

Senator Derek L. Kitchen proposes the following substitute bill:

CHILD CARE CENTER SALES TAX EXEMPTION

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lincoln Fillmore

House Sponsor: _____

LONG TITLE

General Description:

This bill enacts a sales and use tax exemption related to certain child care programs.

Highlighted Provisions:

This bill:

- ▶ exempts from sales and use tax amounts paid or charged for construction materials used to open or expand a licensed child care program; and
- ▶ provides a repeal date for the exemption following legislative committee review.

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 2020, Chapters 44, 91, 354, 412, and 438

63I-1-259, as last amended by Laws of Utah 2020, Chapter 332

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

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



59-12-104. Exemptions.

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

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

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

(a) construction materials except:

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

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

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

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

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

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

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

(i) food and food ingredients; or

(ii) prepared food;

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

(i) alcoholic beverages;

(ii) food and food ingredients; or

(iii) prepared food;

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

(i) to a passenger;

(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]~~

~~[(H) 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;]~~

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

(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

88 exhibitor, distributor, or commercial television or radio broadcaster;

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

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

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

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

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

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

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

108 (a) not registered in this state; and

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

110 (ii) used in this state:

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

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

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

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

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

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

119 (ii) (A) a prescription was issued for the item; or
120 (B) the item was purchased by a hospital or other medical facility; and
121 (b) (i) Subsection (10)(a) applies to:
122 (A) a drug;
123 (B) a syringe; or
124 (C) a stoma supply; and
125 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
126 commission may by rule define the terms:
127 (A) "syringe"; or
128 (B) "stoma supply";
129 (11) purchases or leases exempt under Section 19-12-201;
130 (12) (a) sales of an item described in Subsection (12)(c) served by:
131 (i) the following if the item described in Subsection (12)(c) is not available to the
132 general public:
133 (A) a church; or
134 (B) a charitable institution; or
135 (ii) an institution of higher education if:
136 (A) the item described in Subsection (12)(c) is not available to the general public; or
137 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan
138 offered by the institution of higher education; or
139 (b) sales of an item described in Subsection (12)(c) provided for a patient by:
140 (i) a medical facility; or
141 (ii) a nursing facility; and
142 (c) Subsections (12)(a) and (b) apply to:
143 (i) food and food ingredients;
144 (ii) prepared food; or
145 (iii) alcoholic beverages;
146 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property
147 or a product transferred electronically by a person:
148 (i) regardless of the number of transactions involving the sale of that tangible personal
149 property or product transferred electronically by that person; and

(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 of tangible personal property or product transferred electronically;

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

(a) a manufacturing facility that:

(i) is located in the state; and

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

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

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

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

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

(ii) is located in the state; and

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

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

(B) 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

212 American Industry Classification System of the federal Executive Office of the President,
213 Office of Management and Budget;
214 (ii) is located in the state; and
215 (iii) uses or consumes the machinery, equipment, normal operating repair or
216 replacement parts, or materials in the operation of the web search portal;
217 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
218 (i) tooling;
219 (ii) special tooling;
220 (iii) support equipment;
221 (iv) special test equipment; or
222 (v) parts used in the repairs or renovations of tooling or equipment described in
223 Subsections (15)(a)(i) through (iv); and
224 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
225 (i) the tooling, equipment, or parts are used or consumed exclusively in the
226 performance of any aerospace or electronics industry contract with the United States
227 government or any subcontract under that contract; and
228 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
229 title to the tooling, equipment, or parts is vested in the United States government as evidenced
230 by:
231 (A) a government identification tag placed on the tooling, equipment, or parts; or
232 (B) listing on a government-approved property record if placing a government
233 identification tag on the tooling, equipment, or parts is impractical;
234 (16) sales of newspapers or newspaper subscriptions;
235 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
236 product transferred electronically traded in as full or part payment of the purchase price, except
237 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,
238 trade-ins are limited to other vehicles only, and the tax is based upon:
239 (i) the bill of sale or other written evidence of value of the vehicle being sold and the
240 vehicle being traded in; or
241 (ii) in the absence of a bill of sale or other written evidence of value, the then existing
242 fair market value of the vehicle being sold and the vehicle being traded in, as determined by the

243 commission; and

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

247 (i) money;

248 (ii) electricity;

249 (iii) water;

250 (iv) gas; or

251 (v) steam;

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

256 (A) becomes part of real estate; or

257 (B) is installed by a[+] farmer, contractor, or subcontractor; or

258 [~~(F)~~ ~~farmer;~~]

259 [~~(H)~~ ~~contractor; or~~]

260 [~~(H)~~ ~~subcontractor; or~~]

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

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

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

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

270 (I) hand tools; or

271 (II) maintenance and janitorial equipment and supplies;

272 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
273 transferred electronically if the tangible personal property or product transferred electronically

274 is used in an activity other than farming; and
275 (B) tangible personal property or a product transferred electronically that is considered
276 to be used in an activity other than farming includes:
277 (I) office equipment and supplies; or
278 (II) equipment and supplies used in:
279 (Aa) the sale or distribution of farm products;
280 (Bb) research; or
281 (Cc) transportation; or
282 (iii) a vehicle required to be registered by the laws of this state during the period
283 ending two years after the date of the vehicle's purchase;
284 (19) sales of hay;
285 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
286 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
287 garden, farm, or other agricultural produce is sold by:
288 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
289 agricultural produce;
290 (b) an employee of the producer described in Subsection (20)(a); or
291 (c) a member of the immediate family of the producer described in Subsection (20)(a);
292 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
293 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
294 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
295 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
296 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
297 manufacturer, processor, wholesaler, or retailer;
298 (23) a product stored in the state for resale;
299 (24) (a) purchases of a product if:
300 (i) the product is:
301 (A) purchased outside of this state;
302 (B) brought into this state:
303 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
304 (II) by a nonresident person who is not living or working in this state at the time of the

305 purchase;

306 (C) used for the personal use or enjoyment of the nonresident person described in

307 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and

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

309 (ii) for:

310 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of

311 the product for a purpose for which the product is designed occurs outside of this state;

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

313 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered

314 outside of this state;

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

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

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

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

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

320 following:

321 (i) conducting business in this state if that phrase has the same meaning in this

322 Subsection (24) as in Subsection (63);

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

324 as in Subsection (63); or

325 (iii) a purpose for which a product is designed if that phrase has the same meaning in

326 this Subsection (24) as in Subsection (63);

327 (25) a product purchased for resale in the regular course of business, either in its

328 original form or as an ingredient or component part of a manufactured or compounded product;

329 (26) a product upon which a sales or use tax was paid to some other state, or one of its

330 subdivisions, except that the state shall be paid any difference between the tax paid and the tax

331 imposed by this part and Part 2, Local Sales and Use Tax Act, and no adjustment is allowed if

332 the tax paid was greater than the tax imposed by this part and Part 2, Local Sales and Use Tax

333 Act;

334 (27) any sale of a service described in Subsections 59-12-103(1)(b), (c), and (d) to a

335 person for use in compounding a service taxable under the subsections;

(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:

(I) 30 days in any calendar year; or

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

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

(31) sales of aircraft manufactured in Utah;

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

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

(a) a vehicle by an authorized carrier; or

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

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

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

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

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

(35) sales relating to schools and fundraising sales;

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

367 (a) a person presents a prescription for the durable medical equipment; and
368 (b) the durable medical equipment is used for home use only;
369 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
370 Section 72-11-102; and
371 (b) the commission shall by rule determine the method for calculating sales exempt
372 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
373 (38) sales to a ski resort of:
374 (a) snowmaking equipment;
375 (b) ski slope grooming equipment;
376 (c) passenger ropeways as defined in Section 72-11-102; or
377 (d) parts used in the repairs or renovations of equipment or passenger ropeways
378 described in Subsections (38)(a) through (c);
379 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,
380 fuel oil, or other fuels for industrial use;
381 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
382 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
383 59-12-102;
384 (b) if a seller that sells or rents at the same business location the right to use or operate
385 for amusement, entertainment, or recreation one or more unassisted amusement devices and
386 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
387 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
388 amusement, entertainment, or recreation for the assisted amusement devices; and
389 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
390 Utah Administrative Rulemaking Act, the commission may make rules:
391 (i) governing the circumstances under which sales are at the same business location;
392 and
393 (ii) establishing the procedures and requirements for a seller to separately account for
394 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
395 assisted amusement devices;
396 (41) (a) sales of photocopies by:
397 (i) a governmental entity; or

398 (ii) an entity within the state system of public education, including:
399 (A) a school; or
400 (B) the State Board of Education; or
401 (b) sales of publications by a governmental entity;
402 (42) amounts paid for admission to an athletic event at an institution of higher
403 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
404 20 U.S.C. Sec. 1681 et seq.;

405 (43) (a) sales made to or by:
406 (i) an area agency on aging; or
407 (ii) a senior citizen center owned by a county, city, or town; or
408 (b) sales made by a senior citizen center that contracts with an area agency on aging;

409 (44) sales or leases of semiconductor fabricating, processing, research, or development
410 materials regardless of whether the semiconductor fabricating, processing, research, or
411 development materials:
412 (a) actually come into contact with a semiconductor; or
413 (b) ultimately become incorporated into real property;

414 (45) an amount paid by or charged to a purchaser for accommodations and services
415 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
416 59-12-104.2;

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

420 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
421 adopted by the Public Service Commission only for purchase of electricity produced from a
422 new alternative energy source built after January 1, 2016, as designated in the tariff by the
423 Public Service Commission; and
424 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
425 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
426 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
427 customer would have paid absent the tariff;

428 (48) sales or rentals of mobility enhancing equipment if a person presents a

429 prescription for the mobility enhancing equipment;
430 (49) sales of water in a:
431 (a) pipe;
432 (b) conduit;
433 (c) ditch; or
434 (d) reservoir;
435 (50) sales of currency or coins that constitute legal tender of a state, the United States,
436 or a foreign nation;
437 (51) (a) sales of an item described in Subsection (51)(b) if the item:
438 (i) does not constitute legal tender of a state, the United States, or a foreign nation; and
439 (ii) has a gold, silver, or platinum content of 50% or more; and
440 (b) Subsection (51)(a) applies to a gold, silver, or platinum:
441 (i) ingot;
442 (ii) bar;
443 (iii) medallion; or
444 (iv) decorative coin;
445 (52) amounts paid on a sale-leaseback transaction;
446 (53) sales of a prosthetic device:
447 (a) for use on or in a human; and
448 (b) (i) for which a prescription is required; or
449 (ii) if the prosthetic device is purchased by a hospital or other medical facility;
450 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
451 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
452 or equipment is primarily used in the production or postproduction of the following media for
453 commercial distribution:
454 (i) a motion picture;
455 (ii) a television program;
456 (iii) a movie made for television;
457 (iv) a music video;
458 (v) a commercial;
459 (vi) a documentary; or

460 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
461 commission by administrative rule made in accordance with Subsection (54)(d); or
462 (b) purchases, leases, or rentals of machinery or equipment by an establishment
463 described in Subsection (54)(c) that is used for the production or postproduction of the
464 following are subject to the taxes imposed by this chapter:

- 465 (i) a live musical performance;
- 466 (ii) a live news program; or
- 467 (iii) a live sporting event;
- 468 (c) the following establishments listed in the 1997 North American Industry
469 Classification System of the federal Executive Office of the President, Office of Management
470 and Budget, apply to Subsections (54)(a) and (b):

- 471 (i) NAICS Code 512110; or
- 472 (ii) NAICS Code 51219; and
- 473 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
474 commission may by rule:

- 475 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 476 or
- 477 (ii) define:

- 478 (A) "commercial distribution";
- 479 (B) "live musical performance";
- 480 (C) "live news program"; or
- 481 (D) "live sporting event";
- 482 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
483 on or before June 30, 2027, of tangible personal property that:

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

- 485 (A) is an alternative energy electricity production facility;
- 486 (B) is located in the state; and
- 487 (C) (I) becomes operational on or after July 1, 2004; or
- 488 (II) has its generation capacity increased by one or more megawatts on or after July 1,
489 2004, as a result of the use of the tangible personal property;
- 490 (ii) has an economic life of five or more years; and

(iii) is used to make the facility or the increase in capacity of the facility described in Subsection (55)(a)(i) operational up to the point of interconnection with an existing transmission grid including:

- (A) a wind turbine;
- (B) generating equipment;
- (C) a control and monitoring system;
- (D) a power line;
- (E) substation equipment;
- (F) lighting;
- (G) fencing;
- (H) pipes; or
- (I) other equipment used for locating a power line or pole; and

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

(i) tangible personal property used in construction of:

- (A) a new alternative energy electricity production facility; or
- (B) the increase in the capacity of an alternative energy electricity production facility;

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

and

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

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

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

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

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

- (A) is a waste energy production facility;
- (B) is located in the state; and

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

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

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

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

(A) generating equipment;

(B) a control and monitoring system;

(C) a power line;

(D) substation equipment;

(E) lighting;

(F) fencing;

(G) pipes; or

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

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

(i) tangible personal property used in construction of:

(A) a new waste energy facility; or

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

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

and

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

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

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

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

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

(A) is located in the state;

(B) produces fuel from alternative energy, including:

553 (I) methanol; or
554 (II) ethanol; and
555 (C) (I) becomes operational on or after July 1, 2004; or
556 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
557 a result of the installation of the tangible personal property;
558 (ii) has an economic life of five or more years; and
559 (iii) is installed on the facility described in Subsection (57)(a)(i);
560 (b) this Subsection (57) does not apply to:
561 (i) tangible personal property used in construction of:
562 (A) a new facility described in Subsection (57)(a)(i); or
563 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
564 (ii) contracted services required for construction and routine maintenance activities;
565 and
566 (iii) unless the tangible personal property is used or acquired for an increase in capacity
567 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
568 (A) the facility described in Subsection (57)(a)(i) is operational; or
569 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
570 (58) (a) subject to Subsection (58)(b) [~~or (c)~~], sales of tangible personal property or a
571 product transferred electronically to a person within this state if that tangible personal property
572 or product transferred electronically is subsequently shipped outside the state and incorporated
573 pursuant to contract into and becomes a part of real property located outside of this state; and
574 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
575 state or political entity to which the tangible personal property is shipped imposes a sales, use,
576 gross receipts, or other similar transaction excise tax on the transaction against which the other
577 state or political entity allows a credit for sales and use taxes imposed by this chapter; [~~and~~]
578 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~
579 ~~a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a~~
580 ~~refund;~~]
581 [(i) if the sale is made on or after July 1, 2004, but on or before June 30, 2008;]
582 [(ii) as if this Subsection (58) as in effect on July 1, 2008, were in effect on the day on
583 which the sale is made;]

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

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

587 ~~[(v) in accordance with Section 59-1-1410; and]~~

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

590 (59) purchases:

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

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

593 (A) names; or

594 (B) addresses; or

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

596 (A) names; or

597 (B) addresses; and

598 (b) used to send direct mail;

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

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

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

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

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

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

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

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

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

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

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

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

613 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
614 personal property or a product transferred electronically that are used in the research and

development of alternative energy technology; and

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

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

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

(A) purchased outside of this state;

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

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

(ii) for:

(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 and not required to be registered in this state under Section 41-1a-202 or 73-18-9 based on residency;

(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 tangible personal property is:

(i) clearly identified; and

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

(66) sales of construction materials:

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

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

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

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

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

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

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

(67) sales of construction materials:

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

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

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

(ii) that is owned or operated by a city in which an airline as defined in Section 59-2-102 is headquartered; and

(c) if the construction materials are:

(i) clearly identified;

(ii) segregated; and

(iii) installed or converted to real property:

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

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

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

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

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

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

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

(a) for a sale:

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

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

tangible personal property prior to making the sale; or

(b) for a lease:

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

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

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

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

(ii) the machinery or equipment:

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

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

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

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

(B) subject to taxation under this chapter; and

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

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

(ii) subject to taxation under this chapter;

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

(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 audio work;

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

(a) are used in:

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

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

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

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

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

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

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

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

(ii) research and development;

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

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

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

(c) beginning on July 1, 2021, if the person holds a valid refiner tax exemption certification as defined in Section [63M-4-701](#);

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

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

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

(b) is located in this state; and

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

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

(90) amounts paid or charged for construction materials used:

(a) in the construction of a new child care program, as defined in Section [26-39-102](#); or

(b) in construction to expand an existing child care program, as defined in Section [26-39-102](#), to allow the child care program to provide child care to a greater number of children.

Section 2. Section **63I-1-259** is amended to read:

63I-1-259. Repeal dates, Title 59.

(1) Section [59-1-213.1](#) is repealed on May 9, 2024.

832 (2) Section [59-1-213.2](#) is repealed on May 9, 2024.
833 (3) Subsection [59-1-405](#)(1)(g) is repealed on May 9, 2024.
834 (4) Subsection [59-1-405](#)(2)(b) is repealed on May 9, 2024.
835 [~~(5) Section [59-7-618](#) is repealed July 1, 2020.~~]
836 [~~(6)~~ (5) Section [59-9-102.5](#) is repealed December 31, 2030.
837 [~~(7) Section [59-10-1033](#) is repealed July 1, 2020.~~]
838 (6) Subsection [59-12-104](#)(90), which provides a sales and use tax exemption for
839 construction materials used to construct or expand a licensed child care program, is repealed
840 July 1, 2026.
841 [~~(8) Subsection [59-12-2219](#)(13), which addresses new revenue supplanting existing~~
842 ~~allocations, is repealed on June 30, 2020.~~]
843 [~~(9)~~ (7) Title 59, Chapter 28, State Transient Room Tax Act, is repealed on January 1,
844 2023.
845 Section 3. **Effective date.**
846 This bill takes effect on July 1, 2021.