

MANUFACTURING AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: _____

LONG TITLE

General Description:

This bill amends a sales and use tax exemption for manufacturing.

Highlighted Provisions:

This bill:

- ▶ repeals a provision related to the economic life of machinery, equipment, or normal operating repair or replacement parts for purposes of a sales and use tax exemption related to certain business activities;
- ▶ amends the sales and use tax exemption to include certain materials; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-104, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6

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

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

59-12-104. Exemptions.



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:

(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

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

washing of tangible personal property;

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

(c) for purposes of Subsection (7)(b) and in accordance with Title 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:

121 (A) a drug;
122 (B) a syringe; or
123 (C) a stoma supply; and
124 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
125 commission may by rule define the terms:
126 (A) "syringe"; or
127 (B) "stoma supply";
128 (11) purchases or leases exempt under Section 19-12-201;
129 (12) (a) sales of an item described in Subsection (12)(c) served by:
130 (i) the following if the item described in Subsection (12)(c) is not available to the
131 general public:
132 (A) a church; or
133 (B) a charitable institution;
134 (ii) an institution of higher education if:
135 (A) the item described in Subsection (12)(c) is not available to the general public; or
136 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
137 offered by the institution of higher education; or
138 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
139 (i) a medical facility; or
140 (ii) a nursing facility; and
141 (c) Subsections (12)(a) and (b) apply to:
142 (i) food and food ingredients;
143 (ii) prepared food; or
144 (iii) alcoholic beverages;
145 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
146 or a product transferred electronically by a person:
147 (i) regardless of the number of transactions involving the sale of that tangible personal
148 property or product transferred electronically by that person; and
149 (ii) not regularly engaged in the business of selling that type of tangible personal
150 property or product transferred electronically;
151 (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 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) (a) amounts paid or charged for a purchase or lease:

(i) by a manufacturing facility located in the state; ~~and~~

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts ~~[have an economic life of three or more years and]~~ are used:

(A) in the manufacturing process to manufacture an item sold as tangible personal property; or

(B) for a scrap recycler, to process an item sold as tangible personal property; and

183 (iii) of materials, except for office equipment or office supplies, if those materials are
184 used or consumed:

185 (A) in the manufacturing process to manufacture an item sold as tangible personal
186 property; and

187 (B) for a scrap recycler, to process an item sold as tangible personal property;

188 (b) amounts paid or charged for a purchase or lease:

189 (i) by an establishment:

190 (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code
191 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or
192 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North
193 American Industry Classification System of the federal Executive Office of the President,
194 Office of Management and Budget; and

195 (B) located in the state; ~~[and]~~

196 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
197 machinery, equipment, or normal operating repair or replacement parts ~~[have an economic life~~
198 ~~of three or more years and]~~ are used in:

199 (A) the production process to produce an item sold as tangible personal property;

200 (B) research and development;

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

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

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

206 (iii) of materials, except for office equipment or office supplies, if those materials are
207 used or consumed in:

208 (A) the production process to produce an item sold as tangible personal property;

209 (B) research and development;

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

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

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

(c) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) 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; and

(B) located in the state; ~~[and]~~

(ii) 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 web search portal; and

~~[(B) have an economic life of three or more years; and]~~

(iii) of materials, except for office equipment or office supplies, if those materials are used or consumed in the operation of the web search portal;

(d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission:

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

(ii) may by rule define what constitutes:

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

(B) the production process, to produce an item sold as tangible personal property; or

(C) research and development;

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

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

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

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

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

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

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

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

(16) sales of newspapers or newspaper subscriptions;

(17) (a) except as provided in Subsection (17)(b), tangible personal property 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 electronically:

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

276 (II) contractor; or
277 (III) subcontractor; or
278 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
279 product transferred electronically if the tangible personal property or product transferred
280 electronically is exempt under Subsection (18)(a)(i); and
281 (b) amounts paid or charged for the following are subject to the taxes imposed by this
282 chapter:
283 (i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is
284 incidental to farming:
285 (I) machinery;
286 (II) equipment;
287 (III) materials; or
288 (IV) supplies; and
289 (B) tangible personal property that is considered to be used in a manner that is
290 incidental to farming includes:
291 (I) hand tools; or
292 (II) maintenance and janitorial equipment and supplies;
293 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
294 transferred electronically if the tangible personal property or product transferred electronically
295 is used in an activity other than farming; and
296 (B) tangible personal property or a product transferred electronically that is considered
297 to be used in an activity other than farming includes:
298 (I) office equipment and supplies; or
299 (II) equipment and supplies used in:
300 (Aa) the sale or distribution of farm products;
301 (Bb) research; or
302 (Cc) transportation; or
303 (iii) a vehicle required to be registered by the laws of this state during the period
304 ending two years after the date of the vehicle's purchase;
305 (19) sales of hay;
306 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or

307 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
308 garden, farm, or other agricultural produce is sold by:

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

311 (b) an employee of the producer described in Subsection (20)(a); or
312 (c) a member of the immediate family of the producer described in Subsection (20)(a);

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

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

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

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

321 (i) the product is:

322 (A) purchased outside of this state;

323 (B) brought into this state:

324 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
325 (II) by a nonresident person who is not living or working in this state at the time of the
326 purchase;

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

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

330 (ii) for:

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

333 (B) a boat, the boat is registered outside of this state; or
334 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
335 outside of this state;

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

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

- 338 (ii) a sale of a vehicle exempt under Subsection (33); and
- 339 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 340 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
- 341 following:
- 342 (i) conducting business in this state if that phrase has the same meaning in this
- 343 Subsection (24) as in Subsection (63);
- 344 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
- 345 as in Subsection (63); or
- 346 (iii) a purpose for which a product is designed if that phrase has the same meaning in
- 347 this Subsection (24) as in Subsection (63);
- 348 (25) a product purchased for resale in this state, in the regular course of business, either
- 349 in its original form or as an ingredient or component part of a manufactured or compounded
- 350 product;
- 351 (26) a product upon which a sales or use tax was paid to some other state, or one of its
- 352 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
- 353 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
- 354 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
- 355 Act;
- 356 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
- 357 person for use in compounding a service taxable under the subsections;
- 358 (28) purchases made in accordance with the special supplemental nutrition program for
- 359 women, infants, and children established in 42 U.S.C. Sec. 1786;
- 360 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
- 361 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
- 362 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
- 363 the President, Office of Management and Budget;
- 364 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
- 365 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
- 366 (a) not registered in this state; and
- 367 (b) (i) not used in this state; or
- 368 (ii) used in this state:

369 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
370 time period that does not exceed the longer of:
371 (I) 30 days in any calendar year; or
372 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
373 the borders of this state; or
374 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
375 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
376 state;
377 (31) sales of aircraft manufactured in Utah;
378 (32) amounts paid for the purchase of telecommunications service for purposes of
379 providing telecommunications service;
380 (33) sales, leases, or uses of the following:
381 (a) a vehicle by an authorized carrier; or
382 (b) tangible personal property that is installed on a vehicle:
383 (i) sold or leased to or used by an authorized carrier; and
384 (ii) before the vehicle is placed in service for the first time;
385 (34) (a) 45% of the sales price of any new manufactured home; and
386 (b) 100% of the sales price of any used manufactured home;
387 (35) sales relating to schools and fundraising sales;
388 (36) sales or rentals of durable medical equipment if:
389 (a) a person presents a prescription for the durable medical equipment; and
390 (b) the durable medical equipment is used for home use only;
391 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
392 Section 72-11-102; and
393 (b) the commission shall by rule determine the method for calculating sales exempt
394 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
395 (38) sales to a ski resort of:
396 (a) snowmaking equipment;
397 (b) ski slope grooming equipment;
398 (c) passenger ropeways as defined in Section 72-11-102; or
399 (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:

(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;

(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:

462 (i) ingot;
463 (ii) bar;
464 (iii) medallion; or
465 (iv) decorative coin;
466 (52) amounts paid on a sale-leaseback transaction;
467 (53) sales of a prosthetic device:
468 (a) for use on or in a human; and
469 (b) (i) for which a prescription is required; or
470 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
471 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
472 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
473 or equipment is primarily used in the production or postproduction of the following media for
474 commercial distribution:
475 (i) a motion picture;
476 (ii) a television program;
477 (iii) a movie made for television;
478 (iv) a music video;
479 (v) a commercial;
480 (vi) a documentary; or
481 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
482 commission by administrative rule made in accordance with Subsection (54)(d); or
483 (b) purchases, leases, or rentals of machinery or equipment by an establishment
484 described in Subsection (54)(c) that is used for the production or postproduction of the
485 following are subject to the taxes imposed by this chapter:
486 (i) a live musical performance;
487 (ii) a live news program; or
488 (iii) a live sporting event;
489 (c) the following establishments listed in the 1997 North American Industry
490 Classification System of the federal Executive Office of the President, Office of Management
491 and Budget, apply to Subsections (54)(a) and (b):
492 (i) NAICS Code 512110; or

493 (ii) NAICS Code 51219; and
494 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
495 commission may by rule:
496 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
497 or
498 (ii) define:
499 (A) "commercial distribution";
500 (B) "live musical performance";
501 (C) "live news program"; or
502 (D) "live sporting event";
503 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
504 on or before June 30, 2027, of tangible personal property that:
505 (i) is leased or purchased for or by a facility that:
506 (A) is an alternative energy electricity production facility;
507 (B) is located in the state; and
508 (C) (I) becomes operational on or after July 1, 2004; or
509 (II) has its generation capacity increased by one or more megawatts on or after July 1,
510 2004, as a result of the use of the tangible personal property;
511 (ii) has an economic life of five or more years; and
512 (iii) is used to make the facility or the increase in capacity of the facility described in
513 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
514 transmission grid including:
515 (A) a wind turbine;
516 (B) generating equipment;
517 (C) a control and monitoring system;
518 (D) a power line;
519 (E) substation equipment;
520 (F) lighting;
521 (G) fencing;
522 (H) pipes; or
523 (I) other equipment used for locating a power line or pole; and

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

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

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

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

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

529 and

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

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

532 acquired after:

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

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

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

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

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

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

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

540 (A) is a waste energy production facility;

541 (B) is located in the state; and

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

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

544 2004, as a result of the use of the tangible personal property;

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

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

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

548 transmission grid including:

549 (A) generating equipment;

550 (B) a control and monitoring system;

551 (C) a power line;

552 (D) substation equipment;

553 (E) lighting;

554 (F) fencing;

555 (G) pipes; or
556 (H) other equipment used for locating a power line or pole; and
557 (b) this Subsection (56) does not apply to:
558 (i) tangible personal property used in construction of:
559 (A) a new waste energy facility; or
560 (B) the increase in the capacity of a waste energy facility;
561 (ii) contracted services required for construction and routine maintenance activities;
562 and
563 (iii) unless the tangible personal property is used or acquired for an increase in capacity
564 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
565 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
566 described in Subsection (56)(a)(iii); or
567 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
568 in Subsection (56)(a)(iii);
569 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
570 or before June 30, 2027, of tangible personal property that:
571 (i) is leased or purchased for or by a facility that:
572 (A) is located in the state;
573 (B) produces fuel from alternative energy, including:
574 (I) methanol; or
575 (II) ethanol; and
576 (C) (I) becomes operational on or after July 1, 2004; or
577 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
578 a result of the installation of the tangible personal property;
579 (ii) has an economic life of five or more years; and
580 (iii) is installed on the facility described in Subsection (57)(a)(i);
581 (b) this Subsection (57) does not apply to:
582 (i) tangible personal property used in construction of:
583 (A) a new facility described in Subsection (57)(a)(i); or
584 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
585 (ii) contracted services required for construction and routine maintenance activities;

586 and

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

589 (A) the facility described in Subsection (57)(a)(i) is operational; or

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

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

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

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

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

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

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

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

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

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

611 (59) purchases:

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

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

614 (A) names; or

615 (B) addresses; or

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

617 (A) names; or
618 (B) addresses; and
619 (b) used to send direct mail;
620 (60) redemptions or repurchases of a product by a person if that product was:
621 (a) delivered to a pawnbroker as part of a pawn transaction; and
622 (b) redeemed or repurchased within the time period established in a written agreement
623 between the person and the pawnbroker for redeeming or repurchasing the product;
624 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
625 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
626 and
627 (ii) has a useful economic life of one or more years; and
628 (b) the following apply to Subsection (61)(a):
629 (i) telecommunications enabling or facilitating equipment, machinery, or software;
630 (ii) telecommunications equipment, machinery, or software required for 911 service;
631 (iii) telecommunications maintenance or repair equipment, machinery, or software;
632 (iv) telecommunications switching or routing equipment, machinery, or software; or
633 (v) telecommunications transmission equipment, machinery, or software;
634 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
635 personal property or a product transferred electronically that are used in the research and
636 development of alternative energy technology; and
637 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
638 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
639 purchases of tangible personal property or a product transferred electronically that are used in
640 the research and development of alternative energy technology;
641 (63) (a) purchases of tangible personal property or a product transferred electronically
642 if:
643 (i) the tangible personal property or product transferred electronically is:
644 (A) purchased outside of this state;
645 (B) brought into this state at any time after the purchase described in Subsection
646 (63)(a)(i)(A); and
647 (C) used in conducting business in this state; and

648 (ii) for:

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

650 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property

651 for a purpose for which the property is designed occurs outside of this state; or

652 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

653 outside of this state;

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

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

656 or

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

658 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

659 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

660 following:

661 (i) conducting business in this state if that phrase has the same meaning in this

662 Subsection (63) as in Subsection (24);

663 (ii) the first use of tangible personal property or a product transferred electronically if

664 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

665 (iii) a purpose for which tangible personal property or a product transferred

666 electronically is designed if that phrase has the same meaning in this Subsection (63) as in

667 Subsection (24);

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

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

670 supplies;

671 (b) the disposable home medical equipment or supplies are used exclusively by the

672 person to whom the prescription described in Subsection (64)(a) is issued; and

673 (c) the disposable home medical equipment and supplies are listed as eligible for

674 payment under:

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

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

677 (65) sales:

678 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

679 District Act; or
680 (b) of tangible personal property to a subcontractor of a public transit district, if the
681 tangible personal property is:
682 (i) clearly identified; and
683 (ii) installed or converted to real property owned by the public transit district;
684 (66) sales of construction materials:
685 (a) purchased on or after July 1, 2010;
686 (b) purchased by, on behalf of, or for the benefit of an international airport:
687 (i) located within a county of the first class; and
688 (ii) that has a United States customs office on its premises; and
689 (c) if the construction materials are:
690 (i) clearly identified;
691 (ii) segregated; and
692 (iii) installed or converted to real property:
693 (A) owned or operated by the international airport described in Subsection (66)(b); and
694 (B) located at the international airport described in Subsection (66)(b);
695 (67) sales of construction materials:
696 (a) purchased on or after July 1, 2008;
697 (b) purchased by, on behalf of, or for the benefit of a new airport:
698 (i) located within a county of the second class; and
699 (ii) that is owned or operated by a city in which an airline as defined in Section
700 59-2-102 is headquartered; and
701 (c) if the construction materials are:
702 (i) clearly identified;
703 (ii) segregated; and
704 (iii) installed or converted to real property:
705 (A) owned or operated by the new airport described in Subsection (67)(b);
706 (B) located at the new airport described in Subsection (67)(b); and
707 (C) as part of the construction of the new airport described in Subsection (67)(b);
708 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
709 (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:

(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:

741 (i) for the machinery and equipment described in Subsection (74)(a); and
742 (ii) that have an economic life of three or more years;
743 (75) a sale or lease of tangible personal property used in the preparation of prepared
744 food if:
745 (a) for a sale:
746 (i) the ownership of the seller and the ownership of the purchaser are identical; and
747 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
748 tangible personal property prior to making the sale; or
749 (b) for a lease:
750 (i) the ownership of the lessor and the ownership of the lessee are identical; and
751 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
752 personal property prior to making the lease;
753 (76) (a) purchases of machinery or equipment if:
754 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
755 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
756 System of the federal Executive Office of the President, Office of Management and Budget;
757 (ii) the machinery or equipment:
758 (A) has an economic life of three or more years; and
759 (B) is used by one or more persons who pay admission or user fees described in
760 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
761 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
762 (A) amounts paid or charged as admission or user fees described in Subsection
763 59-12-103(1)(f); and
764 (B) subject to taxation under this chapter; and
765 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
766 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
767 previous calendar quarter is:
768 (i) amounts paid or charged as admission or user fees described in Subsection
769 59-12-103(1)(f); and
770 (ii) subject to taxation under this chapter;
771 (77) purchases of a short-term lodging consumable by a business that provides

772 accommodations and services described in Subsection 59-12-103(1)(i);
773 (78) amounts paid or charged to access a database:
774 (a) if the primary purpose for accessing the database is to view or retrieve information
775 from the database; and
776 (b) not including amounts paid or charged for a:
777 (i) digital audiowork;
778 (ii) digital audio-visual work; or
779 (iii) digital book;
780 (79) amounts paid or charged for a purchase or lease made by an electronic financial
781 payment service, of:
782 (a) machinery and equipment that:
783 (i) are used in the operation of the electronic financial payment service; and
784 (ii) have an economic life of three or more years; and
785 (b) normal operating repair or replacement parts that:
786 (i) are used in the operation of the electronic financial payment service; and
787 (ii) have an economic life of three or more years;
788 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
789 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
790 product transferred electronically if the tangible personal property or product transferred
791 electronically:
792 (a) is stored, used, or consumed in the state; and
793 (b) is temporarily brought into the state from another state:
794 (i) during a disaster period as defined in Section 53-2a-1202;
795 (ii) by an out-of-state business as defined in Section 53-2a-1202;
796 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
797 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
798 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
799 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
800 Recreation Program;
801 (83) amounts paid or charged for a purchase or lease of molten magnesium;
802 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a

803 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
804 materials, or normal operating repair or replacement parts:
805 (i) that are used or consumed exclusively in the drilling equipment manufacturer's
806 manufacturing process; and
807 (ii) except for office:
808 (A) equipment; or
809 (B) supplies; and
810 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an
811 exemption described in Subsection (84)(a) only by filing for a refund:
812 (i) of 50% of the tax paid on the amounts paid or charged; and
813 (ii) in accordance with Section [59-1-1410](#); and
814 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise
815 data center of machinery, equipment, or normal operating repair or replacement parts, if the
816 machinery, equipment, or normal operating repair or replacement parts:
817 (a) are used in the operation of the establishment; and
818 (b) have an economic life of one or more years.
819 Section 2. **Effective date.**
820 This bill takes effect on July 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel