

REFINERY SALES TAX EXEMPTION

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: Rex P. Shipp

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ modifies the requirements for a refiner to qualify for the sales and use tax exemption for amounts paid or charged for a purchase or lease of certain equipment, parts, or supplies; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

59-12-104. Exemptions.

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

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

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

(a) construction materials except:

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

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

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

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

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

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

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

(i) food and food ingredients; or

(ii) prepared food;

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

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

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

(i) to a passenger;

58 (ii) by a commercial airline carrier; and
59 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
60 (c) services related to Subsection (4)(a) or (b);
61 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
62 and equipment:
63 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
64 North American Industry Classification System of the federal Executive Office of the
65 President, Office of Management and Budget; and
66 (II) for:
67 (Aa) installation in an aircraft, including services relating to the installation of parts or
68 equipment in the aircraft;
69 (Bb) renovation of an aircraft; or
70 (Cc) repair of an aircraft; or
71 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
72 commerce; or
73 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
74 aircraft operated by a common carrier in interstate or foreign commerce; and
75 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
76 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a
77 refund:
78 (i) if the sale is made on or after July 1, 2008, but on or before September 30, 2008;
79 (ii) as if Subsection (5)(a)(i)(B) were in effect on the day on which the sale is made;
80 (iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for
81 the sale prior to filing for the refund;
82 (iv) for sales and use taxes paid under this chapter on the sale;
83 (v) in accordance with Section 59-1-1410; and
84 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
85 the person files for the refund on or before September 30, 2011;

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

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

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

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

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

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

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

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

(a) not registered in this state; and

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

(ii) used in this state:

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

(I) 30 days in any calendar year; or

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

117 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
118 (i) the item is intended for human use; and
119 (ii) (A) a prescription was issued for the item; or
120 (B) the item was purchased by a hospital or other medical facility; and
121 (b) (i) Subsection (10)(a) applies to:
122 (A) a drug;
123 (B) a syringe; or
124 (C) a stoma supply; and
125 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
126 commission may by rule define the terms:
127 (A) "syringe"; or
128 (B) "stoma supply";
129 (11) purchases or leases exempt under Section [19-12-201](#);
130 (12) (a) sales of an item described in Subsection (12)(c) served by:
131 (i) the following if the item described in Subsection (12)(c) is not available to the
132 general public:
133 (A) a church; or
134 (B) a charitable institution; or
135 (ii) an institution of higher education if:
136 (A) the item described in Subsection (12)(c) is not available to the general public; or
137 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
138 offered by the institution of higher education; or
139 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
140 (i) a medical facility; or
141 (ii) a nursing facility; and

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

property or product transferred electronically;

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

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

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

(a) a manufacturing facility that:

(i) is located in the state; and

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

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

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

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

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

(ii) is located in the state; and

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

198 replacement parts, or materials in:

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

201 Administrative Rulemaking Act;

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

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

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

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

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

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

214 (ii) is located in the state; and

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

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

218 (i) tooling;

219 (ii) special tooling;

220 (iii) support equipment;

221 (iv) special test equipment; or

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

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

225 (i) the tooling, equipment, or parts are used or consumed exclusively in the

226 performance of any aerospace or electronics industry contract with the United States
227 government or any subcontract under that contract; and
228 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
229 title to the tooling, equipment, or parts is vested in the United States government as evidenced
230 by:
231 (A) a government identification tag placed on the tooling, equipment, or parts; or
232 (B) listing on a government-approved property record if placing a government
233 identification tag on the tooling, equipment, or parts is impractical;
234 (16) sales of newspapers or newspaper subscriptions;
235 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
236 product transferred electronically traded in as full or part payment of the purchase price, except
237 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
238 trade-ins are limited to other vehicles only, and the tax is based upon:
239 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
240 vehicle being traded in; or
241 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
242 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the
243 commission; and
244 (b) Subsection (17)(a) does not apply to the following items of tangible personal
245 property or products transferred electronically traded in as full or part payment of the purchase
246 price:
247 (i) money;
248 (ii) electricity;
249 (iii) water;
250 (iv) gas; or
251 (v) steam;
252 (18) (a) (i) except as provided in Subsection (18)(b), sales of tangible personal property
253 or a product transferred electronically used or consumed primarily and directly in farming

254 operations, regardless of whether the tangible personal property or product transferred
255 electronically:

256 (A) becomes part of real estate; or
257 (B) is installed by a:

258 (I) farmer;
259 (II) contractor; or
260 (III) subcontractor; or
261 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
262 product transferred electronically if the tangible personal property or product transferred
263 electronically is exempt under Subsection (18)(a)(i); and

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

266 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
267 supplies if used in a manner that is incidental to farming; and
268 (B) tangible personal property that is considered to be used in a manner that is
269 incidental to farming includes:

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

272 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
273 transferred electronically if the tangible personal property or product transferred electronically
274 is used in an activity other than farming; and
275 (B) tangible personal property or a product transferred electronically that is considered
276 to be used in an activity other than farming includes:

277 (I) office equipment and supplies; or
278 (II) equipment and supplies used in:

279 (Aa) the sale or distribution of farm products;
280 (Bb) research; or
281 (Cc) transportation; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 338 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
339 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
340 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
341 the President, Office of Management and Budget;
- 342 (30) sales of a boat of a type required to be registered under Title 73, Chapter 18, State
343 Boating Act, a boat trailer, or an outboard motor if the boat, boat trailer, or outboard motor is:
344 (a) not registered in this state; and
345 (b) (i) not used in this state; or
346 (ii) used in this state:
347 (A) if the boat, boat trailer, or outboard motor is not used to conduct business, for a
348 time period that does not exceed the longer of:
349 (I) 30 days in any calendar year; or
350 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
351 the borders of this state; or
352 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
353 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
354 state;
- 355 (31) sales of aircraft manufactured in Utah;
- 356 (32) amounts paid for the purchase of telecommunications service for purposes of
357 providing telecommunications service;
- 358 (33) sales, leases, or uses of the following:
359 (a) a vehicle by an authorized carrier; or
360 (b) tangible personal property that is installed on a vehicle:
361 (i) sold or leased to or used by an authorized carrier; and
362 (ii) before the vehicle is placed in service for the first time;
- 363 (34) (a) 45% of the sales price of any new manufactured home; and
364 (b) 100% of the sales price of any used manufactured home;
- 365 (35) sales relating to schools and fundraising sales;

366 (36) sales or rentals of durable medical equipment if:
367 (a) a person presents a prescription for the durable medical equipment; and
368 (b) the durable medical equipment is used for home use only;
369 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
370 Section 72-11-102; and
371 (b) the commission shall by rule determine the method for calculating sales exempt
372 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
373 (38) sales to a ski resort of:
374 (a) snowmaking equipment;
375 (b) ski slope grooming equipment;
376 (c) passenger ropeways as defined in Section 72-11-102; or
377 (d) parts used in the repairs or renovations of equipment or passenger ropeways
378 described in Subsections (38)(a) through (c);
379 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
380 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
381 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
382 59-12-102;
383 (b) if a seller that sells or rents at the same business location the right to use or operate
384 for amusement, entertainment, or recreation one or more unassisted amusement devices and
385 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
386 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
387 amusement, entertainment, or recreation for the assisted amusement devices; and
388 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
389 Utah Administrative Rulemaking Act, the commission may make rules:
390 (i) governing the circumstances under which sales are at the same business location;
391 and
392 (ii) establishing the procedures and requirements for a seller to separately account for
393 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for

394 assisted amusement devices;

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

396 (i) a governmental entity; or

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

398 (A) a school; or

399 (B) the State Board of Education; or

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

401 (42) amounts paid for admission to an athletic event at an institution of higher

402 education that is subject to the provisions of Title IX of the Education Amendments of 1972,

403 20 U.S.C. Sec. 1681 et seq.;

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

405 (i) an area agency on aging; or

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

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

408 (44) sales or leases of semiconductor fabricating, processing, research, or development

409 materials regardless of whether the semiconductor fabricating, processing, research, or

410 development materials:

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

412 (b) ultimately become incorporated into real property;

413 (45) an amount paid by or charged to a purchaser for accommodations and services

414 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section

415 59-12-104.2;

416 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary

417 sports event registration certificate in accordance with Section 41-3-306 for the event period

418 specified on the temporary sports event registration certificate;

419 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff

420 adopted by the Public Service Commission only for purchase of electricity produced from a

421 new alternative energy source built after January 1, 2016, as designated in the tariff by the

422 Public Service Commission; and

423 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
424 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
425 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
426 customer would have paid absent the tariff;

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

429 (49) sales of water in a:

430 (a) pipe;

431 (b) conduit;

432 (c) ditch; or

433 (d) reservoir;

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

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

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

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

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

440 (i) ingot;

441 (ii) bar;

442 (iii) medallion; or

443 (iv) decorative coin;

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

445 (53) sales of a prosthetic device:

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

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

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

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

machinery or equipment by an establishment described in Subsection (54)(c) if the machinery or equipment is primarily used in the production or postproduction of the following media for commercial distribution:

- (i) a motion picture;
- (ii) a television program;
- (iii) a movie made for television;
- (iv) a music video;
- (v) a commercial;
- (vi) a documentary; or
- (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the

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

(b) purchases, leases, or rentals of machinery or equipment by an establishment described in Subsection (54)(c) that is used for the production or postproduction of the following are subject to the taxes imposed by this chapter:

- (i) a live musical performance;
- (ii) a live news program; or
- (iii) a live sporting event;

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

- (i) NAICS Code 512110; or
- (ii) NAICS Code 51219; and

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

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

or

- (ii) define:

(A) "commercial distribution";

478 (B) "live musical performance";
479 (C) "live news program"; or
480 (D) "live sporting event";
481 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
482 on or before June 30, 2027, of tangible personal property that:
483 (i) is leased or purchased for or by a facility that:
484 (A) is an alternative energy electricity production facility;
485 (B) is located in the state; and
486 (C) (I) becomes operational on or after July 1, 2004; or
487 (II) has its generation capacity increased by one or more megawatts on or after July 1,
488 2004, as a result of the use of the tangible personal property;
489 (ii) has an economic life of five or more years; and
490 (iii) is used to make the facility or the increase in capacity of the facility described in
491 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
492 transmission grid including:
493 (A) a wind turbine;
494 (B) generating equipment;
495 (C) a control and monitoring system;
496 (D) a power line;
497 (E) substation equipment;
498 (F) lighting;
499 (G) fencing;
500 (H) pipes; or
501 (I) other equipment used for locating a power line or pole; and
502 (b) this Subsection (55) does not apply to:
503 (i) tangible personal property used in construction of:
504 (A) a new alternative energy electricity production facility; or
505 (B) the increase in the capacity of an alternative energy electricity production facility;

506 (ii) contracted services required for construction and routine maintenance activities;
507 and
508 (iii) unless the tangible personal property is used or acquired for an increase in capacity
509 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
510 acquired after:

511 (A) the alternative energy electricity production facility described in Subsection
512 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
513 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
514 in Subsection (55)(a)(iii);

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

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

518 (A) is a waste energy production facility;

519 (B) is located in the state; and

520 (C) (I) becomes operational on or after July 1, 2004; or
521 (II) has its generation capacity increased by one or more megawatts on or after July 1,
522 2004, as a result of the use of the tangible personal property;

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

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

527 (A) generating equipment;

528 (B) a control and monitoring system;

529 (C) a power line;

530 (D) substation equipment;

531 (E) lighting;

532 (F) fencing;

533 (G) pipes; or

534 (H) other equipment used for locating a power line or pole; and
535 (b) this Subsection (56) does not apply to:
536 (i) tangible personal property used in construction of:
537 (A) a new waste energy facility; or
538 (B) the increase in the capacity of a waste energy facility;
539 (ii) contracted services required for construction and routine maintenance activities;
540 and
541 (iii) unless the tangible personal property is used or acquired for an increase in capacity
542 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
543 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
544 described in Subsection (56)(a)(iii); or
545 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
546 in Subsection (56)(a)(iii);
547 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
548 or before June 30, 2027, of tangible personal property that:
549 (i) is leased or purchased for or by a facility that:
550 (A) is located in the state;
551 (B) produces fuel from alternative energy, including:
552 (I) methanol; or
553 (II) ethanol; and
554 (C) (I) becomes operational on or after July 1, 2004; or
555 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
556 a result of the installation of the tangible personal property;
557 (ii) has an economic life of five or more years; and
558 (iii) is installed on the facility described in Subsection (57)(a)(i);
559 (b) this Subsection (57) does not apply to:
560 (i) tangible personal property used in construction of:
561 (A) a new facility described in Subsection (57)(a)(i); or

562 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
563 (ii) contracted services required for construction and routine maintenance activities;
564 and
565 (iii) unless the tangible personal property is used or acquired for an increase in capacity
566 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
567 (A) the facility described in Subsection (57)(a)(i) is operational; or
568 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
569 (58) (a) subject to Subsection (58)(b) or (c), sales of tangible personal property or a
570 product transferred electronically to a person within this state if that tangible personal property
571 or product transferred electronically is subsequently shipped outside the state and incorporated
572 pursuant to contract into and becomes a part of real property located outside of this state;
573 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
574 state or political entity to which the tangible personal property is shipped imposes a sales, use,
575 gross receipts, or other similar transaction excise tax on the transaction against which the other
576 state or political entity allows a credit for sales and use taxes imposed by this chapter; and
577 (c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
578 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
579 refund:
580 (i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;
581 (ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
582 which the sale is made;
583 (iii) if the person did not claim the exemption allowed by this Subsection (58) for the
584 sale prior to filing for the refund;
585 (iv) for sales and use taxes paid under this chapter on the sale;
586 (v) in accordance with Section 59-1-1410; and
587 (vi) subject to any extension allowed for filing for a refund under Section 59-1-1410, if
588 the person files for the refund on or before June 30, 2011;
589 (59) purchases:

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

618 the research and development of alternative energy technology;
619 (63) (a) purchases of tangible personal property or a product transferred electronically
620 if:
621 (i) the tangible personal property or product transferred electronically is:
622 (A) purchased outside of this state;
623 (B) brought into this state at any time after the purchase described in Subsection
624 (63)(a)(i)(A); and
625 (C) used in conducting business in this state; and
626 (ii) for:
627 (A) tangible personal property or a product transferred electronically other than the
628 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
629 for a purpose for which the property is designed occurs outside of this state; or
630 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
631 outside of this state;
632 (b) the exemption provided for in Subsection (63)(a) does not apply to:
633 (i) a lease or rental of tangible personal property or a product transferred electronically;
634 or
635 (ii) a sale of a vehicle exempt under Subsection (33); and
636 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
637 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
638 following:
639 (i) conducting business in this state if that phrase has the same meaning in this
640 Subsection (63) as in Subsection (24);
641 (ii) the first use of tangible personal property or a product transferred electronically if
642 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
643 (iii) a purpose for which tangible personal property or a product transferred
644 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
645 Subsection (24);

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

- 674 (a) purchased on or after July 1, 2008;
- 675 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 676 (i) located within a county of the second class; and
- 677 (ii) that is owned or operated by a city in which an airline as defined in Section
- 678 59-2-102 is headquartered; and
- 679 (c) if the construction materials are:
- 680 (i) clearly identified;
- 681 (ii) segregated; and
- 682 (iii) installed or converted to real property:
- 683 (A) owned or operated by the new airport described in Subsection (67)(b);
- 684 (B) located at the new airport described in Subsection (67)(b); and
- 685 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 686 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 687 (69) purchases and sales described in Section 63H-4-111;
- 688 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 689 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 690 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 691 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 692 powered aircraft; or
- 693 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 694 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 695 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 696 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 697 powered aircraft;
- 698 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
- 699 (a) to a person admitted to an institution of higher education; and
- 700 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 701 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

textbook for a higher education course;

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

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

(a) clearly identified;

(b) segregated; and

(c) installed or converted to real property;

(74) amounts paid or charged for:

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

(i) are used in performing qualified research:

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

(B) in the state; and

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

(b) normal operating repair or replacement parts:

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

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

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

(a) for a sale:

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

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

tangible personal property prior to making the sale; or

(b) for a lease:

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

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

730 personal property prior to making the lease;

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

732 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,

733 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

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

735 (ii) the machinery or equipment:

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

737 (B) is used by one or more persons who pay admission or user fees described in

738 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

739 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:

740 (A) amounts paid or charged as admission or user fees described in Subsection

741 59-12-103(1)(f); and

742 (B) subject to taxation under this chapter; and

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

744 commission may make rules for verifying that 51% of a purchaser's sales revenue for the

745 previous calendar quarter is:

746 (i) amounts paid or charged as admission or user fees described in Subsection

747 59-12-103(1)(f); and

748 (ii) subject to taxation under this chapter;

749 (77) purchases of a short-term lodging consumable by a business that provides

750 accommodations and services described in Subsection 59-12-103(1)(i);

751 (78) amounts paid or charged to access a database:

752 (a) if the primary purpose for accessing the database is to view or retrieve information

753 from the database; and

754 (b) not including amounts paid or charged for a:

755 (i) digital audiowork;

756 (ii) digital audio-visual work; or

757 (iii) digital book;

(79) amounts paid or charged for a purchase or lease made by an electronic financial payment service, of:

(a) machinery and equipment that:

(i) are used in the operation of the electronic financial payment service; and

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

(b) normal operating repair or replacement parts that:

(i) are used in the operation of the electronic financial payment service; and

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

(80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;

(81) amounts paid or charged for a purchase or lease of tangible personal property or a product transferred electronically if the tangible personal property or product transferred electronically:

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

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

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

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

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

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

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

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

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

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

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

(85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a

vehicle that includes cleaning or washing of the interior of the vehicle;

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

(a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined in Section 63M-4-701 located in the state;

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

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

(ii) research and development;

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

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

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

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

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

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

(a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North

American Industry Classification System of the federal Executive Office of the President,
Office of Management and Budget;

(b) is located in this state; and

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

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

Section 2. Section 63M-4-701 is amended to read:

63M-4-701. Definitions.

As used in this part:

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

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

(3) "Refiner tax exemption certification" means a certification issued by the office in
accordance with Section 63M-4-702.

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

Section 3. Section 63M-4-702 is amended to read:

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

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

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

(ii) for an annual report covering a period before January 1, 2023, if a refiner's facility

842 did not have an average gasoline sulfur level described in Subsection (1)(a)(i) during the
843 previous calendar year, the progress the refiner made during the previous calendar year toward
844 complying with the average gasoline sulfur level described in Subsection (1)(a)(i).

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

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

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

852 ~~[(ii) if the refiner's refinery that is located within the state had an average sulfur level of~~
853 ~~10 parts per million (ppm) or less as reported under Subsection (1) in the previous calendar~~
854 ~~year; and]~~

855 ~~[(iii) before a taxpayer is allowed the sales and use tax exemption under Subsection~~
856 ~~59-12-104(86);]~~

857 ~~[(b) The certification provided by the office under Subsection (2)(a) shall be renewed~~
858 ~~annually;]~~

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

861 (a) beginning July 1, 2021, and ending December 31, 2022, if:

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

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

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

(b) after December 31, 2022, if the refiner's refinery that is located within the state had an average gasoline sulfur level described in Subsection (1)(a)(i) during the previous calendar year.

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

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

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

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

~~[(c)]~~ (4) The office:

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

~~[(ii)]~~ (b) may establish another reporting mechanism through rules made under Subsection ~~[(3)]~~ (5).

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