

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

HYGIENE TAX ACT

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Susan Duckworth

Senate Sponsor: _____

LONG TITLE

General Description:

This bill modifies the sales and use tax exemptions.

Highlighted Provisions:

This bill:

- ▶ adds a sales and use tax exemption for an incontinence care item, tampons and sanitary napkins, and diapers; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

59-12-104, as last amended by Laws of Utah 2017, Chapters 264, 268, and 429

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



28 under Chapter 13, Motor and Special Fuel Tax Act;

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

31 (a) construction materials except:

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

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

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

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

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

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

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

47 (i) food and food ingredients; or

48 (ii) prepared food;

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

50 (i) alcoholic beverages;

51 (ii) food and food ingredients; or

52 (iii) prepared food;

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

54 (i) to a passenger;

55 (ii) by a commercial airline carrier; and

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

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

58 [~~(5) (a) (i) beginning on July 1, 2008, and ending on September 30, 2008, sales of parts~~

59 and equipment:]

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

63 [~~(H) for:]~~

64 [~~(Aa) installation in an aircraft, including services relating to the installation of parts or~~
65 ~~equipment in the aircraft,]~~

66 [~~(Bb) renovation of an aircraft, or]~~

67 [~~(Cc) repair of an aircraft, or]~~

68 [~~(B) for installation in an aircraft operated by a common carrier in interstate or foreign~~
69 ~~commerce; or]~~

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

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

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

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

77 [~~(iii) if the person did not claim the exemption allowed by Subsection (5)(a)(i)(B) for~~
78 ~~the sale prior to filing for the refund;]~~

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

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

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

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

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

88 (7) (a) except as provided in Subsection (88) and subject to Subsection (7)(b), sales of
89 cleaning or washing of tangible personal property if the cleaning or washing of the tangible

90 personal property is not assisted cleaning or washing of tangible personal property;

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

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

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

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

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

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

107 (a) not registered in this state; and

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

109 (ii) used in this state:

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

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

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

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

116 (10) (a) amounts paid for ~~[an item described in Subsection (10)(b) if]~~ the following
117 items, if the items are intended for human use:

118 (i) an item marketed for incontinence care, including:

119 (A) underwear;

120 (B) pants;

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

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

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

186 (14) amounts paid or charged for a purchase or lease of machinery, equipment, or
187 normal operating repair or replacement parts with an economic life of three or more years by:

188 (a) a manufacturing facility, except as provided in Subsection (86), that:

189 (i) is located in the state; and
190 (ii) uses the machinery, equipment, or normal operating repair or replacement parts:

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

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

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

199 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
200 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
201 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
202 2002 North American Industry Classification System of the federal Executive Office of the
203 President, Office of Management and Budget;

204 (ii) is located in the state; and
205 (iii) uses the machinery, equipment, or normal operating repair or replacement parts in:

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

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

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

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

214 mining; or
215 (E) preventing, controlling, or reducing dust or other pollutants from mining; or
216 (c) an establishment, as the commission defines that term in accordance with Title 63G,
217 Chapter 3, Utah Administrative Rulemaking Act, that:
218 (i) is described in NAICS Code 518112, Web Search Portals, of the 2002 North
219 American Industry Classification System of the federal Executive Office of the President,
220 Office of Management and Budget;
221 (ii) is located in the state; and
222 (iii) uses the machinery, equipment, or normal operating repair or replacement parts in
223 the operation of the web search portal;
224 (15) (a) sales of the following if the requirements of Subsection (15)(b) are met:
225 (i) tooling;
226 (ii) special tooling;
227 (iii) support equipment;
228 (iv) special test equipment; or
229 (v) parts used in the repairs or renovations of tooling or equipment described in
230 Subsections (15)(a)(i) through (iv); and
231 (b) sales of tooling, equipment, or parts described in Subsection (15)(a) are exempt if:
232 (i) the tooling, equipment, or parts are used or consumed exclusively in the
233 performance of any aerospace or electronics industry contract with the United States
234 government or any subcontract under that contract; and
235 (ii) under the terms of the contract or subcontract described in Subsection (15)(b)(i),
236 title to the tooling, equipment, or parts is vested in the United States government as evidenced
237 by:
238 (A) a government identification tag placed on the tooling, equipment, or parts; or
239 (B) listing on a government-approved property record if placing a government
240 identification tag on the tooling, equipment, or parts is impractical;
241 (16) sales of newspapers or newspaper subscriptions;
242 (17) (a) except as provided in Subsection (17)(b), tangible personal property or a
243 product transferred electronically traded in as full or part payment of the purchase price, except
244 that for purposes of calculating sales or use tax upon vehicles not sold by a vehicle dealer,

245 trade-ins are limited to other vehicles only, and the tax is based upon:

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

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

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

254 (i) money;

255 (ii) electricity;

256 (iii) water;

257 (iv) gas; or

258 (v) steam;

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

263 (A) becomes part of real estate; or

264 (B) is installed by a~~[(F)]~~ farmer~~[(H)]~~, contractor~~[(I)]~~, or ~~[(H)]~~ subcontractor; or

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

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

270 (i) (A) subject to Subsection (18)(b)(i)(B), ~~[the following]~~ machinery, equipment,
271 materials, or supplies if used in a manner that is incidental to farming~~[(I)]~~; and

272 ~~[(F)] machinery;~~

273 ~~[(H)] equipment;~~

274 ~~[(H)] materials; or~~

275 ~~[(IV)] supplies; and~~

276 (B) tangible personal property that is considered to be used in a manner that is
277 incidental to farming includes:
278 (I) hand tools; or
279 (II) maintenance and janitorial equipment and supplies;
280 (ii) (A) subject to Subsection (18)(b)(ii)(B), tangible personal property or a product
281 transferred electronically if the tangible personal property or product transferred electronically
282 is used in an activity other than farming; and
283 (B) tangible personal property or a product transferred electronically that is considered
284 to be used in an activity other than farming includes:
285 (I) office equipment and supplies; or
286 (II) equipment and supplies used in:
287 (Aa) the sale or distribution of farm products;
288 (Bb) research; or
289 (Cc) transportation; or
290 (iii) a vehicle required to be registered by the laws of this state during the period
291 ending two years after the date of the vehicle's purchase;
292 (19) sales of hay;
293 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
294 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
295 garden, farm, or other agricultural produce is sold by:
296 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
297 agricultural produce;
298 (b) an employee of the producer described in Subsection (20)(a); or
299 (c) a member of the immediate family of the producer described in Subsection (20)(a);
300 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
301 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
302 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
303 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
304 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
305 manufacturer, processor, wholesaler, or retailer;
306 (23) a product stored in the state for resale;

307 (24) (a) purchases of a product if:
308 (i) the product is:
309 (A) purchased outside of this state;
310 (B) brought into this state:
311 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
312 (II) by a nonresident person who is not living or working in this state at the time of the
313 purchase;
314 (C) used for the personal use or enjoyment of the nonresident person described in
315 Subsection (24)(a)(i)(B)(II) while that nonresident person is within the state; and
316 (D) not used in conducting business in this state; and
317 (ii) for:
318 (A) a product other than a boat described in Subsection (24)(a)(ii)(B), the first use of
319 the product for a purpose for which the product is designed occurs outside of this state;
320 (B) a boat, the boat is registered outside of this state; or
321 (C) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
322 outside of this state;
323 (b) the exemption provided for in Subsection (24)(a) does not apply to:
324 (i) a lease or rental of a product; or
325 (ii) a sale of a vehicle exempt under Subsection (33); and
326 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
327 purposes of Subsection (24)(a), the commission may by rule define what constitutes the
328 following:
329 (i) conducting business in this state if that phrase has the same meaning in this
330 Subsection (24) as in Subsection (63);
331 (ii) the first use of a product if that phrase has the same meaning in this Subsection (24)
332 as in Subsection (63); or
333 (iii) a purpose for which a product is designed if that phrase has the same meaning in
334 this Subsection (24) as in Subsection (63);
335 (25) a product purchased for resale in this state, in the regular course of business, either
336 in its original form or as an ingredient or component part of a manufactured or compounded
337 product;

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

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

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

347 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
348 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
349 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
350 the President, Office of Management and Budget;

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

353 (a) not registered in this state; and

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

355 (ii) used in this state:

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

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

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

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

364 (31) sales of aircraft manufactured in Utah;

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

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

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

- 369 (b) tangible personal property that is installed on a vehicle:
370 (i) sold or leased to or used by an authorized carrier; and
371 (ii) before the vehicle is placed in service for the first time;
- 372 (34) (a) 45% of the sales price of any new manufactured home; and
373 (b) 100% of the sales price of any used manufactured home;
- 374 (35) sales relating to schools and fundraising sales;
375 (36) sales or rentals of durable medical equipment if:
376 (a) a person presents a prescription for the durable medical equipment; and
377 (b) the durable medical equipment is used for home use only;
- 378 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
379 Section 72-11-102; and
- 380 (b) the commission shall by rule determine the method for calculating sales exempt
381 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
- 382 (38) sales to a ski resort of:
383 (a) snowmaking equipment;
384 (b) ski slope grooming equipment;
385 (c) passenger ropeways as defined in Section 72-11-102; or
386 (d) parts used in the repairs or renovations of equipment or passenger ropeways
387 described in Subsections (38)(a) through (c);
- 388 (39) sales of natural gas, electricity, heat, coal, fuel oil, or other fuels for industrial use;
- 389 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
390 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
391 59-12-102;
- 392 (b) if a seller that sells or rents at the same business location the right to use or operate
393 for amusement, entertainment, or recreation one or more unassisted amusement devices and
394 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
395 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
396 amusement, entertainment, or recreation for the assisted amusement devices; and
- 397 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
398 Utah Administrative Rulemaking Act, the commission may make rules:
- 399 (i) governing the circumstances under which sales are at the same business location;

400 and

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

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

405 (i) a governmental entity; or

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

407 (A) a school; or

408 (B) the State Board of Education; or

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

410 (42) amounts paid for admission to an athletic event at an institution of higher
411 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
412 20 U.S.C. Sec. 1681 et seq.;

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

414 (i) an area agency on aging; or

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

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

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

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

421 (b) ultimately become incorporated into real property;

422 (45) an amount paid by or charged to a purchaser for accommodations and services
423 described in Subsection [59-12-103\(1\)\(i\)](#) to the extent the amount is exempt under Section
424 [59-12-104.2](#);

425 (46) [~~beginning on September 1, 2001,~~] the lease or use of a vehicle issued a temporary
426 sports event registration certificate in accordance with Section [41-3-306](#) for the event period
427 specified on the temporary sports event registration certificate;

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

431 Public Service Commission;

432 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
433 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
434 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the
435 customer would have paid absent the tariff;

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

438 (49) sales of water in a:

439 (a) pipe;

440 (b) conduit;

441 (c) ditch; or

442 (d) reservoir;

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

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

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

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

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

449 (i) ingot;

450 (ii) bar;

451 (iii) medallion; or

452 (iv) decorative coin;

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

454 (53) sales of a prosthetic device:

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

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

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

458 (54) (a) except as provided in Subsection (54)(b), purchases, leases, or rentals of
459 machinery or equipment by an establishment described in Subsection (54)(c) if the machinery
460 or equipment is primarily used in the production or postproduction of the following media for
461 commercial distribution:

462 (i) a motion picture;
463 (ii) a television program;
464 (iii) a movie made for television;
465 (iv) a music video;
466 (v) a commercial;
467 (vi) a documentary; or
468 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
469 commission by administrative rule made in accordance with Subsection (54)(d); or
470 (b) purchases, leases, or rentals of machinery or equipment by an establishment
471 described in Subsection (54)(c) that is used for the production or postproduction of the
472 following are subject to the taxes imposed by this chapter:
473 (i) a live musical performance;
474 (ii) a live news program; or
475 (iii) a live sporting event;
476 (c) the following establishments listed in the 1997 North American Industry
477 Classification System of the federal Executive Office of the President, Office of Management
478 and Budget, apply to Subsections (54)(a) and (b):
479 (i) NAICS Code 512110; or
480 (ii) NAICS Code 51219; and
481 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
482 commission may by rule:
483 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
484 or
485 (ii) define:
486 (A) "commercial distribution";
487 (B) "live musical performance";
488 (C) "live news program"; or
489 (D) "live sporting event";
490 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
491 on or before June 30, 2027, of tangible personal property that:
492 (i) is leased or purchased for or by a facility that:

493 (A) is an alternative energy electricity production facility;
494 (B) is located in the state; and
495 (C) (I) becomes operational on or after July 1, 2004; or
496 (II) has its generation capacity increased by one or more megawatts on or after July 1,
497 2004, as a result of the use of the tangible personal property;
498 (ii) has an economic life of five or more years; and
499 (iii) is used to make the facility or the increase in capacity of the facility described in
500 Subsection (55)(a)(i) operational up to the point of interconnection with an existing
501 transmission grid including:
502 (A) a wind turbine;
503 (B) generating equipment;
504 (C) a control and monitoring system;
505 (D) a power line;
506 (E) substation equipment;
507 (F) lighting;
508 (G) fencing;
509 (H) pipes; or
510 (I) other equipment used for locating a power line or pole; and
511 (b) this Subsection (55) does not apply to:
512 (i) tangible personal property used in construction of:
513 (A) a new alternative energy electricity production facility; or
514 (B) the increase in the capacity of an alternative energy electricity production facility;
515 (ii) contracted services required for construction and routine maintenance activities;
516 and
517 (iii) unless the tangible personal property is used or acquired for an increase in capacity
518 of the facility described in Subsection (55)(a)(i)(C)(II), tangible personal property used or
519 acquired after:
520 (A) the alternative energy electricity production facility described in Subsection
521 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or
522 (B) the increased capacity described in Subsection (55)(a)(i) is operational as described
523 in Subsection (55)(a)(iii);

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

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

527 (A) is a waste energy production facility;

528 (B) is located in the state; and

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

530 (II) has its generation capacity increased by one or more megawatts on or after July 1,
531 2004, as a result of the use of the tangible personal property;

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

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

534 Subsection (56)(a)(i) operational up to the point of interconnection with an existing
535 transmission grid including:

536 (A) generating equipment;

537 (B) a control and monitoring system;

538 (C) a power line;

539 (D) substation equipment;

540 (E) lighting;

541 (F) fencing;

542 (G) pipes; or

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

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

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

546 (A) a new waste energy facility; or

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

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

549 and

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

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

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

555 in Subsection (56)(a)(iii);

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

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

559 (A) is located in the state;

560 (B) produces fuel from alternative energy, including[~~-(F)~~] methanol[;] or [~~(H)~~] ethanol;

561 and

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

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

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

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

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

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

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

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

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

572 and

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

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

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

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

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

585 [~~(c) notwithstanding the time period of Subsection 59-1-1410(8) for filing for a refund,~~

586 a person may claim the exemption allowed by this Subsection (58) for a sale by filing for a
587 refund:]

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

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

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

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

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

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

597 (59) purchases:

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

599 (i) a list containing information that includes one or more[:(A)] names[:] or [(B)]
600 addresses; or

601 (ii) a database containing information that includes one or more[:(A)] names[:] or
602 [(B)] addresses; and

603 (b) used to send direct mail;

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

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

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

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

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

610 and

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

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

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

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

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

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

617 (v) telecommunications transmission equipment, machinery, or software;
618 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
619 personal property or a product transferred electronically that are used in the research and
620 development of alternative energy technology; and
621 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
622 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
623 purchases of tangible personal property or a product transferred electronically that are used in
624 the research and development of alternative energy technology;
625 (63) (a) purchases of tangible personal property or a product transferred electronically
626 if:
627 (i) the tangible personal property or product transferred electronically is:
628 (A) purchased outside of this state;
629 (B) brought into this state at any time after the purchase described in Subsection
630 (63)(a)(i)(A); and
631 (C) used in conducting business in this state; and
632 (ii) for:
633 (A) tangible personal property or a product transferred electronically other than the
634 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
635 for a purpose for which the property is designed occurs outside of this state; or
636 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
637 outside of this state;
638 (b) the exemption provided for in Subsection (63)(a) does not apply to:
639 (i) a lease or rental of tangible personal property or a product transferred electronically;
640 or
641 (ii) a sale of a vehicle exempt under Subsection (33); and
642 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
643 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
644 following:
645 (i) conducting business in this state if that phrase has the same meaning in this
646 Subsection (63) as in Subsection (24);
647 (ii) the first use of tangible personal property or a product transferred electronically if

648 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
649 (iii) a purpose for which tangible personal property or a product transferred
650 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
651 Subsection (24);
652 (64) sales of disposable home medical equipment or supplies if:
653 (a) a person presents a prescription for the disposable home medical equipment or
654 supplies;
655 (b) the disposable home medical equipment or supplies are used exclusively by the
656 person to whom the prescription described in Subsection (64)(a) is issued; and
657 (c) the disposable home medical equipment and supplies are listed as eligible for
658 payment under:
659 (i) Title XVIII, federal Social Security Act; or
660 (ii) the state plan for medical assistance under Title XIX, federal Social Security Act;
661 (65) sales:
662 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit
663 District Act; or
664 (b) of tangible personal property to a subcontractor of a public transit district, if the
665 tangible personal property is:
666 (i) clearly identified; and
667 (ii) installed or converted to real property owned by the public transit district;
668 (66) sales of construction materials:
669 (a) purchased on or after July 1, 2010;
670 (b) purchased by, on behalf of, or for the benefit of an international airport:
671 (i) located within a county of the first class; and
672 (ii) that has a United States customs office on its premises; and
673 (c) if the construction materials are:
674 (i) clearly identified;
675 (ii) segregated; and
676 (iii) installed or converted to real property:
677 (A) owned or operated by the international airport described in Subsection (66)(b); and
678 (B) located at the international airport described in Subsection (66)(b);

- 679 (67) sales of construction materials:
- 680 (a) purchased on or after July 1, 2008;
- 681 (b) purchased by, on behalf of, or for the benefit of a new airport:
- 682 (i) located within a county of the second class; and
- 683 (ii) that is owned or operated by a city in which an airline as defined in Section
- 684 [59-2-102](#) is headquartered; and
- 685 (c) if the construction materials are:
- 686 (i) clearly identified;
- 687 (ii) segregated; and
- 688 (iii) installed or converted to real property:
- 689 (A) owned or operated by the new airport described in Subsection (67)(b);
- 690 (B) located at the new airport described in Subsection (67)(b); and
- 691 (C) as part of the construction of the new airport described in Subsection (67)(b);
- 692 (68) sales of fuel to a common carrier that is a railroad for use in a locomotive engine;
- 693 (69) purchases and sales described in Section [63H-4-111](#);
- 694 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
- 695 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
- 696 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 697 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 698 powered aircraft; or
- 699 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
- 700 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
- 701 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
- 702 lists a state or country other than this state as the location of registry of the fixed wing turbine
- 703 powered aircraft;
- 704 (71) subject to Section [59-12-104.4](#), sales of a textbook for a higher education course:
- 705 (a) to a person admitted to an institution of higher education; and
- 706 (b) by a seller, other than a bookstore owned by an institution of higher education, if
- 707 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
- 708 textbook for a higher education course;
- 709 (72) a license fee or tax a municipality imposes in accordance with Subsection

710 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
711 level of municipal services;

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

715 (a) clearly identified;

716 (b) segregated; and

717 (c) installed or converted to real property;

718 (74) amounts paid or charged for:

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

720 (i) are used in performing qualified research:

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

722 (B) in the state; and

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

724 (b) normal operating repair or replacement parts:

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

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

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

729 (a) for a sale:

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

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

732 tangible personal property prior to making the sale; or

733 (b) for a lease:

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

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

736 personal property prior to making the lease;

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

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

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

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

- 741 (ii) the machinery or equipment:
- 742 (A) has an economic life of three or more years; and
- 743 (B) is used by one or more persons who pay admission or user fees described in
- 744 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
- 745 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
- 746 (A) amounts paid or charged as admission or user fees described in Subsection
- 747 59-12-103(1)(f); and
- 748 (B) subject to taxation under this chapter; and
- 749 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 750 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
- 751 previous calendar quarter is:
- 752 (i) amounts paid or charged as admission or user fees described in Subsection
- 753 59-12-103(1)(f); and
- 754 (ii) subject to taxation under this chapter;
- 755 (77) purchases of a short-term lodging consumable by a business that provides
- 756 accommodations and services described in Subsection 59-12-103(1)(i);
- 757 (78) amounts paid or charged to access a database:
- 758 (a) if the primary purpose for accessing the database is to view or retrieve information
- 759 from the database; and
- 760 (b) not including amounts paid or charged for a:
- 761 (i) digital audiowork;
- 762 (ii) digital audio-visual work; or
- 763 (iii) digital book;
- 764 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 765 payment service, of:
- 766 (a) machinery and equipment that:
- 767 (i) are used in the operation of the electronic financial payment service; and
- 768 (ii) have an economic life of three or more years; and
- 769 (b) normal operating repair or replacement parts that:
- 770 (i) are used in the operation of the electronic financial payment service; and
- 771 (ii) have an economic life of three or more years;

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

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

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

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

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

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

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

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

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

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

786 (84) ~~[(a) except as provided in Subsection (84)(b),]~~ amounts paid or charged for a
787 purchase or lease made by a drilling equipment manufacturer of machinery, equipment,
788 ~~[materials, or]~~ normal operating repair or replacement parts ~~[(i)],~~ or materials, except for office
789 equipment or office supplies, that are used or consumed exclusively in the drilling equipment
790 manufacturer's manufacturing process; ~~[and]~~

791 ~~[(ii) except for office:]~~

792 ~~[(A) equipment; or]~~

793 ~~[(B) supplies; and]~~

794 ~~[(b) beginning on July 1, 2015, and ending on June 30, 2017, a person may claim an~~
795 ~~exemption described in Subsection (84)(a) only by filing for a refund:]~~

796 ~~[(i) of 50% of the tax paid on the amounts paid or charged; and]~~

797 ~~[(ii) in accordance with Section 59-1-1410;]~~

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

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

802 (b) have an economic life of one or more years; ~~[and]~~

803 (86) amounts paid or charged for a purchase or lease of machinery, equipment, or
804 normal operating repair or replacement parts by a manufacturing facility that:

805 (a) is an establishment, as the commission defines that term in accordance with Title
806 63G, Chapter 3, Utah Administrative Rulemaking Act;

807 (b) is described in NAICS Code 336111, Automobile Manufacturing, of the 2002
808 North American Industry Classification System of the federal Executive Office of the
809 President, Office of Management and Budget;

810 (c) is located in the state; and

811 (d) uses the machinery, equipment, or normal operating repair or replacement parts in
812 the manufacturing process to manufacture an item sold as tangible personal property, as the
813 commission may define that phrase in accordance with Title 63G, Chapter 3, Utah
814 Administrative Rulemaking Act;

815 (87) amounts paid or charged for a purchase or lease of equipment or normal operating
816 repair or replacement parts with an economic life of less than three years by a manufacturing
817 facility that:

818 (a) is an establishment, as the commission defines that term in accordance with Title
819 63G, Chapter 3, Utah Administrative Rulemaking Act;

820 (b) is described in NAICS Code 325120, Industrial Gas Manufacturing, of the 2002
821 North American Industry Classification System of the federal Executive Office of the
822 President, Office of Management and Budget;

823 (c) is located in the state; and

824 (d) uses the equipment or normal operating repair or replacement parts to manufacture
825 hydrogen;

826 (88) sales of cleaning or washing of a vehicle, except for cleaning or washing of a
827 vehicle that includes cleaning or washing of the interior of the vehicle; and

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

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

833 (b) if the machinery, equipment, normal operating repair or replacement parts,

834 catalysts, chemicals, reagents, solutions, or supplies are used or consumed in:
835 (i) the production process to produce gasoline or diesel fuel, or at which blendstock is
836 added to gasoline or diesel fuel;
837 (ii) research and development;
838 (iii) transporting, storing, or managing raw materials, work in process, finished
839 products, and waste materials produced from refining gasoline or diesel fuel, or adding
840 blendstock to gasoline or diesel fuel;
841 (iv) developing or maintaining a road, tunnel, excavation, or similar feature used in
842 refining; or
843 (v) preventing, controlling, or reducing pollutants from refining; and
844 (c) beginning on July 1, 2021, if the person has obtained a form certified by the Office
845 of Energy Development under Subsection [63M-4-702\(2\)](#).
846 Section 2. **Effective date.**
847 This bill takes effect on July 1, 2018.

Legislative Review Note
Office of Legislative Research and General Counsel