

Senator J. Stuart Adams proposes the following substitute bill:

REFINERY SALES AND USE TAX EXEMPTION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: Brad R. Wilson

LONG TITLE

General Description:

This bill modifies provisions relating to a sales and use tax exemptions for certain refineries.

Highlighted Provisions:

This bill:

- ▶ provides definitions;
- ▶ provides a sales and use tax exemption for amounts paid or charged for a purchase or lease of machinery, equipment, normal operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies by a refiner;
- ▶ provides that beginning on a certain date, a refiner that seeks to be eligible for the sales and use tax exemption shall annually report certain information to the Office of Energy Development;
- ▶ requires the Office of Energy Development to annually certify that the refiner is eligible for the sales and use tax exemption if the refiner's refinery that is located within the state meets certain fuel standards;
- ▶ grants the Office of Energy Development rulemaking authority to administer the certification requirements; and
- ▶ makes technical and conforming changes.



26 **Money Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 This bill provides a special effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-12-104**, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6

33 ENACTS:

34 **63M-4-701**, Utah Code Annotated 1953

35 **63M-4-702**, Utah Code Annotated 1953



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

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

39 **59-12-104. Exemptions.**

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

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

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

45 (a) construction materials except:

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

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

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

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

- 57 (i) the proceeds of each sale do not exceed \$1; and
- 58 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
- 59 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 60 (b) Subsection (3)(a) applies to:
 - 61 (i) food and food ingredients; or
 - 62 (ii) prepared food;
- 63 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
 - 64 (i) alcoholic beverages;
 - 65 (ii) food and food ingredients; or
 - 66 (iii) prepared food;
- 67 (b) sales of tangible personal property or a product transferred electronically:
 - 68 (i) to a passenger;
 - 69 (ii) by a commercial airline carrier; and
 - 70 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 71 (c) services related to Subsection (4)(a) or (b);
- 72 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 73 and equipment:
 - 74 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
 - 75 North American Industry Classification System of the federal Executive Office of the
 - 76 President, Office of Management and Budget; and
 - 77 (II) for:
 - 78 (Aa) installation in an aircraft, including services relating to the installation of parts or
 - 79 equipment in the aircraft;
 - 80 (Bb) renovation of an aircraft; or
 - 81 (Cc) repair of an aircraft; or
 - 82 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
 - 83 commerce; or
 - 84 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
 - 85 aircraft operated by a common carrier in interstate or foreign commerce; and
 - 86 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
 - 87 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

88 refund:

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

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

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

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

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

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

97 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
98 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
99 exhibitor, distributor, or commercial television or radio broadcaster;

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

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

108 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
109 Utah Administrative Rulemaking Act, the commission may make rules:

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

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

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

117 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
118 this state if the vehicle is:

- 119 (a) not registered in this state; and
- 120 (b) (i) not used in this state; or
- 121 (ii) used in this state:
- 122 (A) if the vehicle is not used to conduct business, for a time period that does not
- 123 exceed the longer of:
- 124 (I) 30 days in any calendar year; or
- 125 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 126 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 127 the vehicle to the borders of this state;
- 128 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 129 (i) the item is intended for human use; and
- 130 (ii) (A) a prescription was issued for the item; or
- 131 (B) the item was purchased by a hospital or other medical facility; and
- 132 (b) (i) Subsection (10)(a) applies to:
- 133 (A) a drug;
- 134 (B) a syringe; or
- 135 (C) a stoma supply; and
- 136 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 137 commission may by rule define the terms:
- 138 (A) "syringe"; or
- 139 (B) "stoma supply";
- 140 (11) purchases or leases exempt under Section [19-12-201](#);
- 141 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 142 (i) the following if the item described in Subsection (12)(c) is not available to the
- 143 general public:
- 144 (A) a church; or
- 145 (B) a charitable institution;
- 146 (ii) an institution of higher education if:
- 147 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 148 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 149 offered by the institution of higher education; or

- 150 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 151 (i) a medical facility; or
- 152 (ii) a nursing facility; and
- 153 (c) Subsections (12)(a) and (b) apply to:
- 154 (i) food and food ingredients;
- 155 (ii) prepared food; or
- 156 (iii) alcoholic beverages;
- 157 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 158 or a product transferred electronically by a person:
- 159 (i) regardless of the number of transactions involving the sale of that tangible personal
- 160 property or product transferred electronically by that person; and
- 161 (ii) not regularly engaged in the business of selling that type of tangible personal
- 162 property or product transferred electronically;
- 163 (b) this Subsection (13) does not apply if:
- 164 (i) the sale is one of a series of sales of a character to indicate that the person is
- 165 regularly engaged in the business of selling that type of tangible personal property or product
- 166 transferred electronically;
- 167 (ii) the person holds that person out as regularly engaged in the business of selling that
- 168 type of tangible personal property or product transferred electronically;
- 169 (iii) the person sells an item of tangible personal property or product transferred
- 170 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 171 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 172 this state in which case the tax is based upon:
- 173 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 174 sold; or
- 175 (B) in the absence of a bill of sale or other written evidence of value, the fair market
- 176 value of the vehicle or vessel being sold at the time of the sale as determined by the
- 177 commission; and
- 178 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 179 commission shall make rules establishing the circumstances under which:
- 180 (i) a person is regularly engaged in the business of selling a type of tangible personal

181 property or product transferred electronically;

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

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

187 (14) (a) amounts paid or charged for a purchase or lease:

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

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

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

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

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

196 (i) by an establishment:

197 (A) described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS Code
198 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal Mining, or
199 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the 2002 North
200 American Industry Classification System of the federal Executive Office of the President,
201 Office of Management and Budget; and

202 (B) located in the state; and

203 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
204 machinery, equipment, or normal operating repair or replacement parts have an economic life
205 of three or more years and are used in:

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

207 (B) research and development;

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

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

212 (E) preventing, controlling, or reducing dust or other pollutants from mining;
213 (c) amounts paid or charged for a purchase or lease:
214 (i) by an establishment:
215 (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North
216 American Industry Classification System of the federal Executive Office of the President,
217 Office of Management and Budget; and
218 (B) located in the state; and
219 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
220 machinery, equipment, or normal operating repair or replacement parts:
221 (A) are used in the operation of the web search portal; and
222 (B) have an economic life of three or more years; and
223 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
224 Utah Administrative Rulemaking Act, the commission:
225 (i) shall by rule define the term "establishment"; and
226 (ii) may by rule define what constitutes:
227 (A) processing an item sold as tangible personal property;
228 (B) the production process, to produce an item sold as tangible personal property; or
229 (C) research and development;
230 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
231 (i) tooling;
232 (ii) special tooling;
233 (iii) support equipment;
234 (iv) special test equipment; or
235 (v) parts used in the repairs or renovations of tooling or equipment described in
236 Subsections (15)(a)(i) through (iv); and
237 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
238 (i) the tooling, equipment, or parts are used or consumed exclusively in the
239 performance of any aerospace or electronics industry contract with the United States
240 government or any subcontract under that contract; and
241 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
242 title to the tooling, equipment, or parts is vested in the United States government as evidenced

243 by:

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

245 (B) listing on a government-approved property record if placing a government

246 identification tag on the tooling, equipment, or parts is impractical;

247 (16) sales of newspapers or newspaper subscriptions;

248 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a

249 product transferred electronically traded in as full or part payment of the purchase price, except

250 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

251 trade-ins are limited to other vehicles only, and the tax is based upon:

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

253 vehicle being traded in; or

254 (ii) in the absence of a bill of sale or other written evidence of value, the then existing

255 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

256 commission; and

257 (b) Subsection (17)(a) does not apply to the following items of tangible personal

258 property or products transferred electronically traded in as full or part payment of the purchase

259 price:

260 (i) money;

261 (ii) electricity;

262 (iii) water;

263 (iv) gas; or

264 (v) steam;

265 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property

266 or a product transferred electronically used or consumed primarily and directly in farming

267 operations, regardless of whether the tangible personal property or product transferred

268 electronically:

269 (A) becomes part of real estate; or

270 (B) is installed by a:

271 (I) farmer;

272 (II) contractor; or

273 (III) subcontractor; or

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

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

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

- 281 (I) machinery;
- 282 (II) equipment;
- 283 (III) materials; or
- 284 (IV) supplies; and

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

- 287 (I) hand tools; or
- 288 (II) maintenance and janitorial equipment and supplies;

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

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

- 294 (I) office equipment and supplies; or
- 295 (II) equipment and supplies used in:
 - 296 (Aa) the sale or distribution of farm products;
 - 297 (Bb) research; or
 - 298 (Cc) transportation; or

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

301 (19) sales of hay;

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

- 305 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
306 agricultural produce;
- 307 (b) an employee of the producer described in Subsection (20)(a); or
- 308 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 309 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
310 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 311 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
312 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
313 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
314 manufacturer, processor, wholesaler, or retailer;
- 315 (23) a product stored in the state for resale;
- 316 (24) (a) purchases of a product if:
- 317 (i) the product is:
- 318 (A) purchased outside of this state;
- 319 (B) brought into this state:
- 320 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 321 (II) by a nonresident person who is not living or working in this state at the time of the
322 purchase;
- 323 (C) used for the personal use or enjoyment of the nonresident person described in
324 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 325 (D) not used in conducting business in this state; and
- 326 (ii) for:
- 327 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
328 the product for a purpose for which the product is designed occurs outside of this state;
- 329 (B) a boat, the boat is registered outside of this state; or
- 330 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
331 outside of this state;
- 332 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 333 (i) a lease or rental of a product; or
- 334 (ii) a sale of a vehicle exempt under Subsection (33); and
- 335 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

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

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

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

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

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

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

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

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

356 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
357 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
358 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
359 the President, Office of Management and Budget;

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

362 (a) not registered in this state; and

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

364 (ii) used in this state:

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

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

398 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
399 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
400 [59-12-102](#);

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

406 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
407 Utah Administrative Rulemaking Act, the commission may make rules:

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

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

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

414 (i) a governmental entity; or

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

416 (A) a school; or

417 (B) the State Board of Education; or

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

419 (42) amounts paid for admission to an athletic event at an institution of higher
420 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
421 20 U.S.C. Sec. 1681 et seq.;

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

423 (i) an area agency on aging; or

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

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

426 (44) sales or leases of semiconductor fabricating, processing, research, or development
427 materials regardless of whether the semiconductor fabricating, processing, research, or
428 development materials:

- 429 (a) actually come into contact with a semiconductor; or
- 430 (b) ultimately become incorporated into real property;
- 431 (45) an amount paid by or charged to a purchaser for accommodations and services
- 432 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 433 59-12-104.2;
- 434 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 435 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 436 specified on the temporary sports event registration certificate;
- 437 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 438 adopted by the Public Service Commission only for purchase of electricity produced from a
- 439 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 440 Public Service Commission;
- 441 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 442 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 443 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 444 customer would have paid absent the tariff;
- 445 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 446 prescription for the mobility enhancing equipment;
- 447 (49) sales of water in a:
- 448 (a) pipe;
- 449 (b) conduit;
- 450 (c) ditch; or
- 451 (d) reservoir;
- 452 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 453 or a foreign nation;
- 454 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 455 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 456 (ii) has a gold, silver, or platinum content of 50% or more; and
- 457 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 458 (i) ingot;
- 459 (ii) bar;

460 (iii) medallion; or
461 (iv) decorative coin;
462 (52) amounts paid on a sale-leaseback transaction;
463 (53) sales of a prosthetic device:
464 (a) for use on or in a human; and
465 (b) (i) for which a prescription is required; or
466 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
467 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
468 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
469 or equipment is primarily used in the production or postproduction of the following media for
470 commercial distribution:
471 (i) a motion picture;
472 (ii) a television program;
473 (iii) a movie made for television;
474 (iv) a music video;
475 (v) a commercial;
476 (vi) a documentary; or
477 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
478 commission by administrative rule made in accordance with Subsection (54)(d); or
479 (b) purchases, leases, or rentals of machinery or equipment by an establishment
480 described in Subsection (54)(c) that is used for the production or postproduction of the
481 following are subject to the taxes imposed by this chapter:
482 (i) a live musical performance;
483 (ii) a live news program; or
484 (iii) a live sporting event;
485 (c) the following establishments listed in the 1997 North American Industry
486 Classification System of the federal Executive Office of the President, Office of Management
487 and Budget, apply to Subsections (54)(a) and (b):
488 (i) NAICS Code 512110; or
489 (ii) NAICS Code 51219; and
490 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

491 commission may by rule:

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

493 or

494 (ii) define:

495 (A) "commercial distribution";

496 (B) "live musical performance";

497 (C) "live news program"; or

498 (D) "live sporting event";

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

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

502 (A) is an alternative energy electricity production facility;

503 (B) is located in the state; and

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

505 (II) has its generation capacity increased by one or more megawatts on or after July 1,
506 2004, as a result of the use of the tangible personal property;

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

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

509 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
510 transmission grid including:

511 (A) a wind turbine;

512 (B) generating equipment;

513 (C) a control and monitoring system;

514 (D) a power line;

515 (E) substation equipment;

516 (F) lighting;

517 (G) fencing;

518 (H) pipes; or

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

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

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

- 522 (A) a new alternative energy electricity production facility; or
- 523 (B) the increase in the capacity of an alternative energy electricity production facility;
- 524 (ii) contracted services required for construction and routine maintenance activities;
- 525 and
- 526 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 527 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
- 528 acquired after:
 - 529 (A) the alternative energy electricity production facility described in Subsection
 - 530 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
 - 531 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
 - 532 in Subsection (55)(a)(iii);
 - 533 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
 - 534 on or before June 30, 2027, of tangible personal property that:
 - 535 (i) is leased or purchased for or by a facility that:
 - 536 (A) is a waste energy production facility;
 - 537 (B) is located in the state; and
 - 538 (C) (I) becomes operational on or after July 1, 2004; or
 - 539 (II) has its generation capacity increased by one or more megawatts on or after July 1,
 - 540 2004, as a result of the use of the tangible personal property;
 - 541 (ii) has an economic life of five or more years; and
 - 542 (iii) is used to make the facility or the increase in capacity of the facility described in
 - 543 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
 - 544 transmission grid including:
 - 545 (A) generating equipment;
 - 546 (B) a control and monitoring system;
 - 547 (C) a power line;
 - 548 (D) substation equipment;
 - 549 (E) lighting;
 - 550 (F) fencing;
 - 551 (G) pipes; or
 - 552 (H) other equipment used for locating a power line or pole; and

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

584 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

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

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

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

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

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

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

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

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

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

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

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

607 (59) purchases:

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

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

610 (A) names; or

611 (B) addresses; or

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

613 (A) names; or

614 (B) addresses; and

615 (b) used to send direct mail;

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

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

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

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

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

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

622 and

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

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

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

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

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

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

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

630 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible

631 personal property or a product transferred electronically that are used in the research and

632 development of alternative energy technology; and

633 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

634 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

635 purchases of tangible personal property or a product transferred electronically that are used in

636 the research and development of alternative energy technology;

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

638 if:

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

640 (A) purchased outside of this state;

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

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

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

644 (ii) for:

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

646 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
647 for a purpose for which the property is designed occurs outside of this state; or
648 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
649 outside of this state;
650 (b) the exemption provided for in Subsection (63)(a) does not apply to:
651 (i) a lease or rental of tangible personal property or a product transferred electronically;
652 or
653 (ii) a sale of a vehicle exempt under Subsection (33); and
654 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
655 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
656 following:
657 (i) conducting business in this state if that phrase has the same meaning in this
658 Subsection (63) as in Subsection (24);
659 (ii) the first use of tangible personal property or a product transferred electronically if
660 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
661 (iii) a purpose for which tangible personal property or a product transferred
662 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
663 Subsection (24);
664 (64) sales of disposable home medical equipment or supplies if:
665 (a) a person presents a prescription for the disposable home medical equipment or
666 supplies;
667 (b) the disposable home medical equipment or supplies are used exclusively by the
668 person to whom the prescription described in Subsection (64)(a) is issued; and
669 (c) the disposable home medical equipment and supplies are listed as eligible for
670 payment under:
671 (i) Title XVIII, federal Social Security Act; or
672 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
673 (65) sales:
674 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
675 District Act; or
676 (b) of tangible personal property to a subcontractor of a public transit district, if the

677 tangible personal property is:

678 (i) clearly identified; and

679 (ii) installed or converted to real property owned by the public transit district;

680 (66) sales of construction materials:

681 (a) purchased on or after July 1, 2010;

682 (b) purchased by, on behalf of, or for the benefit of an international airport:

683 (i) located within a county of the first class; and

684 (ii) that has a United States customs office on its premises; and

685 (c) if the construction materials are:

686 (i) clearly identified;

687 (ii) segregated; and

688 (iii) installed or converted to real property:

689 (A) owned or operated by the international airport described in Subsection (66)(b); and

690 (B) located at the international airport described in Subsection (66)(b);

691 (67) sales of construction materials:

692 (a) purchased on or after July 1, 2008;

693 (b) purchased by, on behalf of, or for the benefit of a new airport:

694 (i) located within a county of the second class; and

695 (ii) that is owned or operated by a city in which an airline as defined in Section

696 [59-2-102](#) is headquartered; and

697 (c) if the construction materials are:

698 (i) clearly identified;

699 (ii) segregated; and

700 (iii) installed or converted to real property:

701 (A) owned or operated by the new airport described in Subsection (67)(b);

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

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

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

705 (69) purchases and sales described in Section [63H-4-111](#);

706 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and

707 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

708 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
709 lists a state or country other than this state as the location of registry of the fixed wing turbine
710 powered aircraft; or

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

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

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

718 (b) by a seller, other than a bookstore owned by an institution of higher education, if
719 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
720 textbook for a higher education course;

721 (72) a license fee or tax a municipality imposes in accordance with Subsection
722 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
723 level of municipal services;

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

727 (a) clearly identified;

728 (b) segregated; and

729 (c) installed or converted to real property;

730 (74) amounts paid or charged for:

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

732 (i) are used in performing qualified research:

733 (A) as defined in Section 41(d), Internal Revenue Code; and

734 (B) in the state; and

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

736 (b) normal operating repair or replacement parts:

737 (i) for the machinery and equipment described in Subsection (74)(a); and

738 (ii) that have an economic life of three or more years;

739 (75) a sale or lease of tangible personal property used in the preparation of prepared
740 food if:

741 (a) for a sale:

742 (i) the ownership of the seller and the ownership of the purchaser are identical; and

743 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
744 tangible personal property prior to making the sale; or

745 (b) for a lease:

746 (i) the ownership of the lessor and the ownership of the lessee are identical; and

747 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
748 personal property prior to making the lease;

749 (76) (a) purchases of machinery or equipment if:

750 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
751 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
752 System of the federal Executive Office of the President, Office of Management and Budget;

753 (ii) the machinery or equipment:

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

755 (B) is used by one or more persons who pay admission or user fees described in
756 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

757 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

758 (A) amounts paid or charged as admission or user fees described in Subsection
759 59-12-103(1)(f); and

760 (B) subject to taxation under this chapter; and

761 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
762 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
763 previous calendar quarter is:

764 (i) amounts paid or charged as admission or user fees described in Subsection
765 59-12-103(1)(f); and

766 (ii) subject to taxation under this chapter;

767 (77) purchases of a short-term lodging consumable by a business that provides
768 accommodations and services described in Subsection 59-12-103(1)(i);

769 (78) amounts paid or charged to access a database:

770 (a) if the primary purpose for accessing the database is to view or retrieve information
771 from the database; and

772 (b) not including amounts paid or charged for a:

773 (i) digital audiowork;

774 (ii) digital audio-visual work; or

775 (iii) digital book;

776 (79) amounts paid or charged for a purchase or lease made by an electronic financial
777 payment service, of:

778 (a) machinery and equipment that:

779 (i) are used in the operation of the electronic financial payment service; and

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

781 (b) normal operating repair or replacement parts that:

782 (i) are used in the operation of the electronic financial payment service; and

783 (ii) have an economic life of three or more years;

784 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

785 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
786 product transferred electronically if the tangible personal property or product transferred
787 electronically:

788 (a) is stored, used, or consumed in the state; and

789 (b) is temporarily brought into the state from another state:

790 (i) during a disaster period as defined in Section 53-2a-1202;

791 (ii) by an out-of-state business as defined in Section 53-2a-1202;

792 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and

793 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

794 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
795 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
796 Recreation Program;

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

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

- 801 (i) that are used or consumed exclusively in the drilling equipment manufacturer's
802 manufacturing process; and
- 803 (ii) except for office:
- 804 (A) equipment; or
- 805 (B) supplies; and
- 806 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an
807 exemption described in Subsection (84)(a) only by filing for a refund:
- 808 (i) of 50% of the tax paid on the amounts paid or charged; and
- 809 (ii) in accordance with Section [59-1-1410](#); ~~and~~
- 810 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise
811 data center of machinery, equipment, or normal operating repair or replacement parts, if the
812 machinery, equipment, or normal operating repair or replacement parts:
- 813 (a) are used in the operation of the establishment; and
- 814 (b) have an economic life of one or more years[-]; and
- 815 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
816 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
817 or consumed:
- 818 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
819 in Section [63M-4-701](#) located in the state;
- 820 (b) if the machinery, equipment, normal operating repair or replacement parts,
821 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- 822 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
823 added to gasoline or diesel fuel;
- 824 (ii) research and development;
- 825 (iii) transporting, storing, or managing raw materials, work in process, finished
826 products, and waste materials produced from refining gasoline or diesel fuel, or adding
827 blendstock to gasoline or diesel fuel;
- 828 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
829 refining; or
- 830 (v) preventing, controlling, or reducing pollutants from refining; and
- 831 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office

832 of Energy Development under Subsection [63M-4-702\(2\)](#).

833 Section 2. Section **63M-4-701** is enacted to read:

834 **Part 7. Refiner Gasoline Sulfur Standard Sales and Use Tax Exemption Reporting.**

835 **63M-4-701. Definitions.**

836 As used in this section:

837 (1) "Blending stock," "blendstock," or "component" means any liquid compound that is
838 blended with other liquid compounds to produce gasoline.

839 (2) "Refiner" means any person who owns, leases, operates, controls, or supervises a
840 refinery.

841 (3) "Refinery" means a facility where gasoline or diesel fuel is produced, including a
842 facility at which blendstocks are combined to produce gasoline or diesel fuel, or at which
843 blendstock is added to gasoline or diesel fuel.

844 Section 3. Section **63M-4-702** is enacted to read:

845 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**
846 **certification of sales and use tax exemption eligibility.**

847 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
848 tax exemption under Subsection [59-12-104\(86\)](#) shall annually report to the office whether the
849 refiner's facility that is located within the state will have an average gasoline sulfur level of 10
850 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec. 80.1603,
851 excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616.

852 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not
853 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.
854 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

855 (2) (a) Beginning on July 1, 2021, the office shall annually certify that the refiner is
856 eligible for the sales and use tax exemption under Subsection [59-12-104\(86\)](#):

857 (i) on a form provided by the Tax Commission that shall be retained by the refiner
858 claiming the sales and use tax exemption under Subsection [59-12-104\(86\)](#);

859 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
860 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
861 year; and

862 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection

863 [59-12-104\(86\)](#).

864 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
865 annually.

866 (c) The office:

867 (i) shall accept a copy of a report submitted by a refiner to the Environmental
868 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average
869 gasoline sulfur level; or

870 (ii) may establish another reporting mechanism through rules made under Subsection
871 (3).

872 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
873 office may make rules to implement this section.

874 **Section 4. Effective date.**

875 This bill takes effect on January 1, 2018.