described in Subsection (20)(a);

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

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

277 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
278 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
279 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
280 manufacturer, processor, wholesaler, or retailer;

281 (23) property stored in the state for resale;

282 (24) (a) a sale, lease, or rental of property brought into the state by a nonresident [for  
283 his or her] person:

284 (i) for that nonresident person's own personal use or enjoyment while within the state[;  
285 except property purchased for use in Utah by a nonresident]; and

286 (ii) if:

287 (A) that nonresident person is not living and working in Utah at the time of [purchase];  
288 the sale, lease, or rental; and

289 (B) that property is not used in conducting business in the state; and

290 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
291 commission may by rule define what constitutes conducting business in the state if that phrase  
292 has the same meaning in this Subsection (24) as in Subsection (66);

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

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

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

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

305 (29) beginning on July 1, 1999, through June 30, 2014, sales or leases of rolls, rollers,  
306 refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens

307 of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification  
308 Manual of the federal Executive Office of the President, Office of Management and Budget;  
309 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State  
310 Boating Act, a boat trailer, or an outboard motor if the boat, trailer, or outboard motor is both  
311 not:  
312 (a) registered in this state; and  
313 (b) used in this state except as necessary to transport the boat, boat trailer, or outboard  
314 motor to the borders of this state;  
315 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah  
316 where a sales or use tax is not imposed, even if the title is passed in Utah;  
317 (32) amounts paid for the purchase of telephone service for purposes of providing  
318 telephone service;  
319 (33) sales or leases of vehicles to, or use of vehicles by an authorized carrier;  
320 (34) (a) 45% of the sales price of any new manufactured home; and  
321 (b) 100% of the sales price of any used manufactured home;  
322 (35) sales relating to schools and fundraising sales;  
323 (36) sales or rentals of durable medical equipment if:  
324 (a) a person presents a prescription for the durable medical equipment; and  
325 (b) the durable medical equipment is used for home use only;  
326 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
327 Section 72-11-102; and  
328 (b) the commission shall by rule determine the method for calculating sales exempt  
329 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;  
330 (38) sales to a ski resort of:  
331 (a) snowmaking equipment;  
332 (b) ski slope grooming equipment;  
333 (c) passenger ropeways as defined in Section 72-11-102; or  
334 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
335 described in Subsections (38)(a) through (c);  
336 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;  
337 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for

338 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
339 59-12-102;

340 (b) if a seller that sells or rents at the same business location the right to use or operate  
341 for amusement, entertainment, or recreation one or more unassisted amusement devices and  
342 one or more assisted amusement devices, the exemption described in Subsection (40)(a)  
343 applies if the seller separately accounts for the sales or rentals of the right to use or operate for  
344 amusement, entertainment, or recreation for the assisted amusement devices; and

345 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,  
346 Utah Administrative Rulemaking Act, the commission may make rules:

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

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

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

354 (a) photocopies; or

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

357 (42) amounts paid for admission to an athletic event at an institution of higher  
358 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
359 20 U.S.C. Sec. 1681 et seq.;

360 (43) sales of telephone service charged to a prepaid telephone calling card;

361 (44) (a) sales of:

362 (i) hearing aids;

363 (ii) hearing aid accessories; or

364 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations  
365 of hearing aids or hearing aid accessories; and

366 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),  
367 "parts" does not include batteries;

368 (45) (a) sales made to or by:

- 369 (i) an area agency on aging; or  
370 (ii) a senior citizen center owned by a county, city, or town; or  
371 (b) sales made by a senior citizen center that contracts with an area agency on aging;  
372 (46) sales or leases of semiconductor fabricating, processing, research, or development  
373 materials regardless of whether the semiconductor fabricating, processing, research, or  
374 development materials:  
375 (a) actually come into contact with a semiconductor; or  
376 (b) ultimately become incorporated into real property;  
377 (47) an amount paid by or charged to a purchaser for accommodations and services  
378 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section  
379 59-12-104.2;  
380 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary  
381 sports event registration certificate in accordance with Section 41-3-306 for the event period  
382 specified on the temporary sports event registration certificate;  
383 (49) sales or uses of electricity, if the sales or uses are:  
384 (a) made under a tariff adopted by the Public Service Commission of Utah only for  
385 purchase of electricity produced from a new wind, geothermal, biomass, or solar power energy  
386 source, as designated in the tariff by the Public Service Commission of Utah; and  
387 (b) for an amount of electricity that is:  
388 (i) unrelated to the amount of electricity used by the person purchasing the electricity  
389 under the tariff described in Subsection (49)(a); and  
390 (ii) equivalent to the number of kilowatthours specified in the tariff described in  
391 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);  
392 (50) sales or rentals of mobility enhancing equipment if a person presents a  
393 prescription for the mobility enhancing equipment;  
394 (51) sales of water in a:  
395 (a) pipe;  
396 (b) conduit;  
397 (c) ditch; or  
398 (d) reservoir;  
399 (52) sales of currency or coinage that constitute legal tender of the United States or of a

400 foreign nation;

401 (53) (a) sales of an item described in Subsection (53)(b) if the item:

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

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

404 (b) Subsection (53)(a) applies to a gold, silver, or platinum:

405 (i) ingot;

406 (ii) bar;

407 (iii) medallion; or

408 (iv) decorative coin;

409 (54) amounts paid on a sale-leaseback transaction;

410 (55) sales of a prosthetic device:

411 (a) for use on or in a human;

412 (b) for which a prescription is issued; and

413 (c) to a person that presents a prescription for the prosthetic device;

414 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of

415 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery

416 or equipment is primarily used in the production or postproduction of the following media for

417 commercial distribution:

418 (i) a motion picture;

419 (ii) a television program;

420 (iii) a movie made for television;

421 (iv) a music video;

422 (v) a commercial;

423 (vi) a documentary; or

424 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the

425 commission by administrative rule made in accordance with Subsection (56)(d); or

426 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or

427 equipment by an establishment described in Subsection (56)(c) that is used for the production

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

429 (i) a live musical performance;

430 (ii) a live news program; or

- 431 (iii) a live sporting event;
- 432 (c) the following establishments listed in the 1997 North American Industry  
433 Classification System of the federal Executive Office of the President, Office of Management  
434 and Budget, apply to Subsections (56)(a) and (b):
- 435 (i) NAICS Code 512110; or  
436 (ii) NAICS Code 51219; and
- 437 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
438 commission may by rule:
- 439 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);  
440 or
- 441 (ii) define:
- 442 (A) "commercial distribution";  
443 (B) "live musical performance";  
444 (C) "live news program"; or  
445 (D) "live sporting event";
- 446 (57) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on  
447 or before June 30, 2009, of machinery or equipment that:
- 448 (i) is leased or purchased for or by a facility that:
- 449 (A) is a renewable energy production facility;  
450 (B) is located in the state; and  
451 (C) (I) becomes operational on or after July 1, 2004; or  
452 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
453 2004 as a result of the use of the machinery or equipment;
- 454 (ii) has an economic life of five or more years; and  
455 (iii) is used to make the facility or the increase in capacity of the facility described in  
456 Subsection (57)(a)(i) operational up to the point of interconnection with an existing  
457 transmission grid including:
- 458 (A) a wind turbine;  
459 (B) generating equipment;  
460 (C) a control and monitoring system;  
461 (D) a power line;

- 462 (E) substation equipment;
- 463 (F) lighting;
- 464 (G) fencing;
- 465 (H) pipes; or
- 466 (I) other equipment used for locating a power line or pole; and
- 467 (b) this Subsection (57) does not apply to:
  - 468 (i) machinery or equipment used in construction of:
    - 469 (A) a new renewable energy production facility; or
    - 470 (B) the increase in the capacity of a renewable energy production facility;
  - 471 (ii) contracted services required for construction and routine maintenance activities;
- 472 and
  - 473 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
  - 474 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or
  - 475 acquired after:
    - 476 (A) the renewable energy production facility described in Subsection (57)(a)(i) is
    - 477 operational as described in Subsection (57)(a)(iii); or
    - 478 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
    - 479 in Subsection (57)(a)(iii);
- 480 (58) (a) leases of seven or more years or purchases made on or after July 1, 2004 but on
- 481 or before June 30, 2009, of machinery or equipment that:
  - 482 (i) is leased or purchased for or by a facility that:
    - 483 (A) is a waste energy production facility;
    - 484 (B) is located in the state; and
    - 485 (C) (I) becomes operational on or after July 1, 2004; or
    - 486 (II) has its generation capacity increased by one or more megawatts on or after July 1,
    - 487 2004 as a result of the use of the machinery or equipment;
  - 488 (ii) has an economic life of five or more years; and
  - 489 (iii) is used to make the facility or the increase in capacity of the facility described in
  - 490 Subsection (58)(a)(i) operational up to the point of interconnection with an existing
  - 491 transmission grid including:
    - 492 (A) generating equipment;



- 493 (B) a control and monitoring system;
- 494 (C) a power line;
- 495 (D) substation equipment;
- 496 (E) lighting;
- 497 (F) fencing;
- 498 (G) pipes; or
- 499 (H) other equipment used for locating a power line or pole; and
- 500 (b) this Subsection (58) does not apply to:
- 501 (i) machinery or equipment used in construction of:
- 502 (A) a new waste energy facility; or
- 503 (B) the increase in the capacity of a waste energy facility;
- 504 (ii) contracted services required for construction and routine maintenance activities;
- 505 and
- 506 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
- 507 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
- 508 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
- 509 described in Subsection (58)(a)(iii); or
- 510 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described
- 511 in Subsection (58)(a)(iii);
- 512 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
- 513 or before June 30, 2009, of machinery or equipment that:
- 514 (i) is leased or purchased for or by a facility that:
- 515 (A) is located in the state;
- 516 (B) produces fuel from biomass energy including:
- 517 (I) methanol; or
- 518 (II) ethanol; and
- 519 (C) (I) becomes operational on or after July 1, 2004; or
- 520 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
- 521 a result of the installation of the machinery or equipment;
- 522 (ii) has an economic life of five or more years; and
- 523 (iii) is installed on the facility described in Subsection (59)(a)(i);

524 (b) this Subsection (59) does not apply to:  
525 (i) machinery or equipment used in construction of:  
526 (A) a new facility described in Subsection (59)(a)(i); or  
527 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or  
528 (ii) contracted services required for construction and routine maintenance activities;  
529 and  
530 (iii) unless the machinery or equipment is used or acquired for an increase in capacity  
531 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:  
532 (A) the facility described in Subsection (59)(a)(i) is operational; or  
533 (B) the increased capacity described in Subsection (59)(a)(i) is operational;  
534 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle  
535 for purchasing the new vehicle;  
536 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons  
537 within this state that is subsequently shipped outside the state and incorporated pursuant to  
538 contract into and becomes a part of real property located outside of this state, except to the  
539 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar  
540 transaction excise tax on it against which the other state or political entity allows a credit for  
541 taxes imposed by this chapter; and  
542 (b) the exemption provided for in Subsection (61)(a):  
543 (i) is allowed only if the exemption is applied:  
544 (A) in calculating the purchase price of the tangible personal property; and  
545 (B) to a written contract that is in effect on July 1, 2004; and  
546 (ii) (A) does not apply beginning on the day on which the contract described in  
547 Subsection (61)(b)(i):  
548 (I) is substantially modified; or  
549 (II) terminates; and  
550 (B) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,  
551 the commission may by rule prescribe the circumstances under which a contract is substantially  
552 modified;  
553 (62) purchases:  
554 (a) of one or more of the following items in printed or electronic format:

555 (i) a list containing information that includes one or more:  
556 (A) names; or  
557 (B) addresses; or  
558 (ii) a database containing information that includes one or more:  
559 (A) names; or  
560 (B) addresses; and  
561 (b) used to send direct mail;  
562 (63) redemptions or repurchases of property by a person if that property was:  
563 (a) delivered to a pawnbroker as part of a pawn transaction; and  
564 (b) redeemed or repurchased within the time period established in a written agreement  
565 between the person and the pawnbroker for redeeming or repurchasing the property;  
566 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:  
567 (i) is purchased or leased by, or on behalf of, a telephone service provider; and  
568 (ii) has a useful economic life of one or more years; and  
569 (b) the following apply to Subsection (64)(a):  
570 (i) telecommunications enabling or facilitating equipment, machinery, or software;  
571 (ii) telecommunications equipment, machinery, or software required for 911 service;  
572 (iii) telecommunications maintenance or repair equipment, machinery, or software;  
573 (iv) telecommunications switching or routing equipment, machinery, or software; or  
574 (v) telecommunications transmission equipment, machinery, or software; [~~and~~]  
575 (65) (a) beginning on July 1, 2006<sub>2</sub> and ending on June 30, 2016, purchases of tangible  
576 personal property used in the research and development of coal-to-liquids, oil shale, or tar  
577 sands technology; and  
578 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
579 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes  
580 tangible personal property used in the research and development of coal-to-liquids, oil shale,  
581 and tar sands technology[-]; and  
582 (66) (a) a sale of property, other than a sale of a vehicle exempt under Subsection (33),  
583 if:  
584 (i) the property is:  
585 (A) sold outside of this state;

586           (B) brought into this state at any time after the sale described in Subsection  
587 (66)(a)(i)(A); and  
588           (C) used in conducting business in this state; and  
589           (ii) for:  
590           (A) property other than the property described in Subsection (66)(a)(ii)(B), the first use  
591 of the property for a purpose for which the property is designed occurs outside of this state; or  
592           (B) a vehicle other than a vehicle sold to an authorized carrier, is registered outside of  
593 this state; and  
594           (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
595 commission may by rule define what constitutes:  
596           (i) conducting business in the state if that phrase has the same meaning in this  
597 Subsection (66) as in Subsection (24); or  
598           (ii) for purposes of Subsection (66)(a):  
599           (A) the first use of property; or  
600           (B) a purpose for which property is designed.  
601           Section 2. **Effective date.**  
602           This bill takes effect on July 1, 2007.

**Legislative Review Note**  
as of 11-15-06 3:15 PM

**Office of Legislative Research and General Counsel**

**Interim Committee Note**  
as of 12-15-06 10:05 AM

The Revenue and Taxation Interim Committee recommended this bill.

**Mixed Membership Committee Note**  
as of 12-15-06 10:05 AM

The Utah Tax Review Commission recommended this bill.

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

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**Fiscal Note****H.B. 34 - Sales and Use Tax Exemptions for Certain Property Brought into the State**

2007 General Session

State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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*1/8/2007, 10:01:31 AM, Lead Analyst: Wilko, A.*

**Office of the Legislative Fiscal Analyst**