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FOOD TAX AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Luz Escamilla

House Sponsor: _____

LONG TITLE

General Description:

This bill modifies the sales and use tax exemptions.

Highlighted Provisions:

This bill:

- ▶ exempts from sales and use tax amounts paid or charged for an item eligible for purchase by any purchaser under the Special Supplemental Nutrition Program for Women, Infants, and Children.

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 2022, Chapters 228, 275, 280, and 373

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) sales of parts and equipment for installation in an aircraft operated by a common

59 carrier in interstate or foreign commerce;

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

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

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

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

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

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

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

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

82 (a) not registered in this state; and

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

84 (ii) used in this state:

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

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

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

89 (B) if the vehicle is used to conduct business, for the time period necessary to transport

90 the vehicle to the borders of this state;

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

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

93 (ii) (A) a prescription was issued for the item; or

94 (B) the item was purchased by a hospital or other medical facility; and

95 (b) (i) Subsection (10)(a) applies to:

96 (A) a drug;

97 (B) a syringe; or

98 (C) a stoma supply; and

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

100 commission may by rule define the terms:

101 (A) "syringe"; or

102 (B) "stoma supply";

103 (11) purchases or leases exempt under Section [19-12-201](#);

104 (12) (a) sales of an item described in Subsection (12)(c) served by:

105 (i) the following if the item described in Subsection (12)(c) is not available to the

106 general public:

107 (A) a church; or

108 (B) a charitable institution; or

109 (ii) an institution of higher education if:

110 (A) the item described in Subsection (12)(c) is not available to the general public; or

111 (B) the item described in Subsection (12)(c) is prepaid as part of a student meal plan

112 offered by the institution of higher education; or

113 (b) sales of an item described in Subsection (12)(c) provided for a patient by:

114 (i) a medical facility; or

115 (ii) a nursing facility; and

116 (c) Subsections (12)(a) and (b) apply to:

117 (i) food and food ingredients;

118 (ii) prepared food; or

119 (iii) alcoholic beverages;

120 (13) (a) except as provided in Subsection (13)(b), the sale of tangible personal property

121 or a product transferred electronically by a person:

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

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

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

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

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

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

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

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

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

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

143 (i) a person is regularly engaged in the business of selling a type of tangible personal
144 property or product transferred electronically;

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

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

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

152 supplies, by:

153 (a) a manufacturing facility that:

154 (i) is located in the state; and

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

156 replacement parts, or materials:

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

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

163 (b) an establishment, as the commission defines that term in accordance with Title
164 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

165 (i) is described in NAICS Subsector 212, Mining (except Oil and Gas), or NAICS
166 Code 213113, Support Activities for Coal Mining, 213114, Support Activities for Metal
167 Mining, or 213115, Support Activities for Nonmetallic Minerals (except Fuels) Mining, of the
168 2002 North American Industry Classification System of the federal Executive Office of the
169 President, Office of Management and Budget;

170 (ii) is located in the state; and

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

172 replacement parts, or materials in:

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

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

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

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

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

183 (c) an establishment, as the commission defines that term in accordance with Title
184 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

188 (ii) is located in the state; and

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

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

192 (i) tooling;

193 (ii) special tooling;

194 (iii) support equipment;

195 (iv) special test equipment; or

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

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

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

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

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

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

208 (16) sales of newspapers or newspaper subscriptions;

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

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

214 vehicle being traded in; or

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

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

221 (i) money;

222 (ii) electricity;

223 (iii) water;

224 (iv) gas; or

225 (v) steam;

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

230 (A) becomes part of real estate; or

231 (B) is installed by a farmer, contractor, or subcontractor; or

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

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

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

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

241 (I) hand tools; or

242 (II) maintenance and janitorial equipment and supplies;

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

245 is used in an activity other than farming; and
246 (B) tangible personal property or a product transferred electronically that is considered
247 to be used in an activity other than farming includes:
248 (I) office equipment and supplies; or
249 (II) equipment and supplies used in:
250 (Aa) the sale or distribution of farm products;
251 (Bb) research; or
252 (Cc) transportation; or
253 (iii) a vehicle required to be registered by the laws of this state during the period
254 ending two years after the date of the vehicle's purchase;
255 (19) sales of hay;
256 (20) exclusive sale during the harvest season of seasonal crops, seedling plants, or
257 garden, farm, or other agricultural produce if the seasonal crops are, seedling plants are, or
258 garden, farm, or other agricultural produce is sold by:
259 (a) the producer of the seasonal crops, seedling plants, or garden, farm, or other
260 agricultural produce;
261 (b) an employee of the producer described in Subsection (20)(a); or
262 (c) a member of the immediate family of the producer described in Subsection (20)(a);
263 (21) purchases made using a coupon as defined in 7 U.S.C. Sec. 2012 that is issued
264 under the Food Stamp Program, 7 U.S.C. Sec. 2011 et seq.;
265 (22) sales of nonreturnable containers, nonreturnable labels, nonreturnable bags,
266 nonreturnable shipping cases, and nonreturnable casings to a manufacturer, processor,
267 wholesaler, or retailer for use in packaging tangible personal property to be sold by that
268 manufacturer, processor, wholesaler, or retailer;
269 (23) a product stored in the state for resale;
270 (24) (a) purchases of a product if:
271 (i) the product is:
272 (A) purchased outside of this state;
273 (B) brought into this state:
274 (I) at any time after the purchase described in Subsection (24)(a)(i)(A); and
275 (II) by a nonresident person who is not living or working in this state at the time of the

276 purchase;

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

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

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

280 (ii) for:

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

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

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

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

285 outside of this state;

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

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

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

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

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

291 following:

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

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

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

295 as in Subsection (63); or

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

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

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

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

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

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

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

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

304 Act;

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

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

307 (28) [~~purchases made in accordance with the special supplemental nutrition program~~
308 ~~for women, infants, and children~~] amounts paid or charged for an item eligible for purchase in
309 the state under the Special Supplemental Nutrition Program for Women, Infants, and Children
310 established in 42 U.S.C. Sec. 1786;

311 (29) sales or leases of rolls, rollers, refractory brick, electric motors, or other
312 replacement parts used in the furnaces, mills, or ovens of a steel mill described in SIC Code
313 3312 of the 1987 Standard Industrial Classification Manual of the federal Executive Office of
314 the President, Office of Management and Budget;

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

317 (a) not registered in this state; and

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

319 (ii) used in this state:

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

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

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

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

328 (31) sales of aircraft manufactured in Utah;

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

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

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

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

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

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

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

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

338 (35) sales relating to schools and fundraising sales;
339 (36) sales or rentals of durable medical equipment if:
340 (a) a person presents a prescription for the durable medical equipment; and
341 (b) the durable medical equipment is used for home use only;
342 (37) (a) sales to a ski resort of electricity to operate a passenger ropeway as defined in
343 Section 72-11-102; and
344 (b) the commission shall by rule determine the method for calculating sales exempt
345 under Subsection (37)(a) that are not separately metered and accounted for in utility billings;
346 (38) sales to a ski resort of:
347 (a) snowmaking equipment;
348 (b) ski slope grooming equipment;
349 (c) passenger ropeways as defined in Section 72-11-102; or
350 (d) parts used in the repairs or renovations of equipment or passenger ropeways
351 described in Subsections (38)(a) through (c);
352 (39) subject to Subsection 59-12-103(2)(j), sales of natural gas, electricity, heat, coal,
353 fuel oil, or other fuels for industrial use;
354 (40) (a) subject to Subsection (40)(b), sales or rentals of the right to use or operate for
355 amusement, entertainment, or recreation an unassisted amusement device as defined in Section
356 59-12-102;
357 (b) if a seller that sells or rents at the same business location the right to use or operate
358 for amusement, entertainment, or recreation one or more unassisted amusement devices and
359 one or more assisted amusement devices, the exemption described in Subsection (40)(a)
360 applies if the seller separately accounts for the sales or rentals of the right to use or operate for
361 amusement, entertainment, or recreation for the assisted amusement devices; and
362 (c) for purposes of Subsection (40)(b) and in accordance with Title 63G, Chapter 3,
363 Utah Administrative Rulemaking Act, the commission may make rules:
364 (i) governing the circumstances under which sales are at the same business location;
365 and
366 (ii) establishing the procedures and requirements for a seller to separately account for
367 the sales or rentals of the right to use or operate for amusement, entertainment, or recreation for
368 assisted amusement devices;

- 369 (41) (a) sales of photocopies by:
- 370 (i) a governmental entity; or
- 371 (ii) an entity within the state system of public education, including:
- 372 (A) a school; or
- 373 (B) the State Board of Education; or
- 374 (b) sales of publications by a governmental entity;
- 375 (42) amounts paid for admission to an athletic event at an institution of higher
- 376 education that is subject to the provisions of Title IX of the Education Amendments of 1972,
- 377 20 U.S.C. Sec. 1681 et seq.;
- 378 (43) (a) sales made to or by:
- 379 (i) an area agency on aging; or
- 380 (ii) a senior citizen center owned by a county, city, or town; or
- 381 (b) sales made by a senior citizen center that contracts with an area agency on aging;
- 382 (44) sales or leases of semiconductor fabricating, processing, research, or development
- 383 materials regardless of whether the semiconductor fabricating, processing, research, or
- 384 development materials:
- 385 (a) actually come into contact with a semiconductor; or
- 386 (b) ultimately become incorporated into real property;
- 387 (45) an amount paid by or charged to a purchaser for accommodations and services
- 388 described in Subsection 59-12-103(1)(i) to the extent the amount is exempt under Section
- 389 59-12-104.2;
- 390 (46) the lease or use of a vehicle issued a temporary sports event registration certificate
- 391 in accordance with Section 41-3-306 for the event period specified on the temporary sports
- 392 event registration certificate;
- 393 (47) (a) sales or uses of electricity, if the sales or uses are made under a retail tariff
- 394 adopted by the Public Service Commission only for purchase of electricity produced from a
- 395 new alternative energy source built after January 1, 2016, as designated in the tariff by the
- 396 Public Service Commission; and
- 397 (b) for a residential use customer only, the exemption under Subsection (47)(a) applies
- 398 only to the portion of the tariff rate a customer pays under the tariff described in Subsection
- 399 (47)(a) that exceeds the tariff rate under the tariff described in Subsection (47)(a) that the

400 customer would have paid absent the tariff;

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

403 (49) sales of water in a:

404 (a) pipe;

405 (b) conduit;

406 (c) ditch; or

407 (d) reservoir;

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

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

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

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

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

414 (i) ingot;

415 (ii) bar;

416 (iii) medallion; or

417 (iv) decorative coin;

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

419 (53) sales of a prosthetic device:

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

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

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

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

427 (i) a motion picture;

428 (ii) a television program;

429 (iii) a movie made for television;

430 (iv) a music video;

- 431 (v) a commercial;
- 432 (vi) a documentary; or
- 433 (vii) a medium similar to Subsections (54)(a)(i) through (vi) as determined by the
- 434 commission by administrative rule made in accordance with Subsection (54)(d); or
- 435 (b) purchases, leases, or rentals of machinery or equipment by an establishment
- 436 described in Subsection (54)(c) that is used for the production or postproduction of the
- 437 following are subject to the taxes imposed by this chapter:
- 438 (i) a live musical performance;
- 439 (ii) a live news program; or
- 440 (iii) a live sporting event;
- 441 (c) the following establishments listed in the 1997 North American Industry
- 442 Classification System of the federal Executive Office of the President, Office of Management
- 443 and Budget, apply to Subsections (54)(a) and (b):
- 444 (i) NAICS Code 512110; or
- 445 (ii) NAICS Code 51219; and
- 446 (d) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 447 commission may by rule:
- 448 (i) prescribe what constitutes a medium similar to Subsections (54)(a)(i) through (vi);
- 449 or
- 450 (ii) define:
- 451 (A) "commercial distribution";
- 452 (B) "live musical performance";
- 453 (C) "live news program"; or
- 454 (D) "live sporting event";
- 455 (55) (a) leases of seven or more years or purchases made on or after July 1, 2004, but
- 456 on or before June 30, 2027, of tangible personal property that:
- 457 (i) is leased or purchased for or by a facility that:
- 458 (A) is an alternative energy electricity production facility;
- 459 (B) is located in the state; and
- 460 (C) (I) becomes operational on or after July 1, 2004; or
- 461 (II) has its generation capacity increased by one or more megawatts on or after July 1,

462 2004, as a result of the use of the tangible personal property;

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

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

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

466 transmission grid including:

467 (A) a wind turbine;

468 (B) generating equipment;

469 (C) a control and monitoring system;

470 (D) a power line;

471 (E) substation equipment;

472 (F) lighting;

473 (G) fencing;

474 (H) pipes; or

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

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

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

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

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

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

481 and

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

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

484 acquired after:

485 (A) the alternative energy electricity production facility described in Subsection

486 (55)(a)(i) is operational as described in Subsection (55)(a)(iii); or

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

488 in Subsection (55)(a)(iii);

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

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

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

492 (A) is a waste energy production facility;

493 (B) is located in the state; and
494 (C) (I) becomes operational on or after July 1, 2004; or
495 (II) has its generation capacity increased by one or more megawatts on or after July 1,
496 2004, as a result of the use of the tangible personal property;

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

- 501 (A) generating equipment;
- 502 (B) a control and monitoring system;
- 503 (C) a power line;
- 504 (D) substation equipment;
- 505 (E) lighting;
- 506 (F) fencing;
- 507 (G) pipes; or
- 508 (H) other equipment used for locating a power line or pole; and

509 (b) this Subsection (56) does not apply to:
510 (i) tangible personal property used in construction of:
511 (A) a new waste energy facility; or
512 (B) the increase in the capacity of a waste energy facility;
513 (ii) contracted services required for construction and routine maintenance activities;

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

- 517 (A) the waste energy facility described in Subsection (56)(a)(i) is operational as
518 described in Subsection (56)(a)(iii); or
- 519 (B) the increased capacity described in Subsection (56)(a)(i) is operational as described
520 in Subsection (56)(a)(iii);

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

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

- 524 (A) is located in the state;
- 525 (B) produces fuel from alternative energy, including:
 - 526 (I) methanol; or
 - 527 (II) ethanol; and
- 528 (C) (I) becomes operational on or after July 1, 2004; or
- 529 (II) has its capacity to produce fuel increase by 25% or more on or after July 1, 2004, as
- 530 a result of the installation of the tangible personal property;
- 531 (ii) has an economic life of five or more years; and
- 532 (iii) is installed on the facility described in Subsection (57)(a)(i);
- 533 (b) this Subsection (57) does not apply to:
 - 534 (i) tangible personal property used in construction of:
 - 535 (A) a new facility described in Subsection (57)(a)(i); or
 - 536 (B) the increase in capacity of the facility described in Subsection (57)(a)(i); or
 - 537 (ii) contracted services required for construction and routine maintenance activities;
- 538 and
- 539 (iii) unless the tangible personal property is used or acquired for an increase in capacity
- 540 described in Subsection (57)(a)(i)(C)(II), tangible personal property used or acquired after:
 - 541 (A) the facility described in Subsection (57)(a)(i) is operational; or
 - 542 (B) the increased capacity described in Subsection (57)(a)(i) is operational;
- 543 (58) (a) subject to Subsection (58)(b), sales of tangible personal property or a product
- 544 transferred electronically to a person within this state if that tangible personal property or
- 545 product transferred electronically is subsequently shipped outside the state and incorporated
- 546 pursuant to contract into and becomes a part of real property located outside of this state; and
- 547 (b) the exemption under Subsection (58)(a) is not allowed to the extent that the other
- 548 state or political entity to which the tangible personal property is shipped imposes a sales, use,
- 549 gross receipts, or other similar transaction excise tax on the transaction against which the other
- 550 state or political entity allows a credit for sales and use taxes imposed by this chapter;
- 551 (59) purchases:
 - 552 (a) of one or more of the following items in printed or electronic format:
 - 553 (i) a list containing information that includes one or more:
 - 554 (A) names; or

555 (B) addresses; or
556 (ii) a database containing information that includes one or more:
557 (A) names; or
558 (B) addresses; and
559 (b) used to send direct mail;
560 (60) redemptions or repurchases of a product by a person if that product was:
561 (a) delivered to a pawnbroker as part of a pawn transaction; and
562 (b) redeemed or repurchased within the time period established in a written agreement
563 between the person and the pawnbroker for redeeming or repurchasing the product;
564 (61) (a) purchases or leases of an item described in Subsection (61)(b) if the item:
565 (i) is purchased or leased by, or on behalf of, a telecommunications service provider;
566 and
567 (ii) has a useful economic life of one or more years; and
568 (b) the following apply to Subsection (61)(a):
569 (i) telecommunications enabling or facilitating equipment, machinery, or software;
570 (ii) telecommunications equipment, machinery, or software required for 911 service;
571 (iii) telecommunications maintenance or repair equipment, machinery, or software;
572 (iv) telecommunications switching or routing equipment, machinery, or software; or
573 (v) telecommunications transmission equipment, machinery, or software;
574 (62) (a) beginning on July 1, 2006, and ending on June 30, 2027, purchases of tangible
575 personal property or a product transferred electronically that are used in the research and
576 development of alternative energy technology; and
577 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
578 commission may, for purposes of Subsection (62)(a), make rules defining what constitutes
579 purchases of tangible personal property or a product transferred electronically that are used in
580 the research and development of alternative energy technology;
581 (63) (a) purchases of tangible personal property or a product transferred electronically
582 if:
583 (i) the tangible personal property or product transferred electronically is:
584 (A) purchased outside of this state;
585 (B) brought into this state at any time after the purchase described in Subsection

586 (63)(a)(i)(A); and
587 (C) used in conducting business in this state; and
588 (ii) for:
589 (A) tangible personal property or a product transferred electronically other than the
590 tangible personal property described in Subsection (63)(a)(ii)(B), the first use of the property
591 for a purpose for which the property is designed occurs outside of this state; or
592 (B) a vehicle other than a vehicle sold to an authorized carrier, the vehicle is registered
593 outside of this state and not required to be registered in this state under Section [41-1a-202](#) or
594 [73-18-9](#) based on residency;
595 (b) the exemption provided for in Subsection (63)(a) does not apply to:
596 (i) a lease or rental of tangible personal property or a product transferred electronically;
597 or
598 (ii) a sale of a vehicle exempt under Subsection (33); and
599 (c) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for
600 purposes of Subsection (63)(a), the commission may by rule define what constitutes the
601 following:
602 (i) conducting business in this state if that phrase has the same meaning in this
603 Subsection (63) as in Subsection (24);
604 (ii) the first use of tangible personal property or a product transferred electronically if
605 that phrase has the same meaning in this Subsection (63) as in Subsection (24); or
606 (iii) a purpose for which tangible personal property or a product transferred
607 electronically is designed if that phrase has the same meaning in this Subsection (63) as in
608 Subsection (24);
609 (64) sales of disposable home medical equipment or supplies if:
610 (a) a person presents a prescription for the disposable home medical equipment or
611 supplies;
612 (b) the disposable home medical equipment or supplies are used exclusively by the
613 person to whom the prescription described in Subsection (64)(a) is issued; and
614 (c) the disposable home medical equipment and supplies are listed as eligible for
615 payment under:
616 (i) Title XVIII, federal Social Security Act; or

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

618 (65) sales:

619 (a) to a public transit district under Title 17B, Chapter 2a, Part 8, Public Transit

620 District Act; or

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

622 tangible personal property is:

623 (i) clearly identified; and

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

625 (66) sales of construction materials:

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

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

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

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

630 (c) if the construction materials are:

631 (i) clearly identified;

632 (ii) segregated; and

633 (iii) installed or converted to real property:

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

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

636 (67) sales of construction materials:

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

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

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

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

641 [59-2-102](#) is headquartered; and

642 (c) if the construction materials are:

643 (i) clearly identified;

644 (ii) segregated; and

645 (iii) installed or converted to real property:

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

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

648 (C) as part of the construction of the new airport described in Subsection (67)(b);
649 (68) except for the tax imposed by Subsection 59-12-103(2)(d), sales of fuel to a
650 common carrier that is a railroad for use in a locomotive engine;
651 (69) purchases and sales described in Section 63H-4-111;
652 (70) (a) sales of tangible personal property to an aircraft maintenance, repair, and
653 overhaul provider for use in the maintenance, repair, overhaul, or refurbishment in this state of
654 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
655 lists a state or country other than this state as the location of registry of the fixed wing turbine
656 powered aircraft; or
657 (b) sales of tangible personal property by an aircraft maintenance, repair, and overhaul
658 provider in connection with the maintenance, repair, overhaul, or refurbishment in this state of
659 a fixed wing turbine powered aircraft if that fixed wing turbine powered aircraft's registration
660 lists a state or country other than this state as the location of registry of the fixed wing turbine
661 powered aircraft;
662 (71) subject to Section 59-12-104.4, sales of a textbook for a higher education course:
663 (a) to a person admitted to an institution of higher education; and
664 (b) by a seller, other than a bookstore owned by an institution of higher education, if
665 51% or more of that seller's sales revenue for the previous calendar quarter are sales of a
666 textbook for a higher education course;
667 (72) a license fee or tax a municipality imposes in accordance with Subsection
668 10-1-203(5) on a purchaser from a business for which the municipality provides an enhanced
669 level of municipal services;
670 (73) amounts paid or charged for construction materials used in the construction of a
671 new or expanding life science research and development facility in the state, if the construction
672 materials are:
673 (a) clearly identified;
674 (b) segregated; and
675 (c) installed or converted to real property;
676 (74) amounts paid or charged for:
677 (a) a purchase or lease of machinery and equipment that:
678 (i) are used in performing qualified research:

679 (A) as defined in Section 41(d), Internal Revenue Code; and
680 (B) in the state; and
681 (ii) have an economic life of three or more years; and
682 (b) normal operating repair or replacement parts:
683 (i) for the machinery and equipment described in Subsection (74)(a); and
684 (ii) that have an economic life of three or more years;
685 (75) a sale or lease of tangible personal property used in the preparation of prepared
686 food if:
687 (a) for a sale:
688 (i) the ownership of the seller and the ownership of the purchaser are identical; and
689 (ii) the seller or the purchaser paid a tax under this chapter on the purchase of that
690 tangible personal property prior to making the sale; or
691 (b) for a lease:
692 (i) the ownership of the lessor and the ownership of the lessee are identical; and
693 (ii) the lessor or the lessee paid a tax under this chapter on the purchase of that tangible
694 personal property prior to making the lease;
695 (76) (a) purchases of machinery or equipment if:
696 (i) the purchaser is an establishment described in NAICS Subsector 713, Amusement,
697 Gambling, and Recreation Industries, of the 2012 North American Industry Classification
698 System of the federal Executive Office of the President, Office of Management and Budget;
699 (ii) the machinery or equipment:
700 (A) has an economic life of three or more years; and
701 (B) is used by one or more persons who pay admission or user fees described in
702 Subsection 59-12-103(1)(f) to the purchaser of the machinery and equipment; and
703 (iii) 51% or more of the purchaser's sales revenue for the previous calendar quarter is:
704 (A) amounts paid or charged as admission or user fees described in Subsection
705 59-12-103(1)(f); and
706 (B) subject to taxation under this chapter; and
707 (b) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
708 commission may make rules for verifying that 51% of a purchaser's sales revenue for the
709 previous calendar quarter is:

- 710 (i) amounts paid or charged as admission or user fees described in Subsection
- 711 [59-12-103\(1\)\(f\)](#); and
- 712 (ii) subject to taxation under this chapter;
- 713 (77) purchases of a short-term lodging consumable by a business that provides
- 714 accommodations and services described in Subsection [59-12-103\(1\)\(i\)](#);
- 715 (78) amounts paid or charged to access a database:
- 716 (a) if the primary purpose for accessing the database is to view or retrieve information
- 717 from the database; and
- 718 (b) not including amounts paid or charged for a:
- 719 (i) digital audio work;
- 720 (ii) digital audio-visual work; or
- 721 (iii) digital book;
- 722 (79) amounts paid or charged for a purchase or lease made by an electronic financial
- 723 payment service, of:
- 724 (a) machinery and equipment that:
- 725 (i) are used in the operation of the electronic financial payment service; and
- 726 (ii) have an economic life of three or more years; and
- 727 (b) normal operating repair or replacement parts that:
- 728 (i) are used in the operation of the electronic financial payment service; and
- 729 (ii) have an economic life of three or more years;
- 730 (80) sales of a fuel cell as defined in Section [54-15-102](#);
- 731 (81) amounts paid or charged for a purchase or lease of tangible personal property or a
- 732 product transferred electronically if the tangible personal property or product transferred
- 733 electronically:
- 734 (a) is stored, used, or consumed in the state; and
- 735 (b) is temporarily brought into the state from another state:
- 736 (i) during a disaster period as defined in Section [53-2a-1202](#);
- 737 (ii) by an out-of-state business as defined in Section [53-2a-1202](#);
- 738 (iii) for a declared state disaster or emergency as defined in Section [53-2a-1202](#); and
- 739 (iv) for disaster- or emergency-related work as defined in Section [53-2a-1202](#);
- 740 (82) sales of goods and services at a morale, welfare, and recreation facility, as defined

741 in Section 39A-7-102, made pursuant to Title 39A, Chapter 7, Morale, Welfare, and Recreation
742 Program;

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

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

748 (a) are used in:

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

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

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

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

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

757 (a) by a refiner who owns, leases, operates, controls, or supervises a refinery as defined
758 in Section 79-6-701 located in the state;

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

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

763 (ii) research and development;

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

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

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

770 (c) if the person holds a valid refiner tax exemption certification as defined in Section
771 79-6-701;

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

775 (88) amounts paid or charged for a purchase or lease of machinery, equipment, normal
776 operating repair or replacement parts, or materials, except for office equipment or office
777 supplies, by an establishment, as the commission defines that term in accordance with Title
778 63G, Chapter 3, Utah Administrative Rulemaking Act, that:

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

782 (b) is located in this state; and

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

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

786 (90) sales of a note, leaf, foil, or film, if the item:

787 (a) is used as currency;

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

789 (c) has a gold, silver, or platinum metallic content of 50% or more, exclusive of any
790 transparent polymer holder, coating, or encasement;

791 (91) amounts paid or charged for admission to an indoor skydiving, rock climbing, or
792 surfing facility, if a trained instructor:

793 (a) is present with the participant, in person or by video, for the duration of the activity;

794 and

795 (b) actively instructs the participant, including providing observation or feedback;

796 (92) amounts paid or charged in connection with the construction, operation,
797 maintenance, repair, or replacement of facilities owned by or constructed for:

798 (a) a distribution electrical cooperative, as defined in Section 54-2-1; or

799 (b) a wholesale electrical cooperative, as defined in Section 54-2-1; and

800 (93) amounts paid by the service provider for tangible personal property, other than
801 machinery, equipment, parts, office supplies, electricity, gas, heat, steam, or other fuels, that:

802 (a) is consumed in the performance of a service that is subject to tax under Subsection

803 59-12-103(1)(b), (f), (g), (h), (i), or (j);

804 (b) has to be consumed for the service provider to provide the service described in

805 Subsection (93)(a); and

806 (c) will be consumed in the performance of the service described in Subsection (93)(a),

807 to one or more customers, to the point that the tangible personal property disappears or cannot

808 be used for any other purpose.

809 Section 2. **Effective date.**

810 This bill takes effect on July 1, 2023.