

Representative Rebecca D. Lockhart proposes the following substitute bill:

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: _____
8

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



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) property brought into the state by a nonresident for his or her own personal use or~~
283 ~~enjoyment while within the state, except property purchased for use in Utah by a nonresident~~
284 ~~living and working in Utah at the time of purchase;]~~

285 (24) (a) purchases of property if:

286 (i) the property is:

287 (A) purchased outside of this state;

288 (B) brought into this state:

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

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

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

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

295 (ii) for:

296 (A) property other than the property described in Subsection (24)(a)(ii)(B), the first use
297 of the property for a purpose for which the property is designed occurs outside of this state;

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

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

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

302 (i) a lease or rental of property; or

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

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

305 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
306 following:

307 (i) conducting business in this state if that phrase has the same meaning in this
308 Subsection (24) as in Subsection (66):

309 (ii) the first use of property if that phrase has the same meaning in this Subsection (24)
310 as in Subsection (66); or

311 (iii) a purpose for which property is designed if that phrase has the same meaning in
312 this Subsection (66) as in Subsection (24):

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

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

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

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

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

329 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
330 Boating Act, a boat trailer, or an outboard motor if the boat, trailer, or outboard motor is both
331 not:

332 (a) registered in this state; and

333 (b) used in this state except as necessary to transport the boat, boat trailer, or outboard
334 motor to the borders of this state;

335 (31) sales of aircraft manufactured in Utah if sold for delivery and use outside Utah

336 where a sales or use tax is not imposed, even if the title is passed in Utah;
337 (32) amounts paid for the purchase of telephone service for purposes of providing
338 telephone service;
339 (33) sales or leases of vehicles to, or use of vehicles by an authorized carrier;
340 (34) (a) 45% of the sales price of any new manufactured home; and
341 (b) 100% of the sales price of any used manufactured home;
342 (35) sales relating to schools and fundraising sales;
343 (36) sales or rentals of durable medical equipment if:
344 (a) a person presents a prescription for the durable medical equipment; and
345 (b) the durable medical equipment is used for home use only;
346 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
347 Section 72-11-102; and
348 (b) the commission shall by rule determine the method for calculating sales exempt
349 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
350 (38) sales to a ski resort of:
351 (a) snowmaking equipment;
352 (b) ski slope grooming equipment;
353 (c) passenger ropeways as defined in Section 72-11-102; or
354 (d) parts used in the repairs or renovations of equipment or passenger ropeways
355 described in Subsections (38)(a) through (c);
356 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
357 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
358 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
359 59-12-102;
360 (b) if a seller that sells or rents at the same business location the right to use or operate
361 for amusement, entertainment, or recreation one or more unassisted amusement devices and
362 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
363 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
364 amusement, entertainment, or recreation for the assisted amusement devices; and
365 (c) for purposes of Subsection (40)(b) and in accordance with Title 63, Chapter 46a,
366 Utah Administrative Rulemaking Act, the commission may make rules:

- 367 (i) governing the circumstances under which sales are at the same business location;
- 368 and
- 369 (ii) establishing the procedures and requirements for a seller to separately account for
- 370 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 371 assisted amusement devices;
- 372 (41) sales by the state or a political subdivision of the state, except state institutions of
- 373 higher education as defined in Section 53B-3-102, of:
- 374 (a) photocopies; or
- 375 (b) other copies of records held or maintained by the state or a political subdivision of
- 376 the state;
- 377 (42) amounts paid for admission to an athletic event at an institution of higher
- 378 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 379 20 U.S.C. Sec. 1681 et seq.;
- 380 (43) sales of telephone service charged to a prepaid telephone calling card;
- 381 (44) (a) sales of:
- 382 (i) hearing aids;
- 383 (ii) hearing aid accessories; or
- 384 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations
- 385 of hearing aids or hearing aid accessories; and
- 386 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),
- 387 "parts" does not include batteries;
- 388 (45) (a) sales made to or by:
- 389 (i) an area agency on aging; or
- 390 (ii) a senior citizen center owned by a county, city, or town; or
- 391 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 392 (46) sales or leases of semiconductor fabricating, processing, research, or development
- 393 materials regardless of whether the semiconductor fabricating, processing, research, or
- 394 development materials:
- 395 (a) actually come into contact with a semiconductor; or
- 396 (b) ultimately become incorporated into real property;
- 397 (47) an amount paid by or charged to a purchaser for accommodations and services

398 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
399 59-12-104.2;

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

403 (49) sales or uses of electricity, if the sales or uses are:

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

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

408 (i) unrelated to the amount of electricity used by the person purchasing the electricity
409 under the tariff described in Subsection (49)(a); and

410 (ii) equivalent to the number of kilowatthours specified in the tariff described in
411 Subsection (49)(a) that may be purchased under the tariff described in Subsection (49)(a);

412 (50) sales or rentals of mobility enhancing equipment if a person presents a
413 prescription for the mobility enhancing equipment;

414 (51) sales of water in a:

415 (a) pipe;

416 (b) conduit;

417 (c) ditch; or

418 (d) reservoir;

419 (52) sales of currency or coinage that constitute legal tender of the United States or of a
420 foreign nation;

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

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

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

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

425 (i) ingot;

426 (ii) bar;

427 (iii) medallion; or

428 (iv) decorative coin;

- 429 (54) amounts paid on a sale-leaseback transaction;
- 430 (55) sales of a prosthetic device:
 - 431 (a) for use on or in a human;
 - 432 (b) for which a prescription is issued; and
 - 433 (c) to a person that presents a prescription for the prosthetic device;
- 434 (56) (a) except as provided in Subsection (56)(b), purchases, leases, or rentals of
- 435 machinery or equipment by an establishment described in Subsection (56)(c) if the machinery
- 436 or equipment is primarily used in the production or postproduction of the following media for
- 437 commercial distribution:
 - 438 (i) a motion picture;
 - 439 (ii) a television program;
 - 440 (iii) a movie made for television;
 - 441 (iv) a music video;
 - 442 (v) a commercial;
 - 443 (vi) a documentary; or
 - 444 (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the
 - 445 commission by administrative rule made in accordance with Subsection (56)(d); or
 - 446 (b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or
 - 447 equipment by an establishment described in Subsection (56)(c) that is used for the production
 - 448 or postproduction of the following are subject to the taxes imposed by this chapter:
 - 449 (i) a live musical performance;
 - 450 (ii) a live news program; or
 - 451 (iii) a live sporting event;
 - 452 (c) the following establishments listed in the 1997 North American Industry
 - 453 Classification System of the federal Executive Office of the President, Office of Management
 - 454 and Budget, apply to Subsections (56)(a) and (b):
 - 455 (i) NAICS Code 512110; or
 - 456 (ii) NAICS Code 51219; and
 - 457 (d) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
 - 458 commission may by rule:
 - 459 (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);

460 or

461 (ii) define:

462 (A) "commercial distribution";

463 (B) "live musical performance";

464 (C) "live news program"; or

465 (D) "live sporting event";

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

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

469 (A) is a renewable energy production facility;

470 (B) is located in the state; and

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

472 (II) has its generation capacity increased by one or more megawatts on or after July 1,
473 2004 as a result of the use of the machinery or equipment;

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

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

476 Subsection (57)(a)(i) operational up to the point of interconnection with an existing
477 transmission grid including:

478 (A) a wind turbine;

479 (B) generating equipment;

480 (C) a control and monitoring system;

481 (D) a power line;

482 (E) substation equipment;

483 (F) lighting;

484 (G) fencing;

485 (H) pipes; or

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

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

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

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

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

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

493 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
494 of the facility described in Subsection (57)(a)(i)(C)(II), machinery or equipment used or
495 acquired after:

496 (A) the renewable energy production facility described in Subsection (57)(a)(i) is
497 operational as described in Subsection (57)(a)(iii); or

498 (B) the increased capacity described in Subsection (57)(a)(i) is operational as described
499 in Subsection (57)(a)(iii);

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

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

503 (A) is a waste energy production facility;

504 (B) is located in the state; and

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

506 (II) has its generation capacity increased by one or more megawatts on or after July 1,
507 2004 as a result of the use of the machinery or equipment;

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

509 (iii) is used to make the facility or the increase in capacity of the facility described in
510 Subsection (58)(a)(i) operational up to the point of interconnection with an existing

511 transmission grid including:

512 (A) generating equipment;

513 (B) a control and monitoring system;

514 (C) a power line;

515 (D) substation equipment;

516 (E) lighting;

517 (F) fencing;

518 (G) pipes; or

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

520 (b) this Subsection (58) does not apply to:

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

522 (A) a new waste energy facility; or
523 (B) the increase in the capacity of a waste energy facility;
524 (ii) contracted services required for construction and routine maintenance activities;
525 and
526 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
527 described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:
528 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
529 described in Subsection (58)(a)(iii); or
530 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described
531 in Subsection (58)(a)(iii);
532 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
533 or before June 30, 2009, of machinery or equipment that:
534 (i) is leased or purchased for or by a facility that:
535 (A) is located in the state;
536 (B) produces fuel from biomass energy including:
537 (I) methanol; or
538 (II) ethanol; and
539 (C) (I) becomes operational on or after July 1, 2004; or
540 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
541 a result of the installation of the machinery or equipment;
542 (ii) has an economic life of five or more years; and
543 (iii) is installed on the facility described in Subsection (59)(a)(i);
544 (b) this Subsection (59) does not apply to:
545 (i) machinery or equipment used in construction of:
546 (A) a new facility described in Subsection (59)(a)(i); or
547 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or
548 (ii) contracted services required for construction and routine maintenance activities;
549 and
550 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
551 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:
552 (A) the facility described in Subsection (59)(a)(i) is operational; or

553 (B) the increased capacity described in Subsection (59)(a)(i) is operational;
554 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
555 for purchasing the new vehicle;

556 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
557 within this state that is subsequently shipped outside the state and incorporated pursuant to
558 contract into and becomes a part of real property located outside of this state, except to the
559 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
560 transaction excise tax on it against which the other state or political entity allows a credit for
561 taxes imposed by this chapter; and

562 (b) the exemption provided for in Subsection (61)(a):

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

564 (A) in calculating the purchase price of the tangible personal property; and
565 (B) to a written contract that is in effect on July 1, 2004; and

566 (ii) (A) does not apply beginning on the day on which the contract described in
567 Subsection (61)(b)(i):

568 (I) is substantially modified; or
569 (II) terminates; and

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

573 (62) purchases:

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

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

576 (A) names; or
577 (B) addresses; or

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

579 (A) names; or
580 (B) addresses; and

581 (b) used to send direct mail;

582 (63) redemptions or repurchases of property by a person if that property was:

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

584 (b) redeemed or repurchased within the time period established in a written agreement
585 between the person and the pawnbroker for redeeming or repurchasing the property;

586 (64) (a) purchases or leases of an item described in Subsection (64)(b) if the item:

587 (i) is purchased or leased by, or on behalf of, a telephone service provider; and

588 (ii) has a useful economic life of one or more years; and

589 (b) the following apply to Subsection (64)(a):

590 (i) telecommunications enabling or facilitating equipment, machinery, or software;

591 (ii) telecommunications equipment, machinery, or software required for 911 service;

592 (iii) telecommunications maintenance or repair equipment, machinery, or software;

593 (iv) telecommunications switching or routing equipment, machinery, or software; or

594 (v) telecommunications transmission equipment, machinery, or software; [~~and~~]

595 (65) (a) beginning on July 1, 2006, and ending on June 30, 2016, purchases of tangible
596 personal property used in the research and development of coal-to-liquids, oil shale, or tar
597 sands technology; and

598 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
599 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes
600 tangible personal property used in the research and development of coal-to-liquids, oil shale,
601 and tar sands technology[-]; and

602 (66) (a) purchases of property if:

603 (i) the property is:

604 (A) purchased outside of this state;

605 (B) brought into this state at any time after the purchase described in Subsection

606 (66)(a)(i)(A); and

607 (C) used in conducting business in this state; and

608 (ii) for:

609 (A) property other than the property described in Subsection (66)(a)(ii)(B), the first use
610 of the property for a purpose for which the property is designed occurs outside of this state; or

611 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
612 outside of this state;

613 (b) the exemption provided for in Subsection (66)(a) does not apply to:

614 (i) a lease or rental of property; or

615 (ii) a sale of a vehicle exempt under Subsection (33); and
616 (c) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
617 purposes of Subsection (66)(a), the commission may by rule define what constitutes the
618 following:
619 (i) conducting business in this state if that phrase has the same meaning in this
620 Subsection (66) as in Subsection (24);
621 (ii) the first use of property if that phrase has the same meaning in this Subsection (66)
622 as in Subsection (24); or
623 (iii) a purpose for which property is designed if that phrase has the same meaning in
624 this Subsection (66) as in Subsection (24).
625 Section 2. **Effective date.**
626 This bill takes effect on July 1, 2007.

Fiscal Note**H.B. 34 1st Sub. (Buff) - Sales and Use Tax Exemptions for Certain Property
Brought into the State**

2007 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

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.

1/29/2007, 9:08:39 AM, Lead Analyst: Wilko, A.

Office of the Legislative Fiscal Analyst