

Senator Lincoln Fillmore proposes the following substitute bill:

FUEL SALES TAX AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies sales and use tax provisions related to fuel.

Highlighted Provisions:

This bill:

- ▶ addresses the taxable status of a sale of certain fuels where the fuel is furnished through a single meter for a combination of commercial, industrial, or residential uses;
- ▶ extends the effective date of certain additional eligibility requirements for the sales and use tax exemption for amounts paid or charged for a purchase or lease of certain equipment, parts, and supplies by a refiner; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479



26 [59-12-104](#), as last amended by Laws of Utah 2019, Chapters 136 and 486
27 [63M-4-702](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6



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

30 Section 1. Section **59-12-103** is amended to read:

31 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
32 **tax revenues.**

33 (1) A tax is imposed on the purchaser as provided in this part on the purchase price or
34 sales price for amounts paid or charged for the following transactions:

35 (a) retail sales of tangible personal property made within the state;

36 (b) amounts paid for:

37 (i) telecommunications service, other than mobile telecommunications service, that
38 originates and terminates within the boundaries of this state;

39 (ii) mobile telecommunications service that originates and terminates within the
40 boundaries of one state only to the extent permitted by the Mobile Telecommunications
41 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

42 (iii) an ancillary service associated with a:

43 (A) telecommunications service described in Subsection (1)(b)(i); or

44 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

45 (c) sales of the following for commercial use:

46 (i) gas;

47 (ii) electricity;

48 (iii) heat;

49 (iv) coal;

50 (v) fuel oil; or

51 (vi) other fuels;

52 (d) sales of the following for residential use:

53 (i) gas;

54 (ii) electricity;

55 (iii) heat;

56 (iv) coal;

- 57 (v) fuel oil; or
- 58 (vi) other fuels;
- 59 (e) sales of prepared food;
- 60 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 61 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 62 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 63 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 64 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 65 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 66 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 67 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 68 exhibition, cultural, or athletic activity;
- 69 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 70 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 71 (i) the tangible personal property; and
- 72 (ii) parts used in the repairs or renovations of the tangible personal property described
- 73 in Subsection (1)(g)(i), regardless of whether:
- 74 (A) any parts are actually used in the repairs or renovations of that tangible personal
- 75 property; or
- 76 (B) the particular parts used in the repairs or renovations of that tangible personal
- 77 property are exempt from a tax under this chapter;
- 78 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 79 assisted cleaning or washing of tangible personal property;
- 80 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 81 accommodations and services that are regularly rented for less than 30 consecutive days;
- 82 (j) amounts paid or charged for laundry or dry cleaning services;
- 83 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 84 this state the tangible personal property is:
- 85 (i) stored;
- 86 (ii) used; or
- 87 (iii) otherwise consumed;

88 (l) amounts paid or charged for tangible personal property if within this state the
89 tangible personal property is:

90 (i) stored;

91 (ii) used; or

92 (iii) consumed; and

93 (m) amounts paid or charged for a sale:

94 (i) (A) of a product transferred electronically; or

95 (B) of a repair or renovation of a product transferred electronically; and

96 (ii) regardless of whether the sale provides:

97 (A) a right of permanent use of the product; or

98 (B) a right to use the product that is less than a permanent use, including a right:

99 (I) for a definite or specified length of time; and

100 (II) that terminates upon the occurrence of a condition.

101 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
102 are imposed on a transaction described in Subsection (1) equal to the sum of:

103 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:

104 (A) (I) through March 31, 2019, 4.70%; and

105 (II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a);

106 and

107 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
108 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
109 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
110 State Sales and Use Tax Act; and

111 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
112 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
113 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
114 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

115 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
116 transaction under this chapter other than this part.

117 (b) Except as provided in Subsection (2)(d) or (e) and subject to Subsection (2)(j), a
118 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to

119 the sum of:

120 (i) a state tax imposed on the transaction at a tax rate of 2%; and

121 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
122 transaction under this chapter other than this part.

123 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are
124 imposed on amounts paid or charged for food and food ingredients equal to the sum of:

125 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at
126 a tax rate of 1.75%; and

127 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
128 amounts paid or charged for food and food ingredients under this chapter other than this part.

129 (d) (i) For a bundled transaction that is attributable to food and food ingredients and
130 tangible personal property other than food and food ingredients, a state tax and a local tax is
131 imposed on the entire bundled transaction equal to the sum of:

132 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

133 (I) the tax rate described in Subsection (2)(a)(i)(A); and

134 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
135 Sales and Use Tax Act, if the location of the transaction as determined under Sections
136 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
137 Additional State Sales and Use Tax Act; and

138 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
139 Sales and Use Tax Act, if the location of the transaction as determined under Sections
140 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
141 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

142 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates
143 described in Subsection (2)(a)(ii).

144 (ii) If an optional computer software maintenance contract is a bundled transaction that
145 consists of taxable and nontaxable products that are not separately itemized on an invoice or
146 similar billing document, the purchase of the optional computer software maintenance contract
147 is 40% taxable under this chapter and 60% nontaxable under this chapter.

148 (iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled
149 transaction described in Subsection (2)(d)(i) or (ii):

150 (A) if the sales price of the bundled transaction is attributable to tangible personal
151 property, a product, or a service that is subject to taxation under this chapter and tangible
152 personal property, a product, or service that is not subject to taxation under this chapter, the
153 entire bundled transaction is subject to taxation under this chapter unless:

154 (I) the seller is able to identify by reasonable and verifiable standards the tangible
155 personal property, product, or service that is not subject to taxation under this chapter from the
156 books and records the seller keeps in the seller's regular course of business; or

157 (II) state or federal law provides otherwise; or

158 (B) if the sales price of a bundled transaction is attributable to two or more items of
159 tangible personal property, products, or services that are subject to taxation under this chapter
160 at different rates, the entire bundled transaction is subject to taxation under this chapter at the
161 higher tax rate unless:

162 (I) the seller is able to identify by reasonable and verifiable standards the tangible
163 personal property, product, or service that is subject to taxation under this chapter at the lower
164 tax rate from the books and records the seller keeps in the seller's regular course of business; or

165 (II) state or federal law provides otherwise.

166 (iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the
167 seller's regular course of business includes books and records the seller keeps in the regular
168 course of business for nontax purposes.

169 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)
170 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a
171 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental
172 of tangible personal property, other property, a product, or a service that is not subject to
173 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
174 the seller, at the time of the transaction:

175 (A) separately states the portion of the transaction that is not subject to taxation under
176 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

177 (B) is able to identify by reasonable and verifiable standards, from the books and
178 records the seller keeps in the seller's regular course of business, the portion of the transaction
179 that is not subject to taxation under this chapter.

180 (ii) A purchaser and a seller may correct the taxability of a transaction if:

181 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
182 the transaction that is not subject to taxation under this chapter was not separately stated on an
183 invoice, bill of sale, or similar document provided to the purchaser because of an error or
184 ignorance of the law; and

185 (B) the seller is able to identify by reasonable and verifiable standards, from the books
186 and records the seller keeps in the seller's regular course of business, the portion of the
187 transaction that is not subject to taxation under this chapter.

188 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
189 in the seller's regular course of business includes books and records the seller keeps in the
190 regular course of business for nontax purposes.

191 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
192 personal property, products, or services that are subject to taxation under this chapter at
193 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
194 unless the seller, at the time of the transaction:

195 (A) separately states the items subject to taxation under this chapter at each of the
196 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

197 (B) is able to identify by reasonable and verifiable standards the tangible personal
198 property, product, or service that is subject to taxation under this chapter at the lower tax rate
199 from the books and records the seller keeps in the seller's regular course of business.

200 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the
201 seller's regular course of business includes books and records the seller keeps in the regular
202 course of business for nontax purposes.

203 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax
204 rate imposed under the following shall take effect on the first day of a calendar quarter:

205 (i) Subsection (2)(a)(i)(A);

206 (ii) Subsection (2)(b)(i);

207 (iii) Subsection (2)(c)(i); or

208 (iv) Subsection (2)(d)(i)(A)(I).

209 (h) (i) A tax rate increase takes effect on the first day of the first billing period that
210 begins on or after the effective date of the tax rate increase if the billing period for the
211 transaction begins before the effective date of a tax rate increase imposed under:

- 212 (A) Subsection (2)(a)(i)(A);
- 213 (B) Subsection (2)(b)(i);
- 214 (C) Subsection (2)(c)(i); or
- 215 (D) Subsection (2)(d)(i)(A)(I).

216 (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing
217 statement for the billing period is rendered on or after the effective date of the repeal of the tax
218 or the tax rate decrease imposed under:

- 219 (A) Subsection (2)(a)(i)(A);
- 220 (B) Subsection (2)(b)(i);
- 221 (C) Subsection (2)(c)(i); or
- 222 (D) Subsection (2)(d)(i)(A)(I).

223 (i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is
224 computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or
225 change in a tax rate takes effect:

- 226 (A) on the first day of a calendar quarter; and
- 227 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

228 (ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

- 229 (A) Subsection (2)(a)(i)(A);
- 230 (B) Subsection (2)(b)(i);
- 231 (C) Subsection (2)(c)(i); or
- 232 (D) Subsection (2)(d)(i)(A)(I).

233 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
234 the commission may by rule define the term "catalogue sale."

235 (j) (i) For a location described in Subsection (2)(j)(ii), the commission shall determine
236 the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the
237 predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

238 (ii) Subsection (2)(j)(i) applies to a location where gas, electricity, heat, coal, fuel oil,
239 or other fuel is furnished through a single meter for two or more of the following uses:

- 240 (A) a commercial use;
- 241 (B) an industrial use; or
- 242 (C) a residential use.

- 243 (3) (a) The following state taxes shall be deposited into the General Fund:
- 244 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 245 (ii) the tax imposed by Subsection (2)(b)(i);
- 246 (iii) the tax imposed by Subsection (2)(c)(i); or
- 247 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 248 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 249 in this chapter:
- 250 (i) the tax imposed by Subsection (2)(a)(ii);
- 251 (ii) the tax imposed by Subsection (2)(b)(ii);
- 252 (iii) the tax imposed by Subsection (2)(c)(ii); and
- 253 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 254 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
- 255 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)
- 256 through (g):
- 257 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:
- 258 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and
- 259 (B) for the fiscal year; or
- 260 (ii) \$17,500,000.
- 261 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount
- 262 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the
- 263 Department of Natural Resources to:
- 264 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to
- 265 protect sensitive plant and animal species; or
- 266 (B) award grants, up to the amount authorized by the Legislature in an appropriations
- 267 act, to political subdivisions of the state to implement the measures described in Subsections
- 268 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
- 269 (ii) Money transferred to the Department of Natural Resources under Subsection
- 270 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other
- 271 person to list or attempt to have listed a species as threatened or endangered under the
- 272 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- 273 (iii) At the end of each fiscal year:

274 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
275 Conservation and Development Fund created in Section 73-10-24;

276 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
277 Program Subaccount created in Section 73-10c-5; and

278 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
279 Program Subaccount created in Section 73-10c-5.

280 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in
281 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund
282 created in Section 4-18-106.

283 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
284 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
285 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
286 water rights.

287 (ii) At the end of each fiscal year:

288 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources
289 Conservation and Development Fund created in Section 73-10-24;

290 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan
291 Program Subaccount created in Section 73-10c-5; and

292 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan
293 Program Subaccount created in Section 73-10c-5.

294 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described
295 in Subsection (4)(a) shall be deposited into the Water Resources Conservation and
296 Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

297 (ii) In addition to the uses allowed of the Water Resources Conservation and
298 Development Fund under Section 73-10-24, the Water Resources Conservation and
299 Development Fund may also be used to:

300 (A) conduct hydrologic and geotechnical investigations by the Division of Water
301 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of
302 quantifying surface and ground water resources and describing the hydrologic systems of an
303 area in sufficient detail so as to enable local and state resource managers to plan for and
304 accommodate growth in water use without jeopardizing the resource;

305 (B) fund state required dam safety improvements; and

306 (C) protect the state's interest in interstate water compact allocations, including the
307 hiring of technical and legal staff.

308 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
309 in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount
310 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

311 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described
312 in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount
313 created in Section 73-10c-5 for use by the Division of Drinking Water to:

314 (i) provide for the installation and repair of collection, treatment, storage, and
315 distribution facilities for any public water system, as defined in Section 19-4-102;

316 (ii) develop underground sources of water, including springs and wells; and

317 (iii) develop surface water sources.

318 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
319 2006, the difference between the following amounts shall be expended as provided in this
320 Subsection (5), if that difference is greater than \$1:

321 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the
322 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

323 (ii) \$17,500,000.

324 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

325 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
326 credits; and

327 (B) expended by the Department of Natural Resources for watershed rehabilitation or
328 restoration.

329 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
330 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund
331 created in Section 73-10-24.

332 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
333 remaining difference described in Subsection (5)(a) shall be:

334 (A) transferred each fiscal year to the Division of Water Resources as dedicated
335 credits; and

336 (B) expended by the Division of Water Resources for cloud-seeding projects
337 authorized by Title 73, Chapter 15, Modification of Weather.

338 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described
339 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund
340 created in Section 73-10-24.

341 (d) After making the transfers required by Subsections (5)(b) and (c), 85% of the
342 remaining difference described in Subsection (5)(a) shall be deposited into the Water
343 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
344 Division of Water Resources for:

345 (i) preconstruction costs:

346 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
347 26, Bear River Development Act; and

348 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
349 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

350 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
351 Chapter 26, Bear River Development Act;

352 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project
353 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

354 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and
355 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

356 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to
357 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be
358 transferred each year as dedicated credits to the Division of Water Rights to cover the costs
359 incurred for employing additional technical staff for the administration of water rights.

360 (f) At the end of each fiscal year, any unexpended dedicated credits described in
361 Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development
362 Fund created in Section 73-10-24.

363 (6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the
364 amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection
365 (1) for the fiscal year shall be deposited as follows:

366 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)

367 shall be deposited into the Transportation Investment Fund of 2005 created by Section
368 [72-2-124](#);

369 (b) for fiscal year 2017-18 only:
370 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the
371 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and
372 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the
373 Water Infrastructure Restricted Account created by Section [73-10g-103](#);

374 (c) for fiscal year 2018-19 only:
375 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the
376 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and
377 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the
378 Water Infrastructure Restricted Account created by Section [73-10g-103](#);

379 (d) for fiscal year 2019-20 only:
380 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the
381 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and
382 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the
383 Water Infrastructure Restricted Account created by Section [73-10g-103](#);

384 (e) for fiscal year 2020-21 only:
385 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the
386 Transportation Investment Fund of 2005 created by Section [72-2-124](#); and
387 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the
388 Water Infrastructure Restricted Account created by Section [73-10g-103](#); and

389 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described
390 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account
391 created by Section [73-10g-103](#).

392 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in
393 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,
394 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005
395 created by Section [72-2-124](#):

396 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of
397 the revenues collected from the following taxes, which represents a portion of the

398 approximately 17% of sales and use tax revenues generated annually by the sales and use tax
399 on vehicles and vehicle-related products:

400 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

401 (B) the tax imposed by Subsection (2)(b)(i);

402 (C) the tax imposed by Subsection (2)(c)(i); and

403 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

404 (ii) an amount equal to 30% of the growth in the amount of revenues collected in the
405 current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through
406 (D) that exceeds the amount collected from the sales and use taxes described in Subsections
407 (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

408 (b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of
409 the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total
410 lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D)
411 generated in the current fiscal year than the total percentage of sales and use taxes deposited in
412 the previous fiscal year, the Division of Finance shall deposit an amount under Subsection
413 (7)(a) equal to the product of:

414 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the
415 previous fiscal year; and

416 (B) the total sales and use tax revenue generated by the taxes described in Subsections
417 (7)(a)(i)(A) through (D) in the current fiscal year.

418 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under
419 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes
420 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of
421 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in
422 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

423 (iii) In all subsequent fiscal years after a year in which 17% of the revenues collected
424 from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited
425 under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues
426 collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the
427 current fiscal year under Subsection (7)(a).

428 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited

429 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall
430 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into
431 the Transportation Investment Fund of 2005 created by Section 72-2-124.

432 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under
433 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit
434 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
435 Transportation Investment Fund of 2005 created by Section 72-2-124.

436 (c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under
437 Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or
438 after July 1, 2018, the commission shall annually deposit into the Transportation Investment
439 Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a)
440 in an amount equal to 3.68% of the revenues collected from the following taxes:

441 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

442 (B) the tax imposed by Subsection (2)(b)(i);

443 (C) the tax imposed by Subsection (2)(c)(i); and

444 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

445 (ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually
446 reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i)
447 by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year
448 by the portion of the tax imposed on motor and special fuel that is sold, used, or received for
449 sale or use in this state that exceeds 29.4 cents per gallon.

450 (iii) The commission shall annually deposit the amount described in Subsection
451 (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

452 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
453 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
454 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

455 (10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c),
456 in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17
457 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund
458 of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on
459 the transactions described in Subsection (1).

460 (b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in
461 addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance
462 shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
463 amount of revenue described as follows:

464 (i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05%
465 tax rate on the transactions described in Subsection (1);

466 (ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05%
467 tax rate on the transactions described in Subsection (1);

468 (iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05%
469 tax rate on the transactions described in Subsection (1);

470 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a
471 .05% tax rate on the transactions described in Subsection (1); and

472 (v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05%
473 tax rate on the transactions described in Subsection (1).

474 (c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not
475 deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts
476 paid or charged for food and food ingredients, except for tax revenue generated by a bundled
477 transaction attributable to food and food ingredients and tangible personal property other than
478 food and food ingredients described in Subsection (2)(d).

479 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the
480 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that
481 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of
482 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue
483 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,
484 created in Section 63N-2-512.

485 (12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the
486 Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed
487 under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

488 (b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of
489 Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under
490 Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

- 491 (13) (a) The rate specified in this subsection is 0.15%.
- 492 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall:
- 493 (i) on or before September 30, 2019, transfer the amount of revenue collected from the
- 494 rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019,
- 495 on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into
- 496 the Medicaid Expansion Fund created in Section [26-36b-208](#); and
- 497 (ii) for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of
- 498 revenue collected from the rate described in Subsection (13)(a) on the transactions that are
- 499 subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion
- 500 Fund created in Section [26-36b-208](#).

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

502 **59-12-104. Exemptions.**

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

- 504 (1) sales of aviation fuel, motor fuel, and special fuel subject to a Utah state excise tax
- 505 under Chapter 13, Motor and Special Fuel Tax Act;
- 506 (2) subject to Section [59-12-104.6](#), sales to the state, its institutions, and its political
- 507 subdivisions; however, this exemption does not apply to sales of:
- 508 (a) construction materials except:
- 509 (i) construction materials purchased by or on behalf of institutions of the public
- 510 education system as defined in Utah Constitution, Article X, Section 2, provided the
- 511 construction materials are clearly identified and segregated and installed or converted to real
- 512 property which is owned by institutions of the public education system; and
- 513 (ii) construction materials purchased by the state, its institutions, or its political
- 514 subdivisions which are installed or converted to real property by employees of the state, its
- 515 institutions, or its political subdivisions; or
- 516 (b) tangible personal property in connection with the construction, operation,
- 517 maintenance, repair, or replacement of a project, as defined in Section [11-13-103](#), or facilities
- 518 providing additional project capacity, as defined in Section [11-13-103](#);
- 519 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:
- 520 (i) the proceeds of each sale do not exceed \$1; and
- 521 (ii) the seller or operator of the vending machine reports an amount equal to 150% of

522 the cost of the item described in Subsection (3)(b) as goods consumed; and
523 (b) Subsection (3)(a) applies to:
524 (i) food and food ingredients; or
525 (ii) prepared food;
526 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
527 (i) alcoholic beverages;
528 (ii) food and food ingredients; or
529 (iii) prepared food;
530 (b) sales of tangible personal property or a product transferred electronically:
531 (i) to a passenger;
532 (ii) by a commercial airline carrier; and
533 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
534 (c) services related to Subsection (4)(a) or (b);
535 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
536 and equipment:
537 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
538 North American Industry Classification System of the federal Executive Office of the
539 President, Office of Management and Budget; and
540 (II) for:
541 (Aa) installation in an aircraft, including services relating to the installation of parts or
542 equipment in the aircraft;
543 (Bb) renovation of an aircraft; or
544 (Cc) repair of an aircraft; or
545 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
546 commerce; or
547 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
548 aircraft operated by a common carrier in interstate or foreign commerce; and
549 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
550 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
551 refund:
552 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;

- 553 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
- 554 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
555 the sale prior to filing for the refund;
- 556 (iv) for sales and use taxes paid under this chapter on the sale;
- 557 (v) in accordance with Section 59-1-1410; and
- 558 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
559 the person files for the refund on or before September 30, 2011;
- 560 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
561 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
562 exhibitor, distributor, or commercial television or radio broadcaster;
- 563 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
564 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
565 personal property is not assisted cleaning or washing of tangible personal property;
- 566 (b) if a seller that sells at the same business location assisted cleaning or washing of
567 tangible personal property and cleaning or washing of tangible personal property that is not
568 assisted cleaning or washing of tangible personal property, the exemption described in
569 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
570 or washing of the tangible personal property; and
- 571 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
572 Utah Administrative Rulemaking Act, the commission may make rules:
- 573 (i) governing the circumstances under which sales are at the same business location;
574 and
- 575 (ii) establishing the procedures and requirements for a seller to separately account for
576 sales of assisted cleaning or washing of tangible personal property;
- 577 (8) sales made to or by religious or charitable institutions in the conduct of their regular
578 religious or charitable functions and activities, if the requirements of Section 59-12-104.1 are
579 fulfilled;
- 580 (9) sales of a vehicle of a type required to be registered under the motor vehicle laws of
581 this state if the vehicle is:
- 582 (a) not registered in this state; and
- 583 (b) (i) not used in this state; or

- 584 (ii) used in this state:
- 585 (A) if the vehicle is not used to conduct business, for a time period that does not
- 586 exceed the longer of:
- 587 (I) 30 days in any calendar year; or
- 588 (II) the time period necessary to transport the vehicle to the borders of this state; or
- 589 (B) if the vehicle is used to conduct business, for the time period necessary to transport
- 590 the vehicle to the borders of this state;
- 591 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
- 592 (i) the item is intended for human use; and
- 593 (ii) (A) a prescription was issued for the item; or
- 594 (B) the item was purchased by a hospital or other medical facility; and
- 595 (b) (i) Subsection (10)(a) applies to:
- 596 (A) a drug;
- 597 (B) a syringe; or
- 598 (C) a stoma supply; and
- 599 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 600 commission may by rule define the terms:
- 601 (A) "syringe"; or
- 602 (B) "stoma supply";
- 603 (11) purchases or leases exempt under Section [19-12-201](#);
- 604 (12) (a) sales of an item described in Subsection (12)(c) served by:
- 605 (i) the following if the item described in Subsection (12)(c) is not available to the
- 606 general public:
- 607 (A) a church; or
- 608 (B) a charitable institution; or
- 609 (ii) an institution of higher education if:
- 610 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 611 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 612 offered by the institution of higher education; or
- 613 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 614 (i) a medical facility; or

- 615 (ii) a nursing facility; and
- 616 (c) Subsections (12)(a) and (b) apply to:
 - 617 (i) food and food ingredients;
 - 618 (ii) prepared food; or
 - 619 (iii) alcoholic beverages;
- 620 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 621 or a product transferred electronically by a person:
 - 622 (i) regardless of the number of transactions involving the sale of that tangible personal
 - 623 property or product transferred electronically by that person; and
 - 624 (ii) not regularly engaged in the business of selling that type of tangible personal
 - 625 property or product transferred electronically;
 - 626 (b) this Subsection (13) does not apply if:
 - 627 (i) the sale is one of a series of sales of a character to indicate that the person is
 - 628 regularly engaged in the business of selling that type of tangible personal property or product
 - 629 transferred electronically;
 - 630 (ii) the person holds that person out as regularly engaged in the business of selling that
 - 631 type of tangible personal property or product transferred electronically;
 - 632 (iii) the person sells an item of tangible personal property or product transferred
 - 633 electronically that the person purchased as a sale that is exempt under Subsection (25); or
 - 634 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
 - 635 this state in which case the tax is based upon:
 - 636 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
 - 637 sold; or
 - 638 (B) in the absence of a bill of sale or other written evidence of value, the fair market
 - 639 value of the vehicle or vessel being sold at the time of the sale as determined by the
 - 640 commission; and
 - 641 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
 - 642 commission shall make rules establishing the circumstances under which:
 - 643 (i) a person is regularly engaged in the business of selling a type of tangible personal
 - 644 property or product transferred electronically;
 - 645 (ii) a sale of tangible personal property or a product transferred electronically is one of

646 a series of sales of a character to indicate that a person is regularly engaged in the business of
647 selling that type of tangible personal property or product transferred electronically; or

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

650 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
651 operating repair or replacement parts, or materials, except for office equipment or office
652 supplies, by:

653 (a) a manufacturing facility that:

654 (i) is located in the state; and

655 (ii) uses or consumes the machinery, equipment, normal operating repair or
656 replacement parts, or materials:

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

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

663 (b) an establishment, as the commission defines that term in accordance with Title
664 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

665 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
666 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
667 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
668 2002 North American Industry Classification System of the federal Executive Office of the
669 President, Office of Management and Budget;

670 (ii) is located in the state; and

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

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

676 (B) research and development, as the commission may define that phrase in accordance

677 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

679 produced from mining;

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

681 mining; or

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

683 (c) an establishment, as the commission defines that term in accordance with Title 63G,

684 Chapter 3, Utah Administrative Rulemaking Act, that:

685 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North

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

687 Office of Management and Budget;

688 (ii) is located in the state; and

689 (iii) uses or consumes the machinery, equipment, normal operating repair or

690 replacement parts, or materials in the operation of the web search portal;

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

692 (i) tooling;

693 (ii) special tooling;

694 (iii) support equipment;

695 (iv) special test equipment; or

696 (v) parts used in the repairs or renovations of tooling or equipment described in

697 Subsections (15)(a)(i) through (iv); and

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

699 (i) the tooling, equipment, or parts are used or consumed exclusively in the

700 performance of any aerospace or electronics industry contract with the United States

701 government or any subcontract under that contract; and

702 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

703 title to the tooling, equipment, or parts is vested in the United States government as evidenced

704 by:

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

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

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

708 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

721 (i) money;

722 (ii) electricity;

723 (iii) water;

724 (iv) gas; or

725 (v) steam;

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

730 (A) becomes part of real estate; or

731 (B) is installed by a:

732 (I) farmer;

733 (II) contractor; or

734 (III) subcontractor; or

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

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

739 chapter:

740 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
741 supplies if used in a manner that is incidental to farming; and

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

744 (I) hand tools; or

745 (II) maintenance and janitorial equipment and supplies;

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

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

751 (I) office equipment and supplies; or

752 (II) equipment and supplies used in:

753 (Aa) the sale or distribution of farm products;

754 (Bb) research; or

755 (Cc) transportation; or

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

758 (19) sales of hay;

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

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

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

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

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

768 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
769 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,

770 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
771 manufacturer, processor, wholesaler, or retailer;

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

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

774 (i) the product is:

775 (A) purchased outside of this state;

776 (B) brought into this state:

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

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

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

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

783 (ii) for:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

812 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
813 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
814 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
815 the President, Office of Management and Budget;

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

818 (a) not registered in this state; and

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

820 (ii) used in this state:

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

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

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

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

829 (31) sales of aircraft manufactured in Utah;

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

- 832 (33) sales, leases, or uses of the following:
- 833 (a) a vehicle by an authorized carrier; or
- 834 (b) tangible personal property that is installed on a vehicle:
- 835 (i) sold or leased to or used by an authorized carrier; and
- 836 (ii) before the vehicle is placed in service for the first time;
- 837 (34) (a) 45% of the sales price of any new manufactured home; and
- 838 (b) 100% of the sales price of any used manufactured home;
- 839 (35) sales relating to schools and fundraising sales;
- 840 (36) sales or rentals of durable medical equipment if:
- 841 (a) a person presents a prescription for the durable medical equipment; and
- 842 (b) the durable medical equipment is used for home use only;
- 843 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 844 Section [72-11-102](#); and
- 845 (b) the commission shall by rule determine the method for calculating sales exempt
- 846 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 847 (38) sales to a ski resort of:
- 848 (a) snowmaking equipment;
- 849 (b) ski slope grooming equipment;
- 850 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 851 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 852 described in Subsections (38)(a) through (c);
- 853 (39) subject to Subsection [59-12-103\(2\)\(j\)](#), sales of natural gas, electricity, heat, coal,
- 854 fuel oil, or other fuels for industrial use;
- 855 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 856 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 857 [59-12-102](#);
- 858 (b) if a seller that sells or rents at the same business location the right to use or operate
- 859 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 860 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 861 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 862 amusement, entertainment, or recreation for the assisted amusement devices; and

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

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

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

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

871 (i) a governmental entity; or

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

873 (A) a school; or

874 (B) the State Board of Education; or

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

876 (42) amounts paid for admission to an athletic event at an institution of higher
877 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
878 20 U.S.C. Sec. 1681 et seq.;

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

880 (i) an area agency on aging; or

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

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

883 (44) sales or leases of semiconductor fabricating, processing, research, or development
884 materials regardless of whether the semiconductor fabricating, processing, research, or
885 development materials:

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

887 (b) ultimately become incorporated into real property;

888 (45) an amount paid by or charged to a purchaser for accommodations and services
889 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
890 [59-12-104.2](#);

891 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
892 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
893 specified on the temporary sports event registration certificate;

894 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
895 adopted by the Public Service Commission only for purchase of electricity produced from a
896 new alternative energy source built after January 1, 2016, as designated in the tariff by the
897 Public Service Commission; and

898 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
899 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
900 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
901 customer would have paid absent the tariff;

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

904 (49) sales of water in a:

- 905 (a) pipe;
- 906 (b) conduit;
- 907 (c) ditch; or
- 908 (d) reservoir;

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

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

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

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

- 915 (i) ingot;
- 916 (ii) bar;
- 917 (iii) medallion; or
- 918 (iv) decorative coin;

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

920 (53) sales of a prosthetic device:

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

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

925 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
926 or equipment is primarily used in the production or postproduction of the following media for
927 commercial distribution:

- 928 (i) a motion picture;
- 929 (ii) a television program;
- 930 (iii) a movie made for television;
- 931 (iv) a music video;
- 932 (v) a commercial;
- 933 (vi) a documentary; or
- 934 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

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

- 936 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 937 described in Subsection (54)(c) that is used for the production or postproduction of the
- 938 following are subject to the taxes imposed by this chapter:

- 939 (i) a live musical performance;
- 940 (ii) a live news program; or
- 941 (iii) a live sporting event;

942 (c) the following establishments listed in the 1997 North American Industry
943 Classification System of the federal Executive Office of the President, Office of Management
944 and Budget, apply to Subsections (54)(a) and (b):

- 945 (i) NAICS Code 512110; or
- 946 (ii) NAICS Code 51219; and
- 947 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

948 commission may by rule:

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

950 or

- 951 (ii) define:
 - 952 (A) "commercial distribution";
 - 953 (B) "live musical performance";
 - 954 (C) "live news program"; or
 - 955 (D) "live sporting event";

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

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

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

960 (B) is located in the state; and

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

962 (II) has its generation capacity increased by one or more megawatts on or after July 1,
963 2004, as a result of the use of the tangible personal property;

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

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

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

968 (A) a wind turbine;

969 (B) generating equipment;

970 (C) a control and monitoring system;

971 (D) a power line;

972 (E) substation equipment;

973 (F) lighting;

974 (G) fencing;

975 (H) pipes; or

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

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

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

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

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

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

982 and

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

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

987 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
988 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
989 in Subsection (55)(a)(iii);
990 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
991 on or before June 30, 2027, of tangible personal property that:
992 (i) is leased or purchased for or by a facility that:
993 (A) is a waste energy production facility;
994 (B) is located in the state; and
995 (C) (I) becomes operational on or after July 1, 2004; or
996 (II) has its generation capacity increased by one or more megawatts on or after July 1,
997 2004, as a result of the use of the tangible personal property;
998 (ii) has an economic life of five or more years; and
999 (iii) is used to make the facility or the increase in capacity of the facility described in
1000 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
1001 transmission grid including:
1002 (A) generating equipment;
1003 (B) a control and monitoring system;
1004 (C) a power line;
1005 (D) substation equipment;
1006 (E) lighting;
1007 (F) fencing;
1008 (G) pipes; or
1009 (H) other equipment used for locating a power line or pole; and
1010 (b) this Subsection (56) does not apply to:
1011 (i) tangible personal property used in construction of:
1012 (A) a new waste energy facility; or
1013 (B) the increase in the capacity of a waste energy facility;
1014 (ii) contracted services required for construction and routine maintenance activities;
1015 and
1016 (iii) unless the tangible personal property is used or acquired for an increase in capacity
1017 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

- 1018 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
1019 described in Subsection (56)(a)(iii); or
- 1020 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
1021 in Subsection (56)(a)(iii);
- 1022 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
1023 or before June 30, 2027, of tangible personal property that:
- 1024 (i) is leased or purchased for or by a facility that:
- 1025 (A) is located in the state;
- 1026 (B) produces fuel from alternative energy, including:
- 1027 (I) methanol; or
- 1028 (II) ethanol; and
- 1029 (C) (I) becomes operational on or after July 1, 2004; or
- 1030 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
1031 a result of the installation of the tangible personal property;
- 1032 (ii) has an economic life of five or more years; and
- 1033 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 1034 (b) this Subsection (57) does not apply to:
- 1035 (i) tangible personal property used in construction of:
- 1036 (A) a new facility described in Subsection (57)(a)(i); or
- 1037 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
- 1038 (ii) contracted services required for construction and routine maintenance activities;
- 1039 and
- 1040 (iii) unless the tangible personal property is used or acquired for an increase in capacity
1041 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
- 1042 (A) the facility described in Subsection (57)(a)(i) is operational; or
- 1043 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 1044 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
1045 product transferred electronically to a person within this state if that tangible personal property
1046 or product transferred electronically is subsequently shipped outside the state and incorporated
1047 pursuant to contract into and becomes a part of real property located outside of this state;
- 1048 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other

1049 state or political entity to which the tangible personal property is shipped imposes a sales, use,
1050 gross receipts, or other similar transaction excise tax on the transaction against which the other
1051 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

1052 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
1053 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
1054 refund:

1055 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

1056 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
1057 which the sale is made;

1058 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
1059 sale prior to filing for the refund;

1060 (iv) for sales and use taxes paid under this chapter on the sale;

1061 (v) in accordance with Section 59-1-1410; and

1062 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
1063 the person files for the refund on or before June 30, 2011;

1064 (59) purchases:

1065 (a) of one or more of the following items in printed or electronic format:

1066 (i) a list containing information that includes one or more:

1067 (A) names; or

1068 (B) addresses; or

1069 (ii) a database containing information that includes one or more:

1070 (A) names; or

1071 (B) addresses; and

1072 (b) used to send direct mail;

1073 (60) redemptions or repurchases of a product by a person if that product was:

1074 (a) delivered to a pawnbroker as part of a pawn transaction; and

1075 (b) redeemed or repurchased within the time period established in a written agreement
1076 between the person and the pawnbroker for redeeming or repurchasing the product;

1077 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

1078 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

1079 and

- 1080 (ii) has a useful economic life of one or more years; and
- 1081 (b) the following apply to Subsection (61)(a):
- 1082 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 1083 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 1084 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 1085 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 1086 (v) telecommunications transmission equipment, machinery, or software;
- 1087 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 1088 personal property or a product transferred electronically that are used in the research and
- 1089 development of alternative energy technology; and
- 1090 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 1091 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 1092 purchases of tangible personal property or a product transferred electronically that are used in
- 1093 the research and development of alternative energy technology;
- 1094 (63) (a) purchases of tangible personal property or a product transferred electronically
- 1095 if:
- 1096 (i) the tangible personal property or product transferred electronically is:
- 1097 (A) purchased outside of this state;
- 1098 (B) brought into this state at any time after the purchase described in Subsection
- 1099 (63)(a)(i)(A); and
- 1100 (C) used in conducting business in this state; and
- 1101 (ii) for:
- 1102 (A) tangible personal property or a product transferred electronically other than the
- 1103 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
- 1104 for a purpose for which the property is designed occurs outside of this state; or
- 1105 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 1106 outside of this state;
- 1107 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 1108 (i) a lease or rental of tangible personal property or a product transferred electronically;
- 1109 or
- 1110 (ii) a sale of a vehicle exempt under Subsection (33); and

1111 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
1112 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
1113 following:

1114 (i) conducting business in this state if that phrase has the same meaning in this
1115 Subsection (63) as in Subsection (24);

1116 (ii) the first use of tangible personal property or a product transferred electronically if
1117 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or

1118 (iii) a purpose for which tangible personal property or a product transferred
1119 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
1120 Subsection (24);

1121 (64) sales of disposable home medical equipment or supplies if:

1122 (a) a person presents a prescription for the disposable home medical equipment or
1123 supplies;

1124 (b) the disposable home medical equipment or supplies are used exclusively by the
1125 person to whom the prescription described in Subsection (64)(a) is issued; and

1126 (c) the disposable home medical equipment and supplies are listed as eligible for
1127 payment under:

1128 (i) Title XVIII, federal Social Security Act; or

1129 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

1130 (65) sales:

1131 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
1132 District Act; or

1133 (b) of tangible personal property to a subcontractor of a public transit district, if the
1134 tangible personal property is:

1135 (i) clearly identified; and

1136 (ii) installed or converted to real property owned by the public transit district;

1137 (66) sales of construction materials:

1138 (a) purchased on or after July 1, 2010;

1139 (b) purchased by, on behalf of, or for the benefit of an international airport:

1140 (i) located within a county of the first class; and

1141 (ii) that has a United States customs office on its premises; and

- 1142 (c) if the construction materials are:
- 1143 (i) clearly identified;
- 1144 (ii) segregated; and
- 1145 (iii) installed or converted to real property:
- 1146 (A) owned or operated by the international airport described in Subsection (66)(b); and
- 1147 (B) located at the international airport described in Subsection (66)(b);
- 1148 (67) sales of construction materials:
- 1149 (a) purchased on or after July 1, 2008;
- 1150 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 1151 (i) located within a county of the second class; and
- 1152 (ii) that is owned or operated by a city in which an airline as defined in Section
- 1153 [59-2-102](#) is headquartered; and
- 1154 (c) if the construction materials are:
- 1155 (i) clearly identified;
- 1156 (ii) segregated; and
- 1157 (iii) installed or converted to real property:
- 1158 (A) owned or operated by the new airport described in Subsection (67)(b);
- 1159 (B) located at the new airport described in Subsection (67)(b); and
- 1160 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 1161 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 1162 (69) purchases and sales described in Section [63H-4-111](#);
- 1163 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 1164 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 1165 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 1166 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 1167 powered aircraft; or
- 1168 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 1169 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 1170 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 1171 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 1172 powered aircraft;

1173 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

1174 (a) to a person admitted to an institution of higher education; and

1175 (b) by a seller, other than a bookstore owned by an institution of higher education, if

1176 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

1177 textbook for a higher education course;

1178 (72) a license fee or tax a municipality imposes in accordance with Subsection

1179 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

1180 level of municipal services;

1181 (73) amounts paid or charged for construction materials used in the construction of a

1182 new or expanding life science research and development facility in the state, if the construction

1183 materials are:

1184 (a) clearly identified;

1185 (b) segregated; and

1186 (c) installed or converted to real property;

1187 (74) amounts paid or charged for:

1188 (a) a purchase or lease of machinery and equipment that:

1189 (i) are used in performing qualified research:

1190 (A) as defined in Section 41(d), Internal Revenue Code; and

1191 (B) in the state; and

1192 (ii) have an economic life of three or more years; and

1193 (b) normal operating repair or replacement parts:

1194 (i) for the machinery and equipment described in Subsection (74)(a); and

1195 (ii) that have an economic life of three or more years;

1196 (75) a sale or lease of tangible personal property used in the preparation of prepared

1197 food if:

1198 (a) for a sale:

1199 (i) the ownership of the seller and the ownership of the purchaser are identical; and

1200 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

1201 tangible personal property prior to making the sale; or

1202 (b) for a lease:

1203 (i) the ownership of the lessor and the ownership of the lessee are identical; and

1204 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
1205 personal property prior to making the lease;

1206 (76) (a) purchases of machinery or equipment if:

1207 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
1208 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
1209 System of the federal Executive Office of the President, Office of Management and Budget;

1210 (ii) the machinery or equipment:

1211 (A) has an economic life of three or more years; and

1212 (B) is used by one or more persons who pay admission or user fees described in
1213 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

1214 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

1215 (A) amounts paid or charged as admission or user fees described in Subsection
1216 59-12-103(1)(f); and

1217 (B) subject to taxation under this chapter; and

1218 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1219 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
1220 previous calendar quarter is:

1221 (i) amounts paid or charged as admission or user fees described in Subsection
1222 59-12-103(1)(f); and

1223 (ii) subject to taxation under this chapter;

1224 (77) purchases of a short-term lodging consumable by a business that provides
1225 accommodations and services described in Subsection 59-12-103(1)(i);

1226 (78) amounts paid or charged to access a database:

1227 (a) if the primary purpose for accessing the database is to view or retrieve information
1228 from the database; and

1229 (b) not including amounts paid or charged for a:

1230 (i) digital audiowork;

1231 (ii) digital audio-visual work; or

1232 (iii) digital book;

1233 (79) amounts paid or charged for a purchase or lease made by an electronic financial
1234 payment service, of:

- 1235 (a) machinery and equipment that:
- 1236 (i) are used in the operation of the electronic financial payment service; and
- 1237 (ii) have an economic life of three or more years; and
- 1238 (b) normal operating repair or replacement parts that:
- 1239 (i) are used in the operation of the electronic financial payment service; and
- 1240 (ii) have an economic life of three or more years;
- 1241 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- 1242 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 1243 product transferred electronically if the tangible personal property or product transferred
- 1244 electronically:
- 1245 (a) is stored, used, or consumed in the state; and
- 1246 (b) is temporarily brought into the state from another state:
- 1247 (i) during a disaster period as defined in Section 53-2a-1202;
- 1248 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 1249 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 1250 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 1251 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 1252 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 1253 Recreation Program;
- 1254 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 1255 (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise
- 1256 data center of machinery, equipment, or normal operating repair or replacement parts, if the
- 1257 machinery, equipment, or normal operating repair or replacement parts:
- 1258 (a) are used in the operation of the establishment; and
- 1259 (b) have an economic life of one or more years;
- 1260 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 1261 vehicle that includes cleaning or washing of the interior of the vehicle;
- 1262 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 1263 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 1264 or consumed:
- 1265 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined

1266 in Section 63M-4-701 located in the state;

1267 (b) if the machinery, equipment, normal operating repair or replacement parts,
1268 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

1269 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
1270 added to gasoline or diesel fuel;

1271 (ii) research and development;

1272 (iii) transporting, storing, or managing raw materials, work in process, finished
1273 products, and waste materials produced from refining gasoline or diesel fuel, or adding
1274 blendstock to gasoline or diesel fuel;

1275 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
1276 refining; or

1277 (v) preventing, controlling, or reducing pollutants from refining; and

1278 (c) beginning on July 1, [2021] 2022, if the person has obtained a form certified by the
1279 Office of Energy Development under Subsection 63M-4-702(2);

1280 (87) amounts paid to or charged by a proprietor for accommodations and services, as
1281 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
1282 imposed under Section 63H-1-205;

1283 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
1284 operating repair or replacement parts, or materials, except for office equipment or office
1285 supplies, by an establishment, as the commission defines that term in accordance with Title
1286 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1287 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
1288 American Industry Classification System of the federal Executive Office of the President,
1289 Office of Management and Budget;

1290 (b) is located in this state; and

1291 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
1292 materials in the operation of the establishment; and

1293 (89) amounts paid or charged for an item exempt under Section 59-12-104.10.

1294 Section 3. Section 63M-4-702 is amended to read:

1295 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**
1296 **certification of sales and use tax exemption eligibility.**

1297 (1) (a) Beginning on July 1, [~~2021~~] 2022, a refiner that seeks to be eligible for a sales
1298 and use tax exemption under Subsection [59-12-104\(86\)](#) shall annually report to the office
1299 whether the refiner's facility that is located within the state will have an average gasoline sulfur
1300 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.
1301 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.
1302 80.1616.

1303 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not
1304 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.
1305 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

1306 (2) (a) Beginning on July 1, [~~2021~~] 2022, the office shall annually certify that the
1307 refiner is eligible for the sales and use tax exemption under Subsection [59-12-104\(86\)](#):

1308 (i) on a form provided by the State Tax Commission that shall be retained by the
1309 refiner claiming the sales and use tax exemption under Subsection [59-12-104\(86\)](#);

1310 (ii) if the refiner's refinery that is located within the state had an average sulfur level of
1311 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar
1312 year; and

1313 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
1314 [59-12-104\(86\)](#).

1315 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
1316 annually.

1317 (c) The office:

1318 (i) shall accept a copy of a report submitted by a refiner to the Environmental
1319 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average
1320 gasoline sulfur level; or

1321 (ii) may establish another reporting mechanism through rules made under Subsection
1322 (3).

1323 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1324 office may make rules to implement this section.