

1 **PRECIOUS METAL SALES TAX EXEMPTION AMENDMENTS**

2 2022 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Brady Brammer**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the sales and use tax exemptions.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ amends the sales and use tax exemption for sales of certain precious metals; and
- 13 ▶ makes technical changes.

14 **Money Appropriated in this Bill:**

15 None

16 **Other Special Clauses:**

17 This bill provides a special effective date.

18 **Utah Code Sections Affected:**

19 AMENDS:

20 **59-12-104**, as last amended by Laws of Utah 2021, Chapters 280 and 367

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

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

24 **59-12-104. Exemptions.**

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

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



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

30 (a) construction materials except:

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

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

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

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

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

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

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

46 (i) food and food ingredients; or

47 (ii) prepared food;

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

49 (i) alcoholic beverages;

50 (ii) food and food ingredients; or

51 (iii) prepared food;

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

53 (i) to a passenger;

54 (ii) by a commercial airline carrier; and

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

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

57 (5) sales of parts and equipment for installation in an aircraft operated by a common
58 carrier in interstate or foreign commerce;

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

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

65 (b) if a seller that sells at the same business location assisted cleaning or washing of
66 tangible personal property and cleaning or washing of tangible personal property that is not
67 assisted cleaning or washing of tangible personal property, the exemption described in
68 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
69 or washing of the tangible personal property; and

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

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

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

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

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

81 (a) not registered in this state; and

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

83 (ii) used in this state:

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

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

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

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

90 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
91 (i) the item is intended for human use; and
92 (ii) (A) a prescription was issued for the item; or
93 (B) the item was purchased by a hospital or other medical facility; and
94 (b) (i) Subsection (10)(a) applies to:
95 (A) a drug;
96 (B) a syringe; or
97 (C) a stoma supply; and
98 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
99 commission may by rule define the terms:
100 (A) "syringe"; or
101 (B) "stoma supply";
102 (11) purchases or leases exempt under Section 19-12-201;
103 (12) (a) sales of an item described in Subsection (12)(c) served by:
104 (i) the following if the item described in Subsection (12)(c) is not available to the
105 general public:
106 (A) a church; or
107 (B) a charitable institution; or
108 (ii) an institution of higher education if:
109 (A) the item described in Subsection (12)(c) is not available to the general public; or
110 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
111 offered by the institution of higher education; or
112 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
113 (i) a medical facility; or
114 (ii) a nursing facility; and
115 (c) Subsections (12)(a) and (b) apply to:
116 (i) food and food ingredients;
117 (ii) prepared food; or
118 (iii) alcoholic beverages;
119 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
120 or a product transferred electronically by a person:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 152 (a) a manufacturing facility that:
- 153 (i) is located in the state; and
- 154 (ii) uses or consumes the machinery, equipment, normal operating repair or
- 155 replacement parts, or materials:
- 156 (A) in the manufacturing process to manufacture an item sold as tangible personal
- 157 property, as the commission may define that phrase in accordance with Title 63G, Chapter 3,
- 158 Utah Administrative Rulemaking Act; or
- 159 (B) for a scrap recycler, to process an item sold as tangible personal property, as the
- 160 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
- 161 Administrative Rulemaking Act;
- 162 (b) an establishment, as the commission defines that term in accordance with Title
- 163 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 164 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
- 165 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
- 166 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
- 167 2002 North American Industry Classification System of the federal Executive Office of the
- 168 President, Office of Management and Budget;
- 169 (ii) is located in the state; and
- 170 (iii) uses or consumes the machinery, equipment, normal operating repair or
- 171 replacement parts, or materials in:
- 172 (A) the production process to produce an item sold as tangible personal property, as the
- 173 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
- 174 Administrative Rulemaking Act;
- 175 (B) research and development, as the commission may define that phrase in accordance
- 176 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
- 177 (C) transporting, storing, or managing tailings, overburden, or similar waste materials
- 178 produced from mining;
- 179 (D) developing or maintaining a road, tunnel, excavation, or similar feature used in
- 180 mining; or
- 181 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
- 182 (c) an establishment, as the commission defines that term in accordance with Title 63G,

183 Chapter 3, Utah Administrative Rulemaking Act, that:

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

187 (ii) is located in the state; and

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

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

191 (i) tooling;

192 (ii) special tooling;

193 (iii) support equipment;

194 (iv) special test equipment; or

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

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

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

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

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

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

207 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

220 (i) money;

221 (ii) electricity;

222 (iii) water;

223 (iv) gas; or

224 (v) steam;

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

229 (A) becomes part of real estate; or

230 (B) is installed by a farmer, contractor, or subcontractor; or

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

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

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

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

240 (I) hand tools; or

241 (II) maintenance and janitorial equipment and supplies;

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

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

- 247 (I) office equipment and supplies; or
- 248 (II) equipment and supplies used in:
 - 249 (Aa) the sale or distribution of farm products;
 - 250 (Bb) research; or
 - 251 (Cc) transportation; or
 - 252 (iii) a vehicle required to be registered by the laws of this state during the period
253 ending two years after the date of the vehicle's purchase;
- 254 (19) sales of hay;
- 255 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
256 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
257 garden, farm, or other agricultural produce is sold by:
 - 258 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
259 agricultural produce;
 - 260 (b) an employee of the producer described in Subsection (20)(a); or
 - 261 (c) a member of the immediate family of the producer described in Subsection (20)(a);
- 262 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
263 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
- 264 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
265 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
266 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
267 manufacturer, processor, wholesaler, or retailer;
- 268 (23) a product stored in the state for resale;
- 269 (24) (a) purchases of a product if:
 - 270 (i) the product is:
 - 271 (A) purchased outside of this state;
 - 272 (B) brought into this state:
 - 273 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
 - 274 (II) by a nonresident person who is not living or working in this state at the time of the
275 purchase;

276 (C) used for the personal use or enjoyment of the nonresident person described in
277 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
278 (D) not used in conducting business in this state; and
279 (ii) for:
280 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
281 the product for a purpose for which the product is designed occurs outside of this state;
282 (B) a boat, the boat is registered outside of this state; or
283 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
284 outside of this state;
285 (b) the exemption provided for in Subsection (24)(a) does not apply to:
286 (i) a lease or rental of a product; or
287 (ii) a sale of a vehicle exempt under Subsection (33); and
288 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
289 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
290 following:
291 (i) conducting business in this state if that phrase has the same meaning in this
292 Subsection (24) as in Subsection (63);
293 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
294 as in Subsection (63); or
295 (iii) a purpose for which a product is designed if that phrase has the same meaning in
296 this Subsection (24) as in Subsection (63);
297 (25) a product purchased for resale in the regular course of business, either in its
298 original form or as an ingredient or component part of a manufactured or compounded product;
299 (26) a product upon which a sales or use tax was paid to some other state, or one of its
300 subdivisions, except that the state shall be paid any difference between the tax paid and the tax
301 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if
302 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax
303 Act;
304 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a
305 person for use in compounding a service taxable under the subsections;
306 (28) purchases made in accordance with the special supplemental nutrition program for

307 women, infants, and children established in 42 U.S.C. Sec. 1786;

308 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other

309 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code

310 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of

311 the President, Office of Management and Budget;

312 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State

313 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:

314 (a) not registered in this state; and

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

316 (ii) used in this state:

317 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a

318 time period that does not exceed the longer of:

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

320 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to

321 the borders of this state; or

322 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time

323 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this

324 state;

325 (31) sales of aircraft manufactured in Utah;

326 (32) amounts paid for the purchase of telecommunications service for purposes of

327 providing telecommunications service;

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

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

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

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

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

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

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

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

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

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

338 (b) the durable medical equipment is used for home use only;
339 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
340 Section 72-11-102; and

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

343 (38) sales to a ski resort of:

344 (a) snowmaking equipment;

345 (b) ski slope grooming equipment;

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

347 (d) parts used in the repairs or renovations of equipment or passenger ropeways
348 described in Subsections (38)(a) through (c);

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

351 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
352 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
353 59-12-102;

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

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

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

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

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

367 (i) a governmental entity; or

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

- 369 (A) a school; or
- 370 (B) the State Board of Education; or
- 371 (b) sales of publications by a governmental entity;
- 372 (42) amounts paid for admission to an athletic event at an institution of higher
- 373 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 374 20 U.S.C. Sec. 1681 et seq.;
- 375 (43) (a) sales made to or by:
- 376 (i) an area agency on aging; or
- 377 (ii) a senior citizen center owned by a county, city, or town; or
- 378 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 379 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 380 materials regardless of whether the semiconductor fabricating, processing, research, or
- 381 development materials:
- 382 (a) actually come into contact with a semiconductor; or
- 383 (b) ultimately become incorporated into real property;
- 384 (45) an amount paid by or charged to a purchaser for accommodations and services
- 385 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 386 59-12-104.2;
- 387 (46) the lease or use of a vehicle issued a temporary sports event registration certificate
- 388 in accordance with Section 41-3-306 for the event period specified on the temporary sports
- 389 event registration certificate;
- 390 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 391 adopted by the Public Service Commission only for purchase of electricity produced from a
- 392 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 393 Public Service Commission; and
- 394 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 395 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 396 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
- 397 customer would have paid absent the tariff;
- 398 (48) sales or rentals of mobility enhancing equipment if a person presents a
- 399 prescription for the mobility enhancing equipment;

400 (49) sales of water in a:

401 (a) pipe;

402 (b) conduit;

403 (c) ditch; or

404 (d) reservoir;

405 (50) sales of currency or coins that constitute legal tender of a state, the United States,

406 or a foreign nation;

407 [~~(51)(a) sales of an item described in Subsection (51)(b) if the item:]~~

408 [~~(i) does not constitute legal tender of a state, the United States, or a foreign nation;~~

409 and]

410 [~~(ii) has a gold, silver, or platinum content of 50% or more; and]~~

411 [~~(b) Subsection (51)(a) applies to a gold, silver, or platinum:]~~

412 [~~(i) ingot;~~

413 [~~(ii) bar;~~

414 [~~(iii) medallion; or]~~

415 [~~(iv) decorative coin;~~

416 (51) sales of an ingot, a bar, a medallion, a decorative coin, a note, leaf, foil, or film, if

417 the item:

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

419 (b) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any

420 holder, coating, or encasement, regardless of whether the holder, coating, or encasement is

421 protective, decorative, or authenticating;

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

423 (53) sales of a prosthetic device:

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

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

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

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

428 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery

429 or equipment is primarily used in the production or postproduction of the following media for

430 commercial distribution:

- 431 (i) a motion picture;
- 432 (ii) a television program;
- 433 (iii) a movie made for television;
- 434 (iv) a music video;
- 435 (v) a commercial;
- 436 (vi) a documentary; or
- 437 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 438 commission by administrative rule made in accordance with Subsection (54)(d); or
- 439 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 440 described in Subsection (54)(c) that is used for the production or postproduction of the
- 441 following are subject to the taxes imposed by this chapter:
- 442 (i) a live musical performance;
- 443 (ii) a live news program; or
- 444 (iii) a live sporting event;
- 445 (c) the following establishments listed in the 1997 North American Industry
- 446 Classification System of the federal Executive Office of the President, Office of Management
- 447 and Budget, apply to Subsections (54)(a) and (b):
- 448 (i) NAICS Code 512110; or
- 449 (ii) NAICS Code 51219; and
- 450 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 451 commission may by rule:
- 452 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 453 or
- 454 (ii) define:
- 455 (A) "commercial distribution";
- 456 (B) "live musical performance";
- 457 (C) "live news program"; or
- 458 (D) "live sporting event";
- 459 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 460 on or before June 30, 2027, of tangible personal property that:
- 461 (i) is leased or purchased for or by a facility that:

- 462 (A) is an alternative energy electricity production facility;
- 463 (B) is located in the state; and
- 464 (C) (I) becomes operational on or after July 1, 2004; or
- 465 (II) has its generation capacity increased by one or more megawatts on or after July 1,
- 466 2004, as a result of the use of the tangible personal property;
- 467 (ii) has an economic life of five or more years; and
- 468 (iii) is used to make the facility or the increase in capacity of the facility described in

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

- 471 (A) a wind turbine;
- 472 (B) generating equipment;
- 473 (C) a control and monitoring system;
- 474 (D) a power line;
- 475 (E) substation equipment;
- 476 (F) lighting;
- 477 (G) fencing;
- 478 (H) pipes; or
- 479 (I) other equipment used for locating a power line or pole; and

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

- 481 (i) tangible personal property used in construction of:
 - 482 (A) a new alternative energy electricity production facility; or
 - 483 (B) the increase in the capacity of an alternative energy electricity production facility;
- 484 (ii) contracted services required for construction and routine maintenance activities;

485 and

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

- 489 (A) the alternative energy electricity production facility described in Subsection
490 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
- 491 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
492 in Subsection (55)(a)(iii);

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

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

496 (A) is a waste energy production facility;

497 (B) is located in the state; and

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

499 (II) has its generation capacity increased by one or more megawatts on or after July 1,
500 2004, as a result of the use of the tangible personal property;

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

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

503 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
504 transmission grid including:

505 (A) generating equipment;

506 (B) a control and monitoring system;

507 (C) a power line;

508 (D) substation equipment;

509 (E) lighting;

510 (F) fencing;

511 (G) pipes; or

512 (H) other equipment used for locating a power line or pole; and

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

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

515 (A) a new waste energy facility; or

516 (B) the increase in the capacity of a waste energy facility;

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

518 and

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

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

523 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described

524 in Subsection (56)(a)(iii);
525 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
526 or before June 30, 2027, of tangible personal property that:
527 (i) is leased or purchased for or by a facility that:
528 (A) is located in the state;
529 (B) produces fuel from alternative energy, including:
530 (I) methanol; or
531 (II) ethanol; and
532 (C) (I) becomes operational on or after July 1, 2004; or
533 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
534 a result of the installation of the tangible personal property;
535 (ii) has an economic life of five or more years; and
536 (iii) is installed on the facility described in Subsection (57)(a)(i);
537 (b) this Subsection (57) does not apply to:
538 (i) tangible personal property used in construction of:
539 (A) a new facility described in Subsection (57)(a)(i); or
540 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
541 (ii) contracted services required for construction and routine maintenance activities;
542 and
543 (iii) unless the tangible personal property is used or acquired for an increase in capacity
544 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
545 (A) the facility described in Subsection (57)(a)(i) is operational; or
546 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
547 (58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product
548 transferred electronically to a person within this state if that tangible personal property or
549 product transferred electronically is subsequently shipped outside the state and incorporated
550 pursuant to contract into and becomes a part of real property located outside of this state; and
551 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
552 state or political entity to which the tangible personal property is shipped imposes a sales, use,
553 gross receipts, or other similar transaction excise tax on the transaction against which the other
554 state or political entity allows a credit for sales and use taxes imposed by this chapter;

- 555 (59) purchases:
- 556 (a) of one or more of the following items in printed or electronic format:
- 557 (i) a list containing information that includes one or more:
- 558 (A) names; or
- 559 (B) addresses; or
- 560 (ii) a database containing information that includes one or more:
- 561 (A) names; or
- 562 (B) addresses; and
- 563 (b) used to send direct mail;
- 564 (60) redemptions or repurchases of a product by a person if that product was:
- 565 (a) delivered to a pawnbroker as part of a pawn transaction; and
- 566 (b) redeemed or repurchased within the time period established in a written agreement
- 567 between the person and the pawnbroker for redeeming or repurchasing the product;
- 568 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
- 569 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
- 570 and
- 571 (ii) has a useful economic life of one or more years; and
- 572 (b) the following apply to Subsection (61)(a):
- 573 (i) telecommunications enabling or facilitating equipment, machinery, or software;
- 574 (ii) telecommunications equipment, machinery, or software required for 911 service;
- 575 (iii) telecommunications maintenance or repair equipment, machinery, or software;
- 576 (iv) telecommunications switching or routing equipment, machinery, or software; or
- 577 (v) telecommunications transmission equipment, machinery, or software;
- 578 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
- 579 personal property or a product transferred electronically that are used in the research and
- 580 development of alternative energy technology; and
- 581 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 582 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
- 583 purchases of tangible personal property or a product transferred electronically that are used in
- 584 the research and development of alternative energy technology;
- 585 (63) (a) purchases of tangible personal property or a product transferred electronically

586 if:

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

588 (A) purchased outside of this state;

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

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

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

592 (ii) for:

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

596 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
597 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or
598 [73-18-9](#) based on residency;

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

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

601 or

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

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

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

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

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

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

614 (a) a person presents a prescription for the disposable home medical equipment or
615 supplies;

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

617 person to whom the prescription described in Subsection (64)(a) is issued; and
618 (c) the disposable home medical equipment and supplies are listed as eligible for
619 payment under:

- 620 (i) Title XVIII, federal Social Security Act; or
- 621 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;

622 (65) sales:

- 623 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
624 District Act; or
- 625 (b) of tangible personal property to a subcontractor of a public transit district, if the
626 tangible personal property is:
 - 627 (i) clearly identified; and
 - 628 (ii) installed or converted to real property owned by the public transit district;

629 (66) sales of construction materials:

- 630 (a) purchased on or after July 1, 2010;
- 631 (b) purchased by, on behalf of, or for the benefit of an international airport:
 - 632 (i) located within a county of the first class; and
 - 633 (ii) that has a United States customs office on its premises; and
- 634 (c) if the construction materials are:
 - 635 (i) clearly identified;
 - 636 (ii) segregated; and
 - 637 (iii) installed or converted to real property:
 - 638 (A) owned or operated by the international airport described in Subsection (66)(b); and
 - 639 (B) located at the international airport described in Subsection (66)(b);

640 (67) sales of construction materials:

- 641 (a) purchased on or after July 1, 2008;
- 642 (b) purchased by, on behalf of, or for the benefit of a new airport:
 - 643 (i) located within a county of the second class; and
 - 644 (ii) that is owned or operated by a city in which an airline as defined in Section
645 59-2-102 is headquartered; and
- 646 (c) if the construction materials are:
 - 647 (i) clearly identified;

- 648 (ii) segregated; and
- 649 (iii) installed or converted to real property:
 - 650 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 651 (B) located at the new airport described in Subsection (67)(b); and
 - 652 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 653 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
- 654 common carrier that is a railroad for use in a locomotive engine;
- 655 (69) purchases and sales described in Section 63H-4-111;
- 656 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 657 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 658 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 659 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 660 powered aircraft; or
- 661 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 662 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 663 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 664 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 665 powered aircraft;
- 666 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
- 667 (a) to a person admitted to an institution of higher education; and
- 668 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 669 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 670 textbook for a higher education course;
- 671 (72) a license fee or tax a municipality imposes in accordance with Subsection
- 672 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
- 673 level of municipal services;
- 674 (73) amounts paid or charged for construction materials used in the construction of a
- 675 new or expanding life science research and development facility in the state, if the construction
- 676 materials are:
 - 677 (a) clearly identified;
 - 678 (b) segregated; and

- 679 (c) installed or converted to real property;
- 680 (74) amounts paid or charged for:
- 681 (a) a purchase or lease of machinery and equipment that:
- 682 (i) are used in performing qualified research:
- 683 (A) as defined in Section 41(d), Internal Revenue Code; and
- 684 (B) in the state; and
- 685 (ii) have an economic life of three or more years; and
- 686 (b) normal operating repair or replacement parts:
- 687 (i) for the machinery and equipment described in Subsection (74)(a); and
- 688 (ii) that have an economic life of three or more years;
- 689 (75) a sale or lease of tangible personal property used in the preparation of prepared
- 690 food if:
- 691 (a) for a sale:
- 692 (i) the ownership of the seller and the ownership of the purchaser are identical; and
- 693 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
- 694 tangible personal property prior to making the sale; or
- 695 (b) for a lease:
- 696 (i) the ownership of the lessor and the ownership of the lessee are identical; and
- 697 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
- 698 personal property prior to making the lease;
- 699 (76) (a) purchases of machinery or equipment if:
- 700 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
- 701 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
- 702 System of the federal Executive Office of the President, Office of Management and Budget;
- 703 (ii) the machinery or equipment:
- 704 (A) has an economic life of three or more years; and
- 705 (B) is used by one or more persons who pay admission or user fees described in
- 706 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 707 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 708 (A) amounts paid or charged as admission or user fees described in Subsection
- 709 59-12-103(1)(f); and

- 710 (B) subject to taxation under this chapter; and
- 711 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 712 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 713 previous calendar quarter is:
 - 714 (i) amounts paid or charged as admission or user fees described in Subsection
 - 715 59-12-103(1)(f); and
 - 716 (ii) subject to taxation under this chapter;
 - 717 (77) purchases of a short-term lodging consumable by a business that provides
 - 718 accommodations and services described in Subsection 59-12-103(1)(i);
 - 719 (78) amounts paid or charged to access a database:
 - 720 (a) if the primary purpose for accessing the database is to view or retrieve information
 - 721 from the database; and
 - 722 (b) not including amounts paid or charged for a:
 - 723 (i) digital audio work;
 - 724 (ii) digital audio-visual work; or
 - 725 (iii) digital book;
 - 726 (79) amounts paid or charged for a purchase or lease made by an electronic financial
 - 727 payment service, of:
 - 728 (a) machinery and equipment that:
 - 729 (i) are used in the operation of the electronic financial payment service; and
 - 730 (ii) have an economic life of three or more years; and
 - 731 (b) normal operating repair or replacement parts that:
 - 732 (i) are used in the operation of the electronic financial payment service; and
 - 733 (ii) have an economic life of three or more years;
 - 734 (80) sales of a fuel cell as defined in Section 54-15-102;
 - 735 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
 - 736 product transferred electronically if the tangible personal property or product transferred
 - 737 electronically:
 - 738 (a) is stored, used, or consumed in the state; and
 - 739 (b) is temporarily brought into the state from another state:
 - 740 (i) during a disaster period as defined in Section 53-2a-1202;

- 741 (ii) by an out-of-state business as defined in Section 53-2a-1202;
- 742 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
- 743 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
- 744 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
- 745 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
- 746 Recreation Program;
- 747 (83) amounts paid or charged for a purchase or lease of molten magnesium;
- 748 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
- 749 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
- 750 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
- 751 parts:
- 752 (a) are used in:
- 753 (i) the operation of the qualifying data center; or
- 754 (ii) the occupant's operations in the qualifying data center; and
- 755 (b) have an economic life of one or more years;
- 756 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
- 757 vehicle that includes cleaning or washing of the interior of the vehicle;
- 758 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
- 759 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
- 760 or consumed:
- 761 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
- 762 in Section 79-6-701 located in the state;
- 763 (b) if the machinery, equipment, normal operating repair or replacement parts,
- 764 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
- 765 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
- 766 added to gasoline or diesel fuel;
- 767 (ii) research and development;
- 768 (iii) transporting, storing, or managing raw materials, work in process, finished
- 769 products, and waste materials produced from refining gasoline or diesel fuel, or adding
- 770 blendstock to gasoline or diesel fuel;
- 771 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in

772 refining; or
773 (v) preventing, controlling, or reducing pollutants from refining; and
774 (c) if the person holds a valid refiner tax exemption certification as defined in Section
775 [79-6-701](#);
776 (87) amounts paid to or charged by a proprietor for accommodations and services, as
777 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax
778 imposed under Section [63H-1-205](#);
779 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
780 operating repair or replacement parts, or materials, except for office equipment or office
781 supplies, by an establishment, as the commission defines that term in accordance with Title
782 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
783 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
784 American Industry Classification System of the federal Executive Office of the President,
785 Office of Management and Budget;
786 (b) is located in this state; and
787 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
788 materials in the operation of the establishment; and
789 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#).
790 Section 2. **Effective date.**
791 This bill takes effect on July 1, 2022.