

1 **SALES AND USE TAX EXEMPTION AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Howard A. Stephenson**

5 House Sponsor: Steve Eliason

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies a sales and use tax exemption.

10 **Highlighted Provisions:**

11 This bill:

12 ▶ removes the requirement that a product purchased for resale be resold within the
13 state to qualify for a sales and use tax exemption.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 This bill provides retrospective operation.

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **59-12-104**, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429

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

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

24 **59-12-104. Exemptions.**

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

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

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

- 30 (a) construction materials except:
- 31 (i) construction materials purchased by or on behalf of institutions of the public
32 education system as defined in Utah Constitution, Article X, Section 2, provided the
33 construction materials are clearly identified and segregated and installed or converted to real
34 property which is owned by institutions of the public education system; and
- 35 (ii) construction materials purchased by the state, its institutions, or its political
36 subdivisions which are installed or converted to real property by employees of the state, its
37 institutions, or its political subdivisions; or
- 38 (b) tangible personal property in connection with the construction, operation,
39 maintenance, repair, or replacement of a project, as defined in Section 11-13-103, or facilities
40 providing additional project capacity, as defined in Section 11-13-103;
- 41 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 42 (i) the proceeds of each sale do not exceed \$1; and
- 43 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
44 the cost of the item described in Subsection (3)(b) as goods consumed; and
- 45 (b) Subsection (3)(a) applies to:
- 46 (i) food and food ingredients; or
- 47 (ii) prepared food;
- 48 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 49 (i) alcoholic beverages;
- 50 (ii) food and food ingredients; or
- 51 (iii) prepared food;
- 52 (b) sales of tangible personal property or a product transferred electronically:
- 53 (i) to a passenger;
- 54 (ii) by a commercial airline carrier; and
- 55 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 56 (c) services related to Subsection (4)(a) or (b);
- 57 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts

58 and equipment:

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

62 (II) for:

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

65 (Bb) renovation of an aircraft; or

66 (Cc) repair of an aircraft; or

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

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

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

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

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

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

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

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

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

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

85 (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of

86 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
87 personal property is not assisted cleaning or washing of tangible personal property;

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

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

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

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

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

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

104 (a) not registered in this state; and

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

106 (ii) used in this state:

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

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

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

111 (B) if the vehicle is used to conduct business, for the time period necessary to transport
112 the vehicle to the borders of this state;

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

- 114 (i) the item is intended for human use; and
- 115 (ii) (A) a prescription was issued for the item; or
- 116 (B) the item was purchased by a hospital or other medical facility; and
- 117 (b) (i) Subsection (10)(a) applies to:
- 118 (A) a drug;
- 119 (B) a syringe; or
- 120 (C) a stoma supply; and
- 121 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 122 commission may by rule define the terms:
- 123 (A) "syringe"; or
- 124 (B) "stoma supply";
- 125 (11) purchases or leases exempt under Section [19-12-201](#);
- 126 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 127 (i) the following if the item described in Subsection (12)(c) is not available to the
- 128 general public:
- 129 (A) a church; or
- 130 (B) a charitable institution;
- 131 (ii) an institution of higher education if:
- 132 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 133 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 134 offered by the institution of higher education; or
- 135 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 136 (i) a medical facility; or
- 137 (ii) a nursing facility; and
- 138 (c) Subsections (12)(a) and (b) apply to:
- 139 (i) food and food ingredients;
- 140 (ii) prepared food; or
- 141 (iii) alcoholic beverages;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

175 (i) is located in the state; and

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

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

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

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

185 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
186 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
187 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
188 2002 North American Industry Classification System of the federal Executive Office of the
189 President, Office of Management and Budget;

190 (ii) is located in the state; and

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

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

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

197 (C) transporting, storing, or managing tailings, overburden, or similar waste materials

198 produced from mining;

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

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

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

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

207 (ii) is located in the state; and

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

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

211 (i) tooling;

212 (ii) special tooling;

213 (iii) support equipment;

214 (iv) special test equipment; or

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

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

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

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

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

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

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

227 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

240 (i) money;

241 (ii) electricity;

242 (iii) water;

243 (iv) gas; or

244 (v) steam;

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

249 (A) becomes part of real estate; or

250 (B) is installed by a:

251 (I) farmer;

252 (II) contractor; or

253 (III) subcontractor; or

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

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

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

- 261 (I) machinery;
- 262 (II) equipment;
- 263 (III) materials; or
- 264 (IV) supplies; and

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

- 267 (I) hand tools; or
- 268 (II) maintenance and janitorial equipment and supplies;

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

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

- 274 (I) office equipment and supplies; or
- 275 (II) equipment and supplies used in:
 - 276 (Aa) the sale or distribution of farm products;
 - 277 (Bb) research; or
 - 278 (Cc) transportation; or

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

281 (19) sales of hay;

- 282 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
283 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
284 garden, farm, or other agricultural produce is sold by:
- 285 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
286 agricultural produce;
 - 287 (b) an employee of the producer described in Subsection (20)(a); or
 - 288 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 289 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
290 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 291 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
292 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
293 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
294 manufacturer, processor, wholesaler, or retailer;
- 295 (23) a product stored in the state for resale;
- 296 (24) (a) purchases of a product if:
- 297 (i) the product is:
 - 298 (A) purchased outside of this state;
 - 299 (B) brought into this state:
 - 300 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
 - 301 (II) by a nonresident person who is not living or working in this state at the time of the
302 purchase;
 - 303 (C) used for the personal use or enjoyment of the nonresident person described in
304 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
 - 305 (D) not used in conducting business in this state; and
 - 306 (ii) for:
 - 307 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
308 the product for a purpose for which the product is designed occurs outside of this state;
 - 309 (B) a boat, the boat is registered outside of this state; or

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

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

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

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

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

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

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

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

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

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

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

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

336 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
337 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code

338 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
339 the President, Office of Management and Budget;

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

342 (a) not registered in this state; and

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

344 (ii) used in this state:

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

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

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

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

353 (31) sales of aircraft manufactured in Utah;

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

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

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

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

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

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

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

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

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

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

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

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

367 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in

368 Section 72-11-102; and

369 (b) the commission shall by rule determine the method for calculating sales exempt

370 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

371 (38) sales to a ski resort of:

372 (a) snowmaking equipment;

373 (b) ski slope grooming equipment;

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

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

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

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

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

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

380 59-12-102;

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

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

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

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

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

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

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

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

389 and

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

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

392 assisted amusement devices;

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

- 394 (i) a governmental entity; or
- 395 (ii) an entity within the state system of public education, including:
 - 396 (A) a school; or
 - 397 (B) the State Board of Education; or
- 398 (b) sales of publications by a governmental entity;
- 399 (42) amounts paid for admission to an athletic event at an institution of higher
- 400 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 401 20 U.S.C. Sec. 1681 et seq.;
- 402 (43) (a) sales made to or by:
 - 403 (i) an area agency on aging; or
 - 404 (ii) a senior citizen center owned by a county, city, or town; or
- 405 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 406 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 407 materials regardless of whether the semiconductor fabricating, processing, research, or
- 408 development materials:
 - 409 (a) actually come into contact with a semiconductor; or
 - 410 (b) ultimately become incorporated into real property;
- 411 (45) an amount paid by or charged to a purchaser for accommodations and services
- 412 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
- 413 [59-12-104.2](#);
- 414 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 415 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
- 416 specified on the temporary sports event registration certificate;
- 417 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 418 adopted by the Public Service Commission only for purchase of electricity produced from a
- 419 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 420 Public Service Commission;
- 421 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies

422 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
423 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
424 customer would have paid absent the tariff;

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

427 (49) sales of water in a:

428 (a) pipe;

429 (b) conduit;

430 (c) ditch; or

431 (d) reservoir;

432 (50) sales of currency or coins that constitute legal tender of a state, the United States,
433 or a foreign nation;

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

435 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and

436 (ii) has a gold, silver, or platinum content of 50% or more; and

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

438 (i) ingot;

439 (ii) bar;

440 (iii) medallion; or

441 (iv) decorative coin;

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

443 (53) sales of a prosthetic device:

444 (a) for use on or in a human; and

445 (b) (i) for which a prescription is required; or

446 (ii) if the prosthetic device is purchased by a hospital or other medical facility;

447 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of

448 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery

449 or equipment is primarily used in the production or postproduction of the following media for

450 commercial distribution:

451 (i) a motion picture;

452 (ii) a television program;

453 (iii) a movie made for television;

454 (iv) a music video;

455 (v) a commercial;

456 (vi) a documentary; or

457 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

458 commission by administrative rule made in accordance with Subsection (54)(d); or

459 (b) purchases, leases, or rentals of machinery or equipment by an establishment

460 described in Subsection (54)(c) that is used for the production or postproduction of the

461 following are subject to the taxes imposed by this chapter:

462 (i) a live musical performance;

463 (ii) a live news program; or

464 (iii) a live sporting event;

465 (c) the following establishments listed in the 1997 North American Industry

466 Classification System of the federal Executive Office of the President, Office of Management

467 and Budget, apply to Subsections (54)(a) and (b):

468 (i) NAICS Code 512110; or

469 (ii) NAICS Code 51219; and

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

471 commission may by rule:

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

473 or

474 (ii) define:

475 (A) "commercial distribution";

476 (B) "live musical performance";

477 (C) "live news program"; or

478 (D) "live sporting event";
479 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
480 on or before June 30, 2027, of tangible personal property that:
481 (i) is leased or purchased for or by a facility that:
482 (A) is an alternative energy electricity production facility;
483 (B) is located in the state; and
484 (C) (I) becomes operational on or after July 1, 2004; or
485 (II) has its generation capacity increased by one or more megawatts on or after July 1,
486 2004, as a result of the use of the tangible personal property;
487 (ii) has an economic life of five or more years; and
488 (iii) is used to make the facility or the increase in capacity of the facility described in
489 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
490 transmission grid including:
491 (A) a wind turbine;
492 (B) generating equipment;
493 (C) a control and monitoring system;
494 (D) a power line;
495 (E) substation equipment;
496 (F) lighting;
497 (G) fencing;
498 (H) pipes; or
499 (I) other equipment used for locating a power line or pole; and
500 (b) this Subsection (55) does not apply to:
501 (i) tangible personal property used in construction of:
502 (A) a new alternative energy electricity production facility; or
503 (B) the increase in the capacity of an alternative energy electricity production facility;
504 (ii) contracted services required for construction and routine maintenance activities;
505 and

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

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

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

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

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

516 (A) is a waste energy production facility;

517 (B) is located in the state; and

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

519 (II) has its generation capacity increased by one or more megawatts on or after July 1,
520 2004, as a result of the use of the tangible personal property;

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

522 (iii) is used to make the facility or the increase in capacity of the facility described in
523 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
524 transmission grid including:

525 (A) generating equipment;

526 (B) a control and monitoring system;

527 (C) a power line;

528 (D) substation equipment;

529 (E) lighting;

530 (F) fencing;

531 (G) pipes; or

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

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

- 534 (i) tangible personal property used in construction of:
- 535 (A) a new waste energy facility; or
- 536 (B) the increase in the capacity of a waste energy facility;
- 537 (ii) contracted services required for construction and routine maintenance activities;
- 538 and
- 539 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 540 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
- 541 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
- 542 described in Subsection (56)(a)(iii); or
- 543 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
- 544 in Subsection (56)(a)(iii);
- 545 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
- 546 or before June 30, 2027, of tangible personal property that:
- 547 (i) is leased or purchased for or by a facility that:
- 548 (A) is located in the state;
- 549 (B) produces fuel from alternative energy, including:
- 550 (I) methanol; or
- 551 (II) ethanol; and
- 552 (C) (I) becomes operational on or after July 1, 2004; or
- 553 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 554 a result of the installation of the tangible personal property;
- 555 (ii) has an economic life of five or more years; and
- 556 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 557 (b) this Subsection (57) does not apply to:
- 558 (i) tangible personal property used in construction of:
- 559 (A) a new facility described in Subsection (57)(a)(i); or
- 560 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 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 (57)(a)(i)(C)(II), tangible personal property used or acquired after:

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

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

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

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

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

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

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

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

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

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

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

587 (59) purchases:

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

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

- 590 (A) names; or
- 591 (B) addresses; or
- 592 (ii) a database containing information that includes one or more:
- 593 (A) names; or
- 594 (B) addresses; and
- 595 (b) used to send direct mail;
- 596 (60) redemptions or repurchases of a product by a person if that product was:
- 597 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 598 (b) redeemed or repurchased within the time period established in a written agreement
- 599 between the person and the pawnbroker for redeeming or repurchasing the product;
- 600 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 601 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 602 and
- 603 (ii) has a useful economic life of one or more years; and
- 604 (b) the following apply to Subsection (61)(a):
- 605 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 606 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 607 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 608 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 609 (v) telecommunications transmission equipment, machinery, or software;
- 610 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 611 personal property or a product transferred electronically that are used in the research and
- 612 development of alternative energy technology; and
- 613 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 614 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 615 purchases of tangible personal property or a product transferred electronically that are used in
- 616 the research and development of alternative energy technology;
- 617 (63) (a) purchases of tangible personal property or a product transferred electronically

618 if:

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

620 (A) purchased outside of this state;

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

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

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

624 (ii) for:

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

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

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

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

629 outside of this state;

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

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

632 or

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

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

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

636 following:

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

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

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

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

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

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

643 Subsection (24);

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

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

646 supplies;

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

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

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

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

653 (65) sales:

654 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
655 District Act; or

656 (b) of tangible personal property to a subcontractor of a public transit district, if the
657 tangible personal property is:

658 (i) clearly identified; and

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

660 (66) sales of construction materials:

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

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

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

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

665 (c) if the construction materials are:

666 (i) clearly identified;

667 (ii) segregated; and

668 (iii) installed or converted to real property:

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

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

671 (67) sales of construction materials:

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

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

- 674 (i) located within a county of the second class; and
- 675 (ii) that is owned or operated by a city in which an airline as defined in Section
- 676 59-2-102 is headquartered; and
- 677 (c) if the construction materials are:
 - 678 (i) clearly identified;
 - 679 (ii) segregated; and
 - 680 (iii) installed or converted to real property:
 - 681 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 682 (B) located at the new airport described in Subsection (67)(b); and
 - 683 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 684 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 685 (69) purchases and sales described in Section 63H-4-111;
- 686 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 687 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 688 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 689 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 690 powered aircraft; or
- 691 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 692 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 693 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 694 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 695 powered aircraft;
- 696 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
 - 697 (a) to a person admitted to an institution of higher education; and
 - 698 (b) by a seller, other than a bookstore owned by an institution of higher education, if
 - 699 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
 - 700 textbook for a higher education course;
- 701 (72) a license fee or tax a municipality imposes in accordance with Subsection

702 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
703 level of municipal services;

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

707 (a) clearly identified;

708 (b) segregated; and

709 (c) installed or converted to real property;

710 (74) amounts paid or charged for:

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

712 (i) are used in performing qualified research:

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

714 (B) in the state; and

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

716 (b) normal operating repair or replacement parts:

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

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

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

721 (a) for a sale:

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

723 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

724 tangible personal property prior to making the sale; or

725 (b) for a lease:

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

727 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible

728 personal property prior to making the lease;

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

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

733 (ii) the machinery or equipment:

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

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

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

738 (A) amounts paid or charged as admission or user fees described in Subsection
739 59-12-103(1)(f); and

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

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

744 (i) amounts paid or charged as admission or user fees described in Subsection
745 59-12-103(1)(f); and

746 (ii) subject to taxation under this chapter;

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

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

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

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

753 (i) digital audiowork;

754 (ii) digital audio-visual work; or

755 (iii) digital book;

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

- 758 (a) machinery and equipment that:
- 759 (i) are used in the operation of the electronic financial payment service; and
- 760 (ii) have an economic life of three or more years; and
- 761 (b) normal operating repair or replacement parts that:
- 762 (i) are used in the operation of the electronic financial payment service; and
- 763 (ii) have an economic life of three or more years;
- 764 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- 765 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 766 product transferred electronically if the tangible personal property or product transferred
- 767 electronically:
- 768 (a) is stored, used, or consumed in the state; and
- 769 (b) is temporarily brought into the state from another state:
- 770 (i) during a disaster period as defined in Section 53-2a-1202;
- 771 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 772 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 773 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 774 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 775 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 776 Recreation Program;
- 777 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 778 (84) (a) except as provided in Subsection (84)(b), amounts paid or charged for a
- 779 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
- 780 materials, or normal operating repair or replacement parts:
- 781 (i) that are used or consumed exclusively in the drilling equipment manufacturer's
- 782 manufacturing process; and
- 783 (ii) except for office:
- 784 (A) equipment; or
- 785 (B) supplies; and

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

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

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

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

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

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

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

797 (a) is an establishment, as the commission defines that term in accordance with Title
798 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

802 (c) is located in the state; and

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

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

810 (a) is an establishment, as the commission defines that term in accordance with Title
811 63G, Chapter 3, Utah Administrative Rulemaking Act;

812 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002
813 North American Industry Classification System of the federal Executive Office of the

814 President, Office of Management and Budget;

815 (c) is located in the state; and

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

818 (88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
819 vehicle that includes cleaning or washing of the interior of the vehicle; and

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

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

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

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

829 (ii) research and development;

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

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

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

836 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
837 of Energy Development under Subsection [63M-4-702\(2\)](#).

838 **Section 2. Retrospective operation.**

839 This bill has retrospective operation to January 1, 2018.