{deleted text} shows text that was in SB0180 but was deleted in SB0180S01.

inserted text shows text that was not in SB0180 but was inserted into SB0180S01.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Senator Luz Escamilla proposes the following substitute bill:

#### **OPTIONAL TAX INCREASE AMENDMENTS**

2016 GENERAL SESSION STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: { R. Curt Webb

#### **LONG TITLE**

#### **General Description:**

This bill <del>{repeals} changes</del> the local option state correctional facility sales and use tax.

#### **Highlighted Provisions:**

This bill:

- {repeals} describes where a city or town shall expend the local option state correctional facility sales and use tax {; and
- makes conforming amendments}.

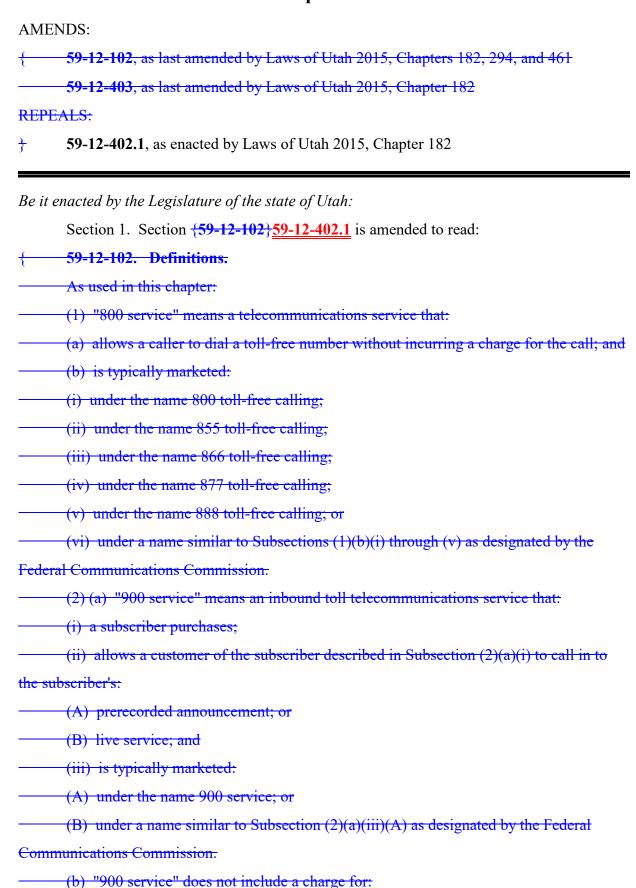
#### Money Appropriated in this Bill:

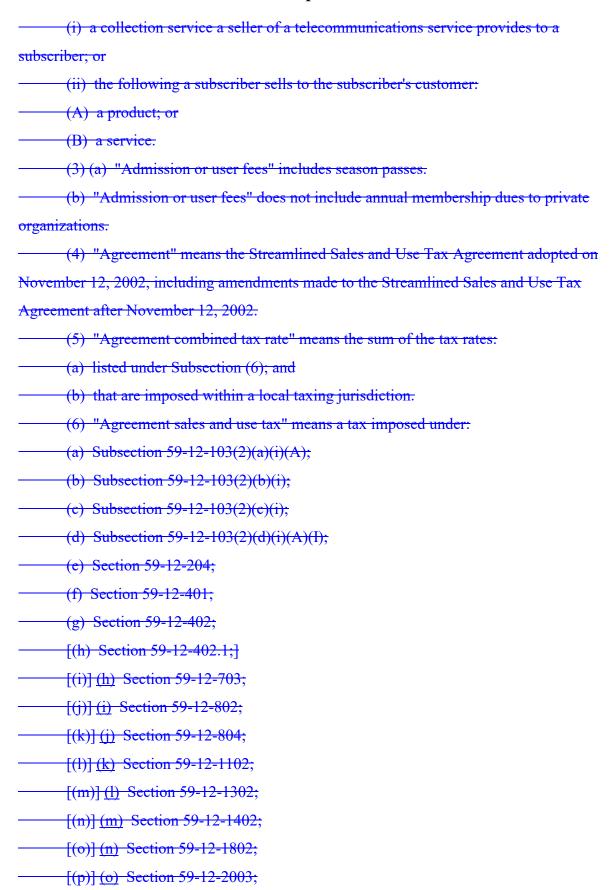
None

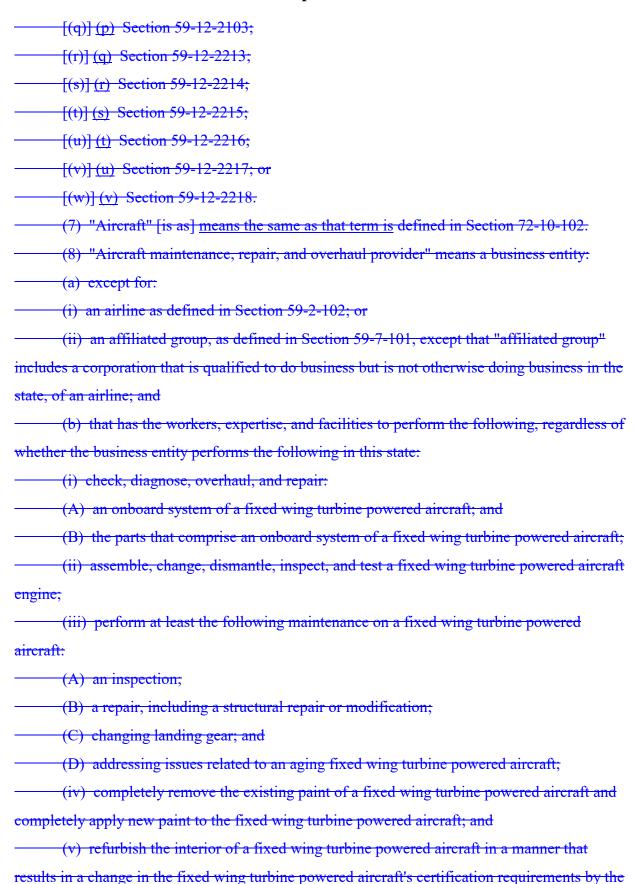
#### **Other Special Clauses:**

{ This bill provides a special effective date.} None

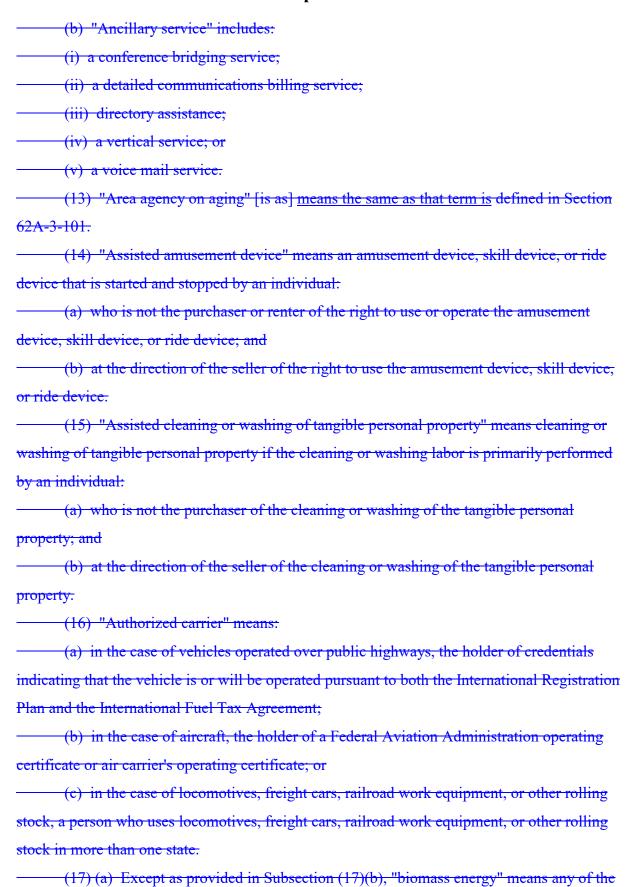
#### **Utah Code Sections Affected:**



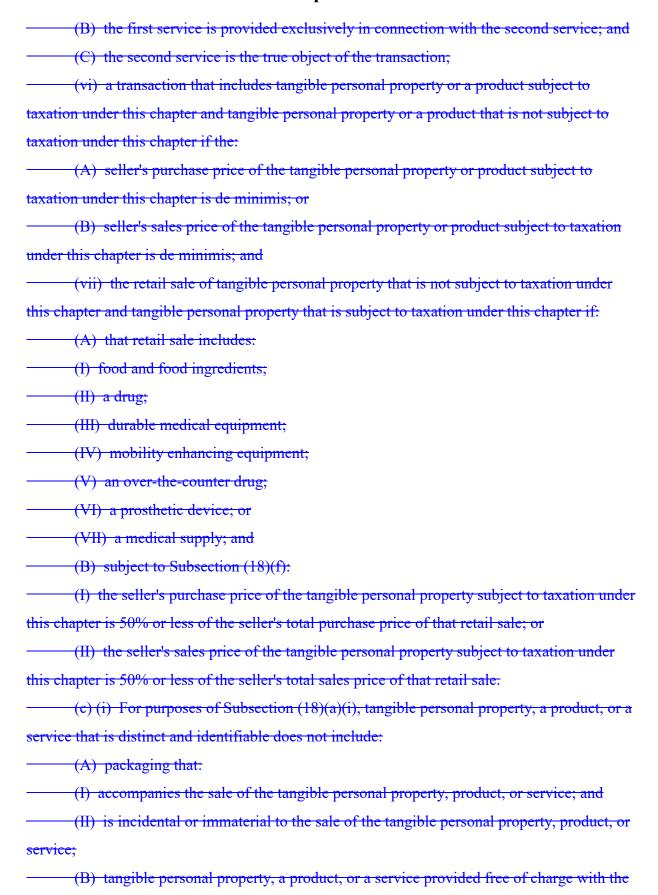




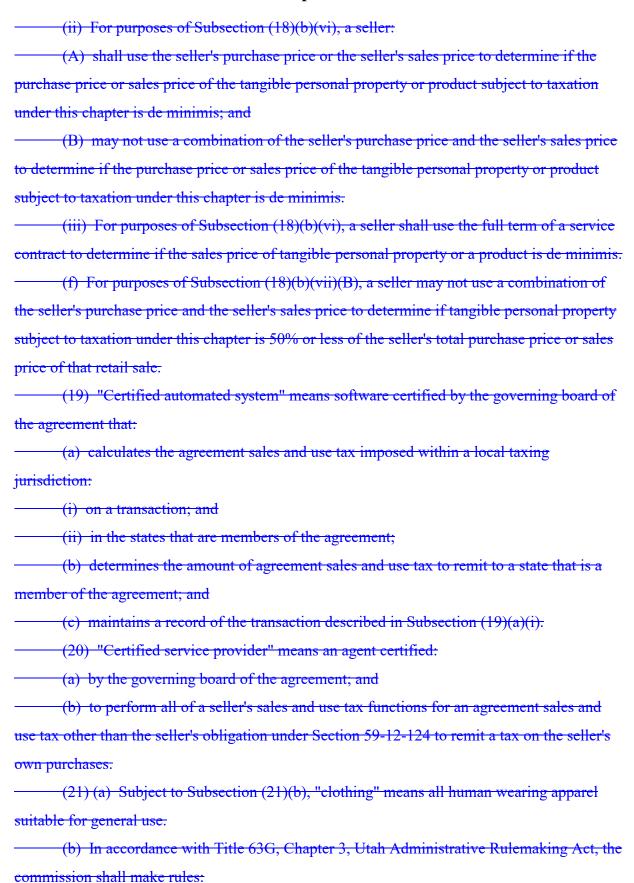
authority that certifies the fixed wing turbine powered aircraft.
(9) "Alcoholic beverage" means a beverage that:
(a) is suitable for human consumption; and
(b) contains .5% or more alcohol by volume.
(10) "Alternative energy" means:
(a) biomass energy;
(b) geothermal energy;
(c) hydroelectric energy;
<del>(d) solar energy;</del>
(e) wind energy; or
(f) energy that is derived from:
(i) coal-to-liquids;
(ii) nuclear fuel;
(iii) oil-impregnated diatomaceous earth;
(iv) oil sands;
(v) oil shale;
(vi) petroleum coke; or
(vii) waste heat from:
(A) an industrial facility; or
(B) a power station in which an electric generator is driven through a process in which
water is heated, turns into steam, and spins a steam turbine.
(11) (a) Subject to Subsection (11)(b), "alternative energy electricity production
facility" means a facility that:
(i) uses alternative energy to produce electricity; and
(ii) has a production capacity of two megawatts or greater.
(b) A facility is an alternative energy electricity production facility regardless of
whether the facility is:
(i) connected to an electric grid; or
(ii) located on the premises of an electricity consumer.
(12) (a) "Ancillary service" means a service associated with, or incidental to, the
provision of telecommunications service.

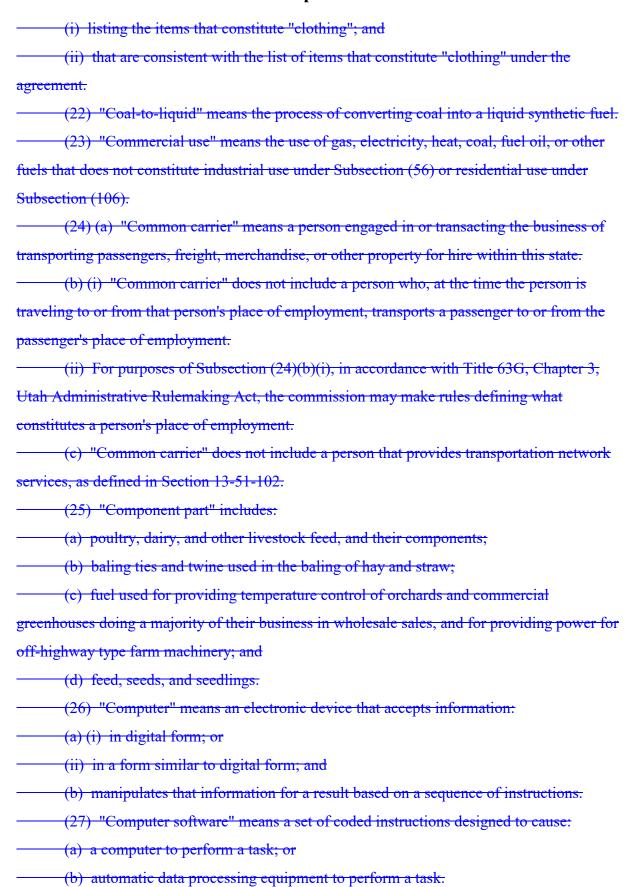


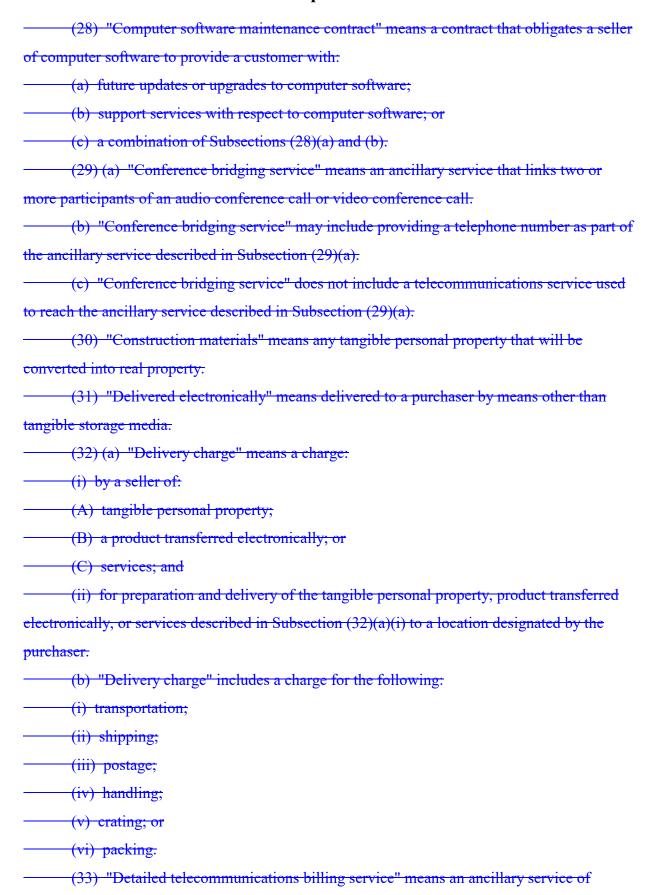
following that is used as the primary source of energy to produce fuel or electricity:
(i) material from a plant or tree; or
(ii) other organic matter that is available on a renewable basis, including:
(A) slash and brush from forests and woodlands;
(B) animal waste;
(C) waste vegetable oil;
(D) methane or synthetic gas produced at a landfill, as a byproduct of the treatment of
wastewater residuals, or through the conversion of a waste material through a nonincineration,
thermal conversion process;
(E) aquatic plants; and
(F) agricultural products.
(b) "Biomass energy" does not include:
(i) black liquor; or
(ii) treated woods.
(18) (a) "Bundled transaction" means the sale of two or more items of tangible persona
property, products, or services if the tangible personal property, products, or services are:
(i) distinct and identifiable; and
(ii) sold for one nonitemized price.
(b) "Bundled transaction" does not include:
(i) the sale of tangible personal property if the sales price varies, or is negotiable, on
the basis of the selection by the purchaser of the items of tangible personal property included in
the transaction;
(ii) the sale of real property;
(iii) the sale of services to real property;
(iv) the retail sale of tangible personal property and a service if:
(A) the tangible personal property:
(I) is essential to the use of the service; and
(II) is provided exclusively in connection with the service; and
(B) the service is the true object of the transaction;
(v) the retail sale of two services if:
(A) one service is provided that is essential to the use or receipt of a second service;



purchase of another item of tangible personal property, a product, or a service; or
(C) an item of tangible personal property, a product, or a service included in the
definition of "purchase price."
(ii) For purposes of Subsection (18)(c)(i)(B), an item of tangible personal property, a
product, or a service is provided free of charge with the purchase of another item of tangible
personal property, a product, or a service if the sales price of the purchased item of tangible
personal property, product, or service does not vary depending on the inclusion of the tangible
personal property, product, or service provided free of charge.
(d) (i) For purposes of Subsection (18)(a)(ii), property sold for one nonitemized price
does not include a price that is separately identified by tangible personal property, product, or
service on the following, regardless of whether the following is in paper format or electronic
<del>format:</del>
(A) a binding sales document; or
(B) another supporting sales-related document that is available to a purchaser.
(ii) For purposes of Subsection (18)(d)(i), a binding sales document or another
supporting sales-related document that is available to a purchaser includes:
(A) a bill of sale;
(B) a contract;
(C) an invoice;
(D) a lease agreement;
(E) a periodic notice of rates and services;
(F) a price list;
(G) a rate card;
(H) a receipt; or
(I) a service agreement.
(e) (i) For purposes of Subsection (18)(b)(vi), the sales price of tangible personal
property or a product subject to taxation under this chapter is de minimis if:
(A) the seller's purchase price of the tangible personal property or product is 10% or
less of the seller's total purchase price of the bundled transaction; or
(B) the seller's sales price of the tangible personal property or product is 10% or less of
the seller's total sales price of the bundled transaction.

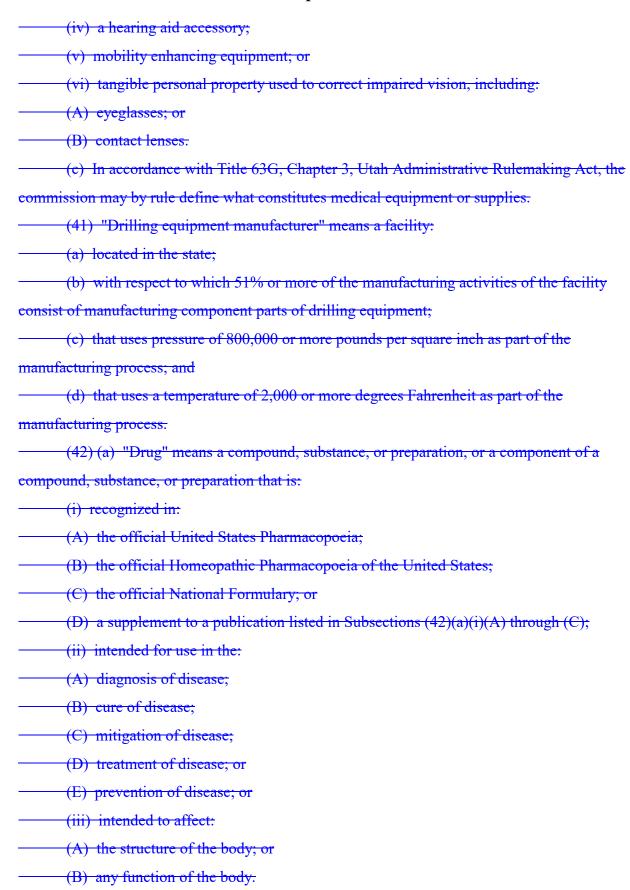


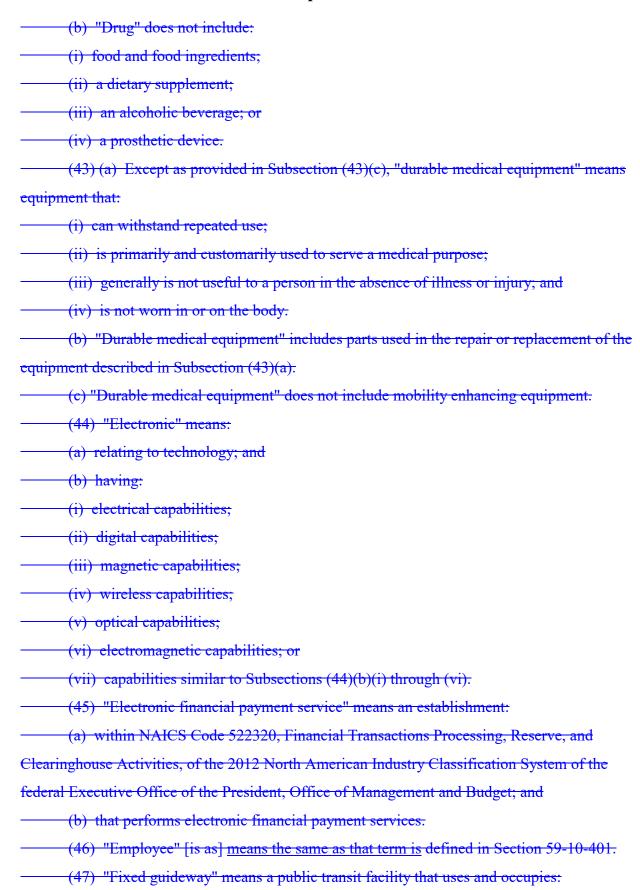




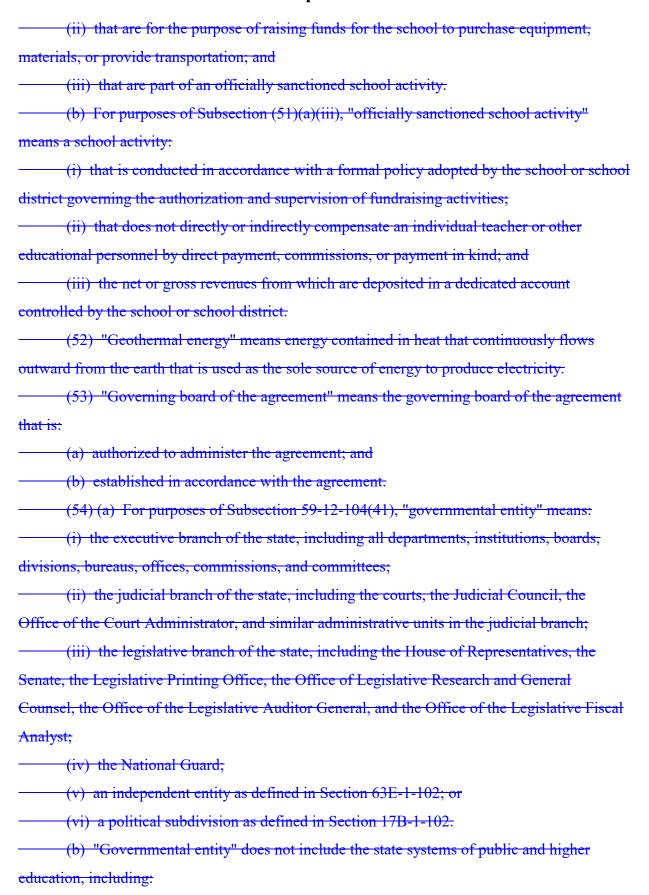
separately stating information pertaining to individual calls on a customer's billing statem	<del>ent.</del>
(34) "Dietary supplement" means a product, other than tobacco, that:	
(a) is intended to supplement the diet;	
(b) contains one or more of the following dietary ingredients:	
<del>(i) a vitamin;</del>	
(ii) a mineral;	
(iii) an herb or other botanical;	
(iv) an amino acid;	
(v) a dietary substance for use by humans to supplement the diet by increasing the	<del>: total</del>
dietary intake; or	
(vi) a concentrate, metabolite, constituent, extract, or combination of any ingredient	nt
described in Subsections (34)(b)(i) through (v);	
(c) (i) except as provided in Subsection (34)(c)(ii), is intended for ingestion in:	
(A) tablet form;	
(B) capsule form;	
(C) powder form;	
(D) softgel form;	
(E) gelcap form; or	
(F) liquid form; or	
(ii) if the product is not intended for ingestion in a form described in Subsections	
(34)(c)(i)(A) through (F), is not represented:	
(A) as conventional food; and	
(B) for use as a sole item of:	
(I) a meal; or	
(II) the diet; and	
(d) is required to be labeled as a dietary supplement:	
(i) identifiable by the "Supplemental Facts" box found on the label; and	
(ii) as required by 21 C.F.R. Sec. 101.36.	
(35) "Digital audio-visual work" means a series of related images which, when sh	<del>own</del>
in succession, imparts an impression of motion, together with accompanying sounds, if ar	r <del>y.</del>
(36) (a) "Digital audio work" means a work that results from the fixation of a seri	<del>es of</del>

musical, spoken, or other sounds.
(b) "Digital audio work" includes a ringtone.
(37) "Digital book" means a work that is generally recognized in the ordinary and usu
sense as a book.
(38) (a) "Direct mail" means printed material delivered or distributed by United States
mail or other delivery service:
<del>(i) to:</del>
(A) a mass audience; or
(B) addressees on a mailing list provided:
(I) by a purchaser of the mailing list; or
(II) at the discretion of the purchaser of the mailing list; and
(ii) if the cost of the printed material is not billed directly to the recipients.
(b) "Direct mail" includes tangible personal property supplied directly or indirectly by
purchaser to a seller of direct mail for inclusion in a package containing the printed material.
(c) "Direct mail" does not include multiple items of printed material delivered to a
single address.
(39) "Directory assistance" means an ancillary service of providing:
(a) address information; or
(b) telephone number information.
(40) (a) "Disposable home medical equipment or supplies" means medical equipment
or supplies that:
(i) cannot withstand repeated use; and
(ii) are purchased by, for, or on behalf of a person other than:
(A) a health care facility as defined in Section 26-21-2;
(B) a health care provider as defined in Section 78B-3-403;
(C) an office of a health care provider described in Subsection (40)(a)(ii)(B); or
(D) a person similar to a person described in Subsections (40)(a)(ii)(A) through (C).
(b) "Disposable home medical equipment or supplies" does not include:
<del>(i) a drug;</del>
(ii) durable medical equipment;
(iii) a hearing aid;

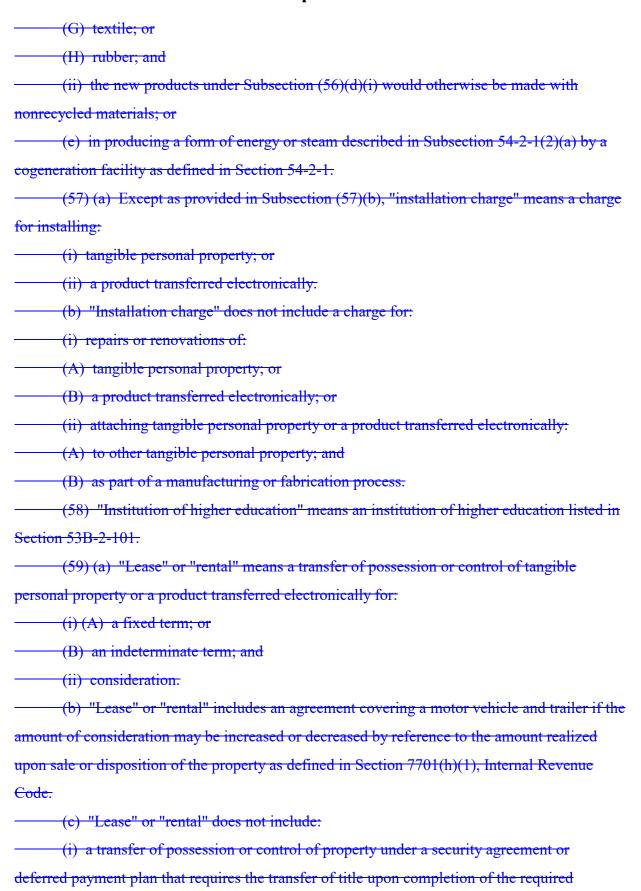


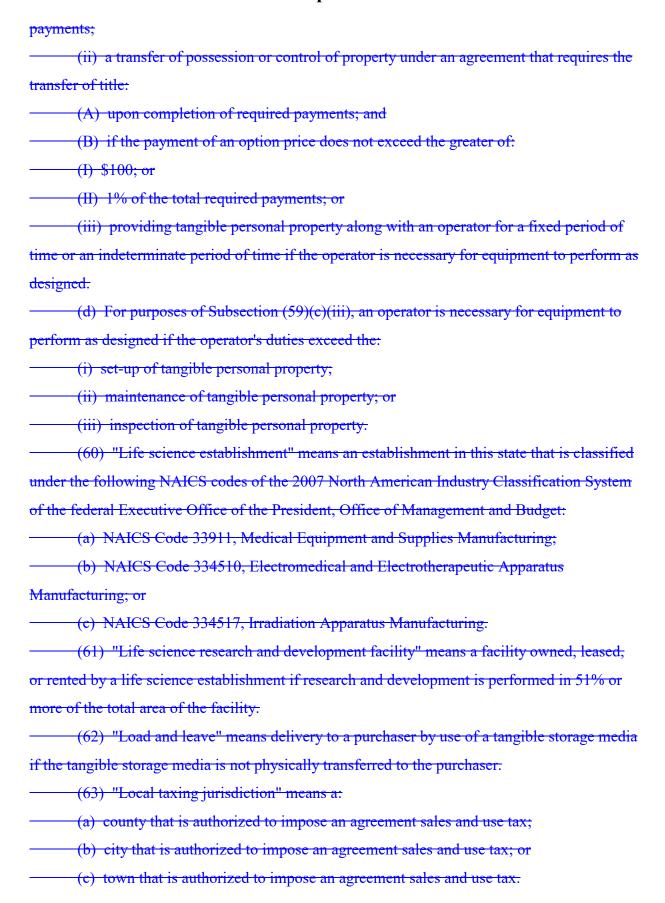


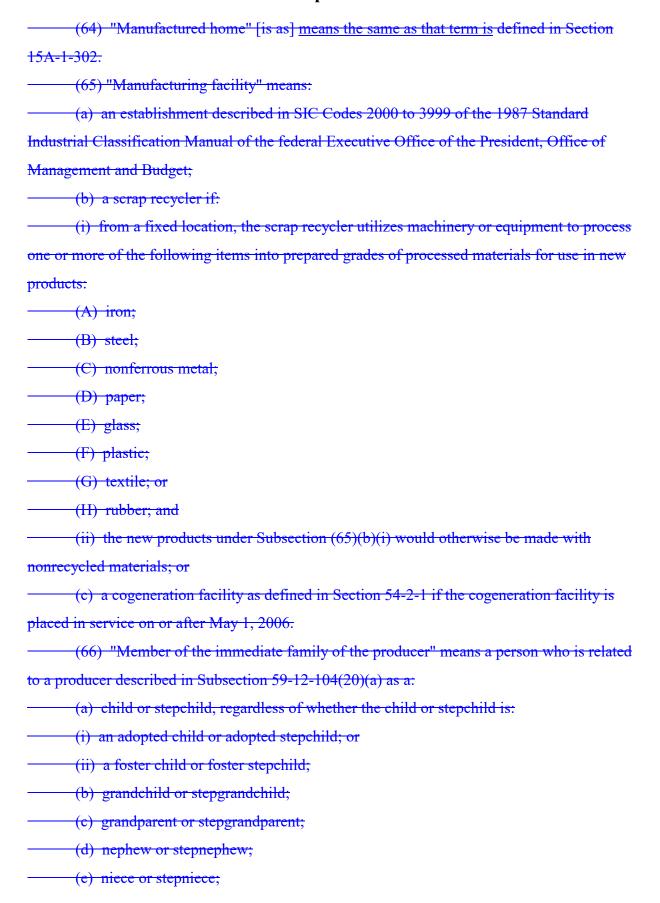
(a) rail for the use of public transit; or
(b) a separate right-of-way for the use of public transit.
(48) "Fixed wing turbine powered aircraft" means an aircraft that:
(a) is powered by turbine engines;
(b) operates on jet fuel; and
(c) has wings that are permanently attached to the fuselage of the aircraft.
(49) "Fixed wireless service" means a telecommunications service that provides radi
communication between fixed points.
(50) (a) "Food and food ingredients" means substances:
(i) regardless of whether the substances are in:
(A) liquid form;
(B) concentrated form;
(C) solid form;
(D) frozen form;
(E) dried form; or
(F) dehydrated form; and
(ii) that are:
(A) sold for:
(I) ingestion by humans; or
(II) chewing by humans; and
(B) consumed for the substance's:
(I) taste; or
(II) nutritional value.
(b) "Food and food ingredients" includes an item described in Subsection (91)(b)(iii)
(c) "Food and food ingredients" does not include:
(i) an alcoholic beverage;
(ii) tobacco; or
(iii) prepared food.
(51) (a) "Fundraising sales" means sales:
(i) (A) made by a school; or
(B) made by a school student;

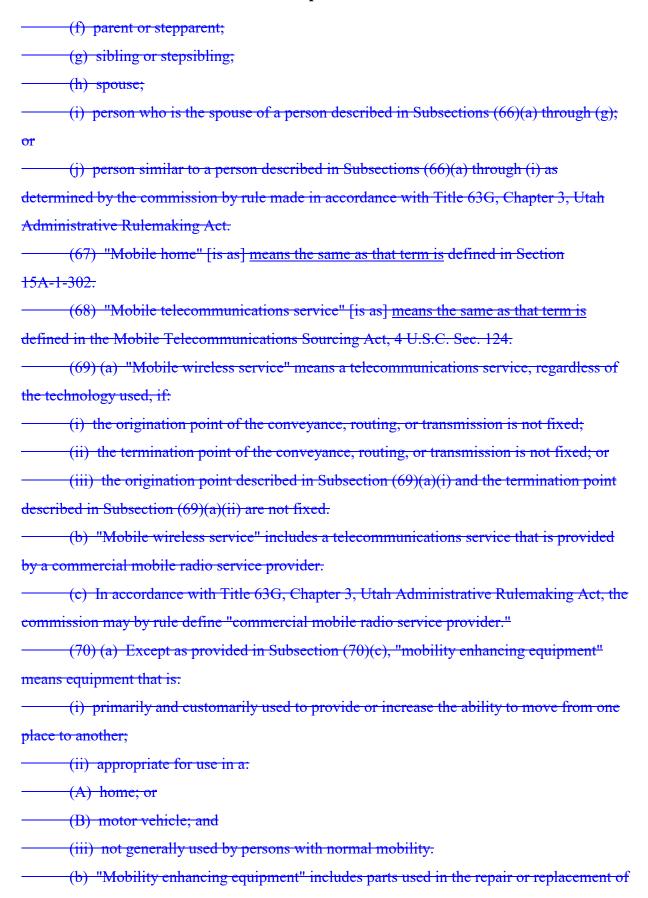


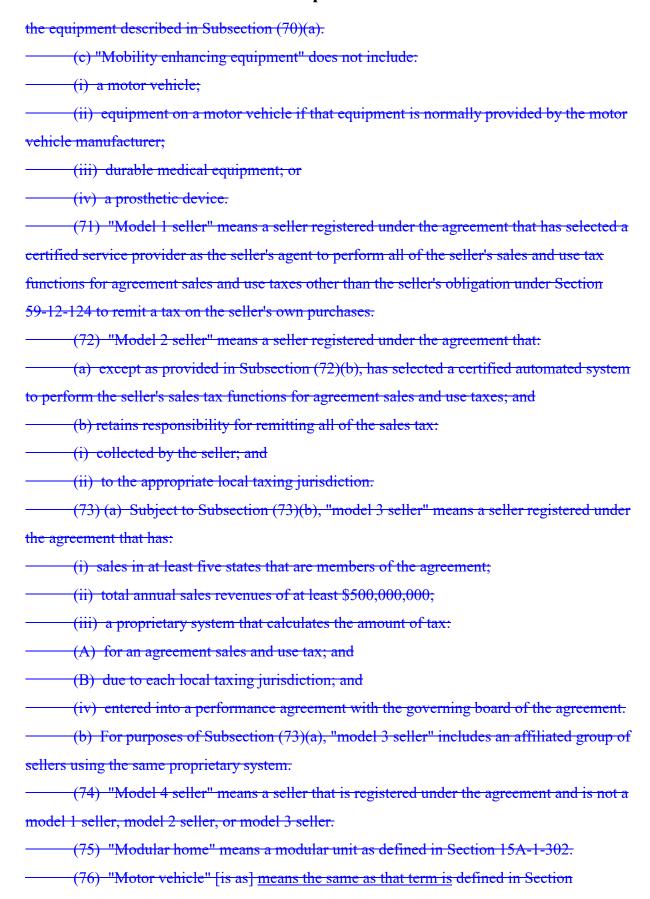
(i) a college campus of the Utah College of Applied Technology;
(ii) a school;
(iii) the State Board of Education;
(iv) the State Board of Regents; or
(v) an institution of higher education.
(55) "Hydroelectric energy" means water used as the sole source of energy to produce
electricity.
(56) "Industrial use" means the use of natural gas, electricity, heat, coal, fuel oil, or
other fuels:
(a) in mining or extraction of minerals;
(b) in agricultural operations to produce an agricultural product up to the time of
harvest or placing the agricultural product into a storage facility, including:
(i) commercial greenhouses;
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(iii) farm machinery;
(iv) implements of husbandry as defined in Section 41-1a-102 that are not registered
under Title 41, Chapter 1a, Part 2, Registration; and
(v) other farming activities;
(c) in manufacturing tangible personal property at an establishment described in SIC
Codes 2000 to 3999 of the 1987 Standard Industrial Classification Manual of the federal
Executive Office of the President, Office of Management and Budget;
(d) by a scrap recycler if:
(i) from a fixed location, the scrap recycler utilizes machinery or equipment to process
one or more of the following items into prepared grades of processed materials for use in new
<del>products:</del>
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<del>(B) steel;</del>
(C) nonferrous metal;
(D) paper;
<del>(E) glass;</del>
(F) plastic;

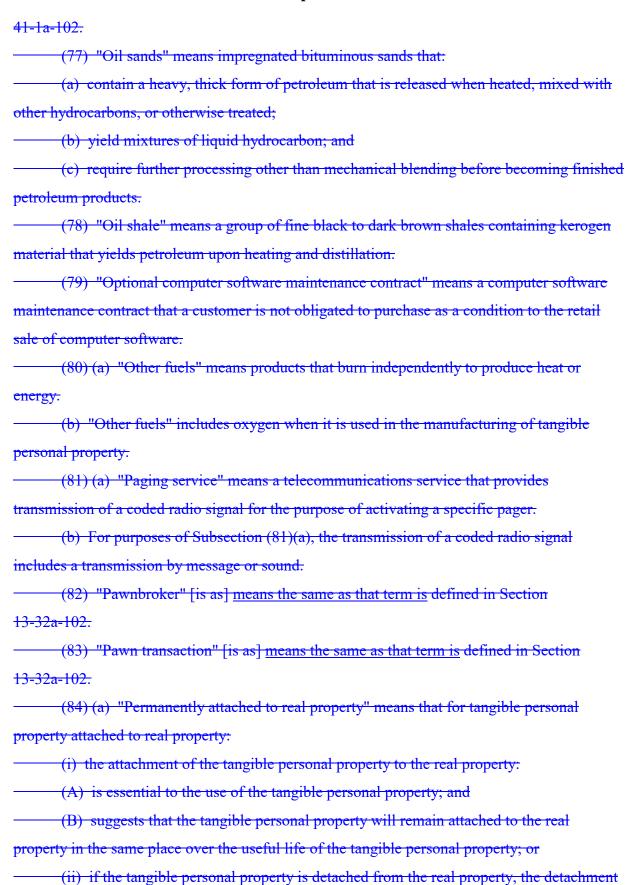


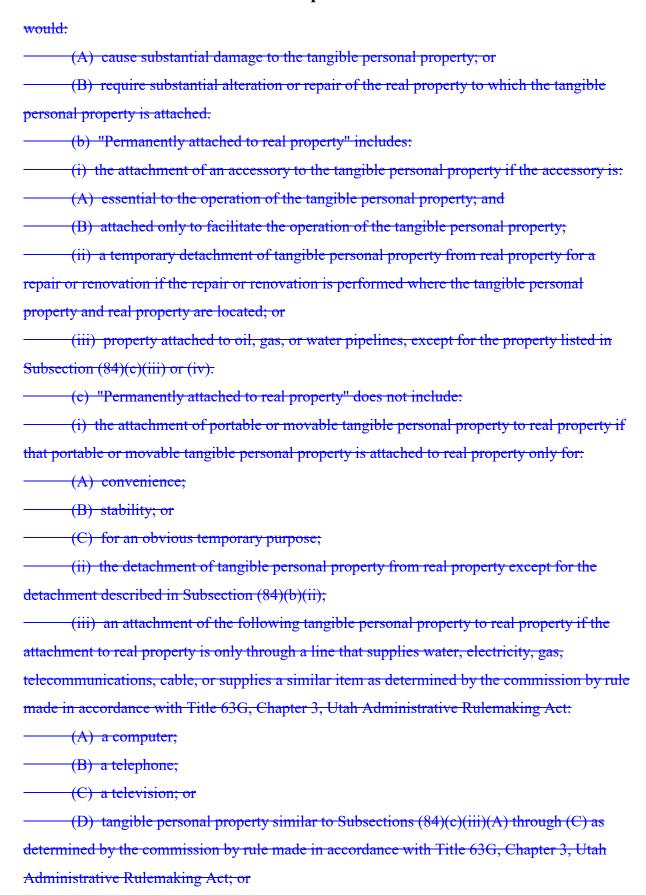












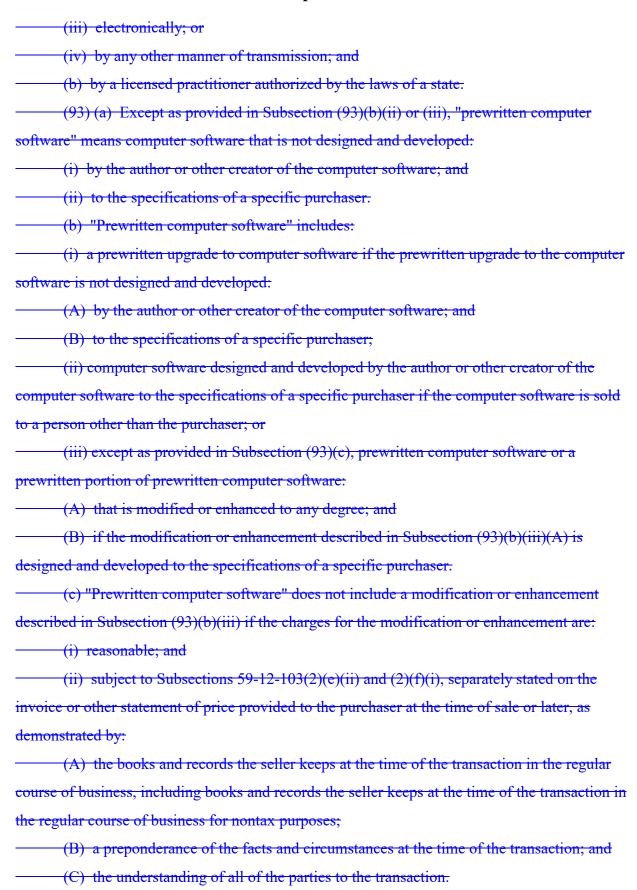
(iv) an item listed in Subsection (124)(c).
(85) "Person" includes any individual, firm, partnership, joint venture, association,
corporation, estate, trust, business trust, receiver, syndicate, this state, any county, city,
municipality, district, or other local governmental entity of the state, or any group or
combination acting as a unit.
(86) "Place of primary use":
(a) for telecommunications service other than mobile telecommunications service,
means the street address representative of where the customer's use of the telecommunications
service primarily occurs, which shall be:
(i) the residential street address of the customer; or
(ii) the primary business street address of the customer; or
(b) for mobile telecommunications service, is as defined in the Mobile
Telecommunications Sourcing Act, 4 U.S.C. Sec. 124.
(87) (a) "Postpaid calling service" means a telecommunications service a person
obtains by making a payment on a call-by-call basis:
(i) through the use of a:
(A) bank card;
(B) credit card;
(C) debit card; or
(D) travel card; or
(ii) by a charge made to a telephone number that is not associated with the origination
or termination of the telecommunications service.
(b) "Postpaid calling service" includes a service, except for a prepaid wireless calling
service, that would be a prepaid wireless calling service if the service were exclusively a
telecommunications service.
(88) "Postproduction" means an activity related to the finishing or duplication of a
medium described in Subsection 59-12-104(54)(a).
(89) "Prepaid calling service" means a telecommunications service:
(a) that allows a purchaser access to telecommunications service that is exclusively
telecommunications service;
<del>(b) that:</del>

	(i) is paid for in advance; and
	(ii) enables the origination of a call using an:
	(A) access number; or
	(B) authorization code;
	(c) that is dialed:
	(i) manually; or
	(ii) electronically; and
	(d) sold in predetermined units or dollars that decline:
	(i) by a known amount; and
	(ii) with use.
	(90) "Prepaid wireless calling service" means a telecommunications service:
	(a) that provides the right to utilize:
	(i) mobile wireless service; and
	(ii) other service that is not a telecommunications service, including:
	(A) the download of a product transferred electronically;
	(B) a content service; or
	(C) an ancillary service;
	<del>(b) that:</del>
-	(i) is paid for in advance; and
	(ii) enables the origination of a call using an:
	(A) access number; or
	(B) authorization code;
	(c) that is dialed:
	(i) manually; or
	(ii) electronically; and
	(d) sold in predetermined units or dollars that decline:
	(i) by a known amount; and
	(ii) with use.
	(91) (a) "Prepared food" means:
	(i) food:
	(A) sold in a heated state; or

(B) heated by a seller;
(ii) two or more food ingredients mixed or combined by the seller for sale as a single
item; or
(iii) except as provided in Subsection (91)(c), food sold with an eating utensil provided
by the seller, including a:
(A) plate;
(B) knife;
<del>(C) fork;</del>
(D) spoon;
(E) glass;
<del>(F) cup;</del>
(G) napkin; or
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(b) "Prepared food" does not include:
(i) food that a seller only:
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(B) repackages; or
(C) pasteurizes; or
(ii) (A) the following:
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(III) raw meat;
(IV) raw poultry; or
(V) a food containing an item described in Subsections (91)(b)(ii)(A)(I) through (IV);
<del>and</del>
(B) if the Food and Drug Administration recommends in Chapter 3, Part 401.11 of the
Food and Drug Administration's Food Code that a consumer cook the items described in
Subsection (91)(b)(ii)(A) to prevent food borne illness; or
(iii) the following if sold without eating utensils provided by the seller:
(A) food and food ingredients sold by a seller if the seller's proper primary
classification under the 2002 North American Industry Classification System of the federal

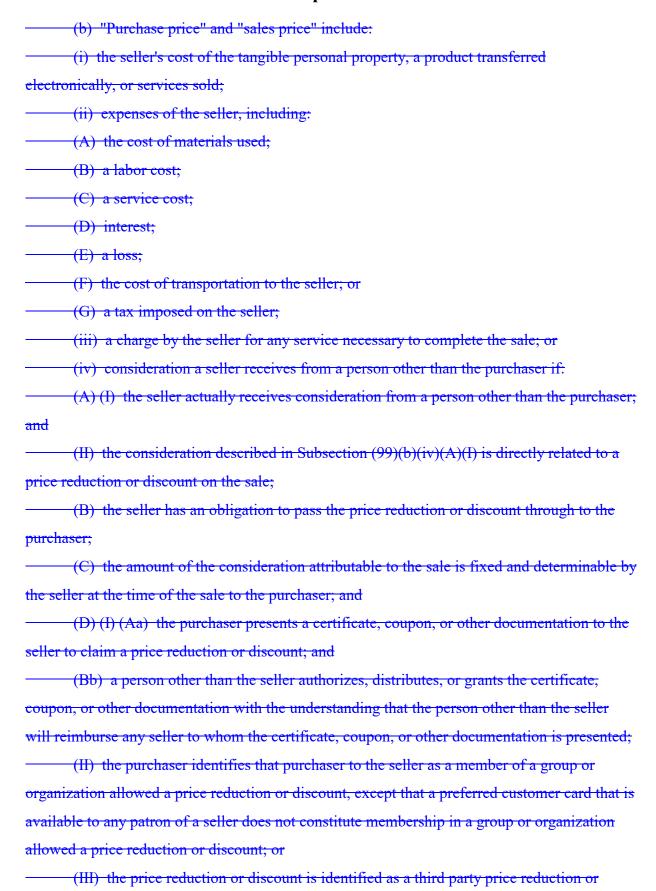
Executive Office of the President, Office of Management and Budget, is manufacturing in Sector 311, Food Manufacturing, except for Subsector 3118, Bakeries and Tortilla Manufacturing;

	(B) food and food ingredients sold in an unheated state:
	(I) by weight or volume; and
	(II) as a single item; or
	(C) a bakery item, including:
	(I) a bagel;
	(II) a bar;
	(III) a biscuit;
	(IV) bread;
-	(V) a bun;
	(VI) a cake;
	(VII) a cookie;
-	(VIII) a croissant;
	(IX) a danish;
	(X) a donut;
-	(XI) a muffin;
	(XII) a pastry;
	(XIII) a pie;
	(XIV) a roll;
	(XV) a tart;
	(XVI) a torte; or
-	(XVII) a tortilla.
	(c) An eating utensil provided by the seller does not include the following used to
transpo	ert the food:
-	(i) a container; or
	(ii) packaging.
	(92) "Prescription" means an order, formula, or recipe that is issued:
	(a) (i) orally;
	(ii) in writing;

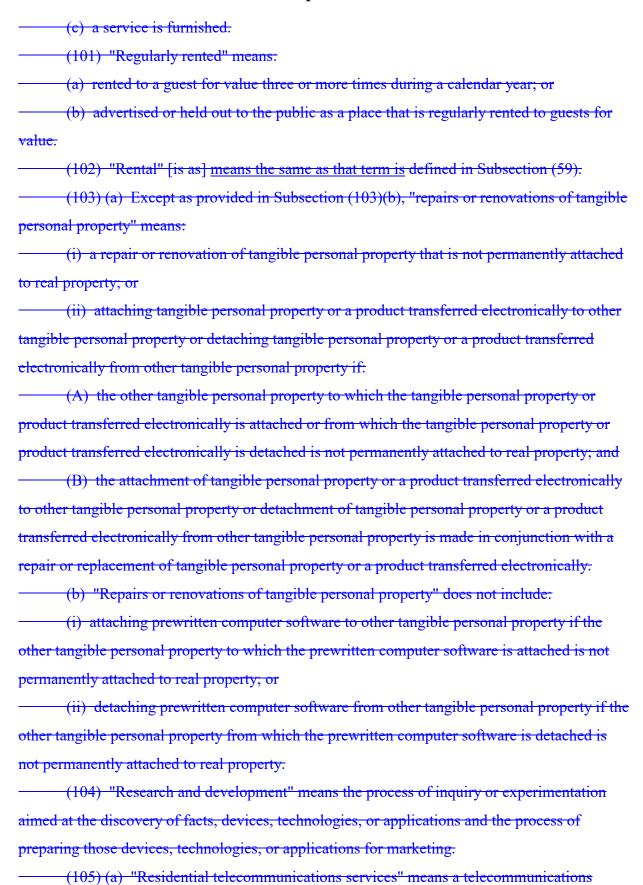


(94) (a) "Private communications service" means a telecommunications service:
(i) that entitles a customer to exclusive or priority use of one or more communication
channels between or among termination points; and
(ii) regardless of the manner in which the one or more communications channels are
<del>connected.</del>
(b) "Private communications service" includes the following provided in connection
with the use of one or more communications channels:
(i) an extension line;
(ii) a station;
(iii) switching capacity; or
(iv) another associated service that is provided in connection with the use of one or
more communications channels as defined in Section 59-12-215.
(95) (a) Except as provided in Subsection (95)(b), "product transferred electronically"
means a product transferred electronically that would be subject to a tax under this chapter if
that product was transferred in a manner other than electronically.
(b) "Product transferred electronically" does not include:
(i) an ancillary service;
(ii) computer software; or
(iii) a telecommunications service.
(96) (a) "Prosthetic device" means a device that is worn on or in the body to:
(i) artificially replace a missing portion of the body;
(ii) prevent or correct a physical deformity or physical malfunction; or
(iii) support a weak or deformed portion of the body.
(b) "Prosthetic device" includes:
(i) parts used in the repairs or renovation of a prosthetic device;
(ii) replacement parts for a prosthetic device;
(iii) a dental prosthesis; or
(iv) a hearing aid.
(c) "Prosthetic device" does not include:
(i) corrective eyeglasses; or
(ii) contact lenses.

(97) (a) "Protective equipment" means an item:
(i) for human wear; and
(ii) that is:
(A) designed as protection:
(I) to the wearer against injury or disease; or
(II) against damage or injury of other persons or property; and
(B) not suitable for general use.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, tl
commission shall make rules:
(i) listing the items that constitute "protective equipment"; and
(ii) that are consistent with the list of items that constitute "protective equipment"
under the agreement.
(98) (a) For purposes of Subsection 59-12-104(41), "publication" means any written of
printed matter, other than a photocopy:
(i) regardless of:
(A) characteristics;
(B) copyright;
<del>(C) form;</del>
(D) format;
(E) method of reproduction; or
(F) source; and
(ii) made available in printed or electronic format.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
commission may by rule define the term "photocopy."
(99) (a) "Purchase price" and "sales price" mean the total amount of consideration:
(i) valued in money; and
(ii) for which tangible personal property, a product transferred electronically, or
services are:
(A) sold;
(B) leased; or
(C) rented.

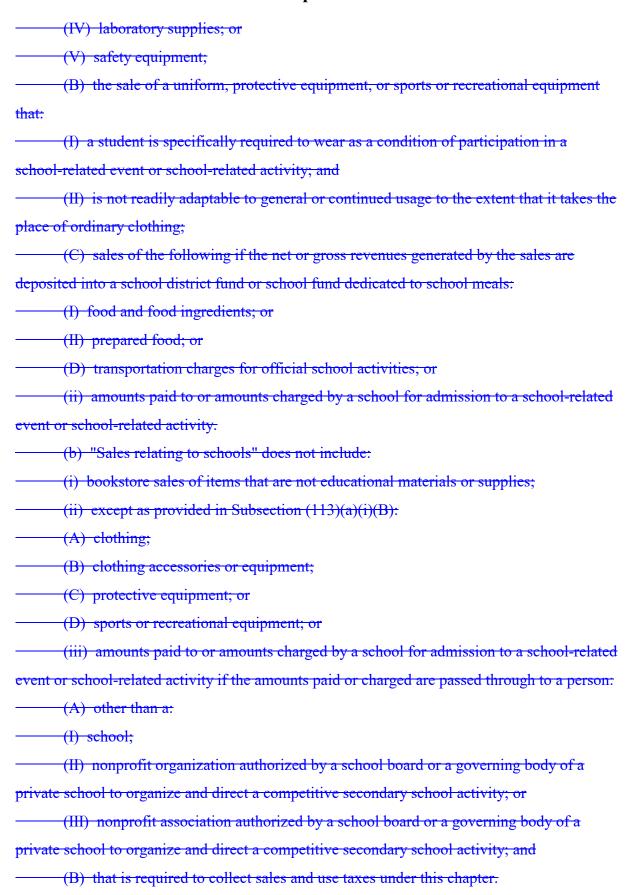


discount on the:
(Aa) invoice the purchaser receives; or
(Bb) certificate, coupon, or other documentation the purchaser presents.
(c) "Purchase price" and "sales price" do not include:
(i) a discount:
(A) in a form including:
<del>(I) cash;</del>
(II) term; or
<del>(III) coupon;</del>
(B) that is allowed by a seller;
(C) taken by a purchaser on a sale; and
(D) that is not reimbursed by a third party; or
(ii) subject to Subsections 59-12-103(2)(e)(ii) and (2)(f)(i), the following if separately
stated on an invoice, bill of sale, or similar document provided to the purchaser at the time of
sale or later, as demonstrated by the books and records the seller keeps at the time of the
transaction in the regular course of business, including books and records the seller keeps at the
time of the transaction in the regular course of business for nontax purposes, by a
preponderance of the facts and circumstances at the time of the transaction, and by the
understanding of all of the parties to the transaction:
(A) the following from credit extended on the sale of tangible personal property or
services:
(I) a carrying charge;
(II) a financing charge; or
(III) an interest charge;
(B) a delivery charge;
(C) an installation charge;
(D) a manufacturer rebate on a motor vehicle; or
(E) a tax or fee legally imposed directly on the consumer.
(100) "Purchaser" means a person to whom:
(a) a sale of tangible personal property is made;
(b) a product is transferred electronically; or



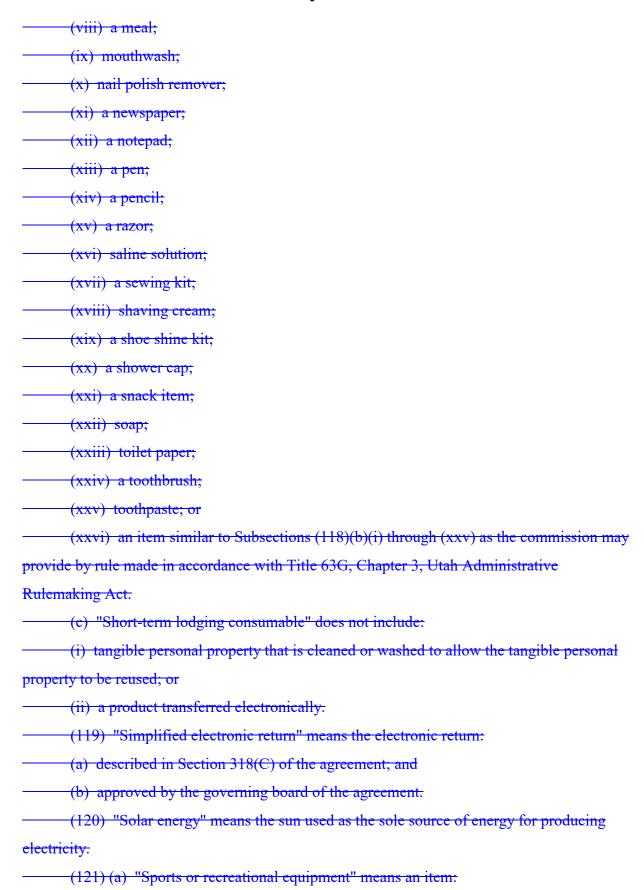
service or an ancillary service that is provided to an individual for personal use:
(i) at a residential address; or
(ii) at an institution, including a nursing home or a school, if the telecommunications
service or ancillary service is provided to and paid for by the individual residing at the
institution rather than the institution.
(b) For purposes of Subsection (105)(a)(i), a residential address includes an:
(i) apartment; or
(ii) other individual dwelling unit.
(106) "Residential use" means the use in or around a home, apartment building,
sleeping quarters, and similar facilities or accommodations.
(107) "Retail sale" or "sale at retail" means a sale, lease, or rental for a purpose other
than:
<del>(a) resale;</del>
(b) sublease; or
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(108) (a) "Retailer" means any person engaged in a regularly organized business in
tangible personal property or any other taxable transaction under Subsection 59-12-103(1), and
who is selling to the user or consumer and not for resale.
(b) "Retailer" includes commission merchants, auctioneers, and any person regularly
engaged in the business of selling to users or consumers within the state.
(109) (a) "Sale" means any transfer of title, exchange, or barter, conditional or
otherwise, in any manner, of tangible personal property or any other taxable transaction under
Subsection 59-12-103(1), for consideration.
(b) "Sale" includes:
(i) installment and credit sales;
(ii) any closed transaction constituting a sale;
(iii) any sale of electrical energy, gas, services, or entertainment taxable under this
<del>chapter;</del>
(iv) any transaction if the possession of property is transferred but the seller retains the
title as security for the payment of the price; and

(v) any transaction under which right to possession, operation, or use of any article of
tangible personal property is granted under a lease or contract and the transfer of possession
would be taxable if an outright sale were made.
(110) "Sale at retail" [is as] means the same as that term is defined in Subsection (107)
(111) "Sale-leaseback transaction" means a transaction by which title to tangible
personal property or a product transferred electronically that is subject to a tax under this
<del>chapter is transferred:</del>
(a) by a purchaser-lessee;
(b) to a lessor;
(c) for consideration; and
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(i) the purchaser-lessee paid sales and use tax on the purchaser-lessee's initial purchase
of the tangible personal property or product transferred electronically;
(ii) the sale of the tangible personal property or product transferred electronically to the
lessor is intended as a form of financing:
(A) for the tangible personal property or product transferred electronically; and
(B) to the purchaser-lessee; and
(iii) in accordance with generally accepted accounting principles, the purchaser-lessee
is required to:
(A) capitalize the tangible personal property or product transferred electronically for
financial reporting purposes; and
(B) account for the lease payments as payments made under a financing arrangement.
(112) "Sales price" is as defined in Subsection (99).
(113) (a) "Sales relating to schools" means the following sales by, amounts paid to, or
amounts charged by a school:
(i) sales that are directly related to the school's educational functions or activities
including:
(A) the sale of:
(I) textbooks;
(II) textbook fees;
(III) laboratory fees;



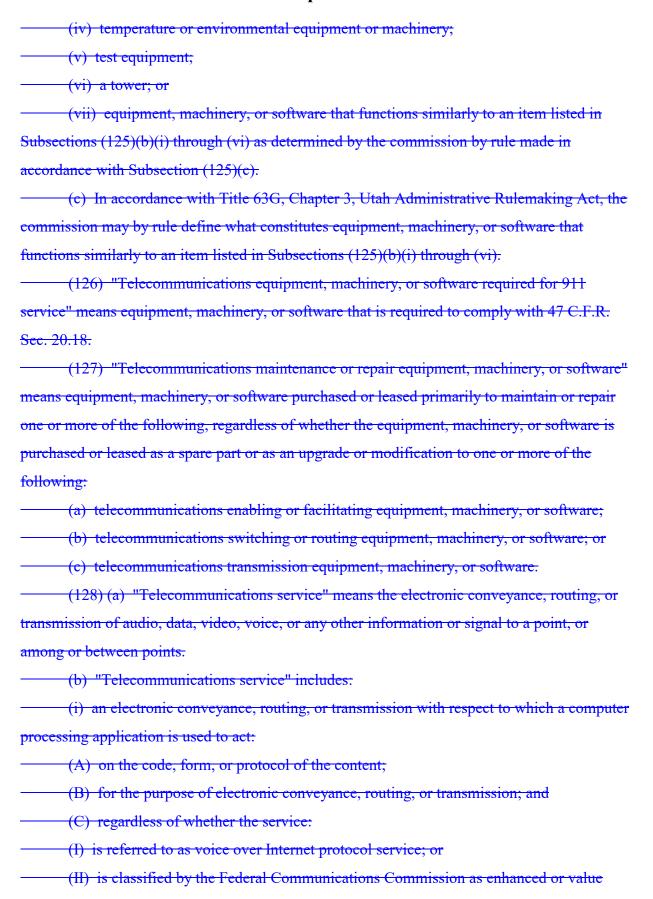


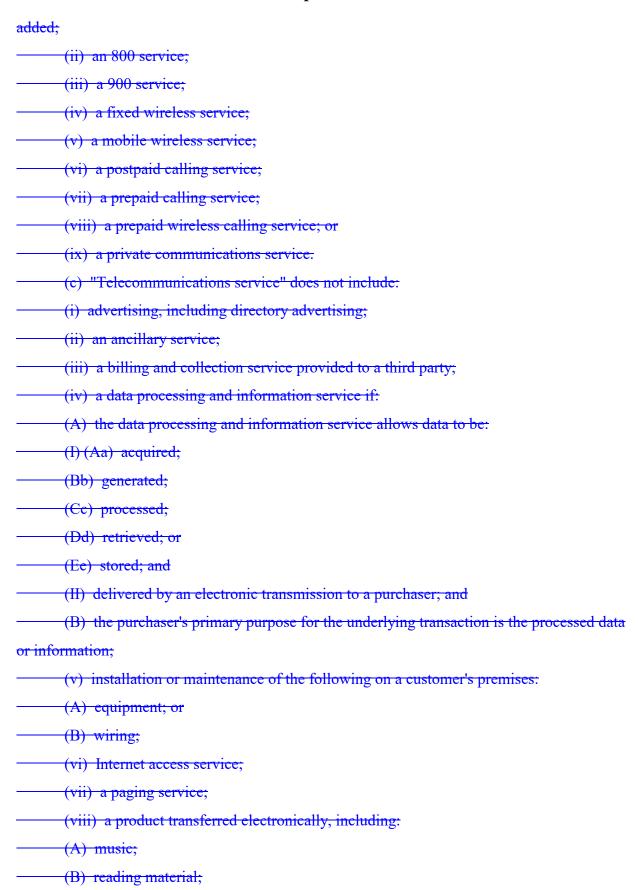
(B) maintaining an environment suitable for a semiconductor.
(b) "Semiconductor fabricating, processing, research, or development materials"
<del>includes:</del>
(i) parts used in the repairs or renovations of tangible personal property or a product
transferred electronically described in Subsection (116)(a); or
(ii) a chemical, catalyst, or other material used to:
(A) produce or induce in a semiconductor a:
(I) chemical change; or
(II) physical change;
(B) remove impurities from a semiconductor; or
(C) improve the marketable condition of a semiconductor.
(117) "Senior citizen center" means a facility having the primary purpose of providing
services to the aged as defined in Section 62A-3-101.
(118) (a) Subject to Subsections (118)(b) and (c), "short-term lodging consumable"
means tangible personal property that:
(i) a business that provides accommodations and services described in Subsection
59-12-103(1)(i) purchases as part of a transaction to provide the accommodations and services
to a purchaser;
(ii) is intended to be consumed by the purchaser; and
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(A) included in the purchase price of the accommodations and services; and
(B) not separately stated on an invoice, bill of sale, or other similar document provided
to the purchaser.
(b) "Short-term lodging consumable" includes:
(i) a beverage;
(ii) a brush or comb;
(iii) a cosmetic;
(iv) a hair care product;
<del>(v) lotion;</del>
(vi) a magazine;
(vii) makeup;



(i) designed for human use; and
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(A) worn in conjunction with:
(I) an athletic activity; or
(II) a recreational activity; and
(B) not suitable for general use.
(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
commission shall make rules:
(i) listing the items that constitute "sports or recreational equipment"; and
(ii) that are consistent with the list of items that constitute "sports or recreational
equipment" under the agreement.
(122) "State" means the state of Utah, its departments, and agencies.
(123) "Storage" means any keeping or retention of tangible personal property or any
other taxable transaction under Subsection 59-12-103(1), in this state for any purpose except
sale in the regular course of business.
(124) (a) Except as provided in Subsection (124)(d) or (e), "tangible personal property"
means personal property that:
(i) may be:
(A) seen;
(B) weighed;
(C) measured;
(D) felt; or
(E) touched; or
(ii) is in any manner perceptible to the senses.
(b) "Tangible personal property" includes:
(i) electricity;
(ii) water;
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(iv) steam; or
(v) prewritten computer software, regardless of the manner in which the prewritten
computer software is transferred.

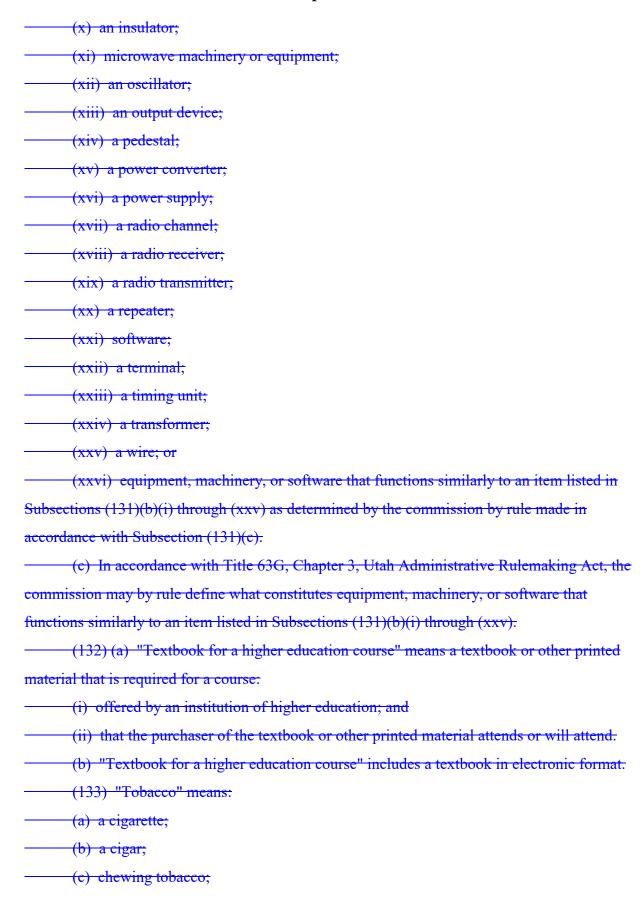
(c) "Tangible personal property" includes the following regardless of whether the iter	a
is attached to real property:	
(i) a dishwasher;	
<del>(ii)</del> a dryer;	
(iii) a freezer;	
(iv) a microwave;	
(v) a refrigerator;	
(vi) a stove;	
(vii) a washer; or	
(viii) an item similar to Subsections (124)(c)(i) through (vii) as determined by the	
commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative	
Rulemaking Act.	
(d) "Tangible personal property" does not include a product that is transferred	
electronically.	
(e) "Tangible personal property" does not include the following if attached to real	
property, regardless of whether the attachment to real property is only through a line that	
supplies water, electricity, gas, telephone, cable, or supplies a similar item as determined by t	ne
commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative	
Rulemaking Act:	
(i) a hot water heater;	
(ii) a water filtration system; or	
(iii) a water softener system.	
(125) (a) "Telecommunications enabling or facilitating equipment, machinery, or	
software" means an item listed in Subsection (125)(b) if that item is purchased or leased	
primarily to enable or facilitate one or more of the following to function:	
(i) telecommunications switching or routing equipment, machinery, or software; or	
(ii) telecommunications transmission equipment, machinery, or software.	
(b) The following apply to Subsection (125)(a):	
(i) a pole;	
(ii) software;	
(iii) a supplementary power supply;	

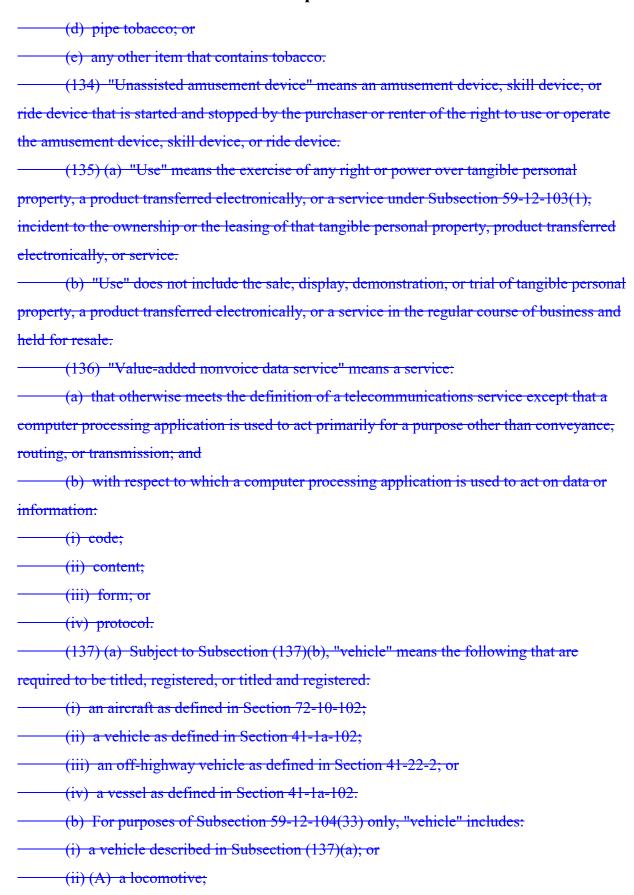


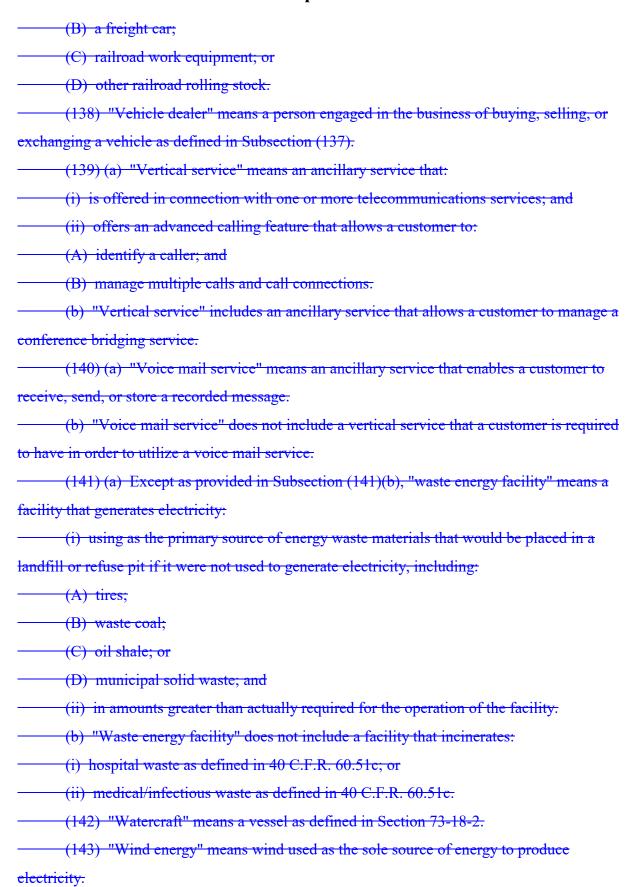


(C) a ring tone;
(D) software; or
(E) video;
(ix) a radio and television audio and video programming service:
(A) regardless of the medium; and
(B) including:
(I) furnishing conveyance, routing, or transmission of a television audio and video
programming service by a programming service provider;
(II) cable service as defined in 47 U.S.C. Sec. 522(6); or
(III) audio and video programming services delivered by a commercial mobile radio
service provider as defined in 47 C.F.R. Sec. 20.3;
(x) a value-added nonvoice data service; or
(xi) tangible personal property.
(129) (a) "Telecommunications service provider" means a person that:
(i) owns, controls, operates, or manages a telecommunications service; and
(ii) engages in an activity described in Subsection (129)(a)(i) for the shared use with o
resale to any person of the telecommunications service.
(b) A person described in Subsection (129)(a) is a telecommunications service provide
whether or not the Public Service Commission [of Utah] regulates:
(i) that person; or
(ii) the telecommunications service that the person owns, controls, operates, or
manages.
(130) (a) "Telecommunications switching or routing equipment, machinery, or
software" means an item listed in Subsection (130)(b) if that item is purchased or leased
primarily for switching or routing:
(i) an ancillary service;
(ii) data communications;
(iii) voice communications; or
(iv) telecommunications service.
(b) The following apply to Subsection (130)(a):
<del>(i) a bridge;</del>

<del>(ii) a computer;</del>
(iii) a cross connect;
<del>(iv)</del> a modem;
(v) a multiplexer;
(vi) plug in circuitry;
(vii) a router;
(viii) software;
(ix) a switch; or
(x) equipment, machinery, or software that functions similarly to an item listed in
Subsections (130)(b)(i) through (ix) as determined by the commission by rule made in
accordance with Subsection (130)(c).
(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
commission may by rule define what constitutes equipment, machinery, or software that
functions similarly to an item listed in Subsections (130)(b)(i) through (ix).
(131) (a) "Telecommunications transmission equipment, machinery, or software"
means an item listed in Subsection (131)(b) if that item is purchased or leased primarily for
sending, receiving, or transporting:
(i) an ancillary service;
(ii) data communications;
(iii) voice communications; or
(iv) telecommunications service.
(b) The following apply to Subsection (131)(a):
(i) an amplifier;
<del>(ii) a cable;</del>
(iii) a closure;
(iv) a conduit;
(v) a controller;
(vi) a duplexer;
(vii) a filter;
(viii) an input device;
(ix) an input/output device;







- (144) "ZIP Code" means a Zoning Improvement Plan Code assigned to a geographic location by the United States Postal Service.
- 59-12-402.1. State correctional facility sales and use tax -- Base -- Rate -- Collection fees -- Imposition -- Prohibition of military installation development authority imposition of tax.
- (1) As used in this section, "new state correctional facility" means a new prison in the state:
  - (a) that is operated by the Department of Corrections;
  - (b) the construction of which begins on or after May 12, 2015; and
  - (c) that provides a capacity of 2,500 or more inmate beds.
- (2) Subject to the other provisions of this part, a city or town legislative body may impose a tax under this section if the construction of a new state correctional facility has begun within the boundaries of the city or town.
  - (3) For purposes of this section, the tax rate may not exceed .5%.
- (4) Except as provided in Subsection (5), a tax under this section shall be imposed on the transactions described in Subsection 59-12-103(1) within the city or town.
  - (5) A city or town may not impose a tax under this section on:
  - (a) the sale of:
  - (i) a motor vehicle;
  - (ii) an aircraft;
  - (iii) a watercraft;
  - (iv) a modular home;
  - (v) a manufactured home; or
  - (vi) a mobile home;
- (b) the sales and uses described in Section 59-12-104 to the extent the sales and uses are exempt under Section 59-12-104; and
- (c) except as provided in Subsection (7), amounts paid or charged for food and food ingredients.
- (6) For purposes of this section, the location of a transaction shall be determined in accordance with Sections 59-12-211 through 59-12-215.
  - (7) A city or town that imposes a tax under this section shall impose the tax on

amounts paid or charged for food and food ingredients if the food and food ingredients are sold as part of a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients.

- (8) A city or town may impose a tax under this section by majority vote of the members of the city or town legislative body.
- (9) A city or town that imposes a tax under this section is not subject to Section 59-12-405.
- (10) A military installation development authority may not impose a tax under this section.

{Section 2. Section 59-12-403 is amended to read:

59-12-403. Enactment or repeal of tax -- Tax rate change -- Effective date -
Notice requirements -- Administration, collection, and enforcement of tax -
Administrative charge.

- (1) For purposes of this section:
- (a) "Annexation" means an annexation to a city or town under Title 10, Chapter 2, Part 4, Annexation.
- (b) "Annexing area" means an area that is annexed into a city or town.
- (2) (a) Except as provided in Subsection (2)(c) or (d), if, on or after April 1, 2008, a city or town enacts or repeals a tax or changes the rate of a tax under this part, the enactment, repeal, or change shall take effect:
  - (i) on the first day of a calendar quarter; and
- (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (2)(b) from the city or town.
  - (b) The notice described in Subsection (2)(a)(ii) shall state:
- (i) that { (11) If the city or town { will enact or repeal a tax or change the rate of a tax under this part;
  - (ii) the statutory authority for imposes the tax described in {Subsection (2)(b)(i);
  - (iii) the effective date of the tax described in Subsection (2)(b)(i); and
- (iv) if}this section, the city or town {enacts the tax or changes the rate of the tax described in Subsection (2)(b)(i), the rate of the tax.
  - (c) (i) [The] If the billing period for the transaction begins before the effective date of

the enactment of the tax or the tax rate increase imposed under Section 59-12-401 or 59-12-402, the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period[: (A)] that begins on or after the effective date of the enactment of the tax or the tax rate increase[; and].

- [(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or 59-12-402.1.]
- (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is [rendered] produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401[,] or 59-12-402[, or 59-12-402.1].
- (d) (i) If a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (2)(a) takes effect:
  - (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (2)(a).
- (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."
- (3) (a) Except as provided in Subsection (3)(c) or (d), if, for an annexation that occurs on or after July 1, 2004, the annexation will result in the enactment, repeal, or change in the rate of a tax under this part for an annexing area, the enactment, repeal, or change shall take effect:
- (i) on the first day of a calendar quarter; and
- (ii) after a 90-day period beginning on the date the commission receives notice meeting the requirements of Subsection (3)(b) from shall expend the revenue from any taxes collected to fund a capital expense, project, or job that is within a 12-mile radius of the new state correctional facility and within the city or town {that annexes the annexing area.
  - (b) The notice described in Subsection (3)(a)(ii) shall state:
- (i) that the annexation described in Subsection (3)(a) will result in an enactment, repeal, or change in the rate of a tax under this part for the annexing area;

(ii) the statutory authority for the tax described in Subsection (3)(b)(i); (iii) the effective date of the tax described in Subsection (3)(b)(i); and (iv) if the city or town enacts the tax or changes the rate of the tax described in Subsection (3)(b)(i), the rate of the tax. (c) (i) [The] If the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401 or 59-12-402, the enactment of a tax or a tax rate increase takes effect on the first day of the first billing period[: (A)] that begins on or after the effective date of the enactment of the tax or the tax rate increase[; and]. [(B) if the billing period for the transaction begins before the effective date of the enactment of the tax or the tax rate increase imposed under Section 59-12-401, 59-12-402, or <del>59-12-402.1.]</del> (ii) The repeal of a tax or a tax rate decrease applies to a billing period if the billing statement for the billing period is [rendered] produced on or after the effective date of the repeal of the tax or the tax rate decrease imposed under Section 59-12-401[,] or 59-12-402[, or <del>59-12-402.1].</del> (d) (i) Notwithstanding Subsection (3)(a), if a tax due under this chapter on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, an enactment, repeal, or change in the rate of a tax described in Subsection (3)(a) takes effect: (A) on the first day of a calendar quarter; and (B) beginning 60 days after the effective date of the enactment, repeal, or change in the rate of the tax under Subsection (3)(a). (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale." (4) (a) Except as provided in Subsection (4)(b), a tax authorized under this part shall be administered, collected, and enforced in accordance with: (i) the same procedures used to administer, collect, and enforce the tax under: (A) Part 1, Tax Collection; or (B) Part 2, Local Sales and Use Tax Act; and (ii) Chapter 1, General Taxation Policies. (b) Notwithstanding Subsection (4)(a), a tax under this part is not subject to

# Subsections 59-12-205(2) through (6): (5) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part. Section 3. Repealer. This bill repeals: Section 59-12-402.1, State correctional facility sales and use tax -- Base -- Rate -- Collection fees -- Imposition -- Prohibition of military installation development authority imposition of tax. Section 4. Effective date. If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

**<u>Legislative Review Note</u>** 

Office of Legislative Research and General Counsel\boundaries.