

FUEL SALES TAX AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill modifies provisions related to the taxation of the sale of certain fuels furnished to a location through a single meter.

Highlighted Provisions:

This bill:

- addresses the taxable status of a sale of certain fuels where the fuel is furnished through a single meter for a combination of commercial, industrial, or residential uses; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2019, Chapters 1, 136, and 479

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

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

Section 1. Section **59-12-103** is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part on the purchase price or sales price for amounts paid or charged for the following transactions:

(a) retail sales of tangible personal property made within the state;

(b) amounts paid for:

(i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

(ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

(iii) an ancillary service associated with a:

(A) telecommunications service described in Subsection (1)(b)(i); or

(B) mobile telecommunications service described in Subsection (1)(b)(ii);

(c) sales of the following for commercial use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(d) sales of the following for residential use:

(i) gas;

(ii) electricity;

(iii) heat;

(iv) coal;

(v) fuel oil; or

(vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or

58 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
59 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
60 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
61 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
62 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
63 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
64 horseback rides, sports activities, or any other amusement, entertainment, recreation,
65 exhibition, cultural, or athletic activity;

66 (g) amounts paid or charged for services for repairs or renovations of tangible personal
67 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

68 (i) the tangible personal property; and

69 (ii) parts used in the repairs or renovations of the tangible personal property described
70 in Subsection (1)(g)(i), regardless of whether:

71 (A) any parts are actually used in the repairs or renovations of that tangible personal
72 property; or

73 (B) the particular parts used in the repairs or renovations of that tangible personal
74 property are exempt from a tax under this chapter;

75 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
76 assisted cleaning or washing of tangible personal property;

77 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
78 accommodations and services that are regularly rented for less than 30 consecutive days;

79 (j) amounts paid or charged for laundry or dry cleaning services;

80 (k) amounts paid or charged for leases or rentals of tangible personal property if within
81 this state the tangible personal property is:

82 (i) stored;

83 (ii) used; or

84 (iii) otherwise consumed;

85 (l) amounts paid or charged for tangible personal property if within this state the

tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax are imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) (I) through March 31, 2019, 4.70%; and

(II) beginning on April 1, 2019, 4.70% plus the rate specified in Subsection (13)(a);

and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e) and subject to Subsection (2)(j), a state tax and a local tax are imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax are imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) If an optional computer software maintenance contract is a bundled transaction that

consists of taxable and nontaxable products that are not separately itemized on an invoice or similar billing document, the purchase of the optional computer software maintenance contract is 40% taxable under this chapter and 60% nontaxable under this chapter.

(iii) Subject to Subsection (2)(d)(iv), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i) or (ii):

(A) if the sales price of the bundled transaction is attributable to tangible personal property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iv) For purposes of Subsection (2)(d)(iii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) (i) Except as otherwise provided in this chapter and subject to Subsections (2)(e)(ii) and (iii), if a transaction consists of the sale, lease, or rental of tangible personal property, a product, or a service that is subject to taxation under this chapter, and the sale, lease, or rental of tangible personal property, other property, a product, or a service that is not subject to

170 taxation under this chapter, the entire transaction is subject to taxation under this chapter unless
171 the seller, at the time of the transaction:

172 (A) separately states the portion of the transaction that is not subject to taxation under
173 this chapter on an invoice, bill of sale, or similar document provided to the purchaser; or

174 (B) is able to identify by reasonable and verifiable standards, from the books and
175 records the seller keeps in the seller's regular course of business, the portion of the transaction
176 that is not subject to taxation under this chapter.

177 (ii) A purchaser and a seller may correct the taxability of a transaction if:

178 (A) after the transaction occurs, the purchaser and the seller discover that the portion of
179 the transaction that is not subject to taxation under this chapter was not separately stated on an
180 invoice, bill of sale, or similar document provided to the purchaser because of an error or
181 ignorance of the law; and

182 (B) the seller is able to identify by reasonable and verifiable standards, from the books
183 and records the seller keeps in the seller's regular course of business, the portion of the
184 transaction that is not subject to taxation under this chapter.

185 (iii) For purposes of Subsections (2)(e)(i) and (ii), books and records that a seller keeps
186 in the seller's regular course of business includes books and records the seller keeps in the
187 regular course of business for nontax purposes.

188 (f) (i) If the sales price of a transaction is attributable to two or more items of tangible
189 personal property, products, or services that are subject to taxation under this chapter at
190 different rates, the entire purchase is subject to taxation under this chapter at the higher tax rate
191 unless the seller, at the time of the transaction:

192 (A) separately states the items subject to taxation under this chapter at each of the
193 different rates on an invoice, bill of sale, or similar document provided to the purchaser; or

194 (B) is able to identify by reasonable and verifiable standards the tangible personal
195 property, product, or service that is subject to taxation under this chapter at the lower tax rate
196 from the books and records the seller keeps in the seller's regular course of business.

197 (ii) For purposes of Subsection (2)(f)(i), books and records that a seller keeps in the

seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(g) Subject to Subsections (2)(h) and (i), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(h) (i) A tax rate increase takes effect on the first day of the first billing period that begins on or after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is rendered on or after the effective date of the repeal of the tax or the tax rate decrease imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(i) (i) For a tax rate described in Subsection (2)(i)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

(A) on the first day of a calendar quarter; and

(B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(i)(i) applies to the tax rates described in the following:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(j) (i) For a location described in Subsection (2)(j)(ii), the commission shall determine the taxable status of a sale of gas, electricity, heat, coal, fuel oil, or other fuel based on the predominant use of the gas, electricity, heat, coal, fuel oil, or other fuel at the location.

(ii) Subsection (2)(j)(i) applies to a location where gas, electricity, heat, coal, fuel oil, or other fuel is furnished through a single meter for two or more of the following uses:

(A) a commercial use;

(B) an industrial use; or

(C) a residential use.

(3) (a) The following state taxes shall be deposited into the General Fund:

(i) the tax imposed by Subsection (2)(a)(i)(A);

(ii) the tax imposed by Subsection (2)(b)(i);

(iii) the tax imposed by Subsection (2)(c)(i); or

(iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

(i) the tax imposed by Subsection (2)(a)(ii);

(ii) the tax imposed by Subsection (2)(b)(ii);

(iii) the tax imposed by Subsection (2)(c)(ii); and

(iv) the tax imposed by Subsection (2)(d)(i)(B).

(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be expended as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-106.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited into the Drinking Water Loan Program Subaccount

created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

(ii) develop underground sources of water, including springs and wells; and

(iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 85% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter 26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, and 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 15% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a) and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited as follows:

(a) for fiscal year 2016-17 only, 100% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124;

(b) for fiscal year 2017-18 only:

(i) 80% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 20% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(c) for fiscal year 2018-19 only:

(i) 60% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 40% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(d) for fiscal year 2019-20 only:

(i) 40% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 60% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103;

(e) for fiscal year 2020-21 only:

(i) 20% of the revenue described in this Subsection (6) shall be deposited into the Transportation Investment Fund of 2005 created by Section 72-2-124; and

(ii) 80% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103; and

(f) for a fiscal year beginning on or after July 1, 2021, 100% of the revenue described in this Subsection (6) shall be deposited into the Water Infrastructure Restricted Account created by Section 73-10g-103.

(7) (a) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (6), and subject to Subsection (7)(b), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of

the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the 2010-11 fiscal year.

(b) (i) Subject to Subsections (7)(b)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (7)(a) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (7)(a) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (7)(a) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (7)(a) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) for the current fiscal year under Subsection (7)(a).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) was deposited

under Subsection (7)(a), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (7)(a)(i)(A) through (D) in the current fiscal year under Subsection (7)(a).

(8) (a) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$64,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(b) Notwithstanding Subsection (3)(a), and in addition to the amounts deposited under Subsections (6) and (7), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$63,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(c) (i) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsections (6) and (7), and subject to Subsection (8)(c)(ii), for a fiscal year beginning on or after July 1, 2018, the commission shall annually deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) in an amount equal to 3.68% of the revenues collected from the following taxes:

(A) the tax imposed by Subsection (2)(a)(i)(A) at a 4.7% rate;

(B) the tax imposed by Subsection (2)(b)(i);

(C) the tax imposed by Subsection (2)(c)(i); and

(D) the tax imposed by Subsection (2)(d)(i)(A)(I).

(ii) For a fiscal year beginning on or after July 1, 2019, the commission shall annually reduce the deposit into the Transportation Investment Fund of 2005 under Subsection (8)(c)(i) by an amount that is equal to 35% of the amount of revenue generated in the current fiscal year by the portion of the tax imposed on motor and special fuel that is sold, used, or received for sale or use in this state that exceeds 29.4 cents per gallon.

(iii) The commission shall annually deposit the amount described in Subsection (8)(c)(ii) into the Transit and Transportation Investment Fund created in Section 72-2-124.

(9) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year

2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 35A-8-1009 and expended as provided in Section 35A-8-1009.

(10) (a) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), in addition to any amounts deposited under Subsections (6), (7), and (8), and for the 2016-17 fiscal year only, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(b) Notwithstanding Subsection (3)(a), except as provided in Subsection (10)(c), and in addition to any amounts deposited under Subsections (6), (7), and (8), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of revenue described as follows:

(i) for fiscal year 2017-18 only, 83.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(ii) for fiscal year 2018-19 only, 66.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iii) for fiscal year 2019-20 only, 50% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1);

(iv) for fiscal year 2020-21 only, 33.33% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1); and

(v) for fiscal year 2021-22 only, 16.67% of the amount of revenue generated by a .05% tax rate on the transactions described in Subsection (1).

(c) For purposes of Subsections (10)(a) and (b), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)(d).

(11) Notwithstanding Subsection (3)(a), beginning the second fiscal year after the fiscal year during which the Division of Finance receives notice under Section 63N-2-510 that

construction on a qualified hotel, as defined in Section 63N-2-502, has begun, the Division of Finance shall, for two consecutive fiscal years, annually deposit \$1,900,000 of the revenue generated by the taxes listed under Subsection (3)(a) into the Hotel Impact Mitigation Fund, created in Section 63N-2-512.

(12) (a) Notwithstanding Subsection (3)(a), for the 2016-17 fiscal year only, the Division of Finance shall deposit \$26,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(b) Notwithstanding Subsection (3)(a), for the 2017-18 fiscal year only, the Division of Finance shall deposit \$27,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Throughput Infrastructure Fund created by Section 35A-8-308.

(13) (a) The rate specified in this subsection is 0.15%.

(b) Notwithstanding Subsection (3)(a), the Division of Finance shall:

(i) on or before September 30, 2019, transfer the amount of revenue collected from the rate described in Subsection (13)(a) beginning on April 1, 2019, and ending on June 30, 2019, on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208; and

(ii) for a fiscal year beginning on or after July 1, 2019, annually transfer the amount of revenue collected from the rate described in Subsection (13)(a) on the transactions that are subject to the sales and use tax under Subsection (2)(a)(i)(A) into the Medicaid Expansion Fund created in Section 26-36b-208.

Section 2. 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;

(ii) by a commercial airline carrier; and

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

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

(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts and equipment:

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

(II) for:

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

(Bb) renovation of an aircraft; or

(Cc) repair of an aircraft; or

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

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

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

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

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

(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) 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 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

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

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

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

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

590 (ii) (A) a prescription was issued for the item; or
591 (B) the item was purchased by a hospital or other medical facility; and
592 (b) (i) Subsection (10)(a) applies to:
593 (A) a drug;
594 (B) a syringe; or
595 (C) a stoma supply; and
596 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
597 commission may by rule define the terms:
598 (A) "syringe"; or
599 (B) "stoma supply";
600 (11) purchases or leases exempt under Section 19-12-201;
601 (12) (a) sales of an item described in Subsection (12)(c) served by:
602 (i) the following if the item described in Subsection (12)(c) is not available to the
603 general public:
604 (A) a church; or
605 (B) a charitable institution; or
606 (ii) an institution of higher education if:
607 (A) the item described in Subsection (12)(c) is not available to the general public; or
608 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
609 offered by the institution of higher education; or
610 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
611 (i) a medical facility; or
612 (ii) a nursing facility; and
613 (c) Subsections (12)(a) and (b) apply to:
614 (i) food and food ingredients;
615 (ii) prepared food; or
616 (iii) alcoholic beverages;
617 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

or a product transferred electronically by a person:

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

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

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

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

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

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

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

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

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

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

(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

646 of tangible personal property or product transferred electronically;
647 (14) amounts paid or charged for a purchase or lease of machinery, equipment, normal
648 operating repair or replacement parts, or materials, except for office equipment or office
649 supplies, by:

650 (a) a manufacturing facility that:

651 (i) is located in the state; and

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

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

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

660 (b) an establishment, as the commission defines that term in accordance with Title
661 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

662 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
663 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
664 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
665 2002 North American Industry Classification System of the federal Executive Office of the
666 President, Office of Management and Budget;

667 (ii) is located in the state; and

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

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

673 (B) research and development, as the commission may define that phrase in accordance

with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(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

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

(c) 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 Code 518112, Web Search Portals, 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 replacement parts, or materials in the operation of the web search portal;

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

(i) tooling;

(ii) special tooling;

(iii) support equipment;

(iv) special test equipment; or

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

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

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

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

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

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

(16) sales of newspapers or newspaper subscriptions;

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

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

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

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

(i) money;

(ii) electricity;

(iii) water;

(iv) gas; or

(v) steam;

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

(A) becomes part of real estate; or

(B) is installed by a:

(I) farmer;

730 (II) contractor; or
731 (III) subcontractor; or
732 (ii) sales of parts used in the repairs or renovations of tangible personal property or a
733 product transferred electronically if the tangible personal property or product transferred
734 electronically is exempt under Subsection (18)(a)(i); and
735 (b) amounts paid or charged for the following are subject to the taxes imposed by this
736 chapter:
737 (i) (A) subject to Subsection (18)(b)(i)(B), machinery, equipment, materials, or
738 supplies if used in a manner that is incidental to farming; and
739 (B) tangible personal property that is considered to be used in a manner that is
740 incidental to farming includes:
741 (I) hand tools; or
742 (II) maintenance and janitorial equipment and supplies;
743 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
744 transferred electronically if the tangible personal property or product transferred electronically
745 is used in an activity other than farming; and
746 (B) tangible personal property or a product transferred electronically that is considered
747 to be used in an activity other than farming includes:
748 (I) office equipment and supplies; or
749 (II) equipment and supplies used in:
750 (Aa) the sale or distribution of farm products;
751 (Bb) research; or
752 (Cc) transportation; or
753 (iii) a vehicle required to be registered by the laws of this state during the period
754 ending two years after the date of the vehicle's purchase;
755 (19) sales of hay;
756 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
757 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or

758 garden, farm, or other agricultural produce is sold by:

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

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

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

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

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

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

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

771 (i) the product is:

772 (A) purchased outside of this state;

773 (B) brought into this state:

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

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

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

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

780 (ii) for:

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

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

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

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

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

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

815 (a) not registered in this state; and

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

817 (ii) used in this state:

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

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

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

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

826 (31) sales of aircraft manufactured in Utah;

827 (32) amounts paid for the purchase of telecommunications service for purposes of
828 providing telecommunications service;

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

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

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

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

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

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

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

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

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

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

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

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

841 Section [72-11-102](#); and

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

(38) sales to a ski resort of:

(a) snowmaking equipment;

(b) ski slope grooming equipment;

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

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

(39) subject to Subsection 59-12-103(2)(j), 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:

870 (A) a school; or
871 (B) the State Board of Education; or
872 (b) sales of publications by a governmental entity;
873 (42) amounts paid for admission to an athletic event at an institution of higher
874 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
875 20 U.S.C. Sec. 1681 et seq.;

876 (43) (a) sales made to or by:
877 (i) an area agency on aging; or
878 (ii) a senior citizen center owned by a county, city, or town; or
879 (b) sales made by a senior citizen center that contracts with an area agency on aging;

880 (44) sales or leases of semiconductor fabricating, processing, research, or development
881 materials regardless of whether the semiconductor fabricating, processing, research, or
882 development materials:
883 (a) actually come into contact with a semiconductor; or
884 (b) ultimately become incorporated into real property;

885 (45) an amount paid by or charged to a purchaser for accommodations and services
886 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
887 59-12-104.2;

888 (46) beginning on September 1, 2001, the lease or use of a vehicle issued a temporary
889 sports event registration certificate in accordance with Section 41-3-306 for the event period
890 specified on the temporary sports event registration certificate;

891 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
892 adopted by the Public Service Commission only for purchase of electricity produced from a
893 new alternative energy source built after January 1, 2016, as designated in the tariff by the
894 Public Service Commission; and
895 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
896 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
897 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the

898 customer would have paid absent the tariff;
899 (48) sales or rentals of mobility enhancing equipment if a person presents a
900 prescription for the mobility enhancing equipment;
901 (49) sales of water in a:
902 (a) pipe;
903 (b) conduit;
904 (c) ditch; or
905 (d) reservoir;
906 (50) sales of currency or coins that constitute legal tender of a state, the United States,
907 or a foreign nation;
908 (51) (a) sales of an item described in Subsection (51)(b) if the item:
909 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
910 (ii) has a gold, silver, or platinum content of 50% or more; and
911 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
912 (i) ingot;
913 (ii) bar;
914 (iii) medallion; or
915 (iv) decorative coin;
916 (52) amounts paid on a sale-leaseback transaction;
917 (53) sales of a prosthetic device:
918 (a) for use on or in a human; and
919 (b) (i) for which a prescription is required; or
920 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
921 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
922 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
923 or equipment is primarily used in the production or postproduction of the following media for
924 commercial distribution:
925 (i) a motion picture;

926 (ii) a television program;
927 (iii) a movie made for television;
928 (iv) a music video;
929 (v) a commercial;
930 (vi) a documentary; or
931 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
932 commission by administrative rule made in accordance with Subsection (54)(d); or
933 (b) purchases, leases, or rentals of machinery or equipment by an establishment
934 described in Subsection (54)(c) that is used for the production or postproduction of the
935 following are subject to the taxes imposed by this chapter:
936 (i) a live musical performance;
937 (ii) a live news program; or
938 (iii) a live sporting event;
939 (c) the following establishments listed in the 1997 North American Industry
940 Classification System of the federal Executive Office of the President, Office of Management
941 and Budget, apply to Subsections (54)(a) and (b):
942 (i) NAICS Code 512110; or
943 (ii) NAICS Code 51219; and
944 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
945 commission may by rule:
946 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
947 or
948 (ii) define:
949 (A) "commercial distribution";
950 (B) "live musical performance";
951 (C) "live news program"; or
952 (D) "live sporting event";
953 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but

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

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

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

957 (B) is located in the state; and

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

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

960 2004, as a result of the use of the tangible personal property;

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

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

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

964 transmission grid including:

965 (A) a wind turbine;

966 (B) generating equipment;

967 (C) a control and monitoring system;

968 (D) a power line;

969 (E) substation equipment;

970 (F) lighting;

971 (G) fencing;

972 (H) pipes; or

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

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

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

976 (A) a new alternative energy electricity production facility; or

977 (B) the increase in the capacity of an alternative energy electricity production facility;

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

979 and

980 (iii) unless the tangible personal property is used or acquired for an increase in capacity

981 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or

982 acquired after:

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

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

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

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

990 (A) is a waste energy production facility;

991 (B) is located in the state; and

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

993 (II) has its generation capacity increased by one or more megawatts on or after July 1,
994 2004, as a result of the use of the tangible personal property;

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

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

999 (A) generating equipment;

1000 (B) a control and monitoring system;

1001 (C) a power line;

1002 (D) substation equipment;

1003 (E) lighting;

1004 (F) fencing;

1005 (G) pipes; or

1006 (H) other equipment used for locating a power line or pole; and

1007 (b) this Subsection (56) does not apply to:

1008 (i) tangible personal property used in construction of:

1009 (A) a new waste energy facility; or

1010 (B) the increase in the capacity of a waste energy facility;
1011 (ii) contracted services required for construction and routine maintenance activities;
1012 and
1013 (iii) unless the tangible personal property is used or acquired for an increase in capacity
1014 described in Subsection (56)(a)(i)(C)(II), tangible personal property used or acquired after:
1015 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
1016 described in Subsection (56)(a)(iii); or
1017 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
1018 in Subsection (56)(a)(iii);
1019 (57) (a) leases of five or more years or purchases made on or after July 1, 2004, but on
1020 or before June 30, 2027, of tangible personal property that:
1021 (i) is leased or purchased for or by a facility that:
1022 (A) is located in the state;
1023 (B) produces fuel from alternative energy, including:
1024 (I) methanol; or
1025 (II) ethanol; and
1026 (C) (I) becomes operational on or after July 1, 2004; or
1027 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
1028 a result of the installation of the tangible personal property;
1029 (ii) has an economic life of five or more years; and
1030 (iii) is installed on the facility described in Subsection (57)(a)(i);
1031 (b) this Subsection (57) does not apply to:
1032 (i) tangible personal property used in construction of:
1033 (A) a new facility described in Subsection (57)(a)(i); or
1034 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
1035 (ii) contracted services required for construction and routine maintenance activities;
1036 and
1037 (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

- 1066 (ii) a database containing information that includes one or more:
1067 (A) names; or
1068 (B) addresses; and
1069 (b) used to send direct mail;
- 1070 (60) redemptions or repurchases of a product by a person if that product was:
1071 (a) delivered to a pawnbroker as part of a pawn transaction; and
1072 (b) redeemed or repurchased within the time period established in a written agreement
1073 between the person and the pawnbroker for redeeming or repurchasing the product;
- 1074 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
1075 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
1076 and
1077 (ii) has a useful economic life of one or more years; and
1078 (b) the following apply to Subsection (61)(a):
1079 (i) telecommunications enabling or facilitating equipment, machinery, or software;
1080 (ii) telecommunications equipment, machinery, or software required for 911 service;
1081 (iii) telecommunications maintenance or repair equipment, machinery, or software;
1082 (iv) telecommunications switching or routing equipment, machinery, or software; or
1083 (v) telecommunications transmission equipment, machinery, or software;
- 1084 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
1085 personal property or a product transferred electronically that are used in the research and
1086 development of alternative energy technology; and
1087 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1088 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
1089 purchases of tangible personal property or a product transferred electronically that are used in
1090 the research and development of alternative energy technology;
- 1091 (63) (a) purchases of tangible personal property or a product transferred electronically
1092 if:
1093 (i) the tangible personal property or product transferred electronically is:

- 1094 (A) purchased outside of this state;
- 1095 (B) brought into this state at any time after the purchase described in Subsection
- 1096 (63)(a)(i)(A); and
- 1097 (C) used in conducting business in this state; and
- 1098 (ii) for:
- 1099 (A) tangible personal property or a product transferred electronically other than the
- 1100 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
- 1101 for a purpose for which the property is designed occurs outside of this state; or
- 1102 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
- 1103 outside of this state;
- 1104 (b) the exemption provided for in Subsection (63)(a) does not apply to:
- 1105 (i) a lease or rental of tangible personal property or a product transferred electronically;
- 1106 or
- 1107 (ii) a sale of a vehicle exempt under Subsection (33); and
- 1108 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
- 1109 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
- 1110 following:
- 1111 (i) conducting business in this state if that phrase has the same meaning in this
- 1112 Subsection (63) as in Subsection (24);
- 1113 (ii) the first use of tangible personal property or a product transferred electronically if
- 1114 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
- 1115 (iii) a purpose for which tangible personal property or a product transferred
- 1116 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
- 1117 Subsection (24);
- 1118 (64) sales of disposable home medical equipment or supplies if:
- 1119 (a) a person presents a prescription for the disposable home medical equipment or
- 1120 supplies;
- 1121 (b) the disposable home medical equipment or supplies are used exclusively by the

1122 person to whom the prescription described in Subsection (64)(a) is issued; and
1123 (c) the disposable home medical equipment and supplies are listed as eligible for
1124 payment under:
1125 (i) Title XVIII, federal Social Security Act; or
1126 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
1127 (65) sales:
1128 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
1129 District Act; or
1130 (b) of tangible personal property to a subcontractor of a public transit district, if the
1131 tangible personal property is:
1132 (i) clearly identified; and
1133 (ii) installed or converted to real property owned by the public transit district;
1134 (66) sales of construction materials:
1135 (a) purchased on or after July 1, 2010;
1136 (b) purchased by, on behalf of, or for the benefit of an international airport:
1137 (i) located within a county of the first class; and
1138 (ii) that has a United States customs office on its premises; and
1139 (c) if the construction materials are:
1140 (i) clearly identified;
1141 (ii) segregated; and
1142 (iii) installed or converted to real property:
1143 (A) owned or operated by the international airport described in Subsection (66)(b); and
1144 (B) located at the international airport described in Subsection (66)(b);
1145 (67) sales of construction materials:
1146 (a) purchased on or after July 1, 2008;
1147 (b) purchased by, on behalf of, or for the benefit of a new airport:
1148 (i) located within a county of the second class; and
1149 (ii) that is owned or operated by a city in which an airline as defined in Section

1150 59-2-102 is headquartered; and

1151 (c) if the construction materials are:

1152 (i) clearly identified;

1153 (ii) segregated; and

1154 (iii) installed or converted to real property:

1155 (A) owned or operated by the new airport described in Subsection (67)(b);

1156 (B) located at the new airport described in Subsection (67)(b); and

1157 (C) as part of the construction of the new airport described in Subsection (67)(b);

1158 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;

1159 (69) purchases and sales described in Section 63H-4-111;

1160 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and

1161 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of

1162 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

1163 lists a state or country other than this state as the location of registry of the fixed wing turbine

1164 powered aircraft; or

1165 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul

1166 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of

1167 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration

1168 lists a state or country other than this state as the location of registry of the fixed wing turbine

1169 powered aircraft;

1170 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:

1171 (a) to a person admitted to an institution of higher education; and

1172 (b) by a seller, other than a bookstore owned by an institution of higher education, if

1173 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a

1174 textbook for a higher education course;

1175 (72) a license fee or tax a municipality imposes in accordance with Subsection

1176 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced

1177 level of municipal services;

1178 (73) amounts paid or charged for construction materials used in the construction of a
1179 new or expanding life science research and development facility in the state, if the construction
1180 materials are:

- 1181 (a) clearly identified;
- 1182 (b) segregated; and
- 1183 (c) installed or converted to real property;

1184 (74) amounts paid or charged for:

1185 (a) a purchase or lease of machinery and equipment that:

1186 (i) are used in performing qualified research:

1187 (A) as defined in Section 41(d), Internal Revenue Code; and

1188 (B) in the state; and

1189 (ii) have an economic life of three or more years; and

1190 (b) normal operating repair or replacement parts:

1191 (i) for the machinery and equipment described in Subsection (74)(a); and

1192 (ii) that have an economic life of three or more years;

1193 (75) a sale or lease of tangible personal property used in the preparation of prepared
1194 food if:

1195 (a) for a sale:

1196 (i) the ownership of the seller and the ownership of the purchaser are identical; and

1197 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that

1198 tangible personal property prior to making the sale; or

1199 (b) for a lease:

1200 (i) the ownership of the lessor and the ownership of the lessee are identical; and

1201 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
1202 personal property prior to making the lease;

1203 (76) (a) purchases of machinery or equipment if:

1204 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
1205 Gambling, and Recreation Industries, of the 2012 North American Industry Classification

1206 System of the federal Executive Office of the President, Office of Management and Budget;
1207 (ii) the machinery or equipment:
1208 (A) has an economic life of three or more years; and
1209 (B) is used by one or more persons who pay admission or user fees described in
1210 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
1211 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
1212 (A) amounts paid or charged as admission or user fees described in Subsection
1213 59-12-103(1)(f); and
1214 (B) subject to taxation under this chapter; and
1215 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
1216 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
1217 previous calendar quarter is:
1218 (i) amounts paid or charged as admission or user fees described in Subsection
1219 59-12-103(1)(f); and
1220 (ii) subject to taxation under this chapter;
1221 (77) purchases of a short-term lodging consumable by a business that provides
1222 accommodations and services described in Subsection 59-12-103(1)(i);
1223 (78) amounts paid or charged to access a database:
1224 (a) if the primary purpose for accessing the database is to view or retrieve information
1225 from the database; and
1226 (b) not including amounts paid or charged for a:
1227 (i) digital audiowork;
1228 (ii) digital audio-visual work; or
1229 (iii) digital book;
1230 (79) amounts paid or charged for a purchase or lease made by an electronic financial
1231 payment service, of:
1232 (a) machinery and equipment that:
1233 (i) are used in the operation of the electronic financial payment service; and

1234 (ii) have an economic life of three or more years; and
1235 (b) normal operating repair or replacement parts that:
1236 (i) are used in the operation of the electronic financial payment service; and
1237 (ii) have an economic life of three or more years;
1238 (80) beginning on April 1, 2013, sales of a fuel cell as defined in Section 54-15-102;
1239 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
1240 product transferred electronically if the tangible personal property or product transferred
1241 electronically:
1242 (a) is stored, used, or consumed in the state; and
1243 (b) is temporarily brought into the state from another state:
1244 (i) during a disaster period as defined in Section 53-2a-1202;
1245 (ii) by an out-of-state business as defined in Section 53-2a-1202;
1246 (iii) for a declared state disaster or emergency as defined in Section 53-2a-1202; and
1247 (iv) for disaster- or emergency-related work as defined in Section 53-2a-1202;
1248 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined
1249 in Section 39-9-102, made pursuant to Title 39, Chapter 9, State Morale, Welfare, and
1250 Recreation Program;
1251 (83) amounts paid or charged for a purchase or lease of molten magnesium;
1252 (84) amounts paid or charged for a purchase or lease made by a qualifying enterprise
1253 data center of machinery, equipment, or normal operating repair or replacement parts, if the
1254 machinery, equipment, or normal operating repair or replacement parts:
1255 (a) are used in the operation of the establishment; and
1256 (b) have an economic life of one or more years;
1257 (85) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
1258 vehicle that includes cleaning or washing of the interior of the vehicle;
1259 (86) amounts paid or charged for a purchase or lease of machinery, equipment, normal
1260 operating repair or replacement parts, catalysts, chemicals, reagents, solutions, or supplies used
1261 or consumed:

1262 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
1263 in Section 63M-4-701 located in the state;

1264 (b) if the machinery, equipment, normal operating repair or replacement parts,
1265 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:

1266 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
1267 added to gasoline or diesel fuel;

1268 (ii) research and development;

1269 (iii) transporting, storing, or managing raw materials, work in process, finished
1270 products, and waste materials produced from refining gasoline or diesel fuel, or adding
1271 blendstock to gasoline or diesel fuel;

1272 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
1273 refining; or

1274 (v) preventing, controlling, or reducing pollutants from refining; and

1275 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
1276 of Energy Development under Subsection 63M-4-702(2);

1277 (87) amounts paid to or charged by a proprietor for accommodations and services, as
1278 defined in Section 63H-1-205, if the proprietor is subject to the MIDA accommodations tax
1279 imposed under Section 63H-1-205;

1280 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
1281 operating repair or replacement parts, or materials, except for office equipment or office
1282 supplies, by an establishment, as the commission defines that term in accordance with Title
1283 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

1284 (a) is described in NAICS Code 621511, Medical Laboratories, of the 2017 North
1285 American Industry Classification System of the federal Executive Office of the President,
1286 Office of Management and Budget;

1287 (b) is located in this state; and

1288 (c) uses the machinery, equipment, normal operating repair or replacement parts, or
1289 materials in the operation of the establishment; and

1290

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