

**SALES AND USE TAX EXEMPTION FOR
RAILROAD COMMON CARRIER LOCOMOTIVE
ENGINE FUEL**

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Peter C. Knudson

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ provides a sales and use tax exemption for sales of fuel to a common carrier that is a railroad for use in a locomotive engine; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2007.

Utah Code Sections Affected:

AMENDS:

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

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

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



59-12-104. Exemptions.

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

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

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

(a) construction materials except:

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

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

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

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

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

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

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

(i) food and food ingredients; or

(ii) prepared food;

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

(a) food and food ingredients;

(b) prepared food; or

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

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

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

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

(7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal property if the cleaning or washing of the tangible personal property is not assisted cleaning or washing of tangible personal property;

(b) if a seller that sells at the same business location assisted cleaning or washing of tangible personal property and cleaning or washing of tangible personal property that is not assisted cleaning or washing of tangible personal property, the exemption described in Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning or washing of the tangible personal property; and

(c) for purposes of Subsection (7)(b) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules:

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

(ii) establishing the procedures and requirements for a seller to separately account for sales of assisted cleaning or washing of tangible personal property;

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

(9) sales of a vehicle of a type required to be registered under the motor vehicle laws of this state if the vehicle is both not:

(a) registered in this state; and

(b) used in this state except as necessary to transport the vehicle to the borders of this state;

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

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

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

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

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

(A) a drug;

(B) a syringe; or

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

regularly engaged in the business of selling that type of tangible personal property;

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

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

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

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

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

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

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

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

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

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

(i) machinery and equipment that:

(A) is used:

(I) for a manufacturing facility other than a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(45)(b):

(Aa) in the manufacturing process; and

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

(II) for a manufacturing facility that is a scrap recycler described in Subsection

59-12-102(45)(b), to process an item sold as tangible personal property; and

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

(ii) normal operating repair or replacement parts that:

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

(B) are used:

(I) for a manufacturing facility in the state other than a manufacturing facility that is a scrap recycler described in Subsection 59-12-102(45)(b), in the manufacturing process; or

(II) for a manufacturing facility in the state that is a scrap recycler described in Subsection 59-12-102(45)(b), to process an item sold as tangible personal property;

(b) (i) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006, for the following:

(A) machinery and equipment that:

(I) is used:

(Aa) in the manufacturing process; and

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

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

(B) normal operating repair or replacement parts that:

(I) are used in the manufacturing process in a manufacturing facility in the state; and

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

(ii) for amounts paid or charged on or after July 1, 2005, but on or before June 30, 2006, for a purchase or lease described in Subsection (14)(b)(i), a cogeneration facility may claim the exemption allowed by Subsection (14)(b)(i) by filing for a refund:

(A) for sales and use taxes paid under this chapter on the purchase or lease payment;

and

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

(c) for purposes of this Subsection (14) and in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission:

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

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

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

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

(ii) include in its report:

(A) the cost of the exemptions;

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

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

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

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

(v) parts used in the repairs or renovations of tooling or equipment described in Subsections (15)(a)(i) through (iv); and

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

(i) the tooling, equipment, or parts are used or consumed exclusively in the performance of any aerospace or electronics industry contract with the United States government or any subcontract under that contract; and

(ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i), title to the tooling, equipment, or parts is vested in the United States government as evidenced by:

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

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

(16) sales of newspapers or newspaper subscriptions;

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

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

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

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

222 (i) money;

223 (ii) electricity;

224 (iii) water;

225 (iv) gas; or

226 (v) steam;

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

230 (A) becomes part of real estate; or

231 (B) is installed by a:

232 (I) farmer;

233 (II) contractor; or

234 (III) subcontractor; or

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

237 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following
238 tangible personal property are subject to the taxes imposed by this chapter:

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

241 (I) machinery;

242 (II) equipment;

243 (III) materials; or

244 (IV) supplies; and

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

247 (I) hand tools; or
248 (II) maintenance and janitorial equipment and supplies;

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

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

253 (I) office equipment and supplies; or
254 (II) equipment and supplies used in:

255 (Aa) the sale or distribution of farm products;
256 (Bb) research; or
257 (Cc) transportation; or

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

260 (19) sales of hay;
261 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
262 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
263 garden, farm, or other agricultural produce is sold by:

264 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
265 agricultural produce;
266 (b) an employee of the producer described in Subsection (20)(a); or
267 (c) a member of the immediate family of the producer described in Subsection (20)(a);

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

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

274 (23) property stored in the state for resale;
275 (24) property brought into the state by a nonresident for his or her own personal use or

276 enjoyment while within the state, except property purchased for use in Utah by a nonresident
277 living and working in Utah at the time of purchase;

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

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

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

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

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

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

297 (a) registered in this state; and

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

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

302 (32) amounts paid for the purchase of telephone service for purposes of providing
303 telephone service;

304 (33) sales or leases of vehicles to, or use of vehicles by an authorized carrier;

305 (34) (a) 45% of the sales price of any new manufactured home; and

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

(35) sales relating to schools and fundraising sales;

(36) sales or rentals of durable medical equipment if:

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

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

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

(b) the commission shall by rule determine the method for calculating sales exempt under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

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

(d) parts used in the repairs or renovations of equipment or passenger ropeways described in Subsections (38)(a) through (c);

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

(40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for amusement, entertainment, or recreation an unassisted amusement device as defined in Section 59-12-102;

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

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

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

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

(41) sales by the state or a political subdivision of the state, except state institutions of

338 higher education as defined in Section 53B-3-102, of:
339 (a) photocopies; or
340 (b) other copies of records held or maintained by the state or a political subdivision of
341 the state;
342 (42) amounts paid for admission to an athletic event at an institution of higher
343 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
344 20 U.S.C. Sec. 1681 et seq.;
345 (43) sales of telephone service charged to a prepaid telephone calling card;
346 (44) (a) sales of:
347 (i) hearing aids;
348 (ii) hearing aid accessories; or
349 (iii) except as provided in Subsection (44)(b), parts used in the repairs or renovations
350 of hearing aids or hearing aid accessories; and
351 (b) for purposes of this Subsection (44), notwithstanding Subsection (44)(a)(iii),
352 "parts" does not include batteries;
353 (45) (a) sales made to or by:
354 (i) an area agency on aging; or
355 (ii) a senior citizen center owned by a county, city, or town; or
356 (b) sales made by a senior citizen center that contracts with an area agency on aging;
357 (46) sales or leases of semiconductor fabricating, processing, research, or development
358 materials regardless of whether the semiconductor fabricating, processing, research, or
359 development materials:
360 (a) actually come into contact with a semiconductor; or
361 (b) ultimately become incorporated into real property;
362 (47) an amount paid by or charged to a purchaser for accommodations and services
363 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
364 59-12-104.2;
365 (48) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
366 sports event registration certificate in accordance with Section 41-3-306 for the event period
367 specified on the temporary sports event registration certificate;
368 (49) sales or uses of electricity, if the sales or uses are:

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

(b) for an amount of electricity that is:

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

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

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

(51) sales of water in a:

(a) pipe;

(b) conduit;

(c) ditch; or

(d) reservoir;

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

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

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

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

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

(i) ingot;

(ii) bar;

(iii) medallion; or

(iv) decorative coin;

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

(55) sales of a prosthetic device:

(a) for use on or in a human;

(b) for which a prescription is issued; and

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

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

machinery or equipment by an establishment described in Subsection (56)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or
- (vii) a medium similar to Subsections (56)(a)(i) through (vi) as determined by the

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

(b) notwithstanding Subsection (56)(a), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (56)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

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

(c) the following establishments listed in the 1997 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget, apply to Subsections (56)(a) and (b):

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

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

- (i) prescribe what constitutes a medium similar to Subsections (56)(a)(i) through (vi);

or

- (ii) define:
 - (A) "commercial distribution";
 - (B) "live musical performance";
 - (C) "live news program"; or
 - (D) "live sporting event";

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

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

(A) is a renewable energy production facility;

(B) is located in the state; and

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

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

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

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (57)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) a wind turbine;

(B) generating equipment;

(C) a control and monitoring system;

(D) a power line;

(E) substation equipment;

(F) lighting;

(G) fencing;

(H) pipes; or

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

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

(i) machinery or equipment used in construction of:

(A) a new renewable energy production facility; or

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

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

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

(A) the renewable energy production facility described in Subsection (57)(a)(i) is

operational as described in Subsection (57)(a)(iii); or

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

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

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

(A) is a waste energy production facility;

(B) is located in the state; and

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

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

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

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

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

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

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

(i) machinery or equipment used in construction of:

(A) a new waste energy facility; or

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

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

and

(iii) unless the machinery or equipment is used or acquired for an increase in capacity described in Subsection (58)(a)(i)(C)(II), machinery or equipment used or acquired after:

493 (A) the waste energy facility described in Subsection (58)(a)(i) is operational as
494 described in Subsection (58)(a)(iii); or
495 (B) the increased capacity described in Subsection (58)(a)(i) is operational as described
496 in Subsection (58)(a)(iii);
497 (59) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
498 or before June 30, 2009, of machinery or equipment that:
499 (i) is leased or purchased for or by a facility that:
500 (A) is located in the state;
501 (B) produces fuel from biomass energy including:
502 (I) methanol; or
503 (II) ethanol; and
504 (C) (I) becomes operational on or after July 1, 2004; or
505 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004 as
506 a result of the installation of the machinery or equipment;
507 (ii) has an economic life of five or more years; and
508 (iii) is installed on the facility described in Subsection (59)(a)(i);
509 (b) this Subsection (59) does not apply to:
510 (i) machinery or equipment used in construction of:
511 (A) a new facility described in Subsection (59)(a)(i); or
512 (B) the increase in capacity of the facility described in Subsection (59)(a)(i); or
513 (ii) contracted services required for construction and routine maintenance activities;
514 and
515 (iii) unless the machinery or equipment is used or acquired for an increase in capacity
516 described in Subsection (59)(a)(i)(C)(II), machinery or equipment used or acquired after:
517 (A) the facility described in Subsection (59)(a)(i) is operational; or
518 (B) the increased capacity described in Subsection (59)(a)(i) is operational;
519 (60) amounts paid to a purchaser as a rebate from the manufacturer of a new vehicle
520 for purchasing the new vehicle;
521 (61) (a) subject to Subsection (61)(b), sales of tangible personal property to persons
522 within this state that is subsequently shipped outside the state and incorporated pursuant to
523 contract into and becomes a part of real property located outside of this state, except to the

524 extent that the other state or political entity imposes a sales, use, gross receipts, or other similar
525 transaction excise tax on it against which the other state or political entity allows a credit for
526 taxes imposed by this chapter; and

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

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

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

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

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

533 (I) is substantially modified; or

534 (II) terminates; and

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

538 (62) purchases:

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

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

541 (A) names; or

542 (B) addresses; or

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

544 (A) names; or

545 (B) addresses; and

546 (b) used to send direct mail;

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

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

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

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

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

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

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

555 (i) telecommunications enabling or facilitating equipment, machinery, or software;
556 (ii) telecommunications equipment, machinery, or software required for 911 service;
557 (iii) telecommunications maintenance or repair equipment, machinery, or software;
558 (iv) telecommunications switching or routing equipment, machinery, or software; or
559 (v) telecommunications transmission equipment, machinery, or software; [~~and~~]
560 (65) (a) beginning on July 1, 2006 and ending on June 30, 2016, purchases of tangible
561 personal property used in the research and development of coal-to-liquids, oil shale, or tar
562 sands technology; and
563 (b) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
564 commission may, for purposes of Subsection (65)(a), make rules defining what constitutes
565 tangible personal property used in the research and development of coal-to-liquids, oil shale,
566 and tar sands technology[-]; and
567 (66) sales of fuel to a common carrier that is a railroad for use in a locomotive engine.
568 Section 2. **Effective date.**
569 This bill takes effect on July 1, 2007.

Legislative Review Note
as of 2-6-07 9:38 AM

Office of Legislative Research and General Counsel

Fiscal Note

S.B. 253 - Sales and Use Tax Exemption for Railroad Common Carrier Locomotive Engine Fuel 2007 General Session State of Utah

State Impact

Enactment of this bill could reduce the General Fund by \$4,235,000 in FY 2008 and by \$4,214,000 in FY 2009.

	<u>FY 2007 Approp.</u>	<u>FY 2008 Approp.</u>	<u>FY 2009 Approp.</u>	<u>FY 2007 Revenue</u>	<u>FY 2008 Revenue</u>	<u>FY 2009 Revenue</u>
General Fund	\$0	\$0	\$0	\$0	(\$4,235,000)	(\$4,214,000)
Total	\$0	\$0	\$0	\$0	(\$4,235,000)	(\$4,214,000)

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals or businesses. Local revenue could be reduced by \$1,516,000 in FY 2008 and by \$1,508,000 in FY 2009.