

SALES AND USE TAX REVISIONS

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: Steve Eliason

LONG TITLE

General Description:

This bill enacts sales and use tax exemptions.

Highlighted Provisions:

This bill:

- ▶ enacts a sales and use tax exemption for certain sales or leases if the ownership of the seller and the ownership of the purchaser are identical or the ownership of the lessor and the ownership of the lessee are identical;
- ▶ enacts a sales and use tax exemption for certain purchases of machinery and equipment if a certain percentage of the purchaser's sales revenues are certain admission or user fees subject to sales and use taxation;
- ▶ grants rulemaking authority to the State Tax Commission;
- ▶ requires the State Tax Commission to report to the Revenue and Taxation Interim Committee; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2013.

Utah Code Sections Affected:

AMENDS:

59-12-104, as last amended by Laws of Utah 2012, Chapters 255, 399, 405, and 410

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

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

32 **59-12-104. Exemptions.**

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

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

36 (2) subject to Section 59-12-104.6, sales to the state, its institutions, and its political
37 subdivisions; however, this exemption does not apply to sales of:

38 (a) construction materials except:

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

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

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

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

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

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

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

54 (i) food and food ingredients; or

55 (ii) prepared food;

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

57 (i) alcoholic beverages;

- 58 (ii) food and food ingredients; or
- 59 (iii) prepared food;
- 60 (b) sales of tangible personal property or a product transferred electronically:
- 61 (i) to a passenger;
- 62 (ii) by a commercial airline carrier; and
- 63 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 64 (c) services related to Subsection (4)(a) or (b);
- 65 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 66 and equipment:
- 67 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 68 North American Industry Classification System of the federal Executive Office of the
- 69 President, Office of Management and Budget; and
- 70 (II) for:
- 71 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 72 equipment in the aircraft;
- 73 (Bb) renovation of an aircraft; or
- 74 (Cc) repair of an aircraft; or
- 75 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 76 commerce; or
- 77 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 78 aircraft operated by a common carrier in interstate or foreign commerce; and
- 79 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 80 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
- 81 refund:
- 82 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- 83 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 84 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
- 85 the sale prior to filing for the refund;

- 86 (iv) for sales and use taxes paid under this chapter on the sale;
- 87 (v) in accordance with Section 59-1-1410; and
- 88 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
- 89 the person files for the refund on or before September 30, 2011;
- 90 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
- 91 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 92 exhibitor, distributor, or commercial television or radio broadcaster;
- 93 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
- 94 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
- 95 washing of tangible personal property;
- 96 (b) if a seller that sells at the same business location assisted cleaning or washing of
- 97 tangible personal property and cleaning or washing of tangible personal property that is not
- 98 assisted cleaning or washing of tangible personal property, the exemption described in
- 99 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
- 100 or washing of the tangible personal property; and
- 101 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
- 102 Utah Administrative Rulemaking Act, the commission may make rules:
- 103 (i) governing the circumstances under which sales are at the same business location;
- 104 and
- 105 (ii) establishing the procedures and requirements for a seller to separately account for
- 106 sales of assisted cleaning or washing of tangible personal property;
- 107 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 108 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
- 109 fulfilled;
- 110 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
- 111 this state if the vehicle is:
- 112 (a) not registered in this state; and
- 113 (b) (i) not used in this state; or

- 114 (ii) used in this state:
- 115 (A) if the vehicle is not used to conduct business, for a time period that does not
- 116 exceed the longer of:
- 117 (I) 30 days in any calendar year; or
- 118 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 119 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 120 the vehicle to the borders of this state;
- 121 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 122 (i) the item is intended for human use; and
- 123 (ii) (A) a prescription was issued for the item; or
- 124 (B) the item was purchased by a hospital or other medical facility; and
- 125 (b) (i) Subsection (10)(a) applies to:
- 126 (A) a drug;
- 127 (B) a syringe; or
- 128 (C) a stoma supply; and
- 129 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 130 commission may by rule define the terms:
- 131 (A) "syringe"; or
- 132 (B) "stoma supply";
- 133 (11) sales or use of property, materials, or services used in the construction of or
- 134 incorporated in pollution control facilities allowed by Sections 19-2-123 through 19-2-127;
- 135 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 136 (i) the following if the item described in Subsection (12)(c) is not available to the
- 137 general public:
- 138 (A) a church; or
- 139 (B) a charitable institution;
- 140 (ii) an institution of higher education if:
- 141 (A) the item described in Subsection (12)(c) is not available to the general public; or

142 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
143 offered by the institution of higher education; or

144 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

145 (i) a medical facility; or

146 (ii) a nursing facility; and

147 (c) Subsections (12)(a) and (b) apply to:

148 (i) food and food ingredients;

149 (ii) prepared food; or

150 (iii) alcoholic beverages;

151 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
152 or a product transferred electronically by a person:

153 (i) regardless of the number of transactions involving the sale of that tangible personal
154 property or product transferred electronically by that person; and

155 (ii) not regularly engaged in the business of selling that type of tangible personal
156 property or product transferred electronically;

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

158 (i) the sale is one of a series of sales of a character to indicate that the person is
159 regularly engaged in the business of selling that type of tangible personal property or product
160 transferred electronically;

161 (ii) the person holds that person out as regularly engaged in the business of selling that
162 type of tangible personal property or product transferred electronically;

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

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

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

169 (B) in the absence of a bill of sale or other written evidence of value, the fair market

170 value of the vehicle or vessel being sold at the time of the sale as determined by the
171 commission; and

172 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
173 commission shall make rules establishing the circumstances under which:

174 (i) a person is regularly engaged in the business of selling a type of tangible personal
175 property or product transferred electronically;

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

179 (iii) a person holds that person out as regularly engaged in the business of selling a type
180 of tangible personal property or product transferred electronically;

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

184 (i) machinery and equipment that:

185 (A) are used:

186 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
187 recycler described in Subsection 59-12-102(60)(b):

188 (Aa) in the manufacturing process;

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

190 (Cc) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
191 (14)(a)(i)(A)(I) in the state; or

192 (II) for a manufacturing facility that is a scrap recycler described in Subsection
193 59-12-102(60)(b):

194 (Aa) to process an item sold as tangible personal property; and

195 (Bb) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
196 (14)(a)(i)(A)(II) in the state; and

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

198 (ii) normal operating repair or replacement parts that:
199 (A) have an economic life of three or more years; and
200 (B) are used:
201 (I) for a manufacturing facility except for a manufacturing facility that is a scrap
202 recycler described in Subsection 59-12-102(60)(b):
203 (Aa) in the manufacturing process; and
204 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(I) in the
205 state; or
206 (II) for a manufacturing facility that is a scrap recycler described in Subsection
207 59-12-102(60)(b):
208 (Aa) to process an item sold as tangible personal property; and
209 (Bb) in a manufacturing facility described in this Subsection (14)(a)(ii)(B)(II) in the
210 state;
211 (b) amounts paid or charged on or after July 1, 2005, for a purchase or lease by a
212 manufacturing facility that is a cogeneration facility placed in service on or after May 1, 2006,
213 of the following:
214 (i) machinery and equipment that:
215 (A) are used:
216 (I) in the manufacturing process;
217 (II) to manufacture an item sold as tangible personal property; and
218 (III) beginning on July 1, 2009, in a manufacturing facility described in this Subsection
219 (14)(b) in the state; and
220 (B) have an economic life of three or more years; and
221 (ii) normal operating repair or replacement parts that:
222 (A) are used:
223 (I) in the manufacturing process; and
224 (II) in a manufacturing facility described in this Subsection (14)(b) in the state; and
225 (B) have an economic life of three or more years;

226 (c) amounts paid or charged for a purchase or lease made on or after January 1, 2008,
227 by an establishment described in NAICS Subsector 212, Mining (except Oil and Gas), or
228 NAICS Code 213113, Support Activities for Coal Mining, 213114, Support Activities for
229 Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining,
230 of the 2002 North American Industry Classification System of the federal Executive Office of
231 the President, Office of Management and Budget, of the following:

232 (i) machinery and equipment that:

233 (A) are used:

234 (I) (Aa) in the production process, other than the production of real property; or

235 (Bb) in research and development; and

236 (II) beginning on July 1, 2009, in an establishment described in this Subsection (14)(c)
237 in the state; and

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

239 (ii) normal operating repair or replacement parts that:

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

241 (B) are used in:

242 (I) (Aa) the production process, except for the production of real property; and

243 (Bb) an establishment described in this Subsection (14)(c) in the state; or

244 (II) (Aa) research and development; and

245 (Bb) in an establishment described in this Subsection (14)(c) in the state;

246 (d) (i) amounts paid or charged for a purchase or lease made on or after July 1, 2010,
247 but on or before June 30, 2014, by an establishment described in NAICS Code 518112, Web
248 Search Portals, of the 2002 North American Industry Classification System of the federal
249 Executive Office of the President, Office of Management and Budget, of the following:

250 (A) machinery and equipment that:

251 (I) are used in the operation of the web search portal;

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

253 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

254 in the state; and

255 (B) normal operating repair or replacement parts that:

256 (I) are used in the operation of the web search portal;

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

258 (III) are used in a new or expanding establishment described in this Subsection (14)(d)

259 in the state; or

260 (ii) amounts paid or charged for a purchase or lease made on or after July 1, 2014, by

261 an establishment described in NAICS Code 518112, Web Search Portals, of the 2002 North

262 American Industry Classification System of the federal Executive Office of the President,

263 Office of Management and Budget, of the following:

264 (A) machinery and equipment that:

265 (I) are used in the operation of the web search portal; and

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

267 (B) normal operating repair or replacement parts that:

268 (I) are used in the operation of the web search portal; and

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

270 (e) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,

271 Utah Administrative Rulemaking Act, the commission:

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

273 (ii) may by rule define what constitutes:

274 (A) processing an item sold as tangible personal property;

275 (B) the production process, except for the production of real property;

276 (C) research and development; or

277 (D) a new or expanding establishment described in Subsection (14)(d) in the state; and

278 (f) on or before October 1, 2011, and every five years after October 1, 2011, the

279 commission shall:

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

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

282 exemptions should be continued, modified, or repealed; and
283 (ii) include in its report:
284 (A) an estimate of the cost of the exemptions;
285 (B) the purpose and effectiveness of the exemptions; and
286 (C) the benefits of the exemptions to the state;
287 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
288 (i) tooling;
289 (ii) special tooling;
290 (iii) support equipment;
291 (iv) special test equipment; or
292 (v) parts used in the repairs or renovations of tooling or equipment described in
293 Subsections (15)(a)(i) through (iv); and
294 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
295 (i) the tooling, equipment, or parts are used or consumed exclusively in the
296 performance of any aerospace or electronics industry contract with the United States
297 government or any subcontract under that contract; and
298 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
299 title to the tooling, equipment, or parts is vested in the United States government as evidenced
300 by:
301 (A) a government identification tag placed on the tooling, equipment, or parts; or
302 (B) listing on a government-approved property record if placing a government
303 identification tag on the tooling, equipment, or parts is impractical;
304 (16) sales of newspapers or newspaper subscriptions;
305 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
306 product transferred electronically traded in as full or part payment of the purchase price, except
307 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
308 trade-ins are limited to other vehicles only, and the tax is based upon:
309 (i) the bill of sale or other written evidence of value of the vehicle being sold and the

310 vehicle being traded in; or

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

314 (b) notwithstanding Subsection (17)(a), Subsection (17)(a) does not apply to the
315 following items of tangible personal property or products transferred electronically traded in as
316 full or part payment of the purchase price:

317 (i) money;

318 (ii) electricity;

319 (iii) water;

320 (iv) gas; or

321 (v) steam;

322 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
323 or a product transferred electronically used or consumed primarily and directly in farming
324 operations, regardless of whether the tangible personal property or product transferred
325 electronically:

326 (A) becomes part of real estate; or

327 (B) is installed by a:

328 (I) farmer;

329 (II) contractor; or

330 (III) subcontractor; or

331 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
332 product transferred electronically if the tangible personal property or product transferred
333 electronically is exempt under Subsection (18)(a)(i); and

334 (b) notwithstanding Subsection (18)(a), amounts paid or charged for the following are
335 subject to the taxes imposed by this chapter:

336 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
337 incidental to farming:

- 338 (I) machinery;
- 339 (II) equipment;
- 340 (III) materials; or
- 341 (IV) supplies; and
- 342 (B) tangible personal property that is considered to be used in a manner that is
- 343 incidental to farming includes:
 - 344 (I) hand tools; or
 - 345 (II) maintenance and janitorial equipment and supplies;
 - 346 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
 - 347 transferred electronically if the tangible personal property or product transferred electronically
 - 348 is used in an activity other than farming; and
 - 349 (B) tangible personal property or a product transferred electronically that is considered
 - 350 to be used in an activity other than farming includes:
 - 351 (I) office equipment and supplies; or
 - 352 (II) equipment and supplies used in:
 - 353 (Aa) the sale or distribution of farm products;
 - 354 (Bb) research; or
 - 355 (Cc) transportation; or
 - 356 (iii) a vehicle required to be registered by the laws of this state during the period
 - 357 ending two years after the date of the vehicle's purchase;
 - 358 (19) sales of hay;
 - 359 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
 - 360 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
 - 361 garden, farm, or other agricultural produce is sold by:
 - 362 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
 - 363 agricultural produce;
 - 364 (b) an employee of the producer described in Subsection (20)(a); or
 - 365 (c) a member of the immediate family of the producer described in Subsection (20)(a);

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

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

372 (23) a product stored in the state for resale;

373 (24) (a) purchases of a product if:

374 (i) the product is:

375 (A) purchased outside of this state;

376 (B) brought into this state:

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

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

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

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

383 (ii) for:

384 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
385 the product for a purpose for which the product is designed occurs outside of this state;

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

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

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

390 (i) a lease or rental of a product; or

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

392 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
393 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

394 following:

395 (i) conducting business in this state if that phrase has the same meaning in this
396 Subsection (24) as in Subsection (63);

397 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
398 as in Subsection (63); or

399 (iii) a purpose for which a product is designed if that phrase has the same meaning in
400 this Subsection (24) as in Subsection (63);

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

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

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

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

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

417 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
418 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

419 (a) not registered in this state; and

420 (b) (i) not used in this state; or

421 (ii) used in this state:

422 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
423 time period that does not exceed the longer of:

424 (I) 30 days in any calendar year; or

425 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
426 the borders of this state; or

427 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
428 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
429 state;

430 (31) sales of aircraft manufactured in Utah;

431 (32) amounts paid for the purchase of telecommunications service for purposes of
432 providing telecommunications service;

433 (33) sales, leases, or uses of the following:

434 (a) a vehicle by an authorized carrier; or

435 (b) tangible personal property that is installed on a vehicle:

436 (i) sold or leased to or used by an authorized carrier; and

437 (ii) before the vehicle is placed in service for the first time;

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

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

440 (35) sales relating to schools and fundraising sales;

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

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

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

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

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

448 (38) sales to a ski resort of:

449 (a) snowmaking equipment;

450 (b) ski slope grooming equipment;

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

452 (d) parts used in the repairs or renovations of equipment or passenger ropeways

453 described in Subsections (38)(a) through (c);

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

455 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for

456 amusement, entertainment, or recreation an unassisted amusement device as defined in Section

457 59-12-102;

458 (b) if a seller that sells or rents at the same business location the right to use or operate

459 for amusement, entertainment, or recreation one or more unassisted amusement devices and

460 one or more assisted amusement devices, the exemption described in Subsection (40)(a)

461 applies if the seller separately accounts for the sales or rentals of the right to use or operate for

462 amusement, entertainment, or recreation for the assisted amusement devices; and

463 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,

464 Utah Administrative Rulemaking Act, the commission may make rules:

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

466 and

467 (ii) establishing the procedures and requirements for a seller to separately account for

468 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for

469 assisted amusement devices;

470 (41) (a) sales of photocopies by:

471 (i) a governmental entity; or

472 (ii) an entity within the state system of public education, including:

473 (A) a school; or

474 (B) the State Board of Education; or

475 (b) sales of publications by a governmental entity;

476 (42) amounts paid for admission to an athletic event at an institution of higher

477 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

478 20 U.S.C. Sec. 1681 et seq.;

479 (43) (a) sales made to or by:

480 (i) an area agency on aging; or

481 (ii) a senior citizen center owned by a county, city, or town; or

482 (b) sales made by a senior citizen center that contracts with an area agency on aging;

483 (44) sales or leases of semiconductor fabricating, processing, research, or development

484 materials regardless of whether the semiconductor fabricating, processing, research, or

485 development materials:

486 (a) actually come into contact with a semiconductor; or

487 (b) ultimately become incorporated into real property;

488 (45) an amount paid by or charged to a purchaser for accommodations and services

489 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

490 59-12-104.2;

491 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

492 sports event registration certificate in accordance with Section 41-3-306 for the event period

493 specified on the temporary sports event registration certificate;

494 (47) (a) sales or uses of electricity, if the sales or uses are made under a tariff adopted

495 by the Public Service Commission of Utah only for purchase of electricity produced from a

496 new alternative energy source, as designated in the tariff by the Public Service Commission of

497 Utah; and

498 (b) the exemption under Subsection (47)(a) applies to the portion of the tariff rate a

499 customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under

500 the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;

501 (48) sales or rentals of mobility enhancing equipment if a person presents a

502 prescription for the mobility enhancing equipment;

503 (49) sales of water in a:

504 (a) pipe;

505 (b) conduit;

- 506 (c) ditch; or
- 507 (d) reservoir;
- 508 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 509 or a foreign nation;
- 510 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 511 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 512 (ii) has a gold, silver, or platinum content of 50% or more; and
- 513 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 514 (i) ingot;
- 515 (ii) bar;
- 516 (iii) medallion; or
- 517 (iv) decorative coin;
- 518 (52) amounts paid on a sale-leaseback transaction;
- 519 (53) sales of a prosthetic device:
- 520 (a) for use on or in a human; and
- 521 (b) (i) for which a prescription is required; or
- 522 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 523 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 524 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 525 or equipment is primarily used in the production or postproduction of the following media for
- 526 commercial distribution:
- 527 (i) a motion picture;
- 528 (ii) a television program;
- 529 (iii) a movie made for television;
- 530 (iv) a music video;
- 531 (v) a commercial;
- 532 (vi) a documentary; or
- 533 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

534 commission by administrative rule made in accordance with Subsection (54)(d); or
535 (b) notwithstanding Subsection (54)(a), purchases, leases, or rentals of machinery or
536 equipment by an establishment described in Subsection (54)(c) that is used for the production
537 or postproduction of the following are subject to the taxes imposed by this chapter:
538 (i) a live musical performance;
539 (ii) a live news program; or
540 (iii) a live sporting event;
541 (c) the following establishments listed in the 1997 North American Industry
542 Classification System of the federal Executive Office of the President, Office of Management
543 and Budget, apply to Subsections (54)(a) and (b):
544 (i) NAICS Code 512110; or
545 (ii) NAICS Code 51219; and
546 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
547 commission may by rule:
548 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
549 or
550 (ii) define:
551 (A) "commercial distribution";
552 (B) "live musical performance";
553 (C) "live news program"; or
554 (D) "live sporting event";
555 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
556 on or before June 30, 2027, of tangible personal property that:
557 (i) is leased or purchased for or by a facility that:
558 (A) is an alternative energy electricity production facility;
559 (B) is located in the state; and
560 (C) (I) becomes operational on or after July 1, 2004; or
561 (II) has its generation capacity increased by one or more megawatts on or after July 1,

562 2004, as a result of the use of the tangible personal property;

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

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

565 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

566 transmission grid including:

567 (A) a wind turbine;

568 (B) generating equipment;

569 (C) a control and monitoring system;

570 (D) a power line;

571 (E) substation equipment;

572 (F) lighting;

573 (G) fencing;

574 (H) pipes; or

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

576 (b) this Subsection (55) does not apply to:

577 (i) tangible personal property used in construction of:

578 (A) a new alternative energy electricity production facility; or

579 (B) the increase in the capacity of an alternative energy electricity production facility;

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

581 and

582 (iii) unless the tangible personal property is used or acquired for an increase in capacity

583 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

584 acquired after:

585 (A) the alternative energy electricity production facility described in Subsection

586 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

587 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

588 in Subsection (55)(a)(iii);

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

590 on or before June 30, 2027, of tangible personal property that:

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

592 (A) is a waste energy production facility;

593 (B) is located in the state; and

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

595 (II) has its generation capacity increased by one or more megawatts on or after July 1,

596 2004, as a result of the use of the tangible personal property;

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

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

599 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

600 transmission grid including:

601 (A) generating equipment;

602 (B) a control and monitoring system;

603 (C) a power line;

604 (D) substation equipment;

605 (E) lighting;

606 (F) fencing;

607 (G) pipes; or

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

609 (b) this Subsection (56) does not apply to:

610 (i) tangible personal property used in construction of:

611 (A) a new waste energy facility; or

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

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

614 and

615 (iii) unless the tangible personal property is used or acquired for an increase in capacity

616 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

617 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as

618 described in Subsection (56)(a)(iii); or
619 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
620 in Subsection (56)(a)(iii);
621 (57) (a) leases of five or more years or purchases made on or after July 1, 2004 but on
622 or before June 30, 2027, of tangible personal property that:
623 (i) is leased or purchased for or by a facility that:
624 (A) is located in the state;
625 (B) produces fuel from alternative energy, including:
626 (I) methanol; or
627 (II) ethanol; and
628 (C) (I) becomes operational on or after July 1, 2004; or
629 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
630 a result of the installation of the tangible personal property;
631 (ii) has an economic life of five or more years; and
632 (iii) is installed on the facility described in Subsection (57)(a)(i);
633 (b) this Subsection (57) does not apply to:
634 (i) tangible personal property used in construction of:
635 (A) a new facility described in Subsection (57)(a)(i); or
636 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
637 (ii) contracted services required for construction and routine maintenance activities;
638 and
639 (iii) unless the tangible personal property is used or acquired for an increase in capacity
640 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
641 (A) the facility described in Subsection (57)(a)(i) is operational; or
642 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
643 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
644 product transferred electronically to a person within this state if that tangible personal property
645 or product transferred electronically is subsequently shipped outside the state and incorporated

646 pursuant to contract into and becomes a part of real property located outside of this state;

647 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
648 state or political entity to which the tangible personal property is shipped imposes a sales, use,
649 gross receipts, or other similar transaction excise tax on the transaction against which the other
650 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

651 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
652 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
653 refund:

654 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

655 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
656 which the sale is made;

657 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
658 sale prior to filing for the refund;

659 (iv) for sales and use taxes paid under this chapter on the sale;

660 (v) in accordance with Section 59-1-1410; and

661 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
662 the person files for the refund on or before June 30, 2011;

663 (59) purchases:

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

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

666 (A) names; or

667 (B) addresses; or

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

669 (A) names; or

670 (B) addresses; and

671 (b) used to send direct mail;

672 (60) redemptions or repurchases of a product by a person if that product was:

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

674 (b) redeemed or repurchased within the time period established in a written agreement
675 between the person and the pawnbroker for redeeming or repurchasing the product;

676 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

677 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

678 and

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

680 (b) the following apply to Subsection (61)(a):

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

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

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

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

685 (v) telecommunications transmission equipment, machinery, or software;

686 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
687 personal property or a product transferred electronically that are used in the research and
688 development of alternative energy technology; and

689 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
690 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
691 purchases of tangible personal property or a product transferred electronically that are used in
692 the research and development of alternative energy technology;

693 (63) (a) purchases of tangible personal property or a product transferred electronically
694 if:

695 (i) the tangible personal property or product transferred electronically is:

696 (A) purchased outside of this state;

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

698 (63)(a)(i)(A); and

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

700 (ii) for:

701 (A) tangible personal property or a product transferred electronically other than the

702 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
703 for a purpose for which the property is designed occurs outside of this state; or

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

706 (b) the exemption provided for in Subsection (63)(a) does not apply to:

707 (i) a lease or rental of tangible personal property or a product transferred electronically;

708 or

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

710 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
711 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
712 following:

713 (i) conducting business in this state if that phrase has the same meaning in this
714 Subsection (63) as in Subsection (24);

715 (ii) the first use of tangible personal property or a product transferred electronically if
716 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

717 (iii) a purpose for which tangible personal property or a product transferred
718 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
719 Subsection (24);

720 (64) sales of disposable home medical equipment or supplies if:

721 (a) a person presents a prescription for the disposable home medical equipment or
722 supplies;

723 (b) the disposable home medical equipment or supplies are used exclusively by the
724 person to whom the prescription described in Subsection (64)(a) is issued; and

725 (c) the disposable home medical equipment and supplies are listed as eligible for
726 payment under:

727 (i) Title XVIII, federal Social Security Act; or

728 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

729 (65) sales:

- 730 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
- 731 District Act; or
- 732 (b) of tangible personal property to a subcontractor of a public transit district, if the
- 733 tangible personal property is:
 - 734 (i) clearly identified; and
 - 735 (ii) installed or converted to real property owned by the public transit district;
 - 736 (66) sales of construction materials:
 - 737 (a) purchased on or after July 1, 2010;
 - 738 (b) purchased by, on behalf of, or for the benefit of an international airport:
 - 739 (i) located within a county of the first class; and
 - 740 (ii) that has a United States customs office on its premises; and
 - 741 (c) if the construction materials are:
 - 742 (i) clearly identified;
 - 743 (ii) segregated; and
 - 744 (iii) installed or converted to real property:
 - 745 (A) owned or operated by the international airport described in Subsection (66)(b); and
 - 746 (B) located at the international airport described in Subsection (66)(b);
 - 747 (67) sales of construction materials:
 - 748 (a) purchased on or after July 1, 2008;
 - 749 (b) purchased by, on behalf of, or for the benefit of a new airport:
 - 750 (i) located within a county of the second class; and
 - 751 (ii) that is owned or operated by a city in which an airline as defined in Section
 - 752 59-2-102 is headquartered; and
 - 753 (c) if the construction materials are:
 - 754 (i) clearly identified;
 - 755 (ii) segregated; and
 - 756 (iii) installed or converted to real property:
 - 757 (A) owned or operated by the new airport described in Subsection (67)(b);

- 758 (B) located at the new airport described in Subsection (67)(b); and
- 759 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 760 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 761 (69) purchases and sales described in Section 63H-4-111;
- 762 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 763 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 764 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 765 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 766 powered aircraft; or
- 767 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 768 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 769 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 770 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 771 powered aircraft;
- 772 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
- 773 (a) to a person admitted to an institution of higher education; and
- 774 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 775 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 776 textbook for a higher education course;
- 777 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 778 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
- 779 level of municipal services;
- 780 (73) amounts paid or charged for construction materials used in the construction of a
- 781 new or expanding life science research and development facility in the state, if the construction
- 782 materials are:
- 783 (a) clearly identified;
- 784 (b) segregated; and
- 785 (c) installed or converted to real property; [~~and~~]

786 (74) amounts paid or charged for:
787 (a) a purchase or lease of machinery and equipment that:
788 (i) are used in performing qualified research:
789 (A) as defined in Section 59-7-612;
790 (B) in the state; and
791 (C) with respect to which the purchaser pays or incurs a qualified research expense as
792 defined in Section 59-7-612; and
793 (ii) have an economic life of three or more years; and
794 (b) normal operating repair or replacement parts:
795 (i) for the machinery and equipment described in Subsection (74)(a); and
796 (ii) that have an economic life of three or more years[-];
797 (75) a sale or lease of tangible personal property used in the preparation of prepared
798 food if:
799 (a) for a sale:
800 (i) the ownership of the seller and the ownership of the purchaser are identical; and
801 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
802 tangible personal property prior to making the sale; or
803 (b) for a lease:
804 (i) the ownership of the lessor and the ownership of the lessee are identical; and
805 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
806 personal property prior to making the lease; and
807 (76) (a) purchases of machinery or equipment if:
808 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
809 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
810 System of the federal Executive Office of the President, Office of Management and Budget;
811 (ii) the machinery or equipment:
812 (A) has an economic life of three or more years; and
813 (B) is used by one or more persons who pay admission or user fees described in

814 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
815 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
816 (A) amounts paid or charged as admission or user fees described in Subsection
817 59-12-103(1)(f); and
818 (B) subject to taxation under this chapter;
819 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
820 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
821 previous calendar quarter is:
822 (i) amounts paid or charged as admission or user fees described in Subsection
823 59-12-103(1)(f); and
824 (ii) subject to taxation under this chapter; and
825 (c) on or before the November 2018 interim meeting, and every five years after the
826 November 2018 interim meeting, the commission shall review the exemption provided in this
827 Subsection (76) and report to the Revenue and Taxation Interim Committee on:
828 (i) the revenue lost to the state and local taxing jurisdictions as a result of the
829 exemption;
830 (ii) the purpose and effectiveness of the exemption; and
831 (iii) whether the exemption benefits the state.
832 **Section 2. Effective date.**
833 This bill takes effect on July 1, 2013.