

Representative Suzanne Harrison proposes the following substitute bill:

REFINERY SALES TAX EXEMPTION

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: Rex P. Shipp

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ 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, or supplies;
- ▶ modifies the reporting requirements for a refiner seeking to qualify for the sales and use tax exemption;
- ▶ transfers duties related to certifying a refiner's compliance with certain sulfur level requirements from the Office of Energy Development to the Division of Air Quality;
- ▶ 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 or make sufficient progress toward meeting 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:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

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

32 ENACTS:

33 **19-2-401**, Utah Code Annotated 1953

34 **19-2-402**, Utah Code Annotated 1953

35 **59-12-104.11**, Utah Code Annotated 1953

36 **59-12-105.1**, Utah Code Annotated 1953

37 REPEALS:

38 **63M-4-701**, as enacted by Laws of Utah 2017, Chapter 429

39 **63M-4-702**, as last amended by Laws of Utah 2018, Second Special Session, Chapter 6



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

42 Section 1. Section **19-2-401** is enacted to read:

43 **Part 4. Refiner Gasoline Sulfur Standard Sales and Use Tax Exemption Reporting**

44 **19-2-401. Definitions.**

45 As used in this part:

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

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

50 (3) "Refiner tax exemption certification" mean a certification issued by the division in
51 accordance with Section [19-2-402](#).

52 (4) "Refinery" means a facility where gasoline or diesel fuel is produced, including a
53 facility at which blendstocks are combined to produce gasoline or diesel fuel, or at which
54 blendstock is added to gasoline or diesel fuel.

55 Section 2. Section **19-2-402** is enacted to read:

56 **19-2-402. Refiner gasoline standard reporting -- Division certification of sales and**

57 **use tax exemption eligibility.**

58 (1) (a) A refiner that seeks to be eligible for a sales and use tax exemption under
59 Subsection 59-12-104(86) on or after July 1, 2021, shall report to the division whether the
60 refiner's facility that is located within the state:

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

64 (ii) for a report covering a period before January 1, 2025, if a refiner's facility did not
65 have an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous
66 calendar year, the progress the refiner made during the previous six month period toward
67 complying with the average gasoline sulfur level described in Subsection (1)(a)(i).

68 (b) (i) A refiner that submits a report described in Subsection (1)(a)(i) shall submit the
69 report annually.

70 (ii) A refiner that submits a report described in Subsection (1)(a)(ii) shall submit the
71 report biannually.

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

75 (2) The division shall issue a refiner tax exemption certification to a refiner on a form
76 prescribed by the State Tax Commission:

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

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

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

83 (B) the division determines that the refiner made satisfactory progress during the
84 previous six month period toward satisfying the refiner's certification described in Subsection
85 (2)(a)(ii)(A); or

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

88 year.

89 (3) (a) Within 30 days after the day on which the division receives a complete report
90 described in Subsection (1), the division shall:

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

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

94 (b) (i) A refiner tax exemption certification issued under Subsection (2)(a)(i) or (2)(b)
95 is valid for one year after the day on which the division issues the refiner tax exemption
96 certification.

97 (ii) A refiner tax exemption certification issued under Subsection (2)(a)(ii) is valid for
98 six months after the day on which the division issues the refiner tax exemption certification.

99 (4) (a) In accordance with division rule made under Subsection (6), a report described
100 in Subsection (1)(a) shall contain substantially the same information required by the United
101 States Environmental Protection Agency under 40 C.F.R. Sec. 80.1652, including:

102 (i) the refiner's name and facility registration number;

103 (ii) the total volume of gasoline produced or imported;

104 (iii) for each batch of gasoline, the batch number, volume, sulfur content, sulfur test
105 method, and date of production;

106 (iv) the annual average gasoline sulfur content before and after inclusion of any
107 gasoline sulfur credits;

108 (v) the number of gasoline sulfur credits owned at the beginning and end of the
109 reporting period;

110 (vi) the number of gasoline sulfur credits generated, used, obtained, sold, or expired
111 during the reporting period; and

112 (vii) any additional information required by the division.

113 (b) For purposes of satisfying the reporting requirement described in Subsection (1)(a),
114 the division may accept a complete copy of a report submitted by the refiner to the United
115 States Environmental Protection Agency under 40 C.F.R. Sec. 80.1652.

116 (5) The division shall publish each report the division receives under Subsection (1)(a)
117 on the division's website.

118 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

119 division shall make rules to implement this section, including rules establishing the metrics to
120 determine whether a refiner has made satisfactory progress for purposes of Subsection
121 (2)(a)(ii)(B).

122 Section 3. Section **59-12-104** is amended to read:

123 **59-12-104. Exemptions.**

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

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

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

129 (a) construction materials except:

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

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

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

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

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

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

144 (b) Subsection (3)(a) applies to:

145 (i) food and food ingredients; or

146 (ii) prepared food;

147 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:

148 (i) alcoholic beverages;

149 (ii) food and food ingredients; or

150 (iii) prepared food;

151 (b) sales of tangible personal property or a product transferred electronically:

152 (i) to a passenger;

153 (ii) by a commercial airline carrier; and

154 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or

155 (c) services related to Subsection (4)(a) or (b);

156 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts

157 and equipment:

158 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002

159 North American Industry Classification System of the federal Executive Office of the

160 President, Office of Management and Budget; and

161 (II) for:

162 (Aa) installation in an aircraft, including services relating to the installation of parts or

163 equipment in the aircraft;

164 (Bb) renovation of an aircraft; or

165 (Cc) repair of an aircraft; or

166 (B) for installation in an aircraft operated by a common carrier in interstate or foreign

167 commerce; or

168 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an

169 aircraft operated by a common carrier in interstate or foreign commerce; and

170 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,

171 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

172 refund:

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

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

175 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for

176 the sale prior to filing for the refund;

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

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

179 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if

180 the person files for the refund on or before September 30, 2011;

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

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

187 (b) if a seller that sells at the same business location assisted cleaning or washing of
188 tangible personal property and cleaning or washing of tangible personal property that is not
189 assisted cleaning or washing of tangible personal property, the exemption described in
190 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
191 or washing of the tangible personal property; and

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

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

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

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

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

203 (a) not registered in this state; and

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

205 (ii) used in this state:

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

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

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

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

212 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
213 (i) the item is intended for human use; and
214 (ii) (A) a prescription was issued for the item; or
215 (B) the item was purchased by a hospital or other medical facility; and
216 (b) (i) Subsection (10)(a) applies to:
217 (A) a drug;
218 (B) a syringe; or
219 (C) a stoma supply; and
220 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
221 commission may by rule define the terms:
222 (A) "syringe"; or
223 (B) "stoma supply";
224 (11) purchases or leases exempt under Section 19-12-201;
225 (12) (a) sales of an item described in Subsection (12)(c) served by:
226 (i) the following if the item described in Subsection (12)(c) is not available to the
227 general public:
228 (A) a church; or
229 (B) a charitable institution; or
230 (ii) an institution of higher education if:
231 (A) the item described in Subsection (12)(c) is not available to the general public; or
232 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
233 offered by the institution of higher education; or
234 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
235 (i) a medical facility; or
236 (ii) a nursing facility; and
237 (c) Subsections (12)(a) and (b) apply to:
238 (i) food and food ingredients;
239 (ii) prepared food; or
240 (iii) alcoholic beverages;
241 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
242 or a product transferred electronically by a person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

274 (a) a manufacturing facility that:

275 (i) is located in the state; and

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

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

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

284 (b) an establishment, as the commission defines that term in accordance with Title
285 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

286 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
287 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
288 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
289 2002 North American Industry Classification System of the federal Executive Office of the
290 President, Office of Management and Budget;

291 (ii) is located in the state; and

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

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

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

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

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

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

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

305 Chapter 3, Utah Administrative Rulemaking Act, that:

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

309 (ii) is located in the state; and

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

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

313 (i) tooling;

314 (ii) special tooling;

315 (iii) support equipment;

316 (iv) special test equipment; or

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

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

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

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

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

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

329 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

342 (i) money;

343 (ii) electricity;

344 (iii) water;

345 (iv) gas; or

346 (v) steam;

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

351 (A) becomes part of real estate; or

352 (B) is installed by a:

353 (I) farmer;

354 (II) contractor; or

355 (III) subcontractor; or

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

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

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

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

365 (I) hand tools; or

366 (II) maintenance and janitorial equipment and supplies;

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

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

372 (I) office equipment and supplies; or

373 (II) equipment and supplies used in:

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

375 (Bb) research; or

376 (Cc) transportation; or

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

379 (19) sales of hay;

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

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

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

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

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

389 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
390 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
391 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
392 manufacturer, processor, wholesaler, or retailer;

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

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

395 (i) the product is:

396 (A) purchased outside of this state;

397 (B) brought into this state:

398 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
399 (II) by a nonresident person who is not living or working in this state at the time of the
400 purchase;

401 (C) used for the personal use or enjoyment of the nonresident person described in
402 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
403 (D) not used in conducting business in this state; and
404 (ii) for:

405 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
406 the product for a purpose for which the product is designed occurs outside of this state;
407 (B) a boat, the boat is registered outside of this state; or
408 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
409 outside of this state;

410 (b) the exemption provided for in Subsection (24)(a) does not apply to:
411 (i) a lease or rental of a product; or
412 (ii) a sale of a vehicle exempt under Subsection (33); and
413 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
414 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
415 following:

416 (i) conducting business in this state if that phrase has the same meaning in this
417 Subsection (24) as in Subsection (63);
418 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
419 as in Subsection (63); or
420 (iii) a purpose for which a product is designed if that phrase has the same meaning in
421 this Subsection (24) as in Subsection (63);
422 (25) a product purchased for resale in the regular course of business, either in its
423 original form or as an ingredient or component part of a manufactured or compounded product;
424 (26) a product upon which a sales or use tax was paid to some other state, or one of its
425 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
426 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
427 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
428 Act;

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

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

433 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
434 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
435 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
436 the President, Office of Management and Budget;

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

439 (a) not registered in this state; and

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

441 (ii) used in this state:

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

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

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

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

450 (31) sales of aircraft manufactured in Utah;

451 (32) amounts paid for the purchase of telecommunications service for purposes of
452 providing telecommunications service;

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

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

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

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

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

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

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

- 460 (35) sales relating to schools and fundraising sales;
- 461 (36) sales or rentals of durable medical equipment if:
- 462 (a) a person presents a prescription for the durable medical equipment; and
- 463 (b) the durable medical equipment is used for home use only;
- 464 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
- 465 Section 72-11-102; and
- 466 (b) the commission shall by rule determine the method for calculating sales exempt
- 467 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 468 (38) sales to a ski resort of:
- 469 (a) snowmaking equipment;
- 470 (b) ski slope grooming equipment;
- 471 (c) passenger ropeways as defined in Section 72-11-102; or
- 472 (d) parts used in the repairs or renovations of equipment or passenger ropeways
- 473 described in Subsections (38)(a) through (c);
- 474 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 475 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
- 476 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
- 477 59-12-102;
- 478 (b) if a seller that sells or rents at the same business location the right to use or operate
- 479 for amusement, entertainment, or recreation one or more unassisted amusement devices and
- 480 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
- 481 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
- 482 amusement, entertainment, or recreation for the assisted amusement devices; and
- 483 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
- 484 Utah Administrative Rulemaking Act, the commission may make rules:
- 485 (i) governing the circumstances under which sales are at the same business location;
- 486 and
- 487 (ii) establishing the procedures and requirements for a seller to separately account for
- 488 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
- 489 assisted amusement devices;
- 490 (41) (a) sales of photocopies by:

- 491 (i) a governmental entity; or
- 492 (ii) an entity within the state system of public education, including:
 - 493 (A) a school; or
 - 494 (B) the State Board of Education; or
- 495 (b) sales of publications by a governmental entity;
- 496 (42) amounts paid for admission to an athletic event at an institution of higher
- 497 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 498 20 U.S.C. Sec. 1681 et seq.;
- 499 (43) (a) sales made to or by:
 - 500 (i) an area agency on aging; or
 - 501 (ii) a senior citizen center owned by a county, city, or town; or
- 502 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 503 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 504 materials regardless of whether the semiconductor fabricating, processing, research, or
- 505 development materials:
 - 506 (a) actually come into contact with a semiconductor; or
 - 507 (b) ultimately become incorporated into real property;
- 508 (45) an amount paid by or charged to a purchaser for accommodations and services
- 509 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
- 510 [59-12-104.2](#);
- 511 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
- 512 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
- 513 specified on the temporary sports event registration certificate;
- 514 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 515 adopted by the Public Service Commission only for purchase of electricity produced from a
- 516 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 517 Public Service Commission; and
- 518 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 519 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 520 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 521 customer would have paid absent the tariff;

- 522 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 523 prescription for the mobility enhancing equipment;
- 524 (49) sales of water in a:
- 525 (a) pipe;
- 526 (b) conduit;
- 527 (c) ditch; or
- 528 (d) reservoir;
- 529 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 530 or a foreign nation;
- 531 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 532 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 533 (ii) has a gold, silver, or platinum content of 50% or more; and
- 534 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 535 (i) ingot;
- 536 (ii) bar;
- 537 (iii) medallion; or
- 538 (iv) decorative coin;
- 539 (52) amounts paid on a sale-leaseback transaction;
- 540 (53) sales of a prosthetic device:
- 541 (a) for use on or in a human; and
- 542 (b) (i) for which a prescription is required; or
- 543 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 544 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 545 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 546 or equipment is primarily used in the production or postproduction of the following media for
- 547 commercial distribution:
- 548 (i) a motion picture;
- 549 (ii) a television program;
- 550 (iii) a movie made for television;
- 551 (iv) a music video;
- 552 (v) a commercial;

553 (vi) a documentary; or
554 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
555 commission by administrative rule made in accordance with Subsection (54)(d); or
556 (b) purchases, leases, or rentals of machinery or equipment by an establishment
557 described in Subsection (54)(c) that is used for the production or postproduction of the
558 following are subject to the taxes imposed by this chapter:
559 (i) a live musical performance;
560 (ii) a live news program; or
561 (iii) a live sporting event;
562 (c) the following establishments listed in the 1997 North American Industry
563 Classification System of the federal Executive Office of the President, Office of Management
564 and Budget, apply to Subsections (54)(a) and (b):
565 (i) NAICS Code 512110; or
566 (ii) NAICS Code 51219; and
567 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
568 commission may by rule:
569 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
570 or
571 (ii) define:
572 (A) "commercial distribution";
573 (B) "live musical performance";
574 (C) "live news program"; or
575 (D) "live sporting event";
576 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
577 on or before June 30, 2027, of tangible personal property that:
578 (i) is leased or purchased for or by a facility that:
579 (A) is an alternative energy electricity production facility;
580 (B) is located in the state; and
581 (C) (I) becomes operational on or after July 1, 2004; or
582 (II) has its generation capacity increased by one or more megawatts on or after July 1,
583 2004, as a result of the use of the tangible personal property;

584 (ii) has an economic life of five or more years; and
585 (iii) is used to make the facility or the increase in capacity of the facility described in
586 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
587 transmission grid including:
588 (A) a wind turbine;
589 (B) generating equipment;
590 (C) a control and monitoring system;
591 (D) a power line;
592 (E) substation equipment;
593 (F) lighting;
594 (G) fencing;
595 (H) pipes; or
596 (I) other equipment used for locating a power line or pole; and
597 (b) this Subsection (55) does not apply to:
598 (i) tangible personal property used in construction of:
599 (A) a new alternative energy electricity production facility; or
600 (B) the increase in the capacity of an alternative energy electricity production facility;
601 (ii) contracted services required for construction and routine maintenance activities;
602 and
603 (iii) unless the tangible personal property is used or acquired for an increase in capacity
604 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
605 acquired after:
606 (A) the alternative energy electricity production facility described in Subsection
607 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
608 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
609 in Subsection (55)(a)(iii);
610 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
611 on or before June 30, 2027, of tangible personal property that:
612 (i) is leased or purchased for or by a facility that:
613 (A) is a waste energy production facility;
614 (B) is located in the state; and

615 (C) (I) becomes operational on or after July 1, 2004; or
616 (II) has its generation capacity increased by one or more megawatts on or after July 1,
617 2004, as a result of the use of the tangible personal property;
618 (ii) has an economic life of five or more years; and
619 (iii) is used to make the facility or the increase in capacity of the facility described in
620 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
621 transmission grid including:
622 (A) generating equipment;
623 (B) a control and monitoring system;
624 (C) a power line;
625 (D) substation equipment;
626 (E) lighting;
627 (F) fencing;
628 (G) pipes; or
629 (H) other equipment used for locating a power line or pole; and
630 (b) this Subsection (56) does not apply to:
631 (i) tangible personal property used in construction of:
632 (A) a new waste energy facility; or
633 (B) the increase in the capacity of a waste energy facility;
634 (ii) contracted services required for construction and routine maintenance activities;
635 and
636 (iii) unless the tangible personal property is used or acquired for an increase in capacity
637 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
638 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
639 described in Subsection (56)(a)(iii); or
640 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
641 in Subsection (56)(a)(iii);
642 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
643 or before June 30, 2027, of tangible personal property that:
644 (i) is leased or purchased for or by a facility that:
645 (A) is located in the state;

646 (B) produces fuel from alternative energy, including:
647 (I) methanol; or
648 (II) ethanol; and
649 (C) (I) becomes operational on or after July 1, 2004; or
650 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
651 a result of the installation of the tangible personal property;
652 (ii) has an economic life of five or more years; and
653 (iii) is installed on the facility described in Subsection (57)(a)(i);
654 (b) this Subsection (57) does not apply to:
655 (i) tangible personal property used in construction of:
656 (A) a new facility described in Subsection (57)(a)(i); or
657 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
658 (ii) contracted services required for construction and routine maintenance activities;
659 and
660 (iii) unless the tangible personal property is used or acquired for an increase in capacity
661 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
662 (A) the facility described in Subsection (57)(a)(i) is operational; or
663 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
664 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
665 product transferred electronically to a person within this state if that tangible personal property
666 or product transferred electronically is subsequently shipped outside the state and incorporated
667 pursuant to contract into and becomes a part of real property located outside of this state;
668 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
669 state or political entity to which the tangible personal property is shipped imposes a sales, use,
670 gross receipts, or other similar transaction excise tax on the transaction against which the other
671 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
672 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
673 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
674 refund:
675 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
676 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on

677 which the sale is made;

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

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

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

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

684 (59) purchases:

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

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

687 (A) names; or

688 (B) addresses; or

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

690 (A) names; or

691 (B) addresses; and

692 (b) used to send direct mail;

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

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

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

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

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

699 and

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

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

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

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

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

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

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

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

708 personal property or a product transferred electronically that are used in the research and
709 development of alternative energy technology; and

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

714 (63) (a) purchases of tangible personal property or a product transferred electronically
715 if:

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

717 (A) purchased outside of this state;

718 (B) brought into this state at any time after the purchase described in Subsection
719 (63)(a)(i)(A); and

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

721 (ii) for:

722 (A) tangible personal property or a product transferred electronically other than the
723 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
724 for a purpose for which the property is designed occurs outside of this state; or

725 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
726 outside of this state;

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

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

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

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

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

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

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

739 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
740 Subsection (24);

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

742 (a) a person presents a prescription for the disposable home medical equipment or
743 supplies;

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

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

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

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

750 (65) sales:

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

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

755 (i) clearly identified; and

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

757 (66) sales of construction materials:

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

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

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

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

762 (c) if the construction materials are:

763 (i) clearly identified;

764 (ii) segregated; and

765 (iii) installed or converted to real property:

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

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

768 (67) sales of construction materials:

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

770 (b) purchased by, on behalf of, or for the benefit of a new airport:
771 (i) located within a county of the second class; and
772 (ii) that is owned or operated by a city in which an airline as defined in Section
773 59-2-102 is headquartered; and
774 (c) if the construction materials are:
775 (i) clearly identified;
776 (ii) segregated; and
777 (iii) installed or converted to real property:
778 (A) owned or operated by the new airport described in Subsection (67)(b);
779 (B) located at the new airport described in Subsection (67)(b); and
780 (C) as part of the construction of the new airport described in Subsection (67)(b);
781 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
782 (69) purchases and sales described in Section 63H-4-111;
783 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
784 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
785 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
786 lists a state or country other than this state as the location of registry of the fixed wing turbine
787 powered aircraft; or
788 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
789 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
790 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
791 lists a state or country other than this state as the location of registry of the fixed wing turbine
792 powered aircraft;
793 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
794 (a) to a person admitted to an institution of higher education; and
795 (b) by a seller, other than a bookstore owned by an institution of higher education, if
796 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
797 textbook for a higher education course;
798 (72) a license fee or tax a municipality imposes in accordance with Subsection
799 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
800 level of municipal services;

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

- 804 (a) clearly identified;
- 805 (b) segregated; and
- 806 (c) installed or converted to real property;

807 (74) amounts paid or charged for:

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

809 (i) are used in performing qualified research:

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

811 (B) in the state; and

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

813 (b) normal operating repair or replacement parts:

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

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

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

818 (a) for a sale:

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

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

821 tangible personal property prior to making the sale; or

822 (b) for a lease:

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

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

825 personal property prior to making the lease;

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

827 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
828 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

829 System of the federal Executive Office of the President, Office of Management and Budget;

830 (ii) the machinery or equipment:

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

832 (B) is used by one or more persons who pay admission or user fees described in
833 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
834 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
835 (A) amounts paid or charged as admission or user fees described in Subsection
836 59-12-103(1)(f); and
837 (B) subject to taxation under this chapter; and
838 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
839 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
840 previous calendar quarter is:
841 (i) amounts paid or charged as admission or user fees described in Subsection
842 59-12-103(1)(f); and
843 (ii) subject to taxation under this chapter;
844 (77) purchases of a short-term lodging consumable by a business that provides
845 accommodations and services described in Subsection 59-12-103(1)(i);
846 (78) amounts paid or charged to access a database:
847 (a) if the primary purpose for accessing the database is to view or retrieve information
848 from the database; and
849 (b) not including amounts paid or charged for a:
850 (i) digital audiowork;
851 (ii) digital audio-visual work; or
852 (iii) digital book;
853 (79) amounts paid or charged for a purchase or lease made by an electronic financial
854 payment service, of:
855 (a) machinery and equipment that:
856 (i) are used in the operation of the electronic financial payment service; and
857 (ii) have an economic life of three or more years; and
858 (b) normal operating repair or replacement parts that:
859 (i) are used in the operation of the electronic financial payment service; and
860 (ii) have an economic life of three or more years;
861 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
862 (81) amounts paid or charged for a purchase or lease of tangible personal property or a

863 product transferred electronically if the tangible personal property or product transferred
864 electronically:

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

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

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

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

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

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

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

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

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

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

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

880 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
881 vehicle that includes cleaning or washing of the interior of the vehicle;

882 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
883 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
884 or consumed:

885 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
886 in Section [~~63M-4-701~~] [19-2-401](#) located in the state;

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

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

891 (ii) research and development;

892 (iii) transporting, storing, or managing raw materials, work in process, finished
893 products, and waste materials produced from refining gasoline or diesel fuel, or adding

894 blendstock to gasoline or diesel fuel;

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

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

898 (c) beginning on July 1, 2021, if the person [~~has obtained a form certified by the Office~~
899 ~~of Energy Development under Subsection 63M-4-702(2)] holds a valid refiner tax exemption
900 certification as defined in Section 19-2-401;~~

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

904 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
905 operating repair or replacement parts, or materials, except for office equipment or office
906 supplies, by an establishment, as the commission defines that term in accordance with Title
907 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

911 (b) is located in this state; and

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

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

915 Section 4. Section 59-12-104.11 is enacted to read:

916 **59-12-104.11. Refinery exemption subject to certain conditions -- Penalty.**

917 (1) As used in this section, "refiner" means the same as that term is defined in Section
918 19-2-401.

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

921 (3) A refiner described in Subsection (2) shall pay to the commission the taxes that
922 would have been due under this chapter on each amount of exempt sales or uses reported to the
923 commission in accordance with Section 59-12-105.1 if the refiner fails to obtain a refiner tax
924 exemption certification as defined in Subsection 19-2-401 at any time after June 30, 2021,

925 because the refiner failed to comply with the requirements of Subsection 19-2-402(2).

926 Section 5. Section **59-12-105.1** is enacted to read:

927 **59-12-105.1. Certain exempt sales to be reported -- Penalties.**

928 (1) For the period beginning July 1, 2020, and ending December 31, 2024, a purchaser
929 shall report to the commission the amount of the purchaser's sales or uses exempt under
930 Subsection 59-12-104(86).

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

932 (a) with the commission; and

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

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

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

940 (ii) \$1,000.

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

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

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

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

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

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

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

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

954 Section 6. **Repealer.**

955 This bill repeals:

956 Section **63M-4-701**, Definitions.

957 Section **63M-4-702**, Refiner gasoline standard reporting -- Office of Energy

958 Development certification of sales and use tax exemption eligibility.