

Senator J. Stuart Adams proposes the following substitute bill:

REFINERY SALES AND USE TAX EXEMPTION AMENDMENTS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: J. Stuart Adams

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies provisions relating to a sales and use tax exemptions for certain refineries.

Highlighted Provisions:

This bill:

- provides definitions;
- provides a sales and use tax exemption for amounts paid or charged for a purchase or lease of machinery, equipment, or normal operating repair or replacement parts by a refiner;
- provides that beginning on a certain date, a refiner that seeks to be eligible for the sales and use tax exemption shall annually report certain information to the Office of Energy Development;
- requires the Office of Energy Development to annually certify that the refiner is eligible for the sales and use tax exemption if the refiner's refinery that is located within the state meets certain fuel standards;
- grants the Office of Energy Development rulemaking authority to administer the certification requirements; and
- makes technical and conforming changes.



Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:**AMENDS:**

59-12-104, as last amended by Laws of Utah 2016, Third Special Session, Chapter 6

ENACTS:

63M-4-701, Utah Code Annotated 1953

63M-4-702, Utah Code Annotated 1953

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:

57 (i) the proceeds of each sale do not exceed \$1; and
58 (ii) the seller or operator of the vending machine reports an amount equal to 150% of
59 the cost of the item described in Subsection (3)(b) as goods consumed; and
60 (b) Subsection (3)(a) applies to:
61 (i) food and food ingredients; or
62 (ii) prepared food;
63 (4) (a) sales of the following to a commercial airline carrier for in-flight consumption:
64 (i) alcoholic beverages;
65 (ii) food and food ingredients; or
66 (iii) prepared food;
67 (b) sales of tangible personal property or a product transferred electronically:
68 (i) to a passenger;
69 (ii) by a commercial airline carrier; and
70 (iii) during a flight for in-flight consumption or in-flight use by the passenger; or
71 (c) services related to Subsection (4)(a) or (b);
72 (5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts
73 and equipment:
74 (A) (I) by an establishment described in NAICS Code 336411 or 336412 of the 2002
75 North American Industry Classification System of the federal Executive Office of the
76 President, Office of Management and Budget; and
77 (II) for:
78 (Aa) installation in an aircraft, including services relating to the installation of parts or
79 equipment in the aircraft;
80 (Bb) renovation of an aircraft; or
81 (Cc) repair of an aircraft; or
82 (B) for installation in an aircraft operated by a common carrier in interstate or foreign
83 commerce; or
84 (ii) beginning on October 1, 2008, sales of parts and equipment for installation in an
85 aircraft operated by a common carrier in interstate or foreign commerce; and
86 (b) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,
87 a person may claim the exemption allowed by Subsection (5)(a)(i)(B) for a sale by filing for a

88 refund:

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

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

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

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

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

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

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

100 (7) (a) subject to Subsection (7)(b), sales of cleaning or washing of tangible personal
101 property if the cleaning or washing of the tangible personal property is not assisted cleaning or
102 washing of tangible personal property;

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

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

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

111 and

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

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

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

119 (a) not registered in this state; and
120 (b) (i) not used in this state; or
121 (ii) used in this state:
122 (A) if the vehicle is not used to conduct business, for a time period that does not
123 exceed the longer of:
124 (I) 30 days in any calendar year; or
125 (II) the time period necessary to transport the vehicle to the borders of this state; or
126 (B) if the vehicle is used to conduct business, for the time period necessary to transport
127 the vehicle to the borders of this state;
128 (10) (a) amounts paid for an item described in Subsection (10)(b) if:
129 (i) the item is intended for human use; and
130 (ii) (A) a prescription was issued for the item; or
131 (B) the item was purchased by a hospital or other medical facility; and
132 (b) (i) Subsection (10)(a) applies to:
133 (A) a drug;
134 (B) a syringe; or
135 (C) a stoma supply; and
136 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
137 commission may by rule define the terms:
138 (A) "syringe"; or
139 (B) "stoma supply";
140 (11) purchases or leases exempt under Section 19-12-201;
141 (12) (a) sales of an item described in Subsection (12)(c) served by:
142 (i) the following if the item described in Subsection (12)(c) is not available to the
143 general public:
144 (A) a church; or
145 (B) a charitable institution;
146 (ii) an institution of higher education if:
147 (A) the item described in Subsection (12)(c) is not available to the general public; or
148 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
149 offered by the institution of higher education; or

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

(i) by a manufacturing facility located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used:

(A) in the manufacturing process to manufacture an item sold as tangible personal property; or

(B) for a scrap recycler, to process an item sold as tangible personal property;

(b) amounts paid or charged for a purchase or lease:

(i) by an establishment:

(A) 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; and

(B) located in the state; and

(ii) of machinery, equipment, or normal operating repair or replacement parts if the machinery, equipment, or normal operating repair or replacement parts have an economic life of three or more years and are used in:

(A) the production process to produce an item sold as tangible personal property;

(B) research and development;

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

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

212 (E) preventing, controlling, or reducing dust or other pollutants from mining;
 213 (c) amounts paid or charged for a purchase or lease:
 214 (i) by an establishment:
 215 (A) described in NAICS Code 518112, Web Search Portals, of the 2002 North
 216 American Industry Classification System of the federal Executive Office of the President,
 217 Office of Management and Budget; and
 218 (B) located in the state; and
 219 (ii) of machinery, equipment, or normal operating repair or replacement parts if the
 220 machinery, equipment, or normal operating repair or replacement parts:
 221 (A) are used in the operation of the web search portal; and
 222 (B) have an economic life of three or more years; and
 223 (d) for purposes of this Subsection (14) and in accordance with Title 63G, Chapter 3,
 224 Utah Administrative Rulemaking Act, the commission:
 225 (i) shall by rule define the term "establishment"; and
 226 (ii) may by rule define what constitutes:
 227 (A) processing an item sold as tangible personal property;
 228 (B) the production process, to produce an item sold as tangible personal property; or
 229 (C) research and development;
 230 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
 231 (i) tooling;
 232 (ii) special tooling;
 233 (iii) support equipment;
 234 (iv) special test equipment; or
 235 (v) parts used in the repairs or renovations of tooling or equipment described in
 236 Subsections (15)(a)(i) through (iv); and
 237 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
 238 (i) the tooling, equipment, or parts are used or consumed exclusively in the
 239 performance of any aerospace or electronics industry contract with the United States
 240 government or any subcontract under that contract; and
 241 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
 242 title to the tooling, equipment, or parts is vested in the United States government as evidenced

243 by:

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

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

247 (16) sales of newspapers or newspaper subscriptions;

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

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

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

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

260 (i) money;

261 (ii) electricity;

262 (iii) water;

263 (iv) gas; or

264 (v) steam;

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

269 (A) becomes part of real estate; or

270 (B) is installed by a:

271 (I) farmer;

272 (II) contractor; or

273 (III) subcontractor; or

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

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

(i) (A) subject to Subsection (18)(b)(i)(B), the following if used in a manner that is incidental to farming:

(I) machinery;

(II) equipment;

(III) materials; or

(IV) supplies; and

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

(I) hand tools; or

(II) maintenance and janitorial equipment and supplies;

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

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

(I) office equipment and supplies; or

(II) equipment and supplies used in:

(Aa) the sale or distribution of farm products;

(Bb) research; or

(Cc) transportation; or

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

(19) sales of hay;

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

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

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

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

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

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

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

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

317 (i) the product is:

318 (A) purchased outside of this state;

319 (B) brought into this state:

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

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

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

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

326 (ii) for:

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

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

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

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

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

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

335 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for

purposes of Subsection (24)(a), the commission may by rule define what constitutes the following:

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

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

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

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

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

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

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

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

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

(a) not registered in this state; and

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

(ii) used in this state:

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

367 (I) 30 days in any calendar year; or
368 (II) the time period necessary to transport the boat, boat trailer, or outboard motor to
369 the borders of this state; or
370 (B) if the boat, boat trailer, or outboard motor is used to conduct business, for the time
371 period necessary to transport the boat, boat trailer, or outboard motor to the borders of this
372 state;
373 (31) sales of aircraft manufactured in Utah;
374 (32) amounts paid for the purchase of telecommunications service for purposes of
375 providing telecommunications service;
376 (33) sales, leases, or uses of the following:
377 (a) a vehicle by an authorized carrier; or
378 (b) tangible personal property that is installed on a vehicle:
379 (i) sold or leased to or used by an authorized carrier; and
380 (ii) before the vehicle is placed in service for the first time;
381 (34) (a) 45% of the sales price of any new manufactured home; and
382 (b) 100% of the sales price of any used manufactured home;
383 (35) sales relating to schools and fundraising sales;
384 (36) sales or rentals of durable medical equipment if:
385 (a) a person presents a prescription for the durable medical equipment; and
386 (b) the durable medical equipment is used for home use only;
387 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
388 Section 72-11-102; and
389 (b) the commission shall by rule determine the method for calculating sales exempt
390 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
391 (38) sales to a ski resort of:
392 (a) snowmaking equipment;
393 (b) ski slope grooming equipment;
394 (c) passenger ropeways as defined in Section 72-11-102; or
395 (d) parts used in the repairs or renovations of equipment or passenger ropeways
396 described in Subsections (38)(a) through (c);
397 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;

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

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

(c) for purposes of Subsection (40)(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 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for assisted amusement devices;

(41) (a) sales of photocopies by:

(i) a governmental entity; or

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

(A) a school; or

(B) the State Board of Education; or

(b) sales of publications by a governmental entity;

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

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

(i) an area agency on aging; or

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

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

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

- 429 (a) actually come into contact with a semiconductor; or
430 (b) ultimately become incorporated into real property;
431 (45) an amount paid by or charged to a purchaser for accommodations and services
432 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
433 59-12-104.2;
434 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
435 sports event registration certificate in accordance with Section 41-3-306 for the event period
436 specified on the temporary sports event registration certificate;
437 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
438 adopted by the Public Service Commission only for purchase of electricity produced from a
439 new alternative energy source built after January 1, 2016, as designated in the tariff by the
440 Public Service Commission;
441 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
442 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
443 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
444 customer would have paid absent the tariff;
445 (48) sales or rentals of mobility enhancing equipment if a person presents a
446 prescription for the mobility enhancing equipment;
447 (49) sales of water in a:
448 (a) pipe;
449 (b) conduit;
450 (c) ditch; or
451 (d) reservoir;
452 (50) sales of currency or coins that constitute legal tender of a state, the United States,
453 or a foreign nation;
454 (51) (a) sales of an item described in Subsection (51)(b) if the item:
455 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
456 (ii) has a gold, silver, or platinum content of 50% or more; and
457 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
458 (i) ingot;
459 (ii) bar;

460 (iii) medallion; or
461 (iv) decorative coin;
462 (52) amounts paid on a sale-leaseback transaction;
463 (53) sales of a prosthetic device:
464 (a) for use on or in a human; and
465 (b) (i) for which a prescription is required; or
466 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
467 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
468 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
469 or equipment is primarily used in the production or postproduction of the following media for
470 commercial distribution:
471 (i) a motion picture;
472 (ii) a television program;
473 (iii) a movie made for television;
474 (iv) a music video;
475 (v) a commercial;
476 (vi) a documentary; or
477 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
478 commission by administrative rule made in accordance with Subsection (54)(d); or
479 (b) purchases, leases, or rentals of machinery or equipment by an establishment
480 described in Subsection (54)(c) that is used for the production or postproduction of the
481 following are subject to the taxes imposed by this chapter:
482 (i) a live musical performance;
483 (ii) a live news program; or
484 (iii) a live sporting event;
485 (c) the following establishments listed in the 1997 North American Industry
486 Classification System of the federal Executive Office of the President, Office of Management
487 and Budget, apply to Subsections (54)(a) and (b):
488 (i) NAICS Code 512110; or
489 (ii) NAICS Code 51219; and
490 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

491 commission may by rule:

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

493 or

494 (ii) define:

495 (A) "commercial distribution";

496 (B) "live musical performance";

497 (C) "live news program"; or

498 (D) "live sporting event";

499 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

500 on or before June 30, 2027, of tangible personal property that:

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

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

503 (B) is located in the state; and

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

505 (II) has its generation capacity increased by one or more megawatts on or after July 1,

506 2004, as a result of the use of the tangible personal property;

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

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

509 Subsection (55)(a)(i) operational up to the point of interconnection with an existing

510 transmission grid including:

511 (A) a wind turbine;

512 (B) generating equipment;

513 (C) a control and monitoring system;

514 (D) a power line;

515 (E) substation equipment;

516 (F) lighting;

517 (G) fencing;

518 (H) pipes; or

519 (I) other equipment used for locating a power line or pole; and

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

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

522 (A) a new alternative energy electricity production facility; or
523 (B) the increase in the capacity of an alternative energy electricity production facility;
524 (ii) contracted services required for construction and routine maintenance activities;
525 and
526 (iii) unless the tangible personal property is used or acquired for an increase in capacity
527 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
528 acquired after:

529 (A) the alternative energy electricity production facility described in Subsection
530 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
531 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
532 in Subsection (55)(a)(iii);

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

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

536 (A) is a waste energy production facility;
537 (B) is located in the state; and
538 (C) (I) becomes operational on or after July 1, 2004; or
539 (II) has its generation capacity increased by one or more megawatts on or after July 1,
540 2004, as a result of the use of the tangible personal property;

541 (ii) has an economic life of five or more years; and
542 (iii) is used to make the facility or the increase in capacity of the facility described in
543 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
544 transmission grid including:

545 (A) generating equipment;
546 (B) a control and monitoring system;
547 (C) a power line;
548 (D) substation equipment;
549 (E) lighting;
550 (F) fencing;
551 (G) pipes; or
552 (H) other equipment used for locating a power line or pole; and

553 (b) this Subsection (56) does not apply to:
554 (i) tangible personal property used in construction of:
555 (A) a new waste energy facility; or
556 (B) the increase in the capacity of a waste energy facility;
557 (ii) contracted services required for construction and routine maintenance activities;
558 and
559 (iii) unless the tangible personal property is used or acquired for an increase in capacity
560 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
561 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
562 described in Subsection (56)(a)(iii); or
563 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
564 in Subsection (56)(a)(iii);
565 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
566 or before June 30, 2027, of tangible personal property that:
567 (i) is leased or purchased for or by a facility that:
568 (A) is located in the state;
569 (B) produces fuel from alternative energy, including:
570 (I) methanol; or
571 (II) ethanol; and
572 (C) (I) becomes operational on or after July 1, 2004; or
573 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
574 a result of the installation of the tangible personal property;
575 (ii) has an economic life of five or more years; and
576 (iii) is installed on the facility described in Subsection (57)(a)(i);
577 (b) this Subsection (57) does not apply to:
578 (i) tangible personal property used in construction of:
579 (A) a new facility described in Subsection (57)(a)(i); or
580 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
581 (ii) contracted services required for construction and routine maintenance activities;
582 and
583 (iii) unless the tangible personal property is used or acquired for an increase in capacity

described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:

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

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

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

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

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

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

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

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

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

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

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

(59) purchases:

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

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

(A) names; or

(B) addresses; or

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

(A) names; or

(B) addresses; and

615 (b) used to send direct mail;

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

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

618 (b) redeemed or repurchased within the time period established in a written agreement

619 between the person and the pawnbroker for redeeming or repurchasing the product;

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

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

622 and

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

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

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

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

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

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

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

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

631 personal property or a product transferred electronically that are used in the research and

632 development of alternative energy technology; and

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

634 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes

635 purchases of tangible personal property or a product transferred electronically that are used in

636 the research and development of alternative energy technology;

637 (63) (a) purchases of tangible personal property or a product transferred electronically

638 if:

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

640 (A) purchased outside of this state;

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

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

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

644 (ii) for:

645 (A) tangible personal property or a product transferred electronically other than the

tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property for a purpose for which the property is designed occurs outside of this state; or

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

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

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

or

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

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

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

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

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

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

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

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

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

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

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

(65) sales:

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

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

677 tangible personal property is:

678 (i) clearly identified; and

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

680 (66) sales of construction materials:

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

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

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

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

685 (c) if the construction materials are:

686 (i) clearly identified;

687 (ii) segregated; and

688 (iii) installed or converted to real property:

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

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

691 (67) sales of construction materials:

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

693 (b) purchased by, on behalf of, or for the benefit of a new airport:

694 (i) located within a county of the second class; and

695 (ii) that is owned or operated by a city in which an airline as defined in Section

696 59-2-102 is headquartered; and

697 (c) if the construction materials are:

698 (i) clearly identified;

699 (ii) segregated; and

700 (iii) installed or converted to real property:

701 (A) owned or operated by the new airport described in Subsection (67)(b);

702 (B) located at the new airport described in Subsection (67)(b); and

703 (C) as part of the construction of the new airport described in Subsection (67)(b);

704 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

705 (69) purchases and sales described in Section 63H-4-111;

706 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and

707 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft; or

(b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration lists a state or country other than this state as the location of registry of the fixed wing turbine powered aircraft;

(71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

(a) to a person admitted to an institution of higher education; and

(b) by a seller, other than a bookstore owned by an institution of higher education, if 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;

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

741 (a) for a sale:

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

743 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
744 tangible personal property prior to making the sale; or

745 (b) for a lease:

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

747 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
748 personal property prior to making the lease;

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

750 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
751 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
752 System of the federal Executive Office of the President, Office of Management and Budget;

753 (ii) the machinery or equipment:

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

755 (B) is used by one or more persons who pay admission or user fees described in
756 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and

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

758 (A) amounts paid or charged as admission or user fees described in Subsection
759 59-12-103(1)(f); and

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

761 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
762 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
763 previous calendar quarter is:

764 (i) amounts paid or charged as admission or user fees described in Subsection
765 59-12-103(1)(f); and

766 (ii) subject to taxation under this chapter;

767 (77) purchases of a short-term lodging consumable by a business that provides
768 accommodations and services described in Subsection 59-12-103(1)(i);

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

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

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

(i) digital audiowork;

(ii) digital audio-visual work; or

(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) (a) except as provided in Subsection (84)(b), amounts paid or charged for a purchase or lease made by a drilling equipment manufacturer of machinery, equipment, materials, or normal operating repair or replacement parts:

801 (i) that are used or consumed exclusively in the drilling equipment manufacturer's
802 manufacturing process; and
803 (ii) except for office:
804 (A) equipment; or
805 (B) supplies; and
806 (b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an
807 exemption described in Subsection (84)(a) only by filing for a refund:
808 (i) of 50% of the tax paid on the amounts paid or charged; and
809 (ii) in accordance with Section 59-1-1410; ~~and~~
810 (85) amounts paid or charged for a purchase or lease made by a qualifying enterprise
811 data center of machinery, equipment, or normal operating repair or replacement parts, if the
812 machinery, equipment, or normal operating repair or replacement parts:
813 (a) are used in the operation of the establishment; and
814 (b) have an economic life of one or more years[-]; and
815 (86) amounts paid or charged for a purchase or lease of machinery, equipment, or
816 normal operating repair or replacement parts:
817 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
818 in Section 63M-4-701 located in the state;
819 (b) if the machinery, equipment, or normal operating repair or replacement parts are
820 used in:
821 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
822 added to gasoline or diesel fuel;
823 (ii) research and development;
824 (iii) transporting, storing, or managing waste materials produced from refining gasoline
825 or diesel fuel, or adding blendstock to gasoline or diesel fuel;
826 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
827 refining; or
828 (v) preventing, controlling, or reducing pollutants from refining; and
829 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
830 of Energy Development under Section 63M-4-702 that the refiner complies with the United
831 States Environmental Protection Agency's Tier 3 gasoline sulfur standard described in 40

832 C.F.R. Sec. 80.1603.

833 Section 2. Section **63M-4-701** is enacted to read:

834 **Part 7. Refiner Gasoline Sulfur Standard Sales and Use Tax Exemption Reporting.**

835 **63M-4-701. Definitions.**

836 As used in this section:

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

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

841 (3) "Refinery" means a facility where gasoline or diesel fuel is produced,
842 including a facility at which blendstocks are combined to produce gasoline or diesel
843 fuel, or at which blendstock is added to gasoline or diesel fuel.

844 Section 3. Section **63M-4-702** is enacted to read:

845 **63M-4-702. Refiner gasoline standard reporting -- Office of Energy Development**
846 **certification of sales and use tax exemption eligibility.**

847 (1) (a) Beginning on July 1, 2021, a refiner that seeks to be eligible for a sales and use
848 tax exemption under Subsection [59-12-104](#)(86) shall annually report to the office whether the
849 refiner's facility that is located within the state will have an average gasoline sulfur level of 10
850 parts per million (ppm) using the formulas prescribed in 40 C.F.R. Sec. 80.1603, excluding the
851 offset for credit use and transfer as prescribed in 40 C.F.R. Sec. 80.1616.

852 (b) Fuels that are not subject to the standards and requirements of 40 C.F.R. Sec.
853 80.1603 as specified in 40 C.F.R. Sec. 1601 are not subject to the reporting provisions under
854 Subsection (1)(a).

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

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

859 (ii) if the refiner's refinery that is located within the state wholesales gasoline with an
860 average sulfur level of 10 parts per million (ppm) within the state using the formulas prescribed
861 in 40 C.F.R. Sec. 80.1603, excluding the offset for credit use and transfer as prescribed in 40
862 C.F.R. Sec. 80.1616, in the previous calendar year; and

863 (iii) before a taxpayer is allowed the sales and use tax exemption under Subsection
864 59-12-104(86).

865 (b) The certification provided by the office under Subsection (2)(a) shall be renewed
866 annually.

867 (c) The office:

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

871 (ii) may establish another reporting mechanism through rules made under Subsection
872 (3).

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

875 **Section 4. Effective date.**

876 This bill takes effect on January 1, 2018.