

**Senator Luz Escamilla** proposes the following substitute bill:

**FUEL SALES TAX AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Rex P. Shipp**

Senate Sponsor: Lincoln Fillmore

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**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 date by which a refiner must comply with certain sulfur level requirements to qualify for the sales and use tax exemption for amounts paid or charged for a purchase or lease of certain equipment, parts, and supplies;
- ▶ requires a refiner to pay sales and use tax on certain previously made exempt purchases if the refiner fails to meet the sulfur level requirements;
- ▶ imposes a penalty on a refiner that receives a sales and use tax exemption and fails to meet the sulfur level requirements;
- ▶ enacts a reporting requirement for certain exempt purchases by a refiner; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 **59-12-103**, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479

31 **59-12-104**, as last amended by Laws of Utah 2019, Chapters 136 and 486

32 **63M-4-702**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

33 ENACTS:

34 **59-12-104.11**, Utah Code Annotated 1953

35 **59-12-105.1**, Utah Code Annotated 1953



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

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

39 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
40 **tax revenues.**

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

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

44 (b) amounts paid for:

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

47 (ii) mobile telecommunications service that originates and terminates within the  
48 boundaries of one state only to the extent permitted by the Mobile Telecommunications

49 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

50 (iii) an ancillary service associated with a:

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

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

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

54 (i) gas;

55 (ii) electricity;

56 (iii) heat;

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

88 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court  
89 accommodations and services that are regularly rented for less than 30 consecutive days;  
90 (j) amounts paid or charged for laundry or dry cleaning services;  
91 (k) amounts paid or charged for leases or rentals of tangible personal property if within  
92 this state the tangible personal property is:  
93 (i) stored;  
94 (ii) used; or  
95 (iii) otherwise consumed;  
96 (l) amounts paid or charged for tangible personal property if within this state the  
97 tangible personal property is:  
98 (i) stored;  
99 (ii) used; or  
100 (iii) consumed; and  
101 (m) amounts paid or charged for a sale:  
102 (i) (A) of a product transferred electronically; or  
103 (B) of a repair or renovation of a product transferred electronically; and  
104 (ii) regardless of whether the sale provides:  
105 (A) a right of permanent use of the product; or  
106 (B) a right to use the product that is less than a permanent use, including a right:  
107 (I) for a definite or specified length of time; and  
108 (II) that terminates upon the occurrence of a condition.  
109 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax  
110 are imposed on a transaction described in Subsection (1) equal to the sum of:  
111 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:  
112 (A) (I) through March 31, 2019, 4.70%; and  
113 (II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a);  
114 and  
115 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales  
116 and Use Tax Act, if the location of the transaction as determined under Sections [59-12-211](#)  
117 through [59-12-215](#) is in a county in which the state imposes the tax under Part 18, Additional  
118 State Sales and Use Tax Act; and

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

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

125 (b) Except as provided in Subsection (2)(d) or (e) and subject to Subsection (2)(j), a  
126 state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to  
127 the sum of:

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

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

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

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

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

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

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

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

142 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
143 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
144 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
145 Additional State Sales and Use Tax Act; and

146 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
147 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
148 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
149 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

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

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

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

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

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

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

173 (II) state or federal law provides otherwise.

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

177 (e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii)  
178 and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a  
179 product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental  
180 of tangible personal property, other property, a product, or a service that is not subject to

181 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless  
182 the seller, at the time of the transaction:

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

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

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

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

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

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

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

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

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

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

211 (g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax

212 rate imposed under the following shall take effect on the first day of a calendar quarter:

- 213 (i) Subsection (2)(a)(i)(A);
- 214 (ii) Subsection (2)(b)(i);
- 215 (iii) Subsection (2)(c)(i); or
- 216 (iv) Subsection (2)(d)(i)(A)(I).

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

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

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

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

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

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

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

- 237 (A) Subsection (2)(a)(i)(A);
- 238 (B) Subsection (2)(b)(i);
- 239 (C) Subsection (2)(c)(i); or
- 240 (D) Subsection (2)(d)(i)(A)(I).

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



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

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

248 (A) a commercial use;

249 (B) an industrial use; or

250 (C) a residential use.

251 (3) (a) The following state taxes shall be deposited into the General Fund:

252 (i) the tax imposed by Subsection (2)(a)(i)(A);

253 (ii) the tax imposed by Subsection (2)(b)(i);

254 (iii) the tax imposed by Subsection (2)(c)(i); or

255 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

256 (b) The following local taxes shall be distributed to a county, city, or town as provided  
257 in this chapter:

258 (i) the tax imposed by Subsection (2)(a)(ii);

259 (ii) the tax imposed by Subsection (2)(b)(ii);

260 (iii) the tax imposed by Subsection (2)(c)(ii); and

261 (iv) the tax imposed by Subsection (2)(d)(i)(B).

262 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
263 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b)  
264 through (g):

265 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

266 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and

267 (B) for the fiscal year; or

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

269 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
270 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
271 Department of Natural Resources to:

272 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
273 protect sensitive plant and animal species; or

274 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
275 act, to political subdivisions of the state to implement the measures described in Subsections  
276 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

277 (ii) Money transferred to the Department of Natural Resources under Subsection  
278 (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other  
279 person to list or attempt to have listed a species as threatened or endangered under the  
280 Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

281 (iii) At the end of each fiscal year:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

325 (iii) develop surface water sources.

326 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
327 2006, the difference between the following amounts shall be expended as provided in this  
328 Subsection (5), if that difference is greater than \$1:

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

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

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

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

335 (B) expended by the Department of Natural Resources for watershed rehabilitation or

336 restoration.

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

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

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

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

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

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

353 (i) preconstruction costs:

354 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
355 26, Bear River Development Act; and

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

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

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

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

364 (e) After making the transfers required by Subsections (5)(b) and (c) and subject to  
365 Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be  
366 transferred each year as dedicated credits to the Division of Water Rights to cover the costs

367 incurred for employing additional technical staff for the administration of water rights.

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

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

374 (a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6)  
375 shall be deposited into the Transportation Investment Fund of 2005 created by Section  
376 72-2-124;

377 (b) for fiscal year 2017-18 only:

378 (i) 80% of the revenue described in this Subsection (6) shall be deposited into the  
379 Transportation Investment Fund of 2005 created by Section 72-2-124; and

380 (ii) 20% of the revenue described in this Subsection (6) shall be deposited into the  
381 Water Infrastructure Restricted Account created by Section 73-10g-103;

382 (c) for fiscal year 2018-19 only:

383 (i) 60% of the revenue described in this Subsection (6) shall be deposited into the  
384 Transportation Investment Fund of 2005 created by Section 72-2-124; and

385 (ii) 40% of the revenue described in this Subsection (6) shall be deposited into the  
386 Water Infrastructure Restricted Account created by Section 73-10g-103;

387 (d) for fiscal year 2019-20 only:

388 (i) 40% of the revenue described in this Subsection (6) shall be deposited into the  
389 Transportation Investment Fund of 2005 created by Section 72-2-124; and

390 (ii) 60% of the revenue described in this Subsection (6) shall be deposited into the  
391 Water Infrastructure Restricted Account created by Section 73-10g-103;

392 (e) for fiscal year 2020-21 only:

393 (i) 20% of the revenue described in this Subsection (6) shall be deposited into the  
394 Transportation Investment Fund of 2005 created by Section 72-2-124; and

395 (ii) 80% of the revenue described in this Subsection (6) shall be deposited into the  
396 Water Infrastructure Restricted Account created by Section 73-10g-103; and

397 (f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described

398 in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account  
399 created by Section 73-10g-103.

400 (7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in  
401 Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1,  
402 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005  
403 created by Section 72-2-124:

404 (i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of  
405 the revenues collected from the following taxes, which represents a portion of the  
406 approximately 17% of sales and use tax revenues generated annually by the sales and use tax  
407 on vehicles and vehicle-related products:

- 408 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 409 (B) the tax imposed by Subsection (2)(b)(i);
- 410 (C) the tax imposed by Subsection (2)(c)(i); and
- 411 (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

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

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

- 422 (A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the  
423 previous fiscal year; and
- 424 (B) the total sales and use tax revenue generated by the taxes described in Subsections  
425 (7)(a)(i)(A) through (D) in the current fiscal year.

426 (ii) In any fiscal year in which the portion of the sales and use taxes deposited under  
427 Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes  
428 described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of

429 Finance shall deposit 17% of the revenues collected from the sales and use taxes described in  
430 Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

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

436 (8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited  
437 under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall  
438 deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into  
439 the Transportation Investment Fund of 2005 created by Section [72-2-124](#).

440 (b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under  
441 Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit  
442 \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the  
443 Transportation Investment Fund of 2005 created by Section [72-2-124](#).

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

- 449 (A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;
- 450 (B) the tax imposed by Subsection (2)(b)(i);
- 451 (C) the tax imposed by Subsection (2)(c)(i); and
- 452 (D) the tax imposed by Subsection (2)(d)(i)(A)(I).

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

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

460 (9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
461 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
462 created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

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

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

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

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

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

478 (iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a  
479 .05% tax rate on the transactions described in Subsection (1); and

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

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

487 (11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the  
488 fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that  
489 construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of  
490 Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue



491 generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund,  
492 created in Section 63N-2-512.

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

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

499 (13) (a) The rate specified in this subsection is 0.15%.

500 (b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

501 (i) on or before September 30, 2019, transfer the amount of revenue collected from the  
502 rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019,  
503 on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into  
504 the Medicaid Expansion Fund created in Section 26-36b-208; and

505 (ii) for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of  
506 revenue collected from the rate described in Subsection (13)(a) on the transactions that are  
507 subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion  
508 Fund created in Section 26-36b-208.

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

510 **59-12-104. Exemptions.**

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

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

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

516 (a) construction materials except:

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

521 (ii) construction materials purchased by the state, its institutions, or its political

522 subdivisions which are installed or converted to real property by employees of the state, its  
523 institutions, or its political subdivisions; or

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

527 (3) (a) sales of an item described in Subsection (3)(b) from a vending machine if:  
528 (i) the proceeds of each sale do not exceed \$1; and  
529 (ii) the seller or operator of the vending machine reports an amount equal to 150% of  
530 the cost of the item described in Subsection (3)(b) as goods consumed; and

531 (b) Subsection (3)(a) applies to:  
532 (i) food and food ingredients; or  
533 (ii) prepared food;

534 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:  
535 (i) alcoholic beverages;  
536 (ii) food and food ingredients; or  
537 (iii) prepared food;

538 (b) sales of tangible personal property or a product transferred electronically:  
539 (i) to a passenger;  
540 (ii) by a commercial airline carrier; and  
541 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or  
542 (c) services related to Subsection (4)(a) or (b);

543 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts  
544 and equipment:  
545 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002  
546 North American Industry Classification System of the federal Executive Office of the  
547 President, Office of Management and Budget; and  
548 (II) for:  
549 (Aa) installation in an aircraft, including services relating to the installation of parts or  
550 equipment in the aircraft;  
551 (Bb) renovation of an aircraft; or  
552 (Cc) repair of an aircraft; or

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

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

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

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

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

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

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

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

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

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

571 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of  
572 cleaning or washing of tangible personal property if the cleaning or washing of the tangible  
573 personal property is not assisted cleaning or washing of tangible personal property;

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

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

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

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

584 sales of assisted cleaning or washing of tangible personal property;

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

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

590 (a) not registered in this state; and

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

592 (ii) used in this state:

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

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

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

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

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

600 (i) the item is intended for human use; and

601 (ii) (A) a prescription was issued for the item; or

602 (B) the item was purchased by a hospital or other medical facility; and

603 (b) (i) Subsection (10)(a) applies to:

604 (A) a drug;

605 (B) a syringe; or

606 (C) a stoma supply; and

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

609 (A) "syringe"; or

610 (B) "stoma supply";

611 (11) purchases or leases exempt under Section [19-12-201](#);

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

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

- 615 (A) a church; or
- 616 (B) a charitable institution; or
- 617 (ii) an institution of higher education if:
- 618 (A) the item described in Subsection (12)(c) is not available to the general public; or
- 619 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
- 620 offered by the institution of higher education; or
- 621 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
- 622 (i) a medical facility; or
- 623 (ii) a nursing facility; and
- 624 (c) Subsections (12)(a) and (b) apply to:
- 625 (i) food and food ingredients;
- 626 (ii) prepared food; or
- 627 (iii) alcoholic beverages;
- 628 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
- 629 or a product transferred electronically by a person:
- 630 (i) regardless of the number of transactions involving the sale of that tangible personal
- 631 property or product transferred electronically by that person; and
- 632 (ii) not regularly engaged in the business of selling that type of tangible personal
- 633 property or product transferred electronically;
- 634 (b) this Subsection (13) does not apply if:
- 635 (i) the sale is one of a series of sales of a character to indicate that the person is
- 636 regularly engaged in the business of selling that type of tangible personal property or product
- 637 transferred electronically;
- 638 (ii) the person holds that person out as regularly engaged in the business of selling that
- 639 type of tangible personal property or product transferred electronically;
- 640 (iii) the person sells an item of tangible personal property or product transferred
- 641 electronically that the person purchased as a sale that is exempt under Subsection (25); or
- 642 (iv) the sale is of a vehicle or vessel required to be titled or registered under the laws of
- 643 this state in which case the tax is based upon:
- 644 (A) the bill of sale or other written evidence of value of the vehicle or vessel being
- 645 sold; or

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

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

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

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

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

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

661 (a) a manufacturing facility that:

662 (i) is located in the state; and

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

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

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

671 (b) an establishment, as the commission defines that term in accordance with Title  
672 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

673 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
674 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal  
675 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
676 2002 North American Industry Classification System of the federal Executive Office of the

677 President, Office of Management and Budget;

678 (ii) is located in the state; and

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

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

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

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

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

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

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

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

696 (ii) is located in the state; and

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

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

700 (i) tooling;

701 (ii) special tooling;

702 (iii) support equipment;

703 (iv) special test equipment; or

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

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

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

708 performance of any aerospace or electronics industry contract with the United States  
709 government or any subcontract under that contract; and  
710 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),  
711 title to the tooling, equipment, or parts is vested in the United States government as evidenced  
712 by:  
713 (A) a government identification tag placed on the tooling, equipment, or parts; or  
714 (B) listing on a government-approved property record if placing a government  
715 identification tag on the tooling, equipment, or parts is impractical;  
716 (16) sales of newspapers or newspaper subscriptions;  
717 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a  
718 product transferred electronically traded in as full or part payment of the purchase price, except  
719 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,  
720 trade-ins are limited to other vehicles only, and the tax is based upon:  
721 (i) the bill of sale or other written evidence of value of the vehicle being sold and the  
722 vehicle being traded in; or  
723 (ii) in the absence of a bill of sale or other written evidence of value, the then existing  
724 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the  
725 commission; and  
726 (b) Subsection (17)(a) does not apply to the following items of tangible personal  
727 property or products transferred electronically traded in as full or part payment of the purchase  
728 price:  
729 (i) money;  
730 (ii) electricity;  
731 (iii) water;  
732 (iv) gas; or  
733 (v) steam;  
734 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property  
735 or a product transferred electronically used or consumed primarily and directly in farming  
736 operations, regardless of whether the tangible personal property or product transferred  
737 electronically:  
738 (A) becomes part of real estate; or



739 (B) is installed by a:  
740 (I) farmer;  
741 (II) contractor; or  
742 (III) subcontractor; or  
743 (ii) sales of parts used in the repairs or renovations of tangible personal property or a  
744 product transferred electronically if the tangible personal property or product transferred  
745 electronically is exempt under Subsection (18)(a)(i); and  
746 (b) amounts paid or charged for the following are subject to the taxes imposed by this  
747 chapter:  
748 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or  
749 supplies if used in a manner that is incidental to farming; and  
750 (B) tangible personal property that is considered to be used in a manner that is  
751 incidental to farming includes:  
752 (I) hand tools; or  
753 (II) maintenance and janitorial equipment and supplies;  
754 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product  
755 transferred electronically if the tangible personal property or product transferred electronically  
756 is used in an activity other than farming; and  
757 (B) tangible personal property or a product transferred electronically that is considered  
758 to be used in an activity other than farming includes:  
759 (I) office equipment and supplies; or  
760 (II) equipment and supplies used in:  
761 (Aa) the sale or distribution of farm products;  
762 (Bb) research; or  
763 (Cc) transportation; or  
764 (iii) a vehicle required to be registered by the laws of this state during the period  
765 ending two years after the date of the vehicle's purchase;  
766 (19) sales of hay;  
767 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
768 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
769 garden, farm, or other agricultural produce is sold by:

- 770 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
771 agricultural produce;
- 772 (b) an employee of the producer described in Subsection (20)(a); or
- 773 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 774 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
775 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 776 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
777 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
778 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
779 manufacturer, processor, wholesaler, or retailer;
- 780 (23) a product stored in the state for resale;
- 781 (24) (a) purchases of a product if:
- 782 (i) the product is:
- 783 (A) purchased outside of this state;
- 784 (B) brought into this state:
- 785 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
- 786 (II) by a nonresident person who is not living or working in this state at the time of the  
787 purchase;
- 788 (C) used for the personal use or enjoyment of the nonresident person described in  
789 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
- 790 (D) not used in conducting business in this state; and
- 791 (ii) for:
- 792 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of  
793 the product for a purpose for which the product is designed occurs outside of this state;
- 794 (B) a boat, the boat is registered outside of this state; or
- 795 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
796 outside of this state;
- 797 (b) the exemption provided for in Subsection (24)(a) does not apply to:
- 798 (i) a lease or rental of a product; or
- 799 (ii) a sale of a vehicle exempt under Subsection (33); and
- 800 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

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

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

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

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

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

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

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

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

820 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other  
821 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code  
822 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
823 the President, Office of Management and Budget;

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

826 (a) not registered in this state; and

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

828 (ii) used in this state:

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

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

- 832 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to  
833 the borders of this state; or
- 834 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time  
835 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this  
836 state;
- 837 (31) sales of aircraft manufactured in Utah;
- 838 (32) amounts paid for the purchase of telecommunications service for purposes of  
839 providing telecommunications service;
- 840 (33) sales, leases, or uses of the following:
- 841 (a) a vehicle by an authorized carrier; or
- 842 (b) tangible personal property that is installed on a vehicle:
- 843 (i) sold or leased to or used by an authorized carrier; and
- 844 (ii) before the vehicle is placed in service for the first time;
- 845 (34) (a) 45% of the sales price of any new manufactured home; and
- 846 (b) 100% of the sales price of any used manufactured home;
- 847 (35) sales relating to schools and fundraising sales;
- 848 (36) sales or rentals of durable medical equipment if:
- 849 (a) a person presents a prescription for the durable medical equipment; and
- 850 (b) the durable medical equipment is used for home use only;
- 851 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in  
852 Section [72-11-102](#); and
- 853 (b) the commission shall by rule determine the method for calculating sales exempt  
854 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 855 (38) sales to a ski resort of:
- 856 (a) snowmaking equipment;
- 857 (b) ski slope grooming equipment;
- 858 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 859 (d) parts used in the repairs or renovations of equipment or passenger ropeways  
860 described in Subsections (38)(a) through (c);
- 861 (39) subject to Subsection [59-12-103\(2\)\(j\)](#), sales of natural gas, electricity, heat, coal,  
862 fuel oil, or other fuels for industrial use;

863 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
864 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
865 59-12-102;

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

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

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

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

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

879 (i) a governmental entity; or

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

881 (A) a school; or

882 (B) the State Board of Education; or

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

884 (42) amounts paid for admission to an athletic event at an institution of higher  
885 education that is subject to the provisions of Title IX of the Education Amendments of 1972,  
886 20 U.S.C. Sec. 1681 et seq.;

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

888 (i) an area agency on aging; or

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

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

891 (44) sales or leases of semiconductor fabricating, processing, research, or development  
892 materials regardless of whether the semiconductor fabricating, processing, research, or  
893 development materials:

- 894 (a) actually come into contact with a semiconductor; or
- 895 (b) ultimately become incorporated into real property;
- 896 (45) an amount paid by or charged to a purchaser for accommodations and services
- 897 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 898 59-12-104.2;
- 899 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 900 sports event registration certificate in accordance with Section 41-3-306 for the event period
- 901 specified on the temporary sports event registration certificate;
- 902 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 903 adopted by the Public Service Commission only for purchase of electricity produced from a
- 904 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 905 Public Service Commission; and
- 906 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 907 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 908 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 909 customer would have paid absent the tariff;
- 910 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 911 prescription for the mobility enhancing equipment;
- 912 (49) sales of water in a:
- 913 (a) pipe;
- 914 (b) conduit;
- 915 (c) ditch; or
- 916 (d) reservoir;
- 917 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 918 or a foreign nation;
- 919 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 920 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 921 (ii) has a gold, silver, or platinum content of 50% or more; and
- 922 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 923 (i) ingot;
- 924 (ii) bar;

- 925 (iii) medallion; or
- 926 (iv) decorative coin;
- 927 (52) amounts paid on a sale-leaseback transaction;
- 928 (53) sales of a prosthetic device:
- 929 (a) for use on or in a human; and
- 930 (b) (i) for which a prescription is required; or
- 931 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 932 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 933 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 934 or equipment is primarily used in the production or postproduction of the following media for
- 935 commercial distribution:
- 936 (i) a motion picture;
- 937 (ii) a television program;
- 938 (iii) a movie made for television;
- 939 (iv) a music video;
- 940 (v) a commercial;
- 941 (vi) a documentary; or
- 942 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 943 commission by administrative rule made in accordance with Subsection (54)(d); or
- 944 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 945 described in Subsection (54)(c) that is used for the production or postproduction of the
- 946 following are subject to the taxes imposed by this chapter:
- 947 (i) a live musical performance;
- 948 (ii) a live news program; or
- 949 (iii) a live sporting event;
- 950 (c) the following establishments listed in the 1997 North American Industry
- 951 Classification System of the federal Executive Office of the President, Office of Management
- 952 and Budget, apply to Subsections (54)(a) and (b):
- 953 (i) NAICS Code 512110; or
- 954 (ii) NAICS Code 51219; and
- 955 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

956 commission may by rule:

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

958 or

959 (ii) define:

960 (A) "commercial distribution";

961 (B) "live musical performance";

962 (C) "live news program"; or

963 (D) "live sporting event";

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

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

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

968 (B) is located in the state; and

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

970 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
971 2004, as a result of the use of the tangible personal property;

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

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

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

976 (A) a wind turbine;

977 (B) generating equipment;

978 (C) a control and monitoring system;

979 (D) a power line;

980 (E) substation equipment;

981 (F) lighting;

982 (G) fencing;

983 (H) pipes; or

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

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

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



- 987 (A) a new alternative energy electricity production facility; or
- 988 (B) the increase in the capacity of an alternative energy electricity production facility;
- 989 (ii) contracted services required for construction and routine maintenance activities;
- 990 and
- 991 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 992 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
- 993 acquired after:
  - 994 (A) the alternative energy electricity production facility described in Subsection
  - 995 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
  - 996 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
  - 997 in Subsection (55)(a)(iii);
  - 998 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
  - 999 on or before June 30, 2027, of tangible personal property that:
    - 1000 (i) is leased or purchased for or by a facility that:
      - 1001 (A) is a waste energy production facility;
      - 1002 (B) is located in the state; and
      - 1003 (C) (I) becomes operational on or after July 1, 2004; or
      - 1004 (II) has its generation capacity increased by one or more megawatts on or after July 1,
      - 1005 2004, as a result of the use of the tangible personal property;
      - 1006 (ii) has an economic life of five or more years; and
      - 1007 (iii) is used to make the facility or the increase in capacity of the facility described in
      - 1008 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
      - 1009 transmission grid including:
        - 1010 (A) generating equipment;
        - 1011 (B) a control and monitoring system;
        - 1012 (C) a power line;
        - 1013 (D) substation equipment;
        - 1014 (E) lighting;
        - 1015 (F) fencing;
        - 1016 (G) pipes; or
        - 1017 (H) other equipment used for locating a power line or pole; and

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

1049 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

1050 (A) the facility described in Subsection (57)(a)(i) is operational; or

1051 (B) the increased capacity described in Subsection (57)(a)(i) is operational;

1052 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a  
1053 product transferred electronically to a person within this state if that tangible personal property  
1054 or product transferred electronically is subsequently shipped outside the state and incorporated  
1055 pursuant to contract into and becomes a part of real property located outside of this state;

1056 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other  
1057 state or political entity to which the tangible personal property is shipped imposes a sales, use,  
1058 gross receipts, or other similar transaction excise tax on the transaction against which the other  
1059 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

1060 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,  
1061 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a  
1062 refund:

1063 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;

1064 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on  
1065 which the sale is made;

1066 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the  
1067 sale prior to filing for the refund;

1068 (iv) for sales and use taxes paid under this chapter on the sale;

1069 (v) in accordance with Section 59-1-1410; and

1070 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if  
1071 the person files for the refund on or before June 30, 2011;

1072 (59) purchases:

1073 (a) of one or more of the following items in printed or electronic format:

1074 (i) a list containing information that includes one or more:

1075 (A) names; or

1076 (B) addresses; or

1077 (ii) a database containing information that includes one or more:

1078 (A) names; or

1079 (B) addresses; and

1080 (b) used to send direct mail;

1081 (60) redemptions or repurchases of a product by a person if that product was:

1082 (a) delivered to a pawnbroker as part of a pawn transaction; and

1083 (b) redeemed or repurchased within the time period established in a written agreement

1084 between the person and the pawnbroker for redeeming or repurchasing the product;

1085 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:

1086 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;

1087 and

1088 (ii) has a useful economic life of one or more years; and

1089 (b) the following apply to Subsection (61)(a):

1090 (i) telecommunications enabling or facilitating equipment, machinery, or software;

1091 (ii) telecommunications equipment, machinery, or software required for 911 service;

1092 (iii) telecommunications maintenance or repair equipment, machinery, or software;

1093 (iv) telecommunications switching or routing equipment, machinery, or software; or

1094 (v) telecommunications transmission equipment, machinery, or software;

1095 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible

1096 personal property or a product transferred electronically that are used in the research and

1097 development of alternative energy technology; and

1098 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

1099 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

1100 purchases of tangible personal property or a product transferred electronically that are used in

1101 the research and development of alternative energy technology;

1102 (63) (a) purchases of tangible personal property or a product transferred electronically

1103 if:

1104 (i) the tangible personal property or product transferred electronically is:

1105 (A) purchased outside of this state;

1106 (B) brought into this state at any time after the purchase described in Subsection

1107 (63)(a)(i)(A); and

1108 (C) used in conducting business in this state; and

1109 (ii) for:

1110 (A) tangible personal property or a product transferred electronically other than the

1111 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property  
1112 for a purpose for which the property is designed occurs outside of this state; or  
1113 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
1114 outside of this state;  
1115 (b) the exemption provided for in Subsection (63)(a) does not apply to:  
1116 (i) a lease or rental of tangible personal property or a product transferred electronically;  
1117 or  
1118 (ii) a sale of a vehicle exempt under Subsection (33); and  
1119 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for  
1120 purposes of Subsection (63)(a), the commission may by rule define what constitutes the  
1121 following:  
1122 (i) conducting business in this state if that phrase has the same meaning in this  
1123 Subsection (63) as in Subsection (24);  
1124 (ii) the first use of tangible personal property or a product transferred electronically if  
1125 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or  
1126 (iii) a purpose for which tangible personal property or a product transferred  
1127 electronically is designed if that phrase has the same meaning in this Subsection (63) as in  
1128 Subsection (24);  
1129 (64) sales of disposable home medical equipment or supplies if:  
1130 (a) a person presents a prescription for the disposable home medical equipment or  
1131 supplies;  
1132 (b) the disposable home medical equipment or supplies are used exclusively by the  
1133 person to whom the prescription described in Subsection (64)(a) is issued; and  
1134 (c) the disposable home medical equipment and supplies are listed as eligible for  
1135 payment under:  
1136 (i) Title XVIII, federal Social Security Act; or  
1137 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;  
1138 (65) sales:  
1139 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
1140 District Act; or  
1141 (b) of tangible personal property to a subcontractor of a public transit district, if the

1142 tangible personal property is:

1143 (i) clearly identified; and

1144 (ii) installed or converted to real property owned by the public transit district;

1145 (66) sales of construction materials:

1146 (a) purchased on or after July 1, 2010;

1147 (b) purchased by, on behalf of, or for the benefit of an international airport:

1148 (i) located within a county of the first class; and

1149 (ii) that has a United States customs office on its premises; and

1150 (c) if the construction materials are:

1151 (i) clearly identified;

1152 (ii) segregated; and

1153 (iii) installed or converted to real property:

1154 (A) owned or operated by the international airport described in Subsection (66)(b); and

1155 (B) located at the international airport described in Subsection (66)(b);

1156 (67) sales of construction materials:

1157 (a) purchased on or after July 1, 2008;

1158 (b) purchased by, on behalf of, or for the benefit of a new airport:

1159 (i) located within a county of the second class; and

1160 (ii) that is owned or operated by a city in which an airline as defined in Section

1161 [59-2-102](#) is headquartered; and

1162 (c) if the construction materials are:

1163 (i) clearly identified;

1164 (ii) segregated; and

1165 (iii) installed or converted to real property:

1166 (A) owned or operated by the new airport described in Subsection (67)(b);

1167 (B) located at the new airport described in Subsection (67)(b); and

1168 (C) as part of the construction of the new airport described in Subsection (67)(b);

1169 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

1170 (69) purchases and sales described in Section [63H-4-111](#);

1171 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and

1172 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

1173 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
1174 lists a state or country other than this state as the location of registry of the fixed wing turbine  
1175 powered aircraft; or

1176 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul  
1177 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of  
1178 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
1179 lists a state or country other than this state as the location of registry of the fixed wing turbine  
1180 powered aircraft;

1181 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

1182 (a) to a person admitted to an institution of higher education; and

1183 (b) by a seller, other than a bookstore owned by an institution of higher education, if  
1184 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a  
1185 textbook for a higher education course;

1186 (72) a license fee or tax a municipality imposes in accordance with Subsection  
1187 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced  
1188 level of municipal services;

1189 (73) amounts paid or charged for construction materials used in the construction of a  
1190 new or expanding life science research and development facility in the state, if the construction  
1191 materials are:

1192 (a) clearly identified;

1193 (b) segregated; and

1194 (c) installed or converted to real property;

1195 (74) amounts paid or charged for:

1196 (a) a purchase or lease of machinery and equipment that:

1197 (i) are used in performing qualified research:

1198 (A) as defined in Section 41(d), Internal Revenue Code; and

1199 (B) in the state; and

1200 (ii) have an economic life of three or more years; and

1201 (b) normal operating repair or replacement parts:

1202 (i) for the machinery and equipment described in Subsection (74)(a); and

1203 (ii) that have an economic life of three or more years;

- 1204 (75) a sale or lease of tangible personal property used in the preparation of prepared  
1205 food if:
- 1206 (a) for a sale:
- 1207 (i) the ownership of the seller and the ownership of the purchaser are identical; and  
1208 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that  
1209 tangible personal property prior to making the sale; or
- 1210 (b) for a lease:
- 1211 (i) the ownership of the lessor and the ownership of the lessee are identical; and  
1212 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible  
1213 personal property prior to making the lease;
- 1214 (76) (a) purchases of machinery or equipment if:
- 1215 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,  
1216 Gambling, and Recreation Industries, of the 2012 North American Industry Classification  
1217 System of the federal Executive Office of the President, Office of Management and Budget;
- 1218 (ii) the machinery or equipment:
- 1219 (A) has an economic life of three or more years; and  
1220 (B) is used by one or more persons who pay admission or user fees described in  
1221 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and  
1222 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:  
1223 (A) amounts paid or charged as admission or user fees described in Subsection  
1224 59-12-103(1)(f); and  
1225 (B) subject to taxation under this chapter; and  
1226 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1227 commission may make rules for verifying that 51% of a purchaser's sales revenue for the  
1228 previous calendar quarter is:
- 1229 (i) amounts paid or charged as admission or user fees described in Subsection  
1230 59-12-103(1)(f); and  
1231 (ii) subject to taxation under this chapter;
- 1232 (77) purchases of a short-term lodging consumable by a business that provides  
1233 accommodations and services described in Subsection 59-12-103(1)(i);  
1234 (78) amounts paid or charged to access a database:



1235 (a) if the primary purpose for accessing the database is to view or retrieve information  
1236 from the database; and

1237 (b) not including amounts paid or charged for a:

1238 (i) digital audiowork;

1239 (ii) digital audio-visual work; or

1240 (iii) digital book;

1241 (79) amounts paid or charged for a purchase or lease made by an electronic financial  
1242 payment service, of:

1243 (a) machinery and equipment that:

1244 (i) are used in the operation of the electronic financial payment service; and

1245 (ii) have an economic life of three or more years; and

1246 (b) normal operating repair or replacement parts that:

1247 (i) are used in the operation of the electronic financial payment service; and

1248 (ii) have an economic life of three or more years;

1249 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section [54-15-102](#);

1250 (81) amounts paid or charged for a purchase or lease of tangible personal property or a  
1251 product transferred electronically if the tangible personal property or product transferred  
1252 electronically:

1253 (a) is stored, used, or consumed in the state; and

1254 (b) is temporarily brought into the state from another state:

1255 (i) during a disaster period as defined in Section [53-2a-1202](#);

1256 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);

1257 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and

1258 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);

1259 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined  
1260 in Section [39-9-102](#), made pursuant to Title 39, Chapter 9, State Morale, Welfare, and  
1261 Recreation Program;

1262 (83) amounts paid or charged for a purchase or lease of molten magnesium;

1263 (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise  
1264 data center of machinery, equipment, or normal operating repair or replacement parts, if the  
1265 machinery, equipment, or normal operating repair or replacement parts:

1266 (a) are used in the operation of the establishment; and  
1267 (b) have an economic life of one or more years;  
1268 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a  
1269 vehicle that includes cleaning or washing of the interior of the vehicle;  
1270 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
1271 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used  
1272 or consumed:  
1273 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined  
1274 in Section 63M-4-701 located in the state;  
1275 (b) if the machinery, equipment, normal operating repair or replacement parts,  
1276 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:  
1277 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is  
1278 added to gasoline or diesel fuel;  
1279 (ii) research and development;  
1280 (iii) transporting, storing, or managing raw materials, work in process, finished  
1281 products, and waste materials produced from refining gasoline or diesel fuel, or adding  
1282 blendstock to gasoline or diesel fuel;  
1283 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in  
1284 refining; or  
1285 (v) preventing, controlling, or reducing pollutants from refining; and  
1286 (c) beginning on [~~July 1, 2021~~] July 1, 2022, if the person has obtained a form certified  
1287 by the Office of Energy Development under Subsection 63M-4-702(2);  
1288 (87) amounts paid to or charged by a proprietor for accommodations and services, as  
1289 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax  
1290 imposed under Section 63H-1-205;  
1291 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
1292 operating repair or replacement parts, or materials, except for office equipment or office  
1293 supplies, by an establishment, as the commission defines that term in accordance with Title  
1294 63G, Chapter 3, Utah Administrative Rulemaking Act, that:  
1295 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North  
1296 American Industry Classification System of the federal Executive Office of the President,

1297 Office of Management and Budget;

1298 (b) is located in this state; and

1299 (c) uses the machinery, equipment, normal operating repair or replacement parts, or  
1300 materials in the operation of the establishment; and

1301 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#).

1302 Section 3. Section **59-12-104.11** is enacted to read:

1303 **59-12-104.11. Refinery exemption subject to certain conditions -- Penalty.**

1304 (1) As used in this section, "refiner" means the same as that term is defined in Section  
1305 [63M-4-701](#).

1306 (2) A refiner that makes one or more purchases on or after July 1, 2020, that are  
1307 exempt under Subsection [59-12-104\(86\)](#), is subject to the provisions of this section.

1308 (3) Except as provided in Subsection (4), if a refiner described in Subsection (2) does  
1309 not obtain a form certified by the Office of Energy Development under Subsection  
1310 [63M-4-702\(2\)](#) on or before July 1, 2022, because the refiner failed to comply with the sulfur  
1311 level requirements of Subsection [63M-4-702\(1\)](#), the refiner shall pay to the commission:

1312 (a) the taxes that would have been due under this chapter on each amount of exempt  
1313 sales or uses reported to the commission in accordance with Section [59-12-105.1](#); and

1314 (b) a penalty of \$500,000.

1315 (4) The commission and the Department of Environment Quality shall identify each  
1316 refinery described in Subsection (3) on its website.

1317 Section 4. Section **59-12-105.1** is enacted to read:

1318 **59-12-105.1. Certain exempt sales to be reported -- Penalties.**

1319 (1) For the period beginning July 1, 2020, and ending June 30, 2022, a purchaser shall  
1320 report to the commission the amount of the purchaser's sales or uses exempt under Subsection  
1321 [59-12-104\(86\)](#).

1322 (2) A purchaser shall file a report required under Subsection (1):

1323 (a) with the commission; and

1324 (b) on a form prescribed by the commission.

1325 (3) (a) Notwithstanding Section [59-1-401](#), and except as provided in Subsections (3)(b)  
1326 and (4), if a purchaser fails to report the full amount of the exemptions granted under  
1327 Subsection [59-12-104\(86\)](#) on a report required under Subsection (1), the commission shall

1328 impose a penalty equal to the lesser of:

1329 (i) 10% of the sales and use tax that would have been imposed if the exemption had not  
1330 applied; or

1331 (ii) \$1,000.

1332 (b) The commission may not impose a penalty under Subsection (3)(a) if the purchaser  
1333 files an amended report:

1334 (i) containing the full amount of the exemptions; and

1335 (ii) before the purchaser receives a notice of audit from the commission.

1336 (4) (a) The commission may waive, reduce, or compromise a penalty imposed under  
1337 this section if the commission finds there are reasonable grounds for the waiver, reduction, or  
1338 compromise.

1339 (b) If the commission waives, reduces, or compromises a penalty, the commission shall  
1340 make a record of the grounds for waiving, reducing, or compromising.

1341 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1342 commission shall make rules necessary to implement the provisions of this section, including:

1343 (a) the form and required contents of a report described in this section; and

1344 (b) the timing and frequency of a report described in this section.

1345 Section 5. Section **63M-4-702** is amended to read:

1346 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**  
1347 **certification of sales and use tax exemption eligibility.**

1348 (1) (a) Beginning on [~~July 1, 2021~~] July 1, 2022, a refiner that seeks to be eligible for a  
1349 sales and use tax exemption under Subsection [59-12-104](#)(86) shall annually report to the office  
1350 whether the refiner's facility that is located within the state will have an average gasoline sulfur  
1351 level of 10 parts per million (ppm) or less using the formulas prescribed in 40 C.F.R. Sec.  
1352 80.1603, excluding the offset for credit use and transfer as prescribed in 40 C.F.R. Sec.  
1353 80.1616.

1354 (b) Fuels for which a final destination outside Utah can be demonstrated or that are not  
1355 subject to the standards and requirements of 40 C.F.R. Sec. 80.1603 as specified in 40 C.F.R.  
1356 Sec. 80.1601 are not subject to the reporting provisions under Subsection (1)(a).

1357 (2) (a) Beginning on [~~July 1, 2021~~] July 1, 2022, the office shall annually certify that  
1358 the refiner is eligible for the sales and use tax exemption under Subsection [59-12-104](#)(86):

1359 (i) on a form provided by the State Tax Commission that shall be retained by the  
1360 refiner claiming the sales and use tax exemption under Subsection 59-12-104(86);

1361 (ii) if the refiner's refinery that is located within the state had an average sulfur level of  
1362 10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar  
1363 year; and

1364 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection  
1365 59-12-104(86).

1366 (b) The certification provided by the office under Subsection (2)(a) shall be renewed  
1367 annually.

1368 (c) The office:

1369 (i) shall accept a copy of a report submitted by a refiner to the Environmental  
1370 Protection Agency under 40 C.F.R. Sec. 80.1652 as sufficient evidence of the refiner's average  
1371 gasoline sulfur level; or

1372 (ii) may establish another reporting mechanism through rules made under Subsection  
1373 (3).

1374 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
1375 office may make rules to implement this section.