

Senator Luz Escamilla proposes the following substitute bill:

REFINERY SALES TAX EXEMPTION

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions related to sales tax exemptions for certain refineries.

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for a refiner 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 certain requirements;
- ▶ imposes a penalty on a refiner that receives a sales and use tax exemption and fails to meet certain requirements;
- ▶ enacts a reporting requirement for certain exempt purchases by a refiner; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 [59-12-104](#), as last amended by Laws of Utah 2019, Chapters 136 and 486

28 [63M-4-701](#), as enacted by Laws of Utah 2017, Chapter 429

29 [63M-4-702](#), as last amended by Laws of Utah 2018, Second Special Session, Chapter 6

30 ENACTS:

31 [59-12-104.11](#), Utah Code Annotated 1953

32 [59-12-105.1](#), Utah Code Annotated 1953

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

35 Section 1. Section [59-12-104](#) is amended to read:

36 **[59-12-104](#). Exemptions.**

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

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

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

42 (a) construction materials except:

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

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

50 (b) tangible personal property in connection with the construction, operation,
51 maintenance, repair, or replacement of a project, as defined in Section [11-13-103](#), or facilities
52 providing additional project capacity, as defined in Section [11-13-103](#);

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

54 (i) the proceeds of each sale do not exceed \$1; and

55 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
56 the cost of the item described in Subsection (3)(b) as goods consumed; and

- 57 (b) Subsection (3)(a) applies to:
- 58 (i) food and food ingredients; or
- 59 (ii) prepared food;
- 60 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 61 (i) alcoholic beverages;
- 62 (ii) food and food ingredients; or
- 63 (iii) prepared food;
- 64 (b) sales of tangible personal property or a product transferred electronically:
- 65 (i) to a passenger;
- 66 (ii) by a commercial airline carrier; and
- 67 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 68 (c) services related to Subsection (4)(a) or (b);
- 69 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
- 70 and equipment:
- 71 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
- 72 North American Industry Classification System of the federal Executive Office of the
- 73 President, Office of Management and Budget; and
- 74 (II) for:
- 75 (Aa) installation in an aircraft, including services relating to the installation of parts or
- 76 equipment in the aircraft;
- 77 (Bb) renovation of an aircraft; or
- 78 (Cc) repair of an aircraft; or
- 79 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
- 80 commerce; or
- 81 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
- 82 aircraft operated by a common carrier in interstate or foreign commerce; and
- 83 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
- 84 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
- 85 refund:
- 86 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
- 87 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;

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

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

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

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

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

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

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

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

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

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

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

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

116 (a) not registered in this state; and

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

118 (ii) used in this state:

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

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

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

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

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

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

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

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

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

130 (A) a drug;

131 (B) a syringe; or

132 (C) a stoma supply; and

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

135 (A) "syringe"; or

136 (B) "stoma supply";

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

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

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

141 (A) a church; or

142 (B) a charitable institution; or

143 (ii) an institution of higher education if:

144 (A) the item described in Subsection (12)(c) is not available to the general public; or

145 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
146 offered by the institution of higher education; or

147 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

148 (i) a medical facility; or

149 (ii) a nursing facility; and

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

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

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

187 (a) a manufacturing facility that:

188 (i) is located in the state; and
189 (ii) uses or consumes the machinery, equipment, normal operating repair or
190 replacement parts, or materials:

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

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

197 (b) an establishment, as the commission defines that term in accordance with Title
198 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

199 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
200 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
201 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
202 2002 North American Industry Classification System of the federal Executive Office of the
203 President, Office of Management and Budget;

204 (ii) is located in the state; and
205 (iii) uses or consumes the machinery, equipment, normal operating repair or
206 replacement parts, or materials in:

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

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

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

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

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

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

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

222 (ii) is located in the state; and

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

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

226 (i) tooling;

227 (ii) special tooling;

228 (iii) support equipment;

229 (iv) special test equipment; or

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

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

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

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

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

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

242 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

255 (i) money;

256 (ii) electricity;

257 (iii) water;

258 (iv) gas; or

259 (v) steam;

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

264 (A) becomes part of real estate; or

265 (B) is installed by a:

266 (I) farmer;

267 (II) contractor; or

268 (III) subcontractor; or

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

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

274 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
275 supplies if used in a manner that is incidental to farming; and
276 (B) tangible personal property that is considered to be used in a manner that is
277 incidental to farming includes:
278 (I) hand tools; or
279 (II) maintenance and janitorial equipment and supplies;
280 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
281 transferred electronically if the tangible personal property or product transferred electronically
282 is used in an activity other than farming; and
283 (B) tangible personal property or a product transferred electronically that is considered
284 to be used in an activity other than farming includes:
285 (I) office equipment and supplies; or
286 (II) equipment and supplies used in:
287 (Aa) the sale or distribution of farm products;
288 (Bb) research; or
289 (Cc) transportation; or
290 (iii) a vehicle required to be registered by the laws of this state during the period
291 ending two years after the date of the vehicle's purchase;
292 (19) sales of hay;
293 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
294 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
295 garden, farm, or other agricultural produce is sold by:
296 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
297 agricultural produce;
298 (b) an employee of the producer described in Subsection (20)(a); or
299 (c) a member of the immediate family of the producer described in Subsection (20)(a);
300 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
301 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;
302 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
303 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
304 wholesaler, or retailer for use in packaging tangible personal property to be sold by that

305 manufacturer, processor, wholesaler, or retailer;

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

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

308 (i) the product is:

309 (A) purchased outside of this state;

310 (B) brought into this state:

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

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

313 purchase;

314 (C) used for the personal use or enjoyment of the nonresident person described in

315 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

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

317 (ii) for:

318 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

319 the product for a purpose for which the product is designed occurs outside of this state;

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

321 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

322 outside of this state;

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

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

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

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

327 purposes of Subsection (24)(a), the commission may by rule define what constitutes the

328 following:

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

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

331 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)

332 as in Subsection (63); or

333 (iii) a purpose for which a product is designed if that phrase has the same meaning in

334 this Subsection (24) as in Subsection (63);

335 (25) a product purchased for resale in the regular course of business, either in its

336 original form or as an ingredient or component part of a manufactured or compounded product;

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

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

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

346 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
347 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
348 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
349 the President, Office of Management and Budget;

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

352 (a) not registered in this state; and

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

354 (ii) used in this state:

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

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

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

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

363 (31) sales of aircraft manufactured in Utah;

364 (32) amounts paid for the purchase of telecommunications service for purposes of
365 providing telecommunications service;

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

- 367 (a) a vehicle by an authorized carrier; or
- 368 (b) tangible personal property that is installed on a vehicle:
 - 369 (i) sold or leased to or used by an authorized carrier; and
 - 370 (ii) before the vehicle is placed in service for the first time;
- 371 (34) (a) 45% of the sales price of any new manufactured home; and
- 372 (b) 100% of the sales price of any used manufactured home;
- 373 (35) sales relating to schools and fundraising sales;
- 374 (36) sales or rentals of durable medical equipment if:
 - 375 (a) a person presents a prescription for the durable medical equipment; and
 - 376 (b) the durable medical equipment is used for home use only;
- 377 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 378 Section 72-11-102; and
- 379 (b) the commission shall by rule determine the method for calculating sales exempt
- 380 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 381 (38) sales to a ski resort of:
 - 382 (a) snowmaking equipment;
 - 383 (b) ski slope grooming equipment;
 - 384 (c) passenger ropeways as defined in Section 72-11-102; or
 - 385 (d) parts used in the repairs or renovations of equipment or passenger ropeways
 - 386 described in Subsections (38)(a) through (c);
- 387 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 388 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 389 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 390 59-12-102;
- 391 (b) if a seller that sells or rents at the same business location the right to use or operate
- 392 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 393 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 394 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 395 amusement, entertainment, or recreation for the assisted amusement devices; and
- 396 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 397 Utah Administrative Rulemaking Act, the commission may make rules:

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

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

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

404 (i) a governmental entity; or

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

406 (A) a school; or

407 (B) the State Board of Education; or

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

409 (42) amounts paid for admission to an athletic event at an institution of higher
410 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
411 20 U.S.C. Sec. 1681 et seq.;

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

413 (i) an area agency on aging; or

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

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

416 (44) sales or leases of semiconductor fabricating, processing, research, or development
417 materials regardless of whether the semiconductor fabricating, processing, research, or
418 development materials:

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

420 (b) ultimately become incorporated into real property;

421 (45) an amount paid by or charged to a purchaser for accommodations and services
422 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
423 59-12-104.2;

424 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
425 sports event registration certificate in accordance with Section 41-3-306 for the event period
426 specified on the temporary sports event registration certificate;

427 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
428 adopted by the Public Service Commission only for purchase of electricity produced from a

429 new alternative energy source built after January 1, 2016, as designated in the tariff by the
430 Public Service Commission; and

431 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
432 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
433 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
434 customer would have paid absent the tariff;

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

437 (49) sales of water in a:

438 (a) pipe;

439 (b) conduit;

440 (c) ditch; or

441 (d) reservoir;

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

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

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

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

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

448 (i) ingot;

449 (ii) bar;

450 (iii) medallion; or

451 (iv) decorative coin;

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

453 (53) sales of a prosthetic device:

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

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

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

457 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
458 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
459 or equipment is primarily used in the production or postproduction of the following media for

460 commercial distribution:

461 (i) a motion picture;

462 (ii) a television program;

463 (iii) a movie made for television;

464 (iv) a music video;

465 (v) a commercial;

466 (vi) a documentary; or

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

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

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

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

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

472 (i) a live musical performance;

473 (ii) a live news program; or

474 (iii) a live sporting event;

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

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

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

478 (i) NAICS Code 512110; or

479 (ii) NAICS Code 51219; and

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

481 commission may by rule:

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

483 or

484 (ii) define:

485 (A) "commercial distribution";

486 (B) "live musical performance";

487 (C) "live news program"; or

488 (D) "live sporting event";

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

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

- 491 (i) is leased or purchased for or by a facility that:
- 492 (A) is an alternative energy electricity production facility;
- 493 (B) is located in the state; and
- 494 (C) (I) becomes operational on or after July 1, 2004; or
- 495 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 496 2004, as a result of the use of the tangible personal property;
- 497 (ii) has an economic life of five or more years; and
- 498 (iii) is used to make the facility or the increase in capacity of the facility described in
- 499 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
- 500 transmission grid including:
- 501 (A) a wind turbine;
- 502 (B) generating equipment;
- 503 (C) a control and monitoring system;
- 504 (D) a power line;
- 505 (E) substation equipment;
- 506 (F) lighting;
- 507 (G) fencing;
- 508 (H) pipes; or
- 509 (I) other equipment used for locating a power line or pole; and
- 510 (b) this Subsection (55) does not apply to:
- 511 (i) tangible personal property used in construction of:
- 512 (A) a new alternative energy electricity production facility; or
- 513 (B) the increase in the capacity of an alternative energy electricity production facility;
- 514 (ii) contracted services required for construction and routine maintenance activities;
- 515 and
- 516 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 517 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
- 518 acquired after:
- 519 (A) the alternative energy electricity production facility described in Subsection
- 520 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 521 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described

522 in Subsection (55)(a)(iii);
523 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
524 on or before June 30, 2027, of tangible personal property that:
525 (i) is leased or purchased for or by a facility that:
526 (A) is a waste energy production facility;
527 (B) is located in the state; and
528 (C) (I) becomes operational on or after July 1, 2004; or
529 (II) has its generation capacity increased by one or more megawatts on or after July 1,
530 2004, as a result of the use of the tangible personal property;
531 (ii) has an economic life of five or more years; and
532 (iii) is used to make the facility or the increase in capacity of the facility described in
533 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
534 transmission grid including:
535 (A) generating equipment;
536 (B) a control and monitoring system;
537 (C) a power line;
538 (D) substation equipment;
539 (E) lighting;
540 (F) fencing;
541 (G) pipes; or
542 (H) other equipment used for locating a power line or pole; and
543 (b) this Subsection (56) does not apply to:
544 (i) tangible personal property used in construction of:
545 (A) a new waste energy facility; or
546 (B) the increase in the capacity of a waste energy facility;
547 (ii) contracted services required for construction and routine maintenance activities;
548 and
549 (iii) unless the tangible personal property is used or acquired for an increase in capacity
550 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
551 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
552 described in Subsection (56)(a)(iii); or

553 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
554 in Subsection (56)(a)(iii);

555 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
556 or before June 30, 2027, of tangible personal property that:

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

558 (A) is located in the state;

559 (B) produces fuel from alternative energy, including:

560 (I) methanol; or

561 (II) ethanol; and

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

563 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
564 a result of the installation of the tangible personal property;

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

566 (iii) is installed on the facility described in Subsection (57)(a)(i);

567 (b) this Subsection (57) does not apply to:

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

569 (A) a new facility described in Subsection (57)(a)(i); or

570 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or

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

572 and

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

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

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

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

581 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
582 state or political entity to which the tangible personal property is shipped imposes a sales, use,
583 gross receipts, or other similar transaction excise tax on the transaction against which the other

584 state or political entity allows a credit for sales and use taxes imposed by this chapter; and

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

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

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

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

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

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

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

597 (59) purchases:

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

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

600 (A) names; or

601 (B) addresses; or

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

603 (A) names; or

604 (B) addresses; and

605 (b) used to send direct mail;

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

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

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

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

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

612 and

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

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

615 (i) telecommunications enabling or facilitating equipment, machinery, or software;
616 (ii) telecommunications equipment, machinery, or software required for 911 service;
617 (iii) telecommunications maintenance or repair equipment, machinery, or software;
618 (iv) telecommunications switching or routing equipment, machinery, or software; or
619 (v) telecommunications transmission equipment, machinery, or software;

620 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
621 personal property or a product transferred electronically that are used in the research and
622 development of alternative energy technology; and

623 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
624 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
625 purchases of tangible personal property or a product transferred electronically that are used in
626 the research and development of alternative energy technology;

627 (63) (a) purchases of tangible personal property or a product transferred electronically
628 if:

629 (i) the tangible personal property or product transferred electronically is:
630 (A) purchased outside of this state;
631 (B) brought into this state at any time after the purchase described in Subsection
632 (63)(a)(i)(A); and
633 (C) used in conducting business in this state; and
634 (ii) for:
635 (A) tangible personal property or a product transferred electronically other than the
636 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
637 for a purpose for which the property is designed occurs outside of this state; or
638 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
639 outside of this state;

640 (b) the exemption provided for in Subsection (63)(a) does not apply to:
641 (i) a lease or rental of tangible personal property or a product transferred electronically;
642 or
643 (ii) a sale of a vehicle exempt under Subsection (33); and
644 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
645 purposes of Subsection (63)(a), the commission may by rule define what constitutes the

646 following:

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

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

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

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

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

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

653 Subsection (24);

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

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

656 supplies;

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

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

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

660 payment under:

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

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

663 (65) sales:

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

665 District Act; or

666 (b) of tangible personal property to a subcontractor of a public transit district, if the

667 tangible personal property is:

668 (i) clearly identified; and

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

670 (66) sales of construction materials:

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

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

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

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

675 (c) if the construction materials are:

676 (i) clearly identified;

- 677 (ii) segregated; and
- 678 (iii) installed or converted to real property:
 - 679 (A) owned or operated by the international airport described in Subsection (66)(b); and
 - 680 (B) located at the international airport described in Subsection (66)(b);
 - 681 (67) sales of construction materials:
 - 682 (a) purchased on or after July 1, 2008;
 - 683 (b) purchased by, on behalf of, or for the benefit of a new airport:
 - 684 (i) located within a county of the second class; and
 - 685 (ii) that is owned or operated by a city in which an airline as defined in Section
 - 686 59-2-102 is headquartered; and
 - 687 (c) if the construction materials are:
 - 688 (i) clearly identified;
 - 689 (ii) segregated; and
 - 690 (iii) installed or converted to real property:
 - 691 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 692 (B) located at the new airport described in Subsection (67)(b); and
 - 693 (C) as part of the construction of the new airport described in Subsection (67)(b);
 - 694 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
 - 695 (69) purchases and sales described in Section 63H-4-111;
 - 696 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
 - 697 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
 - 698 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
 - 699 lists a state or country other than this state as the location of registry of the fixed wing turbine
 - 700 powered aircraft; or
 - 701 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
 - 702 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
 - 703 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
 - 704 lists a state or country other than this state as the location of registry of the fixed wing turbine
 - 705 powered aircraft;
 - 706 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
 - 707 (a) to a person admitted to an institution of higher education; and

708 (b) by a seller, other than a bookstore owned by an institution of higher education, if
709 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
710 textbook for a higher education course;

711 (72) a license fee or tax a municipality imposes in accordance with Subsection
712 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
713 level of municipal services;

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

717 (a) clearly identified;

718 (b) segregated; and

719 (c) installed or converted to real property;

720 (74) amounts paid or charged for:

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

722 (i) are used in performing qualified research:

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

724 (B) in the state; and

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

726 (b) normal operating repair or replacement parts:

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

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

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

731 (a) for a sale:

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

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

735 (b) for a lease:

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

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

- 739 (76) (a) purchases of machinery or equipment if:
- 740 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 741 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 742 System of the federal Executive Office of the President, Office of Management and Budget;
- 743 (ii) the machinery or equipment:
- 744 (A) has an economic life of three or more years; and
- 745 (B) is used by one or more persons who pay admission or user fees described in
- 746 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 747 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 748 (A) amounts paid or charged as admission or user fees described in Subsection
- 749 59-12-103(1)(f); and
- 750 (B) subject to taxation under this chapter; and
- 751 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 752 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 753 previous calendar quarter is:
- 754 (i) amounts paid or charged as admission or user fees described in Subsection
- 755 59-12-103(1)(f); and
- 756 (ii) subject to taxation under this chapter;
- 757 (77) purchases of a short-term lodging consumable by a business that provides
- 758 accommodations and services described in Subsection 59-12-103(1)(i);
- 759 (78) amounts paid or charged to access a database:
- 760 (a) if the primary purpose for accessing the database is to view or retrieve information
- 761 from the database; and
- 762 (b) not including amounts paid or charged for a:
- 763 (i) digital audiowork;
- 764 (ii) digital audio-visual work; or
- 765 (iii) digital book;
- 766 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 767 payment service, of:
- 768 (a) machinery and equipment that:
- 769 (i) are used in the operation of the electronic financial payment service; and

- 770 (ii) have an economic life of three or more years; and
771 (b) normal operating repair or replacement parts that:
772 (i) are used in the operation of the electronic financial payment service; and
773 (ii) have an economic life of three or more years;
774 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
775 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
776 product transferred electronically if the tangible personal property or product transferred
777 electronically:
778 (a) is stored, used, or consumed in the state; and
779 (b) is temporarily brought into the state from another state:
780 (i) during a disaster period as defined in Section 53-2a-1202;
781 (ii) by an out-of-state business as defined in Section 53-2a-1202;
782 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
783 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
784 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
785 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
786 Recreation Program;
787 (83) amounts paid or charged for a purchase or lease of molten magnesium;
788 (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise
789 data center of machinery, equipment, or normal operating repair or replacement parts, if the
790 machinery, equipment, or normal operating repair or replacement parts:
791 (a) are used in the operation of the establishment; and
792 (b) have an economic life of one or more years;
793 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
794 vehicle that includes cleaning or washing of the interior of the vehicle;
795 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
796 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
797 or consumed:
798 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
799 in Section 63M-4-701 located in the state;
800 (b) if the machinery, equipment, normal operating repair or replacement parts,

801 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

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

804 (ii) research and development;

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

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

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

811 (c) beginning on July 1, 2021, if the person [~~has obtained a form certified by the Office~~
812 ~~of Energy Development under Subsection 63M-4-702(2)] holds a valid refiner tax exemption
813 certification as defined in Section 63M-4-701;~~

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

817 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
818 operating repair or replacement parts, or materials, except for office equipment or office
819 supplies, by an establishment, as the commission defines that term in accordance with Title
820 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

824 (b) is located in this state; and

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

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

828 Section 2. Section 59-12-104.11 is enacted to read:

829 **59-12-104.11. Refinery exemption subject to certain conditions -- Penalties.**

830 (1) As used in this section, "refiner" means the same as that term is defined in Section
831 63M-4-701.

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

834 (3) Except as provided in Subsection (4), if a refiner described in Subsection (2) fails
835 to obtain a refiner tax exemption certification, as defined in Section 63M-4-701, on or before
836 July 1, 2021, or at any annual renewal thereafter, because the refiner failed to comply with the
837 requirements of Subsection 63M-4-702(1)(a), the refiner shall pay to the commission:

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

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

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

843 Section 3. Section 59-12-105.1 is enacted to read:

844 **59-12-105.1. Certain exempt sales to be reported -- Penalties.**

845 (1) For the period beginning July 1, 2020, and ending June 30, 2022, a purchaser shall
846 report to the commission the amount of the purchaser's sales or uses exempt under Subsection
847 59-12-104(86).

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

849 (a) with the commission; and

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

851 (3) (a) Notwithstanding Section 59-1-401, and except as provided in Subsections (3)(b)
852 and (4), if a purchaser fails to report the full amount of the exemptions granted under
853 Subsection 59-12-104(86) on a report required under Subsection (1), the commission shall
854 impose a penalty equal to the lesser of:

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

857 (ii) \$1,000.

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

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

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

862 (4) (a) The commission may waive, reduce, or compromise a penalty imposed under

863 this section if the commission finds there are reasonable grounds for the waiver, reduction, or
864 compromise.

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

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

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

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

871 Section 4. Section **63M-4-701** is amended to read:

872 **63M-4-701. Definitions.**

873 As used in this part:

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

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

878 (3) "Refiner tax exemption certification" mean a certification issued by the office in
879 accordance with Section [63M-4-702](#).

880 ~~(3)~~ (4) "Refinery" means a facility where gasoline or diesel fuel is produced,
881 including a facility at which blendstocks are combined to produce gasoline or diesel fuel, or at
882 which blendstock is added to gasoline or diesel fuel.

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

884 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**
885 **certification of sales and use tax exemption eligibility.**

886 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
887 tax exemption under Subsection [59-12-104](#)(86) shall annually report to the office whether the
888 refiner's facility that is located within the state ~~[will have]~~:

889 (i) had an average gasoline sulfur level of 10 parts per million (ppm) or less using the
890 formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer
891 as prescribed in 40 C.F.R. Sec. 80.1616[-], [during the previous calendar year](#); or

892 (ii) for an annual report covering a period before January 1, 2025, if a refiner's facility
893 did not have an average gasoline sulfur level described in Subsection (1)(a)(i) during the

894 previous calendar year, the progress the refiner made during the previous calendar year toward
895 complying with the average gasoline sulfur level described in Subsection (1)(a)(i).

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

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

901 ~~[(i) on a form provided by the State Tax Commission that shall be retained by the~~
902 ~~refiner claiming the sales and use tax exemption under Subsection 59-12-104(86):]~~

903 ~~[(ii) if the refiner's refinery that is located within the state had an average sulfur level of~~
904 ~~10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar~~
905 ~~year; and]~~

906 ~~[(iii) before a taxpayer is allowed the sales and use tax exemption under Subsection~~
907 ~~59-12-104(86):]~~

908 ~~[(b) The certification provided by the office under Subsection (2)(a) shall be renewed~~
909 ~~annually:]~~

910 (2) The office shall issue a refiner tax exemption certification to a refiner on a form
911 prescribed by the State Tax Commission:

912 (a) beginning July 1, 2021, and ending December 31, 2024, if:

913 (i) the refiner's refinery that is located within the state had an average gasoline sulfur
914 level described in Subsection (1)(a)(i) during the previous calendar year; or

915 (ii) (A) on or before July 1, 2021, the refiner certifies in writing to the office that the
916 refiner's refinery that is located within the state will have an average gasoline sulfur level
917 described in Subsection (1)(a)(i) after December 31, 2024; and

918 (B) the office determines that the refiner made satisfactory progress during the previous
919 calendar year toward satisfying the refiner's certification described in Subsection (2)(a)(ii)(A);
920 or

921 (b) after December 31, 2024, if the refiner's refinery that is located within the state had
922 an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar
923 year.

924 (3) (a) Within 30 days after the day on which the office receives a complete annual

925 report described in Subsection (1), the office shall:

926 (i) issue a refiner tax exemption certification to the refiner; or

927 (ii) notify the refiner in writing that the office has determined the refiner does not
928 qualify for a refiner tax exemption certification and the basis for the office's determination.

929 (b) A refiner tax exemption certification is valid for one year after the day on which the
930 office issues the refiner tax exemption certification.

931 [~~e~~] (4) The office:

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

935 [~~i~~] (b) may establish another reporting mechanism through rules made under
936 Subsection [~~t~~] (5).

937 [~~t~~] (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
938 Act, the office may make rules to implement this section.