

SB0240S01 compared with SB0240

~~{deleted text}~~ shows text that was in SB0240 but was deleted in SB0240S01.

Inserted text shows text that was not in SB0240 but was inserted into SB0240S01.

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Senator Jerry W. Stevenson proposes the following substitute bill:

MILITARY INSTALLATION DEVELOPMENT~~}~~

AUTHORITY~~{~~

~~}~~ AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jerry W. Stevenson

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions of the Military Installation Development Authority Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Military Installation Development Authority ~~{lodging establishment}~~accommodations tax;
- ▶ amends provisions related to sales and use tax;
- ▶ amends provisions related to the governing board of the Military Installation

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Development Authority;

- ▶ amends provisions related to property tax within a project area;
- ▶ ~~{permits the Military Installation Development Authority to charge a fee on certain improvements}~~ requires certain property owners to pay an annual payment to the authority;
- ▶ amends provisions related to allowable uses of funds; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-1-306, as last amended by Laws of Utah 2017, Chapter 430

59-12-104, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429

63H-1-102, as last amended by Laws of Utah 2017, Chapter 216

63H-1-302, as last amended by Laws of Utah 2013, Chapter 362

63H-1-501, as last amended by Laws of Utah 2015, Chapter 377

63H-1-502, as last amended by Laws of Utah 2015, Chapter 377

ENACTS:

59-28-108, Utah Code Annotated 1953

63H-1-205, Utah Code Annotated 1953

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

Section 1. Section 59-1-306 is amended to read:

59-1-306. Definition -- State Tax Commission Administrative Charge Account -- Amount of administrative charge -- Deposit of revenues into the restricted account -- Interest deposited into General Fund -- Expenditure of money deposited into the restricted account.

(1) As used in this section, "qualifying tax, fee, or charge" means a tax, fee, or charge the commission administers under:

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- (a) Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act;
 - (b) Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act;
 - (c) Section 19-6-714;
 - (d) Section 19-6-805;
 - (e) Chapter 12, Sales and Use Tax Act, other than a tax under Chapter 12, Part 1, Tax Collection, or Chapter 12, Part 18, Additional State Sales and Use Tax Act;
 - (f) Section 59-27-105; ~~[or]~~
 - (g) Title 69, Chapter 2, Part 4, 911 Emergency Service Charges~~[-]; or~~
 - (h) Section 63H-1-205.
- (2) There is created a restricted account within the General Fund known as the "State Tax Commission Administrative Charge Account."
- (3) Subject to the other provisions of this section, the restricted account shall consist of administrative charges the commission retains and deposits in accordance with this section.
- (4) For purposes of this section, the administrative charge is a percentage of revenues the commission collects from each qualifying tax, fee, or charge of not to exceed the lesser of:
- (a) 1.5%; or
 - (b) an equal percentage of revenues the commission collects from each qualifying tax, fee, or charge sufficient to cover the cost to the commission of administering the qualifying taxes, fees, or charges.
- (5) The commission shall deposit an administrative charge into the restricted account.
- (6) Interest earned on the restricted account shall be deposited into the General Fund.
- (7) The commission shall expend money appropriated by the Legislature to the commission from the restricted account to administer qualifying taxes, fees, or charges.

Section ~~59-12-104~~2. Section **59-12-104** is amended to read:

59-12-104. Exemptions.

Exemptions from the taxes imposed by this chapter are as follows:

- (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) subject to Section 59-12-104.6, sales to the state, its institutions, and its political subdivisions; however, this exemption does not apply to sales of:
 - (a) construction materials except:

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

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

(b) sales of tangible personal property or a product transferred electronically:

(i) to a passenger;

(ii) by a commercial airline carrier; and

(iii) during a flight for in-flight consumption or in-flight use by the passenger; or

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

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

(A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget; and

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(II) for:

(Aa) installation in an aircraft, including services relating to the installation of parts or equipment in the aircraft;

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

(B) for installation in an aircraft operated by a common carrier in interstate or foreign commerce; or

(ii) beginning on October 1, 2008, sales of parts and equipment for installation in an aircraft operated by a common carrier in interstate or foreign commerce; and

(b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund, a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a refund:

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

(ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for the sale prior to filing for the refund;

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

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

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

(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) except as provided in Subsection (88) and 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

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(c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3, 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:

(a) not registered in this state; and

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

(ii) used in this state:

(A) if the vehicle is not used to conduct business, for a time period that does not exceed the longer of:

(I) 30 days in any calendar year; or

(II) the time period necessary to transport the vehicle to the borders of this state; or

(B) if the vehicle is used to conduct business, for the time period 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

(C) a stoma supply; and

(ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the terms:

(A) "syringe"; or

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(B) "stoma supply";

(11) purchases or leases exempt under Section 19-12-201;

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

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

(A) a church; or

(B) a charitable institution;

(ii) an institution of higher education if:

(A) the item described in Subsection (12)(c) is not available to the general public; or

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

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

(i) a medical facility; or

(ii) a nursing facility; and

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

(i) food and food ingredients;

(ii) prepared food; or

(iii) alcoholic beverages;

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

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

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

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

(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 or product transferred electronically;

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

(iii) the person sells an item of tangible personal property or product transferred

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electronically 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 63G, Chapter 3, 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 or product transferred electronically;

(ii) a sale of tangible personal property or a product transferred electronically 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 product transferred electronically; or

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

(14) amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts with an economic life of three or more years by:

(a) a manufacturing facility, except as provided in Subsection (86), that:

(i) is located in the state; and

(ii) uses the machinery, equipment, or normal operating repair or replacement parts:

(A) in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

(B) for a scrap recycler, to process an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS

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Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses the machinery, equipment, or normal operating repair or replacement parts in:

(A) the production process to produce an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah

Administrative Rulemaking Act;

(B) research and development, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(C) transporting, storing, or managing tailings, overburden, or similar waste materials produced from mining;

(D) developing or maintaining a road, tunnel, excavation, or similar feature used in mining; or

(E) preventing, controlling, or reducing dust or other pollutants from mining; or

(c) an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

(i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(ii) is located in the state; and

(iii) uses the machinery, equipment, or normal operating repair or replacement parts in the operation of the web search portal;

(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

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(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 or a product transferred electronically 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:

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

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

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

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

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

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electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

(II) contractor; or

(III) subcontractor; or

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

(b) amounts paid or charged for the following are subject to the taxes imposed by this chapter:

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

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

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

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

(ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically is used in an activity other than farming; and

(B) tangible personal property or a product transferred electronically that is considered to be used in an activity other than farming includes:

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

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

(19) sales of hay;

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

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

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

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

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

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

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

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

(i) the product is:

(A) purchased outside of this state;

(B) brought into this state:

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

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

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

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

(ii) for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(29) sales or leases of rolls, rollers, refractory brick, electric motors, or other replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of the President, Office of Management and Budget;

(30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

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Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

(a) not registered in this state; and

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

(ii) used in this state:

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

(I) 30 days in any calendar year; or

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

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

(31) sales of aircraft manufactured in Utah;

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

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

(a) a vehicle by an authorized carrier; or

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

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

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

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

(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:

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- (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 63G, Chapter 3, 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) (a) sales of photocopies by:

(i) a governmental entity; or

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

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

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

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

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- (i) an area agency on aging; or
- (ii) a senior citizen center owned by a county, city, or town; or
- (b) sales made by a senior citizen center that contracts with an area agency on aging;
- (44) sales or leases of semiconductor fabricating, processing, research, or development materials regardless of whether the semiconductor fabricating, processing, research, or development materials:
 - (a) actually come into contact with a semiconductor; or
 - (b) ultimately become incorporated into real property;
- (45) an amount paid by or charged to a purchaser for accommodations and services described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section 59-12-104.2;
- (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary sports event registration certificate in accordance with Section 41-3-306 for the event period specified on the temporary sports event registration certificate;
- (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff adopted by the Public Service Commission only for purchase of electricity produced from a new alternative energy source built after January 1, 2016, as designated in the tariff by the Public Service Commission;
- (b) for a residential use customer only, the exemption under Subsection (47)(a) applies only to the portion of the tariff rate a customer pays under the tariff described in Subsection (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the customer would have paid absent the tariff;
- (48) sales or rentals of mobility enhancing equipment if a person presents a prescription for the mobility enhancing equipment;
- (49) sales of water in a:
 - (a) pipe;
 - (b) conduit;
 - (c) ditch; or
 - (d) reservoir;
- (50) sales of currency or coins that constitute legal tender of a state, the United States, or a foreign nation;

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(51) (a) sales of an item described in Subsection (51)(b) if the item:

- (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- (ii) has a gold, silver, or platinum content of 50% or more; and

(b) Subsection (51)(a) applies to a gold, silver, or platinum:

- (i) ingot;
- (ii) bar;
- (iii) medallion; or
- (iv) decorative coin;

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

(53) sales of a prosthetic device:

- (a) for use on or in a human; and
- (b) (i) for which a prescription is required; or
- (ii) if the prosthetic device is purchased by a hospital or other medical facility;

(54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(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 (54)(a)(i) through (vi) as determined by the commission by administrative rule made in accordance with Subsection (54)(d); or

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(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;

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(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 (54)(a) and (b):

(i) NAICS Code 512110; or

(ii) NAICS Code 51219; and

(d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule:

(i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);

or

(ii) define:

(A) "commercial distribution";

(B) "live musical performance";

(C) "live news program"; or

(D) "live sporting event";

(55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

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

(A) is an alternative energy electricity 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 tangible personal property;

(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 (55)(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;

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- (F) lighting;
- (G) fencing;
- (H) pipes; or
- (I) other equipment used for locating a power line or pole; and

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

(i) tangible personal property used in construction of:

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

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

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

and

(iii) unless the tangible personal property is used or acquired for an increase in capacity of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or acquired after:

(A) the alternative energy electricity production facility described in Subsection (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

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

(56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property 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 tangible personal property;

(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 (56)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

(A) generating equipment;

(B) a control and monitoring system;

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- (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 (56) does not apply to:

(i) tangible personal property 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 tangible personal property is used or acquired for an increase in capacity described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

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

(B) the increased capacity described in Subsection (56)(a)(i) is operational as described in Subsection (56)(a)(iii);

(57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on or before June 30, 2027, of tangible personal property that:

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

- (A) is located in the state;
- (B) produces fuel from alternative energy, including:
 - (I) methanol; or
 - (II) ethanol; and
- (C) (I) becomes operational on or after July 1, 2004; or

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

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

(iii) is installed on the facility described in Subsection (57)(a)(i);

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

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- (i) tangible personal property used in construction of:
 - (A) a new facility described in Subsection (57)(a)(i); or
 - (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- (ii) contracted services required for construction and routine maintenance activities;

and

(iii) unless the tangible personal property is used or acquired for an increase in capacity described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

- (A) the facility described in Subsection (57)(a)(i) is operational; or
- (B) the increased capacity described in Subsection (57)(a)(i) is operational;

(58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a product transferred electronically to a person within this state if that tangible personal property or product transferred electronically is subsequently shipped outside the state and incorporated pursuant to contract into and becomes a part of real property located outside of this state;

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

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

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

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

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

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

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

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

(59) purchases:

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

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

(A) names; or

(B) addresses; or

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

(A) names; or

(B) addresses; and

(b) used to send direct mail;

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

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

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

between the person and the pawnbroker for redeeming or repurchasing the product;

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

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

and

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

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

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

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

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

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

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

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

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

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

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

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(A) purchased outside of this state;

(B) brought into this state at any time after the purchase described in Subsection (63)(a)(i)(A); and

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

(ii) for:

(A) tangible personal property or a product transferred electronically other than the tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

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

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

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

or

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

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

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

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

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

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

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

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

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

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- (i) Title XVIII, federal Social Security Act; or
- (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- (65) sales:
 - (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit District Act; or
 - (b) of tangible personal property to a subcontractor of a public transit district, if the tangible personal property is:
 - (i) clearly identified; and
 - (ii) installed or converted to real property owned by the public transit district;
- (66) sales of construction materials:
 - (a) purchased on or after July 1, 2010;
 - (b) purchased by, on behalf of, or for the benefit of an international airport:
 - (i) located within a county of the first class; and
 - (ii) that has a United States customs office on its premises; and
 - (c) if the construction materials are:
 - (i) clearly identified;
 - (ii) segregated; and
 - (iii) installed or converted to real property:
 - (A) owned or operated by the international airport described in Subsection (66)(b); and
 - (B) located at the international airport described in Subsection (66)(b);
- (67) sales of construction materials:
 - (a) purchased on or after July 1, 2008;
 - (b) purchased by, on behalf of, or for the benefit of a new airport:
 - (i) located within a county of the second class; and
 - (ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and
 - (c) if the construction materials are:
 - (i) clearly identified;
 - (ii) segregated; and
 - (iii) installed or converted to real property:
 - (A) owned or operated by the new airport described in Subsection (67)(b);

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(B) located at the new airport described in Subsection (67)(b); and

(C) as part of the construction of the new airport described in Subsection (67)(b);

(68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

(69) purchases and sales described in Section 63H-4-111;

(70) (a) sales of tangible personal property to an aircraft maintenance, repair, and overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a textbook for a higher education course;

(72) a license fee or tax a municipality imposes in accordance with Subsection 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced level of municipal services;

(73) amounts paid or charged for construction materials used in the construction of a new or expanding life science research and development facility in the state, if the construction materials are:

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

(a) a purchase or lease of machinery and equipment that:

(i) are used in performing qualified research:

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- (A) as defined in Section 41(d), Internal Revenue Code; and
- (B) in the state; and
- (ii) have an economic life of three or more years; and
- (b) normal operating repair or replacement parts:
 - (i) for the machinery and equipment described in Subsection (74)(a); and
 - (ii) that have an economic life of three or more years;
- (75) a sale or lease of tangible personal property used in the preparation of prepared food if:
 - (a) for a sale:
 - (i) the ownership of the seller and the ownership of the purchaser are identical; and
 - (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that tangible personal property prior to making the sale; or
 - (b) for a lease:
 - (i) the ownership of the lessor and the ownership of the lessee are identical; and
 - (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible personal property prior to making the lease;
- (76) (a) purchases of machinery or equipment if:
 - (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement, Gambling, and Recreation Industries, of the 2012 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;
 - (ii) the machinery or equipment:
 - (A) has an economic life of three or more years; and
 - (B) is used by one or more persons who pay admission or user fees described in Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
 - (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
 - (A) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
 - (B) subject to taxation under this chapter; and
 - (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules for verifying that 51% of a purchaser's sales revenue for the previous calendar quarter is:

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- (i) amounts paid or charged as admission or user fees described in Subsection 59-12-103(1)(f); and
- (ii) subject to taxation under this chapter;
- (77) purchases of a short-term lodging consumable by a business that provides accommodations and services described in Subsection 59-12-103(1)(i);
- (78) amounts paid or charged to access a database:
 - (a) if the primary purpose for accessing the database is to view or retrieve information from the database; and
 - (b) not including amounts paid or charged for a:
 - (i) digital audiowork;
 - (ii) digital audio-visual work; or
 - (iii) digital book;
- (79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:
 - (a) machinery and equipment that:
 - (i) are used in the operation of the electronic financial payment service; and
 - (ii) have an economic life of three or more years; and
 - (b) normal operating repair or replacement parts that:
 - (i) are used in the operation of the electronic financial payment service; and
 - (ii) have an economic life of three or more years;
- (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- (81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:
 - (a) is stored, used, or consumed in the state; and
 - (b) is temporarily brought into the state from another state:
 - (i) during a disaster period as defined in Section 53-2a-1202;
 - (ii) by an out-of-state business as defined in Section 53-2a-1202;
 - (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
 - (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- (82) sales of goods and services at a morale, welfare, and recreation facility, as defined

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in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and Recreation Program;

(83) amounts paid or charged for a purchase or lease of molten magnesium;

(84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:

(i) that are used or consumed exclusively in the drilling equipment manufacturer's manufacturing process; and

(ii) except for office:

(A) equipment; or

(B) supplies; and

(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an exemption described in Subsection (84)(a) only by filing for a refund:

(i) of 50% of the tax paid on the amounts paid or charged; and

(ii) in accordance with Section 59-1-1410;

(85) amounts paid or charged for a purchase or lease made by a qualifying enterprise data center of machinery, equipment, or normal operating repair or replacement parts, if the machinery, equipment, or normal operating repair or replacement parts:

(a) are used in the operation of the establishment; and

(b) have an economic life of one or more years; and

(86) amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a manufacturing facility that:

(a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(c) is located in the state; and

(d) uses the machinery, equipment, or normal operating repair or replacement parts in the manufacturing process to manufacture an item sold as tangible personal property, as the commission may define that phrase in accordance with Title 63G, Chapter 3, Utah

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Administrative Rulemaking Act;

(87) amounts paid or charged for a purchase or lease of equipment or normal operating repair or replacement parts with an economic life of less than three years by a manufacturing facility that:

(a) is an establishment, as the commission defines that term in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002 North American Industry Classification System of the federal Executive Office of the President, Office of Management and Budget;

(c) is located in the state; and

(d) uses the equipment or normal operating repair or replacement parts to manufacture hydrogen;

(88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a vehicle that includes cleaning or washing of the interior of the vehicle; [~~and~~]

(89) amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used or consumed:

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

(b) if the machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

(i) the production process to produce gasoline or diesel fuel, or at which blendstock is added to gasoline or diesel fuel;

(ii) research and development;

(iii) transporting, storing, or managing raw materials, work in process, finished products, and waste materials produced from refining gasoline or diesel fuel, or adding blendstock to gasoline or diesel fuel;

(iv) developing or maintaining a road, tunnel, excavation, or similar feature used in refining; or

(v) preventing, controlling, or reducing pollutants from refining; and

(c) beginning on July 1, 2021, if the person has obtained a form certified by the Office

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of Energy Development under Subsection 63M-4-702(2)[-]; and

(90) amounts paid to or charged by a proprietor for ~~{ a hotel accommodation at a lodging establishment }~~ accommodations and services, as defined in Section ~~{29-2-102}~~ 63H-1-205, ~~{ that }~~ if the proprietor is subject to the MIDA ~~{ lodging establishment }~~ accommodations tax ~~{ levied in accordance with }~~ imposed under Section 63H-1-205.

Section ~~{2}~~ 3. Section **59-28-108** is enacted to read:

59-28-108. Military installation development authority exemption.

Amounts paid or charged for ~~{ a hotel accommodation at a lodging establishment }~~ accommodations and services, as defined in Section ~~{29-2-102}~~ 63H-1-205, are exempt from the tax described in Section 59-28-103, if the ~~{ lodging establishment is }~~ amounts are paid to or charged by a proprietor subject to the MIDA ~~{ lodging establishment }~~ accommodations tax ~~{ levied in accordance with }~~ imposed under Section 63H-1-205.

Section ~~{3}~~ 4. Section **63H-1-102** is amended to read:

63H-1-102. Definitions.

As used in this chapter:

(1) "Authority" means the Military Installation Development Authority, created under Section 63H-1-201.

(2) "Base taxable value" means:

(a) for military land or other land that was exempt from a property tax at the time that a project area was created that included the military land or other land, a taxable value of zero; or

(b) for private property that is included in a project area, the taxable value of the property within any portion of the project area, as designated by board resolution, from which the property tax allocation will be collected, as shown upon the assessment roll last equalized before the year in which the authority ~~{ issues a building permit for a building within that portion of }~~ creates the project area.

(3) "Board" means the governing body of the authority created under Section 63H-1-301.

(4) (a) "Dedicated tax collections" means the property tax that remains after the authority is paid the property tax allocation ~~{ it }~~ the authority is entitled to receive under

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Subsection 63H-1-501(1), for a property tax levied by:

(i) a county, including a district the county has established under Subsection 17-34-3(2) to levy a property tax under Title 17, Chapter 34, Municipal-Type Services to Unincorporated Areas; or

(ii) an included municipality.

(b) "Dedicated tax collections" does not include a county additional property tax or multicounty assessing and collecting levy imposed in accordance with Section 59-2-1602.

(5) (a) "Development" means an activity occurring:

(i) on land within a project area that is owned or operated by the military, the authority, another public entity, or a private entity; or ~~[an activity occurring]~~

(ii) on military land associated with a project area.

(b) "Development" includes the demolition, construction, reconstruction, modification, expansion, or improvement of a building, facility, utility, landscape, parking lot, park, trail, or recreational amenity.

(6) "Development project" means a project to develop land within a project area.

(7) "Elected member" means a member of the authority board who:

(a) is a mayor or member of a legislative body appointed under Subsection 63H-1-302(2)(b); or

(b) (i) is appointed to the authority board under Subsection 63H-1-302(2)(a) or (3); and

(ii) concurrently serves in an elected state, county, or municipal office.

(8) "Included municipality" means a municipality, some or all of which is included within a project area.

~~{ (9) "Lodging establishment" means the same as that term is defined in Section 29-2-102.~~

~~— (10) "Master plan approval" means approval of the development by the authority or a jurisdictional land-use authority to which the authority has contractually granted land-use authority.~~

~~‡ { (9) } (11) (a) "Military" means a branch of the armed forces of the United States, including the Utah National Guard.~~

(b) "Military" includes, in relation to property, property that is occupied by the military and is owned by the government of the United States or the state.

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~~(10)~~~~(12)~~ "Military Installation Development Authority energy tax" or "MIDA energy tax" means the tax levied under Section 63H-1-204.

~~(13)~~11 "Military Installation Development Authority ~~lodging establishment~~accommodations tax" or "MIDA ~~lodging establishment~~accommodations tax" means the tax ~~levied~~imposed under Section 63H-1-205.

~~(11)~~ ~~(14)~~12 "Military land" means land or a facility, including leased land or a leased facility, that is part of or affiliated with a base, camp, post, station, yard, center, or installation under the jurisdiction of the United States Department of Defense or the Utah National Guard.

~~(12)~~ ~~(15)~~13 "Municipal energy tax" means a municipal energy sales and use tax under Title 10, Chapter 1, Part 3, Municipal Energy Sales and Use Tax Act.

~~(13)~~ ~~(16)~~14 "Municipal services revenue" means revenue that the authority:

- (a) collects from the authority's:
 - (i) levy of a municipal energy tax;
 - (ii) levy of a MIDA energy tax;
 - (iii) levy of a telecommunications tax;
 - (iv) imposition of a transient room tax; and
 - (v) imposition of a resort communities tax;
- (b) receives under Subsection 59-12-205(2)(b)(ii); and
- (c) receives as dedicated tax collections.

~~(14)~~ ~~(17)~~15 "Municipal tax" means a municipal energy tax, MIDA energy tax, MIDA ~~lodging establishment~~accommodations tax, telecommunications tax, transient room tax, or resort communities tax.

~~(15)~~ ~~(18)~~16 "Project area" means the land, including military land, whether consisting of a single contiguous area or multiple noncontiguous areas, described in a project area plan or draft project area plan, where the development project set forth in the project area plan or draft project area plan takes place or is proposed to take place.

~~(16)~~ ~~(19)~~17 "Project area budget" means a multiyear projection of annual or cumulative revenues and expenses and other fiscal matters pertaining to a project area that includes:

- (a) the base taxable value of property in the project area;

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(b) the projected property tax allocation expected to be generated within the project area;

(c) the amount of the property tax allocation expected to be shared with other taxing entities;

(d) the amount of the property tax allocation expected to be used to implement the project area plan, including the estimated amount of the property tax allocation to be used for land acquisition, public improvements, infrastructure improvements, and loans, grants, or other incentives to private and public entities;

(e) the property tax allocation expected to be used to cover the cost of administering the project area plan;

(f) if the property tax allocation is to be collected at different times or from different portions of the project area, or both:

(i) (A) the tax identification numbers of the parcels from which the property tax allocation will be collected; or

(B) a legal description of the portion of the project area from which the property tax allocation will be collected; and

(ii) an estimate of when other portions of the project area will become subject to collection of the property tax allocation; and

(g) for property that the authority owns or leases and expects to sell or sublease, the expected total cost of the property to the authority and the expected selling price or lease payments.

~~[(17)]~~ ~~(20;18)~~ "Project area plan" means a written plan that, after ~~[its]~~ the plan's effective date, guides and controls the development within a project area.

~~[(18)]~~ ~~(21;19)~~ (a) "Property tax" includes a privilege tax, except as described in Subsection ~~[(18)]~~ ~~(21;19)~~(b), and each levy on an ad valorem basis on tangible or intangible personal or real property.

(b) "Property tax" does not include a privilege tax on the taxable value:

(i) attributable to a portion of a facility leased to the military for a calendar year when:

~~[(+)]~~ (A) a lessee of military land has constructed a facility on the military land that is part of a project area;

~~[(+)]~~ (B) the lessee leases space in the facility to the military for the entire calendar

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year; and

~~[(iii)]~~ (C) the lease rate paid by the military for the space is \$1 or less for the entire calendar year, not including any common charges that are reimbursements for actual expenses[-]; or

(ii) of a hotel that is owned by the authority, regardless of whether the authority enters into a long-term operating agreement with a privately owned entity in which the privately owned entity agrees to operate the hotel.

~~[(19)]~~ ~~(+22+)~~20) "Property tax allocation" means the difference between:

(a) the amount of property tax revenues generated each tax year by all taxing entities from the area within a project area designated in the project area plan as the area from which the property tax allocation is to be collected, using the current assessed value of the property; and

(b) the amount of property tax revenues that would be generated from that same area using the base taxable value of the property.

~~[(20)]~~ ~~(+23+)~~21) "Public entity" means:

(a) the state, including each department or agency of the state; or

(b) a political subdivision of the state, including a county, city, town, school district, local district, special service district, or interlocal cooperation entity.

~~[(21)]~~ ~~(+24+)~~22) (a) "Publicly owned infrastructure and improvements" means infrastructure, improvements, facilities, or buildings that benefit the public and are:

(i) publicly owned by the military, the authority, or another public entity;

(ii) owned by a utility; or

(iii) publicly maintained or operated by the military, the authority, or another public entity.

(b) "Publicly owned infrastructure and improvements" includes:

(i) facilities, lines, or systems that provide water, chilled water, steam, sewer, storm drainage, natural gas, electricity, or telecommunications; and

(ii) streets, roads, curb, gutter, sidewalk, walkways, solid waste facilities, parking facilities, and public transportation facilities.

~~[(22)]~~ ~~(+25+)~~23) "Remaining municipal services revenue" means municipal services revenue that the authority has not:

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(a) spent during [its] the authority's fiscal year for municipal services as provided in Subsection 63H-1-503(1)[-]; or

(b) redirected to use in accordance with Subsection 63H-1-502(3).

[(23)] ~~(26)~~24 "Resort communities tax" means a sales and use tax imposed under Section 59-12-401.

[(24)] ~~(27)~~25 "Taxable value" means the value of property as shown on the last equalized assessment roll as certified by the county assessor.

[(25)] ~~(28)~~26 "Taxing entity" means a public entity that levies a tax on property within a project area.

[(26)] ~~(29)~~27 "Telecommunications tax" means a telecommunications license tax under Title 10, Chapter 1, Part 4, Municipal Telecommunications License Tax Act.

[(27)] ~~(30)~~28 "Transient room tax" means a tax under Section 59-12-352.

Section ~~4~~5. Section **63H-1-205** is enacted to read:

63H-1-205. MIDA ~~lodging establishment tax.~~

~~(1)~~accommodations tax.

(1) As used in this section:

(a) "Accommodations and services" means an accommodation or service described in Subsection 59-12-103(1)(i).

(b) "Accommodations and services" does not include amounts paid or charged that are not part of a rental room rate.

(2) By ordinance, the authority board may ~~levy~~impose a MIDA ~~lodging establishment tax on an operator of a lodging establishment within a project area, if the lodging establishment~~accommodations tax on a provider for amounts paid or charged for accommodations and services, if the place of accommodation is located on authority-owned or other government-owned property within the project area.

~~(2)~~3 The maximum rate of the MIDA ~~lodging establishment~~accommodations tax is 15% of the ~~operator's gross receipts received from nightly rentals for lodging, excluding the amount of tax paid on nightly rentals.~~

~~(3)~~ (a) ~~An operator of a lodging establishment~~amounts paid to or charged by the provider for accommodations and services.

(4) A provider may recover an amount equal to the MIDA ~~lodging~~

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~~establishment}~~accommodations tax from ~~{the lodging establishment's}~~ customers, if the ~~{operator of the lodging establishment}~~provider includes the amount as a separate billing line item.

~~{b} The MIDA lodging establishment tax levied under this section is in addition to the rate the operator of the lodging establishment charges to the customer.~~

~~{4}5~~ If the authority ~~{levies}~~imposes the tax described in this section, neither the authority nor a public entity may ~~{levy}~~impose, on the amounts paid or charged for accommodations and services, any other tax described in:

~~{a} Title 59, Chapter 12, Sales and Use Tax Act{, on the amounts paid or charged for a hotel accommodation at the lodging establishment.~~

~~{5} The MIDA lodging establishment tax is payable by the operator of the lodging establishment on a monthly basis as described in the ordinance levying the tax.~~

~~Section 5}~~; or

~~{b} Title 59, Chapter 28, State Transient Room Tax Act.~~

~~{6} Except as provided in Subsection (7) or (8), the tax imposed under this section shall be administered, collected, and enforced in accordance with:~~

~~{a} the same procedures used to administer, collect, and enforce the tax under:~~

~~{i} Title 59, Chapter 12, Part 1, Tax Collection; or~~

~~{ii} Title 59, Chapter 12, Part 2, Local Sales and Use Tax Act; and~~

~~{b} Title 59, Chapter 1, General Taxation Policies.~~

~~{7} The location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.~~

~~{8} A tax under this section is not subject to Section 59-12-107.1 or 59-12-123 or Subsections 59-12-205(2) through (7).~~

~~{9} The State Tax Commission shall:~~

~~{a} except as provided in Subsection (9)(b), distribute the revenue collected from the tax to the authority; and~~

~~{b} retain and deposit an administrative charge in accordance with Section 59-1-306 from revenue the commission collects from a tax under this section.~~

~~{10} (a) If the authority imposes, repeals, or changes the rate of tax under this section, the implementation, repeal, or change shall take effect:~~

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(i) on the first day of a calendar quarter; and

(ii) after a 90-day period beginning on the date the State Tax Commission receives the notice described in Subsection (10)(b) from the authority.

(b) The notice required in Subsection (10)(a)(ii) shall state:

(i) that the authority will impose, repeal, or change the rate of a tax under this section;

(ii) the effective date of the implementation, repeal, or change of the tax; and

(iii) the rate of the tax.

(11) In addition to the uses permitted under Section 63H-1-502, the authority may allocate revenue from the MIDA accommodations tax to a county in which a place of accommodation that is subject to the MIDA accommodations tax is located, if:

(a) the county had a transient room tax described in Section 59-12-301 in effect at the time the authority board imposed a MIDA accommodations tax by ordinance; and

(b) the revenue replaces revenue that the county received from a county transient room tax described Section 59-12-301 for the county's general operations and administrative expenses.

Section 6. Section **63H-1-302** is amended to read:

63H-1-302. Number of board members -- Appointment.

(1) The authority's board shall consist of seven members.

(2) ~~[Five]~~ The governor shall appoint five members of the board ~~[shall be appointed by the governor]~~ as follows:

(a) one member shall be appointed who is interested in supporting military efforts in the state;

(b) subject to Subsection (4)(d), three members shall be appointed, each of whom is a mayor or member of the legislative body of a municipality or county that is adjacent or in close proximity to a project area or proposed project area; and

(c) one member shall be appointed from the executive branch or a state agency that is involved with military issues.

(3) The president of the Senate and the speaker of the House of Representatives shall each appoint one board member.

(4) (a) Each vacancy shall be filled in the same manner under this section as the appointment of the member whose vacancy is being filled.

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(b) Each person appointed to fill a vacancy shall serve the remaining unexpired term of the member whose vacancy the person is filling.

(c) If a mayor or member of a legislative body appointed under Subsection (2)(b) leaves office as mayor or a member of the legislative body, a vacancy on the board occurs and the governor shall appoint another mayor or member of a legislative body, as provided in Subsection (2)(b), to fill the vacancy.

(d) If there are more than three project areas located in different counties or municipalities, ~~[at the expiration of a member's term who is appointed under Subsection (2)(b);]~~ the governor ~~[shall appoint]:~~

~~[(i) a mayor of a municipality or county that:]~~

~~[(A) is adjacent to or in close proximity to a project area; and]~~

~~[(B) is not already represented on the board; or]~~

~~[(ii) a member of a legislative body of a municipality or county that:]~~

~~[(A) is adjacent to or in close proximity to a project area; and]~~

~~[(B) is not already represented on the board.]~~

(i) shall appoint at least one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to the highest-value project area, as measured by the planned taxable value of the land within the project area to be developed by the private sector;

(ii) shall appoint at least one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to the second-highest-value project area, as measured by the planned taxable value of the land within the project area to be developed by the private sector; and

(iii) may appoint one member under Subsection (2)(b) who represents a municipality or county that is adjacent to or in close proximity to a project area for which there is no representation on the board.

(e) A member of the board appointed by the governor, president of the Senate, or speaker of the House of Representatives serves at the pleasure of and may be removed and replaced at any time, with or without cause, by the governor, president of the Senate, or speaker of the House of Representatives, respectively.

(5) The authority may:

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(a) appoint nonvoting members of the board, including a member from a municipality or county that is adjacent to or in close proximity to a project area for which there is no representation on the board under Subsection (2)(b); and

(b) set terms for nonvoting members appointed under Subsection (5)(a).

Section ~~67~~7. Section **63H-1-501** is amended to read:

63H-1-501. Authority receipt and use of property tax allocation -- Distribution of property tax allocation.

(1) (a) The authority may:

(i) subject to Subsection (1)(b), receive up to 75% of the property tax allocation for up to 25 years, as provided in this part; and

(ii) use the property tax allocation during and after the period described in Subsection (1)(a)(i).

(b) With respect to a parcel located within a project area, the 25-year period described in Subsection (1)(a)(i) shall begin on the day on which the authority receives the first property tax allocation from that parcel.

(2) ~~[[Improvements] If a project area does not contain private land,~~
~~improvements]~~Improvements on a parcel within ~~{[}a{[} that}~~ project area become subject to property tax on January 1 ~~{,}~~ immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to those improvements.

(3) ~~{ If a project area contains private land:~~

~~—— (a) a private parcel within that project area, including any improvements on that parcel, becomes subject to property tax above the base taxable value of that parcel on January 1, immediately following the day on which the authority or an entity designated by the authority issues a certificate of occupancy with respect to that parcel; and~~

~~—— (b) if;~~(a) If the authority or an entity designated by the authority has not issued a certificate of occupancy~~{, the authority may charge an annual fee to an owner of:~~

~~—— (i) } for~~ a private parcel~~{, without improvements on the parcel,}~~ within ~~{that project area in the amount of 1.2% of the parcel's land value, determined as}~~a project area, the private parcel owner shall enter into a contract with the authority to make an annual payment to the authority:

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(i) that is equal to the taxable value of the parcel above the base taxable value of the parcel; and

(ii) until the parcel becomes subject to the property tax described in Subsection (7)(2); and;

(ii) improvements under construction on a private parcel within that project area, as follows:

—— (A) the amount (b) The authority may use the revenue from payments described in Subsection (3)(b)(i) plus .3% of the value of the total improvements used to calculate the building permit fee for a parcel that only has at-grade or below-grade improvements installed on January 1;

—— (B) the amount (a) for any purpose described in Subsection 63H-1-502(3)(1)(b)(i) plus .6% of the value of the total improvements used to calculate the building permit fee for a parcel that has vertical improvements on January 1; or

—— (C) the amount described in Subsection (3)(b)(i) plus .9% of the value of the total improvements used to calculate the building permit fee for a parcel for which a building inspector grants power clearance on or before January 1}.

~~(3)~~ (4) Each county that collects property tax on property within a project area shall pay and distribute to the authority the property tax allocation and dedicated tax collections that the authority is entitled to collect under this title, in the manner and at the time provided in Section 59-2-1365.

~~(4)~~ (5) (a) The board shall determine by resolution when the entire project area or an individual parcel within a project area is subject to property tax allocation.

(b) The board shall amend the project area budget to reflect whether a parcel within a project area is subject to property tax allocation.

~~{ —— (6) The authority may use the revenue from the fee established in Subsection (3)(b) for any purpose described in Subsection 63H-1-502(1);~~

~~—— (7) (a) The authority shall determine a parcel's land value under Subsection (3)(b)(i) by:~~

~~—— (i) conducting, or hiring a person to conduct, an appraisal of the parcel at the following times:~~

~~—— (A) after master plan approval; and~~

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- ~~(B) after final subdivision approval; or~~
- ~~(ii) using an appraisal the parcel owner obtained for project financing purposes.~~
- ~~(b) The authority shall, by ordinance, adopt an appeal procedure that provides due process of law to a property owner contesting the appraised value of a parcel of land.~~

‡ Section ~~{7}~~8. Section **63H-1-502** is amended to read:

63H-1-502. Allowable uses of property tax allocation and other funds.

(1) Other than municipal services revenue, the authority may use the property tax allocation and other funds available to the authority:

- (a) for any purpose authorized under this chapter;
- (b) for administrative, overhead, legal, and other operating expenses of the authority;
- (c) to pay for, including financing or refinancing, all or part of the development of land within the project area from which the property tax allocation or other funds were collected, including assisting the ongoing operation of a development or facility within the project area;

(d) to pay the cost of the installation and construction of publicly owned infrastructure and improvements within the project area from which the property tax allocation funds were collected;

(e) to pay the cost of the installation of publicly owned infrastructure and improvements, including a passenger ropeway, as defined in Section 72-11-102, outside the project area if:

(i) the authority board determines by resolution that the infrastructure and improvements are of benefit to the project area; and

(ii) for a passenger ropeway, at least one end of the ropeway is located within the project area; ~~and~~

(f) to pay the principal and interest on bonds issued by the authority~~[-];~~ ~~or~~

~~(g) to pay for a morale, welfare, and recreation program of a United States Air Force base in Utah, affiliated with the project area from which the funds were collected~~ ~~[-];~~ ~~or~~

(h) to pay for the promotion of;

(i) a development within the project area; or

(ii) amenities outside of the project area that are associated with a development within the project area.

(2) The authority may use revenue generated from the operation of publicly owned

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infrastructure operated by the authority or improvements operated by the authority to:

- (a) operate and maintain the infrastructure or improvements; and
- (b) pay for authority operating expenses, including administrative, overhead, and legal

expenses.

- (3) For purposes of Subsection (1), the authority may use:

- (a) tax [~~revenues~~] revenue received under Subsection 59-12-205(2)(b)(ii);

- (b) resort communities tax [~~revenues generated from a project area that contains private land; and~~] revenue;

- (c) MIDA energy tax revenue, received under Section 63H-1-204, which does not have to be used in the project area where the revenue was generated[.];

- (d) MIDA ~~{lodging establishment}~~ accommodations tax revenue, received under Section 63H-1-205;

- (e) transient room tax revenue generated from hotels located on authority-owned or other public-entity-owned property;

- (f) municipal energy tax revenue generated from hotels located on authority-owned or other public-entity-owned property; or

- (g) ~~{fee revenue}~~ payments received under Subsection 63H-1-501(3)~~(b)~~.

- (4) The determination of the authority board under Subsection (1)(e) regarding benefit to the project area is final.

†

Legislative Review Note

Office of Legislative Research and General Counsel†