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**SALES TAX REVISIONS**

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lincoln Fillmore**

House Sponsor: Jefferson Moss

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**LONG TITLE**

**General Description:**

This bill amends provisions related to sales and use tax exemptions.

**Highlighted Provisions:**

This bill:

- ▶ exempts certain tangible personal property consumed in the performance of a taxable service from sales and use tax;
- ▶ exempts certain tangible personal property used or consumed in the production or development of taxable computer software from sales and use tax; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides a special effective date.

**Utah Code Sections Affected:**

AMENDS:

**59-12-104**, as last amended by Laws of Utah 2020, Chapters 44, 91, 354, 412, and 438

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

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

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



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

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

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

33 (a) construction materials except:

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

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

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

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

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

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

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

49 (i) food and food ingredients; or

50 (ii) prepared food;

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

52 (i) alcoholic beverages;

53 (ii) food and food ingredients; or

54 (iii) prepared food;

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

56 (i) to a passenger;

57 (ii) by a commercial airline carrier; and

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

59 (c) services related to Subsection (4)(a) or (b);  
60 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts  
61 and equipment:

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

65 (II) for:

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

68 (Bb) renovation of an aircraft; or

69 (Cc) repair of an aircraft; or

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

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

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

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

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

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

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

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

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

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

88 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of  
89 cleaning or washing of tangible personal property if the cleaning or washing of the tangible

90 personal property is not assisted cleaning or washing of tangible personal property;

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

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

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

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

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

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

107 (a) not registered in this state; and

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

109 (ii) used in this state:

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

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

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

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

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

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

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

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

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

- 121 (A) a drug;
- 122 (B) a syringe; or
- 123 (C) a stoma supply; and
- 124 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 125 commission may by rule define the terms:
  - 126 (A) "syringe"; or
  - 127 (B) "stoma supply";
  - 128 (11) purchases or leases exempt under Section 19-12-201;
  - 129 (12) (a) sales of an item described in Subsection (12)(c) served by:
    - 130 (i) the following if the item described in Subsection (12)(c) is not available to the
    - 131 general public:
      - 132 (A) a church; or
      - 133 (B) a charitable institution; or
      - 134 (ii) an institution of higher education if:
        - 135 (A) the item described in Subsection (12)(c) is not available to the general public; or
        - 136 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
    - 137 offered by the institution of higher education; or
    - 138 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
      - 139 (i) a medical facility; or
      - 140 (ii) a nursing facility; and
      - 141 (c) Subsections (12)(a) and (b) apply to:
        - 142 (i) food and food ingredients;
        - 143 (ii) prepared food; or
        - 144 (iii) alcoholic beverages;
    - 145 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
    - 146 or a product transferred electronically by a person:
      - 147 (i) regardless of the number of transactions involving the sale of that tangible personal
      - 148 property or product transferred electronically by that person; and
      - 149 (ii) not regularly engaged in the business of selling that type of tangible personal
      - 150 property or product transferred electronically;
      - 151 (b) this Subsection (13) does not apply if:

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

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

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

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

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

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

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

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

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

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

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

178 (a) a manufacturing facility that:

179 (i) is located in the state; and

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

182 (A) in the manufacturing process to manufacture an item sold as tangible personal

183 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,  
184 Utah Administrative Rulemaking Act; or

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

188 (b) an establishment, as the commission defines that term in accordance with Title  
189 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

190 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS  
191 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal  
192 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the  
193 2002 North American Industry Classification System of the federal Executive Office of the  
194 President, Office of Management and Budget;

195 (ii) is located in the state; and

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

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

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

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

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

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

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

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

213 (ii) is located in the state; and

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

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

217 (i) tooling;

218 (ii) special tooling;

219 (iii) support equipment;

220 (iv) special test equipment; or

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

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

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

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

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

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

233 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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



245 price:

- 246 (i) money;
- 247 (ii) electricity;
- 248 (iii) water;
- 249 (iv) gas; or
- 250 (v) steam;

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

255 (A) becomes part of real estate; or

256 (B) is installed by a:

- 257 (I) farmer;
- 258 (II) contractor; or
- 259 (III) subcontractor; or

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

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

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

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

- 269 (I) hand tools; or
- 270 (II) maintenance and janitorial equipment and supplies;

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

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

276 (I) office equipment and supplies; or  
277 (II) equipment and supplies used in:  
278 (Aa) the sale or distribution of farm products;  
279 (Bb) research; or  
280 (Cc) transportation; or  
281 (iii) a vehicle required to be registered by the laws of this state during the period  
282 ending two years after the date of the vehicle's purchase;  
283 (19) sales of hay;  
284 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or  
285 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or  
286 garden, farm, or other agricultural produce is sold by:  
287 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other  
288 agricultural produce;  
289 (b) an employee of the producer described in Subsection (20)(a); or  
290 (c) a member of the immediate family of the producer described in Subsection (20)(a);  
291 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued  
292 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;;  
293 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,  
294 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,  
295 wholesaler, or retailer for use in packaging tangible personal property to be sold by that  
296 manufacturer, processor, wholesaler, or retailer;  
297 (23) a product stored in the state for resale;  
298 (24) (a) purchases of a product if:  
299 (i) the product is:  
300 (A) purchased outside of this state;  
301 (B) brought into this state:  
302 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and  
303 (II) by a nonresident person who is not living or working in this state at the time of the  
304 purchase;  
305 (C) used for the personal use or enjoyment of the nonresident person described in  
306 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

- 307 (D) not used in conducting business in this state; and
- 308 (ii) for:
  - 309 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
  - 310 the product for a purpose for which the product is designed occurs outside of this state;
  - 311 (B) a boat, the boat is registered outside of this state; or
  - 312 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
  - 313 outside of this state;
- 314 (b) the exemption provided for in Subsection (24)(a) does not apply to:
  - 315 (i) a lease or rental of a product; or
  - 316 (ii) a sale of a vehicle exempt under Subsection (33); and
  - 317 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
  - 318 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
  - 319 following:
    - 320 (i) conducting business in this state if that phrase has the same meaning in this
    - 321 Subsection (24) as in Subsection (63);
    - 322 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
    - 323 as in Subsection (63); or
    - 324 (iii) a purpose for which a product is designed if that phrase has the same meaning in
    - 325 this Subsection (24) as in Subsection (63);
  - 326 (25) a product purchased for resale in the regular course of business, either in its
  - 327 original form or as an ingredient or component part of a manufactured or compounded product;
  - 328 (26) a product upon which a sales or use tax was paid to some other state, or one of its
  - 329 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
  - 330 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
  - 331 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
  - 332 Act;
  - 333 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
  - 334 person for use in compounding a service taxable under the subsections;
  - 335 (28) purchases made in accordance with the special supplemental nutrition program for
  - 336 women, infants, and children established in 42 U.S.C. Sec. 1786;
  - 337 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other

338 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code  
339 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of  
340 the President, Office of Management and Budget;

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

343 (a) not registered in this state; and

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

345 (ii) used in this state:

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

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

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

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

354 (31) sales of aircraft manufactured in Utah;

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

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

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

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

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

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

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

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

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

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

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

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

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

369 Section 72-11-102; and

370 (b) the commission shall by rule determine the method for calculating sales exempt  
371 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;

372 (38) sales to a ski resort of:

373 (a) snowmaking equipment;

374 (b) ski slope grooming equipment;

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

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

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

378 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,  
379 fuel oil, or other fuels for industrial use;

380 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for  
381 amusement, entertainment, or recreation an unassisted amusement device as defined in Section  
382 59-12-102;

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

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

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

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

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

396 (i) a governmental entity; or

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

398 (A) a school; or

399 (B) the State Board of Education; or

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

- 431 (b) conduit;
- 432 (c) ditch; or
- 433 (d) reservoir;
- 434 (50) sales of currency or coins that constitute legal tender of a state, the United States,
- 435 or a foreign nation;
- 436 (51) (a) sales of an item described in Subsection (51)(b) if the item:
- 437 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 438 (ii) has a gold, silver, or platinum content of 50% or more; and
- 439 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
- 440 (i) ingot;
- 441 (ii) bar;
- 442 (iii) medallion; or
- 443 (iv) decorative coin;
- 444 (52) amounts paid on a sale-leaseback transaction;
- 445 (53) sales of a prosthetic device:
- 446 (a) for use on or in a human; and
- 447 (b) (i) for which a prescription is required; or
- 448 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
- 449 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
- 450 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
- 451 or equipment is primarily used in the production or postproduction of the following media for
- 452 commercial distribution:
- 453 (i) a motion picture;
- 454 (ii) a television program;
- 455 (iii) a movie made for television;
- 456 (iv) a music video;
- 457 (v) a commercial;
- 458 (vi) a documentary; or
- 459 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 460 commission by administrative rule made in accordance with Subsection (54)(d); or
- 461 (b) purchases, leases, or rentals of machinery or equipment by an establishment

462 described in Subsection (54)(c) that is used for the production or postproduction of the  
463 following are subject to the taxes imposed by this chapter:

464 (i) a live musical performance;

465 (ii) a live news program; or

466 (iii) a live sporting event;

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

470 (i) NAICS Code 512110; or

471 (ii) NAICS Code 51219; and

472 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
473 commission may by rule:

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

475 or

476 (ii) define:

477 (A) "commercial distribution";

478 (B) "live musical performance";

479 (C) "live news program"; or

480 (D) "live sporting event";

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

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

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

485 (B) is located in the state; and

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

487 (II) has its generation capacity increased by one or more megawatts on or after July 1,  
488 2004, as a result of the use of the tangible personal property;

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

490 (iii) is used to make the facility or the increase in capacity of the facility described in  
491 Subsection (55)(a)(i) operational up to the point of interconnection with an existing  
492 transmission grid including:



- 493 (A) a wind turbine;
- 494 (B) generating equipment;
- 495 (C) a control and monitoring system;
- 496 (D) a power line;
- 497 (E) substation equipment;
- 498 (F) lighting;
- 499 (G) fencing;
- 500 (H) pipes; or
- 501 (I) other equipment used for locating a power line or pole; and
- 502 (b) this Subsection (55) does not apply to:
  - 503 (i) tangible personal property used in construction of:
    - 504 (A) a new alternative energy electricity production facility; or
    - 505 (B) the increase in the capacity of an alternative energy electricity production facility;
  - 506 (ii) contracted services required for construction and routine maintenance activities;
- 507 and
  - 508 (iii) unless the tangible personal property is used or acquired for an increase in capacity
  - 509 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
  - 510 acquired after:
    - 511 (A) the alternative energy electricity production facility described in Subsection
    - 512 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
    - 513 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
    - 514 in Subsection (55)(a)(iii);
  - 515 (56) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
  - 516 on or before June 30, 2027, of tangible personal property that:
    - 517 (i) is leased or purchased for or by a facility that:
      - 518 (A) is a waste energy production facility;
      - 519 (B) is located in the state; and
      - 520 (C) (I) becomes operational on or after July 1, 2004; or
      - 521 (II) has its generation capacity increased by one or more megawatts on or after July 1,
      - 522 2004, as a result of the use of the tangible personal property;
      - 523 (ii) has an economic life of five or more years; and

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

- 527 (A) generating equipment;
- 528 (B) a control and monitoring system;
- 529 (C) a power line;
- 530 (D) substation equipment;
- 531 (E) lighting;
- 532 (F) fencing;
- 533 (G) pipes; or
- 534 (H) other equipment used for locating a power line or pole; and

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

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

- 537 (A) a new waste energy facility; or
- 538 (B) the increase in the capacity of a waste energy facility;

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

540 and

541 (iii) unless the tangible personal property is used or acquired for an increase in capacity  
542 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:

543 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as  
544 described in Subsection (56)(a)(iii); or

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

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

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

- 550 (A) is located in the state;
- 551 (B) produces fuel from alternative energy, including:
  - 552 (I) methanol; or
  - 553 (II) ethanol; and

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

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

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

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

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

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

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

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

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

564 and

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

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

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

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

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

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

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

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

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

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

- 586 (v) in accordance with Section 59-1-1410; and
- 587 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
- 588 the person files for the refund on or before June 30, 2011;
- 589 (59) purchases:
- 590 (a) of one or more of the following items in printed or electronic format:
- 591 (i) a list containing information that includes one or more:
- 592 (A) names; or
- 593 (B) addresses; or
- 594 (ii) a database containing information that includes one or more:
- 595 (A) names; or
- 596 (B) addresses; and
- 597 (b) used to send direct mail;
- 598 (60) redemptions or repurchases of a product by a person if that product was:
- 599 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 600 (b) redeemed or repurchased within the time period established in a written agreement
- 601 between the person and the pawnbroker for redeeming or repurchasing the product;
- 602 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 603 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 604 and
- 605 (ii) has a useful economic life of one or more years; and
- 606 (b) the following apply to Subsection (61)(a):
- 607 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 608 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 609 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 610 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 611 (v) telecommunications transmission equipment, machinery, or software;
- 612 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 613 personal property or a product transferred electronically that are used in the research and
- 614 development of alternative energy technology; and
- 615 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 616 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

617 purchases of tangible personal property or a product transferred electronically that are used in  
618 the research and development of alternative energy technology;

619 (63) (a) purchases of tangible personal property or a product transferred electronically  
620 if:

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

622 (A) purchased outside of this state;

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

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

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

626 (ii) for:

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

630 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered  
631 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or  
632 [73-18-9](#) based on residency;

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

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

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

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

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

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

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

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

- 648 (a) a person presents a prescription for the disposable home medical equipment or  
649 supplies;
- 650 (b) the disposable home medical equipment or supplies are used exclusively by the  
651 person to whom the prescription described in Subsection (64)(a) is issued; and
- 652 (c) the disposable home medical equipment and supplies are listed as eligible for  
653 payment under:
  - 654 (i) Title XVIII, federal Social Security Act; or
  - 655 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
- 656 (65) sales:
  - 657 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit  
658 District Act; or
  - 659 (b) of tangible personal property to a subcontractor of a public transit district, if the  
660 tangible personal property is:
    - 661 (i) clearly identified; and
    - 662 (ii) installed or converted to real property owned by the public transit district;
- 663 (66) sales of construction materials:
  - 664 (a) purchased on or after July 1, 2010;
  - 665 (b) purchased by, on behalf of, or for the benefit of an international airport:
    - 666 (i) located within a county of the first class; and
    - 667 (ii) that has a United States customs office on its premises; and
  - 668 (c) if the construction materials are:
    - 669 (i) clearly identified;
    - 670 (ii) segregated; and
    - 671 (iii) installed or converted to real property:
      - 672 (A) owned or operated by the international airport described in Subsection (66)(b); and
      - 673 (B) located at the international airport described in Subsection (66)(b);
- 674 (67) sales of construction materials:
  - 675 (a) purchased on or after July 1, 2008;
  - 676 (b) purchased by, on behalf of, or for the benefit of a new airport:
    - 677 (i) located within a county of the second class; and
    - 678 (ii) that is owned or operated by a city in which an airline as defined in Section

679 59-2-102 is headquartered; and  
680 (c) if the construction materials are:  
681 (i) clearly identified;  
682 (ii) segregated; and  
683 (iii) installed or converted to real property:  
684 (A) owned or operated by the new airport described in Subsection (67)(b);  
685 (B) located at the new airport described in Subsection (67)(b); and  
686 (C) as part of the construction of the new airport described in Subsection (67)(b);  
687 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;  
688 (69) purchases and sales described in Section 63H-4-111;  
689 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and  
690 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of  
691 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
692 lists a state or country other than this state as the location of registry of the fixed wing turbine  
693 powered aircraft; or  
694 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul  
695 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of  
696 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration  
697 lists a state or country other than this state as the location of registry of the fixed wing turbine  
698 powered aircraft;  
699 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:  
700 (a) to a person admitted to an institution of higher education; and  
701 (b) by a seller, other than a bookstore owned by an institution of higher education, if  
702 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a  
703 textbook for a higher education course;  
704 (72) a license fee or tax a municipality imposes in accordance with Subsection  
705 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced  
706 level of municipal services;  
707 (73) amounts paid or charged for construction materials used in the construction of a  
708 new or expanding life science research and development facility in the state, if the construction  
709 materials are:

- 710 (a) clearly identified;
- 711 (b) segregated; and
- 712 (c) installed or converted to real property;
- 713 (74) amounts paid or charged for:
  - 714 (a) a purchase or lease of machinery and equipment that:
    - 715 (i) are used in performing qualified research:
      - 716 (A) as defined in Section 41(d), Internal Revenue Code; and
      - 717 (B) in the state; and
      - 718 (ii) have an economic life of three or more years; and
    - 719 (b) normal operating repair or replacement parts:
      - 720 (i) for the machinery and equipment described in Subsection (74)(a); and
      - 721 (ii) that have an economic life of three or more years;
  - 722 (75) a sale or lease of tangible personal property used in the preparation of prepared
  - 723 food if:
    - 724 (a) for a sale:
      - 725 (i) the ownership of the seller and the ownership of the purchaser are identical; and
      - 726 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
    - 727 tangible personal property prior to making the sale; or
    - 728 (b) for a lease:
      - 729 (i) the ownership of the lessor and the ownership of the lessee are identical; and
      - 730 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
      - 731 personal property prior to making the lease;
    - 732 (76) (a) purchases of machinery or equipment if:
      - 733 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
      - 734 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
      - 735 System of the federal Executive Office of the President, Office of Management and Budget;
      - 736 (ii) the machinery or equipment:
        - 737 (A) has an economic life of three or more years; and
        - 738 (B) is used by one or more persons who pay admission or user fees described in
        - 739 Subsection [59-12-103\(1\)\(f\)](#) to the purchaser of the machinery and equipment; and
        - 740 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:



- 741 (A) amounts paid or charged as admission or user fees described in Subsection
- 742 59-12-103(1)(f); and
- 743 (B) subject to taxation under this chapter; and
- 744 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 745 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 746 previous calendar quarter is:
  - 747 (i) amounts paid or charged as admission or user fees described in Subsection
  - 748 59-12-103(1)(f); and
  - 749 (ii) subject to taxation under this chapter;
- 750 (77) purchases of a short-term lodging consumable by a business that provides
- 751 accommodations and services described in Subsection 59-12-103(1)(i);
- 752 (78) amounts paid or charged to access a database:
  - 753 (a) if the primary purpose for accessing the database is to view or retrieve information
  - 754 from the database; and
  - 755 (b) not including amounts paid or charged for a:
    - 756 (i) digital audio work;
    - 757 (ii) digital audio-visual work; or
    - 758 (iii) digital book;
- 759 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 760 payment service, of:
  - 761 (a) machinery and equipment that:
    - 762 (i) are used in the operation of the electronic financial payment service; and
    - 763 (ii) have an economic life of three or more years; and
  - 764 (b) normal operating repair or replacement parts that:
    - 765 (i) are used in the operation of the electronic financial payment service; and
    - 766 (ii) have an economic life of three or more years;
- 767 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
- 768 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 769 product transferred electronically if the tangible personal property or product transferred
- 770 electronically:
  - 771 (a) is stored, used, or consumed in the state; and

- 772 (b) is temporarily brought into the state from another state:
- 773 (i) during a disaster period as defined in Section 53-2a-1202;
- 774 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 775 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 776 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 777 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 778 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 779 Recreation Program;
- 780 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 781 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
- 782 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
- 783 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
- 784 parts:
- 785 (a) are used in:
- 786 (i) the operation of the qualifying data center; or
- 787 (ii) the occupant's operations in the qualifying data center; and
- 788 (b) have an economic life of one or more years;
- 789 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 790 vehicle that includes cleaning or washing of the interior of the vehicle;
- 791 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 792 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 793 or consumed:
- 794 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
- 795 in Section 63M-4-701 located in the state;
- 796 (b) if the machinery, equipment, normal operating repair or replacement parts,
- 797 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- 798 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
- 799 added to gasoline or diesel fuel;
- 800 (ii) research and development;
- 801 (iii) transporting, storing, or managing raw materials, work in process, finished
- 802 products, and waste materials produced from refining gasoline or diesel fuel, or adding

803 blendstock to gasoline or diesel fuel;

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

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

807 (c) beginning on July 1, 2021, if the person holds a valid refiner tax exemption  
808 certification as defined in Section [63M-4-701](#);

809 (87) amounts paid to or charged by a proprietor for accommodations and services, as  
810 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax  
811 imposed under Section [63H-1-205](#);

812 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal  
813 operating repair or replacement parts, or materials, except for office equipment or office  
814 supplies, by an establishment, as the commission defines that term in accordance with Title  
815 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

819 (b) is located in this state; and

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

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

823 (90) amounts paid by the service provider for tangible personal property, other than  
824 machinery, equipment, or electricity, gas, heat, steam, or other fuels, that:

825 (a) is consumed in the performance of a service, to one or more customers, that:

826 (i) is subject to tax under Subsection [59-12-103](#)(1)(b), (f), (g), (h), (i), or (j); and

827 (ii) is not exempt under Section [59-12-104](#);

828 (b) has to be consumed for the service provider to provide the service described in  
829 Subsection (90)(a); and

830 (c) will be consumed in the performance of the service described in Subsection (90)(a)  
831 to the point that the tangible personal property disappears or cannot be used for any other  
832 purpose; and

833 (91) amounts paid or charged for tangible personal property that is used or consumed

834 primarily in the production or development of computer software that:

835 (a) is subject to tax under Section [59-12-103](#); and

836 (b) is not exempt under Section [59-12-104](#).

837 **Section 2. Effective date.**

838 This bill takes effect on July 1, 2021.