

BUSINESS TAX AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: _____

LONG TITLE

General Description:

This bill amends tax provisions relating to personal property used in a business's operation.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-2-1115, as last amended by Laws of Utah 2021, Chapter 388

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

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



28 Section 1. Section **59-2-1115** is amended to read:

29 **59-2-1115. Exemption of certain tangible personal property.**

30 (1) As used in this section:

31 (a) (i) "Item of taxable tangible personal property" does not include an improvement to
32 real property or a part that will become an improvement.

33 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
34 commission may make rules defining the term "item of taxable tangible personal property."

35 (b) (i) "Supply" means taxable tangible personal property that is:

36 (A) not held for sale in the ordinary course of business;

37 (B) either carried on hand and for which no record of consumption is taken in ordinary
38 business or typically used up within the calendar year; and

39 (C) used in the provision of the taxpayer's business activity.

40 (ii) "Supply" includes an office supply, a shipping supply, a maintenance supply, a
41 replacement part, a lubricating oil, a fuel, or an item consumed in the course of operating the
42 business.

43 (iii) "Supply" does not include furniture, a fixture, machinery, equipment, a computer,
44 a cellular telephone, or a vehicle.

45 ~~(b)~~ (c) (i) "Taxable tangible personal property" means tangible personal property that
46 is subject to taxation under this chapter.

47 (ii) "Taxable tangible personal property" does not include:

48 (A) tangible personal property required by law to be registered with the state before it
49 is used on a public highway, public waterway, or public land or in the air;

50 (B) a mobile home as defined in Section [41-1a-102](#); or

51 (C) a manufactured home as defined in Section [41-1a-102](#).

52 (2) (a) In accordance with Utah Constitution, Article XIII, Section 3, Subsection
53 (2)(a)(vi), which provides that the Legislature may by statute exempt tangible personal property
54 that, if subject to property tax, would generate an inconsequential amount of revenue, the
55 Legislature exempts the tangible personal property described in this Subsection (2).

56 (b) The taxable tangible personal property of a taxpayer is exempt from taxation if the
57 taxable tangible personal property has a total aggregate taxable value per county of \$25,000 or
58 less.

59 (c) For an item of taxable tangible personal property that is not exempt under
60 Subsection (2)(b), the item is exempt from taxation if:

61 (i) the item is owned by a business and is not critical to the actual business operation of
62 the business; and

63 (ii) the acquisition cost of the item is less than \$500.

64 (d) A supply, including the cost of freight-in, is exempt from taxation.

65 (3) (a) For a calendar year beginning on or after January 1, 2023, the commission shall
66 increase the dollar amount described in Subsection (2)(b):

67 (i) by a percentage equal to the percentage difference between the consumer price
68 index for the preceding calendar year and the consumer price index for calendar year 2021; and

69 (ii) up to the nearest \$100 increment.

70 (b) For purposes of this Subsection (3), the commission shall calculate the consumer
71 price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

72 (c) If the percentage difference under Subsection (3)(a)(i) is zero or a negative
73 percentage, the consumer price index increase for the year is zero.

74 (4) (a) For the first calendar year in which a taxpayer qualifies for an exemption
75 described in Subsection (2)(b), a county assessor may require the taxpayer to file a signed
76 statement described in Section 59-2-306.

77 (b) Notwithstanding Section 59-2-306 and subject to Subsection (5), for a calendar
78 year in which a taxpayer qualifies for an exemption described in Subsection (2)(b) after the
79 calendar year described in Subsection (4)(a), a signed statement described in Section 59-2-306
80 with respect to the taxable tangible personal property that is exempt under Subsection (2)(b)
81 may only require the taxpayer to certify, under penalty of perjury, that the taxpayer qualifies for
82 the exemption under Subsection (2)(b).

83 (c) If a taxpayer qualifies for an exemption described in Subsection (2)(b) for five
84 consecutive years and files a signed statement for each of those years in accordance with
85 Section 59-2-306 and Subsection (4)(b), a county assessor may not require the taxpayer to file a
86 signed statement for each continuing consecutive year for which the taxpayer qualifies for the
87 exemption.

88 (d) If a taxpayer qualifies for an exemption described in Subsection (2)(c) for an item
89 of tangible taxable personal property or in Subsection (2)(d) for a supply, a county assessor

90 may not require the taxpayer to include the item on a signed statement described in Section
91 59-2-306.

92 (5) A signed statement with respect to qualifying exempt primary residential rental
93 personal property is as provided in Section 59-2-103.5.

94 (6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
95 commission may make rules to administer this section and provide for uniform
96 implementation.

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

98 **59-12-104. Exemptions.**

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

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

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

104 (a) construction materials except:

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

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

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

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

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

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

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

120 (i) food and food ingredients; or

- 121 (ii) prepared food;
- 122 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
- 123 (i) alcoholic beverages;
- 124 (ii) food and food ingredients; or
- 125 (iii) prepared food;
- 126 (b) sales of tangible personal property or a product transferred electronically:
- 127 (i) to a passenger;
- 128 (ii) by a commercial airline carrier; and
- 129 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
- 130 (c) services related to Subsection (4)(a) or (b);
- 131 (5) sales of parts and equipment for installation in an aircraft operated by a common
- 132 carrier in interstate or foreign commerce;
- 133 (6) sales of commercials, motion picture films, prerecorded audio program tapes or
- 134 records, and prerecorded video tapes by a producer, distributor, or studio to a motion picture
- 135 exhibitor, distributor, or commercial television or radio broadcaster;
- 136 (7) (a) except as provided in Subsection (85) and subject to Subsection (7)(b), sales of
- 137 cleaning or washing of tangible personal property if the cleaning or washing of the tangible
- 138 personal property is not assisted cleaning or washing of tangible personal property;
- 139 (b) if a seller that sells at the same business location assisted cleaning or washing of
- 140 tangible personal property and cleaning or washing of tangible personal property that is not
- 141 assisted cleaning or washing of tangible personal property, the exemption described in
- 142 Subsection (7)(a) applies if the seller separately accounts for the sales of the assisted cleaning
- 143 or washing of the tangible personal property; and
- 144 (c) for purposes of Subsection (7)(b) and in accordance with Title 63G, Chapter 3,
- 145 Utah Administrative Rulemaking Act, the commission may make rules:
- 146 (i) governing the circumstances under which sales are at the same business location;
- 147 and
- 148 (ii) establishing the procedures and requirements for a seller to separately account for
- 149 sales of assisted cleaning or washing of tangible personal property;
- 150 (8) sales made to or by religious or charitable institutions in the conduct of their regular
- 151 religious or charitable functions and activities, if the requirements of Section [59-12-104.1](#) are

152 fulfilled;

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

155 (a) not registered in this state; and

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

157 (ii) used in this state:

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

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

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

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

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

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

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

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

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

169 (A) a drug;

170 (B) a syringe; or

171 (C) a stoma supply; and

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

174 (A) "syringe"; or

175 (B) "stoma supply";

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

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

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

180 (A) a church; or

181 (B) a charitable institution; or

182 (ii) an institution of higher education if:

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

184 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

185 offered by the institution of higher education; or

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

187 (i) a medical facility; or

188 (ii) a nursing facility; and

189 (c) Subsections (12)(a) and (b) apply to:

190 (i) food and food ingredients;

191 (ii) prepared food; or

192 (iii) alcoholic beverages;

193 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

194 or a product transferred electronically by a person:

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

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

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

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

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

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

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

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

211 (B) in the absence of a bill of sale or other written evidence of value, the fair market
212 value of the vehicle or vessel being sold at the time of the sale as determined by the

213 commission; and

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

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

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

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

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

226 (a) a manufacturing facility that:

227 (i) is located in the state; and

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

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

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

236 (b) an establishment, as the commission defines that term in accordance with Title
237 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

238 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
239 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
240 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
241 2002 North American Industry Classification System of the federal Executive Office of the
242 President, Office of Management and Budget;

243 (ii) is located in the state; and

244 (iii) uses or consumes the machinery, equipment, normal operating repair or

245 replacement parts, or materials in:

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

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

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

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

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

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

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

261 (ii) is located in the state; and

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

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

265 (i) tooling;

266 (ii) special tooling;

267 (iii) support equipment;

268 (iv) special test equipment; or

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

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

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

275 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),

276 title to the tooling, equipment, or parts is vested in the United States government as evidenced
277 by:

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

279 (B) listing on a government-approved property record if placing a government

280 identification tag on the tooling, equipment, or parts is impractical;

281 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

294 (i) money;

295 (ii) electricity;

296 (iii) water;

297 (iv) gas; or

298 (v) steam;

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

303 (A) becomes part of real estate; or

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

305 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
306 product transferred electronically if the tangible personal property or product transferred

307 electronically is exempt under Subsection (18)(a)(i); and
308 (b) amounts paid or charged for the following are subject to the taxes imposed by this
309 chapter:
310 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
311 supplies if used in a manner that is incidental to farming; and
312 (B) tangible personal property that is considered to be used in a manner that is
313 incidental to farming includes:
314 (I) hand tools; or
315 (II) maintenance and janitorial equipment and supplies;
316 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
317 transferred electronically if the tangible personal property or product transferred electronically
318 is used in an activity other than farming; and
319 (B) tangible personal property or a product transferred electronically that is considered
320 to be used in an activity other than farming includes:
321 (I) office equipment and supplies; or
322 (II) equipment and supplies used in:
323 (Aa) the sale or distribution of farm products;
324 (Bb) research; or
325 (Cc) transportation; or
326 (iii) a vehicle required to be registered by the laws of this state during the period
327 ending two years after the date of the vehicle's purchase;
328 (19) sales of hay;
329 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
330 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
331 garden, farm, or other agricultural produce is sold by:
332 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
333 agricultural produce;
334 (b) an employee of the producer described in Subsection (20)(a); or
335 (c) a member of the immediate family of the producer described in Subsection (20)(a);
336 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
337 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;

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

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

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

344 (i) the product is:

345 (A) purchased outside of this state;

346 (B) brought into this state:

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

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

350 (C) used for the personal use or enjoyment of the nonresident person described in
351 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

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

353 (ii) for:

354 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
355 the product for a purpose for which the product is designed occurs outside of this state;

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

357 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
358 outside of this state;

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

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

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

362 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
363 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
364 following:

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

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

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

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

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

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

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

382 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
383 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
384 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
385 the President, Office of Management and Budget;

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

388 (a) not registered in this state; and

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

390 (ii) used in this state:

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

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

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

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

399 (31) sales of aircraft manufactured in Utah;

- 400 (32) amounts paid for the purchase of telecommunications service for purposes of
401 providing telecommunications service;
- 402 (33) sales, leases, or uses of the following:
- 403 (a) a vehicle by an authorized carrier; or
- 404 (b) tangible personal property that is installed on a vehicle:
- 405 (i) sold or leased to or used by an authorized carrier; and
- 406 (ii) before the vehicle is placed in service for the first time;
- 407 (34) (a) 45% of the sales price of any new manufactured home; and
- 408 (b) 100% of the sales price of any used manufactured home;
- 409 (35) sales relating to schools and fundraising sales;
- 410 (36) sales or rentals of durable medical equipment if:
- 411 (a) a person presents a prescription for the durable medical equipment; and
- 412 (b) the durable medical equipment is used for home use only;
- 413 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
414 Section [72-11-102](#); and
- 415 (b) the commission shall by rule determine the method for calculating sales exempt
416 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 417 (38) sales to a ski resort of:
- 418 (a) snowmaking equipment;
- 419 (b) ski slope grooming equipment;
- 420 (c) passenger ropeways as defined in Section [72-11-102](#); or
- 421 (d) parts used in the repairs or renovations of equipment or passenger ropeways
422 described in Subsections (38)(a) through (c);
- 423 (39) subject to Subsection [59-12-103\(2\)\(j\)](#), sales of natural gas, electricity, heat, coal,
424 fuel oil, or other fuels for industrial use;
- 425 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
426 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
427 [59-12-102](#);
- 428 (b) if a seller that sells or rents at the same business location the right to use or operate
429 for amusement, entertainment, or recreation one or more unassisted amusement devices and
430 one or more assisted amusement devices, the exemption described in Subsection (40)(a)

431 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
432 amusement, entertainment, or recreation for the assisted amusement devices; and

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

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

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

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

441 (i) a governmental entity; or

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

443 (A) a school; or

444 (B) the State Board of Education; or

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

446 (42) amounts paid for admission to an athletic event at an institution of higher
447 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
448 20 U.S.C. Sec. 1681 et seq.;

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

450 (i) an area agency on aging; or

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

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

453 (44) sales or leases of semiconductor fabricating, processing, research, or development
454 materials regardless of whether the semiconductor fabricating, processing, research, or
455 development materials:

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

457 (b) ultimately become incorporated into real property;

458 (45) an amount paid by or charged to a purchaser for accommodations and services
459 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
460 59-12-104.2;

461 (46) the lease or use of a vehicle issued a temporary sports event registration certificate

462 in accordance with Section 41-3-306 for the event period specified on the temporary sports
463 event registration certificate;

464 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
465 adopted by the Public Service Commission only for purchase of electricity produced from a
466 new alternative energy source built after January 1, 2016, as designated in the tariff by the
467 Public Service Commission; and

468 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
469 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
470 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
471 customer would have paid absent the tariff;

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

474 (49) sales of water in a:

- 475 (a) pipe;
- 476 (b) conduit;
- 477 (c) ditch; or
- 478 (d) reservoir;

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

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

- 482 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
- 483 (ii) has a gold, silver, or platinum content of 50% or more; and

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

- 485 (i) ingot;
- 486 (ii) bar;
- 487 (iii) medallion; or
- 488 (iv) decorative coin;

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

490 (53) sales of a prosthetic device:

- 491 (a) for use on or in a human; and
- 492 (b) (i) for which a prescription is required; or

493 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
494 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
495 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
496 or equipment is primarily used in the production or postproduction of the following media for
497 commercial distribution:

498 (i) a motion picture;
499 (ii) a television program;
500 (iii) a movie made for television;
501 (iv) a music video;
502 (v) a commercial;
503 (vi) a documentary; or
504 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
505 commission by administrative rule made in accordance with Subsection (54)(d); or
506 (b) purchases, leases, or rentals of machinery or equipment by an establishment
507 described in Subsection (54)(c) that is used for the production or postproduction of the
508 following are subject to the taxes imposed by this chapter:

509 (i) a live musical performance;
510 (ii) a live news program; or
511 (iii) a live sporting event;
512 (c) the following establishments listed in the 1997 North American Industry
513 Classification System of the federal Executive Office of the President, Office of Management
514 and Budget, apply to Subsections (54)(a) and (b):

515 (i) NAICS Code 512110; or
516 (ii) NAICS Code 51219; and
517 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
518 commission may by rule:

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

520 or

521 (ii) define:
522 (A) "commercial distribution";
523 (B) "live musical performance";

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

555 acquired after:

556 (A) the alternative energy electricity production facility described in Subsection
557 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

558 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
559 in Subsection (55)(a)(iii);

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

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

563 (A) is a waste energy production facility;

564 (B) is located in the state; and

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

566 (II) has its generation capacity increased by one or more megawatts on or after July 1,
567 2004, as a result of the use of the tangible personal property;

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

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

570 Subsection (56)(a)(i) operational up to the point of interconnection with an existing

571 transmission grid including:

572 (A) generating equipment;

573 (B) a control and monitoring system;

574 (C) a power line;

575 (D) substation equipment;

576 (E) lighting;

577 (F) fencing;

578 (G) pipes; or

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

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

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

582 (A) a new waste energy facility; or

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

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

585 and

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

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

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

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

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

595 (A) is located in the state;

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

597 (I) methanol; or

598 (II) ethanol; and

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

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

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

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

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

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

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

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

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

609 and

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

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

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

614 (58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product
615 transferred electronically to a person within this state if that tangible personal property or
616 product transferred electronically is subsequently shipped outside the state and incorporated

617 pursuant to contract into and becomes a part of real property located outside of this state; and
618 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
619 state or political entity to which the tangible personal property is shipped imposes a sales, use,
620 gross receipts, or other similar transaction excise tax on the transaction against which the other
621 state or political entity allows a credit for sales and use taxes imposed by this chapter;

622 (59) purchases:

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

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

625 (A) names; or

626 (B) addresses; or

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

628 (A) names; or

629 (B) addresses; and

630 (b) used to send direct mail;

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

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

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

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

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

637 and

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

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

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

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

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

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

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

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

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

652 (63) (a) purchases of tangible personal property or a product transferred electronically
653 if:

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

655 (A) purchased outside of this state;

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

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

659 (ii) for:

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

663 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
664 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or
665 [73-18-9](#) based on residency;

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

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

668 or

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

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

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

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

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

679 Subsection (24);
680 (64) sales of disposable home medical equipment or supplies if:
681 (a) a person presents a prescription for the disposable home medical equipment or
682 supplies;
683 (b) the disposable home medical equipment or supplies are used exclusively by the
684 person to whom the prescription described in Subsection (64)(a) is issued; and
685 (c) the disposable home medical equipment and supplies are listed as eligible for
686 payment under:
687 (i) Title XVIII, federal Social Security Act; or
688 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
689 (65) sales:
690 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
691 District Act; or
692 (b) of tangible personal property to a subcontractor of a public transit district, if the
693 tangible personal property is:
694 (i) clearly identified; and
695 (ii) installed or converted to real property owned by the public transit district;
696 (66) sales of construction materials:
697 (a) purchased on or after July 1, 2010;
698 (b) purchased by, on behalf of, or for the benefit of an international airport:
699 (i) located within a county of the first class; and
700 (ii) that has a United States customs office on its premises; and
701 (c) if the construction materials are:
702 (i) clearly identified;
703 (ii) segregated; and
704 (iii) installed or converted to real property:
705 (A) owned or operated by the international airport described in Subsection (66)(b); and
706 (B) located at the international airport described in Subsection (66)(b);
707 (67) sales of construction materials:
708 (a) purchased on or after July 1, 2008;
709 (b) purchased by, on behalf of, or for the benefit of a new airport:

- 710 (i) located within a county of the second class; and
- 711 (ii) that is owned or operated by a city in which an airline as defined in Section
- 712 59-2-102 is headquartered; and
- 713 (c) if the construction materials are:
 - 714 (i) clearly identified;
 - 715 (ii) segregated; and
 - 716 (iii) installed or converted to real property:
 - 717 (A) owned or operated by the new airport described in Subsection (67)(b);
 - 718 (B) located at the new airport described in Subsection (67)(b); and
 - 719 (C) as part of the construction of the new airport described in Subsection (67)(b);
 - 720 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
 - 721 common carrier that is a railroad for use in a locomotive engine;
 - 722 (69) purchases and sales described in Section 63H-4-111;
 - 723 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
 - 724 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
 - 725 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
 - 726 lists a state or country other than this state as the location of registry of the fixed wing turbine
 - 727 powered aircraft; or
 - 728 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
 - 729 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
 - 730 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
 - 731 lists a state or country other than this state as the location of registry of the fixed wing turbine
 - 732 powered aircraft;
 - 733 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
 - 734 (a) to a person admitted to an institution of higher education; and
 - 735 (b) by a seller, other than a bookstore owned by an institution of higher education, if
 - 736 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
 - 737 textbook for a higher education course;
 - 738 (72) a license fee or tax a municipality imposes in accordance with Subsection
 - 739 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
 - 740 level of municipal services;

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

- 744 (a) clearly identified;
- 745 (b) segregated; and
- 746 (c) installed or converted to real property;

747 (74) amounts paid or charged for:

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

749 (i) are used in performing qualified research:

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

751 (B) in the state; and

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

753 (b) normal operating repair or replacement parts:

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

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

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

758 (a) for a sale:

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

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

761 tangible personal property prior to making the sale; or

762 (b) for a lease:

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

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

765 personal property prior to making the lease;

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

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

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

770 (ii) the machinery or equipment:

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

772 (B) is used by one or more persons who pay admission or user fees described in
773 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
774 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
775 (A) amounts paid or charged as admission or user fees described in Subsection
776 59-12-103(1)(f); and
777 (B) subject to taxation under this chapter; and
778 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
779 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
780 previous calendar quarter is:
781 (i) amounts paid or charged as admission or user fees described in Subsection
782 59-12-103(1)(f); and
783 (ii) subject to taxation under this chapter;
784 (77) purchases of a short-term lodging consumable by a business that provides
785 accommodations and services described in Subsection 59-12-103(1)(i);
786 (78) amounts paid or charged to access a database:
787 (a) if the primary purpose for accessing the database is to view or retrieve information
788 from the database; and
789 (b) not including amounts paid or charged for a:
790 (i) digital audio work;
791 (ii) digital audio-visual work; or
792 (iii) digital book;
793 (79) amounts paid or charged for a purchase or lease made by an electronic financial
794 payment service, of:
795 (a) machinery and equipment that:
796 (i) are used in the operation of the electronic financial payment service; and
797 (ii) have an economic life of three or more years; and
798 (b) normal operating repair or replacement parts that:
799 (i) are used in the operation of the electronic financial payment service; and
800 (ii) have an economic life of three or more years;
801 (80) sales of a fuel cell as defined in Section 54-15-102;
802 (81) amounts paid or charged for a purchase or lease of tangible personal property or a

803 product transferred electronically if the tangible personal property or product transferred
804 electronically:

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

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

807 (i) during a disaster period as defined in Section 53-2a-1202;

808 (ii) by an out-of-state business as defined in Section 53-2a-1202;

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

810 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;

811 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
812 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
813 Recreation Program;

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

815 (84) amounts paid or charged for a purchase or lease made by a qualifying data center
816 or an occupant of a qualifying data center of machinery, equipment, or normal operating repair
817 or replacement parts, if the machinery, equipment, or normal operating repair or replacement
818 parts:

819 (a) are used in:

820 (i) the operation of the qualifying data center; or

821 (ii) the occupant's operations in the qualifying data center; and

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

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

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

828 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
829 in Section 79-6-701 located in the state;

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

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

- 834 (ii) research and development;
- 835 (iii) transporting, storing, or managing raw materials, work in process, finished
836 products, and waste materials produced from refining gasoline or diesel fuel, or adding
837 blendstock to gasoline or diesel fuel;
- 838 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
839 refining; or
- 840 (v) preventing, controlling, or reducing pollutants from refining; and
- 841 (c) if the person holds a valid refiner tax exemption certification as defined in Section
842 [79-6-701](#);
- 843 (87) amounts paid to or charged by a proprietor for accommodations and services, as
844 defined in Section [63H-1-205](#), if the proprietor is subject to the MIDA accommodations tax
845 imposed under Section [63H-1-205](#);
- 846 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
847 operating repair or replacement parts, or materials, except for office equipment or office
848 supplies, by an establishment, as the commission defines that term in accordance with Title
849 63G, Chapter 3, Utah Administrative Rulemaking Act, that:
- 850 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
851 American Industry Classification System of the federal Executive Office of the President,
852 Office of Management and Budget;
- 853 (b) is located in this state; and
- 854 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
855 materials in the operation of the establishment; ~~and~~
- 856 (89) amounts paid or charged for an item exempt under Section [59-12-104.10](#)~~[-]~~;
- 857 (90) amounts paid by the service provider for tangible personal property, other than
858 machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:
- 859 (a) is consumed in the performance of a service, to one or more customers, and is
860 subject to tax under Subsection [59-12-103\(1\)\(b\), \(f\), \(g\), \(h\), \(i\), or \(j\)](#);
- 861 (b) has to be consumed for the service provider to provide the service described in
862 Subsection (90)(a); and
- 863 (c) will be consumed in the performance of the service described in Subsection (90)(a)
864 to the point that the tangible personal property disappears or cannot be used for any other

865 purpose; and

866 (91) amounts paid or charged for tangible personal property that is used or consumed
867 primarily in the production or development of computer software that is subject to tax under
868 Section [59-12-103](#).

869 Section 3. **Effective date.**

870 (1) Except as provided in Subsection (2), this bill takes effect on July 1, 2022.

871 (2) The changes to Section [59-2-1115](#) take effect on January 1, 2023.