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₵ Approved for Filing: RLR ₵
₵ 01-31-00 5:42 PM ₵

H.B. 111

MOTOR VEHICLE UNIFORM FEES

2000 GENERAL SESSION

STATE OF UTAH

Sponsor: Ron Bigelow

AN ACT RELATING TO THE PROPERTY TAX ACT; REPEALING AN ANNUAL UNIFORM FEE IMPOSED ON CERTAIN VEHICLES WEIGHING 12,000 POUNDS OR LESS ON THE BASIS OF THE AGE AND WEIGHT OF THE VEHICLES AND SUBJECTING THE VEHICLES TO AN ANNUAL UNIFORM FEE IMPOSED ON THE BASIS OF THE VALUE OF THE VEHICLES; MODIFYING THE EQUIVALENT TAX IMPOSED ON APPORTIONED VEHICLES AND THE UNIFORM FEES IMPOSED ON COMMERCIAL VEHICLES; REQUIRING THE STATE TAX COMMISSION TO ADJUST A TAXING ENTITY'S CERTIFIED TAX RATE AND CERTIFIED REVENUE LEVY; REPEALING OBSOLETE LANGUAGE; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

41-1a-222, as last amended by Chapter 322, Laws of Utah 1998

41-1a-301, as last amended by Chapters 8 and 322, Laws of Utah 1998

53A-17a-135, as last amended by Chapter 332, Laws of Utah 1999

59-2-405, as last amended by Chapter 322, Laws of Utah 1998

59-2-406, as last amended by Chapters 109 and 322, Laws of Utah 1998

59-2-407, as last amended by Chapter 207, Laws of Utah 1999

59-2-801, as last amended by Chapter 134, Laws of Utah 1999

59-2-924, as last amended by Chapter 353, Laws of Utah 1999

59-7-611, as last amended by Chapter 21, Laws of Utah 1999

59-10-601, as last amended by Chapter 322, Laws of Utah 1998

REPEALS:

59-2-405.1, as enacted by Chapter 322, Laws of Utah 1998

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

Section 1. Section **41-1a-222** is amended to read:

41-1a-222. Application for multiyear registration -- Payment of taxes -- Penalties.

(1) The owner of any intrastate fleet of commercial vehicles which is based in the state may apply to the commission for registration in accordance with this section.

(a) The application shall be made on a form prescribed by the commission.

(b) Upon payment of required fees and meeting other requirements prescribed by the commission, the division shall issue, to each vehicle for which application has been made, a multiyear license plate and registration card.

(i) The license plate decal and the registration card shall bear an expiration date fixed by the division and are valid until ownership of the vehicle to which they are issued is transferred by the applicant or until the expiration date, whichever comes first.

(ii) An annual renewal application must be made by the owner if registration identification has been issued on an annual installment fee basis and the required fees must be paid on an annual basis.

(iii) License plates and registration cards issued pursuant to this section are valid for an eight-year period, commencing with the year of initial application in this state.

(c) When application for registration or renewal is made on an installment payment basis, the applicant shall submit acceptable evidence of a surety bond in a form, and with a surety, approved by the commission and in an amount equal to the total annual fees required for all vehicles registered to the applicant in accordance with this section.

(2) Each vehicle registered as part of a fleet of commercial vehicles must be titled in the name of the fleet.

(3) Each owner who registers fleets pursuant to this section shall pay the taxes or in lieu fees otherwise due pursuant to:

(a) Section 41-1a-206;

(b) Section 41-1a-207; or

[~~(c) Section 59-2-405.1; or~~]

[~~(d)~~] (c) Subsection 41-1a-301(11).

(4) An owner who fails to comply with the provisions of this section is subject to the penalties in Section 41-1a-1301 and, if the commission so determines, will result in the loss of the

privileges granted in this section.

Section 2. Section **41-1a-301** is amended to read:

41-1a-301. Apportioned registration and licensing of interstate vehicles.

(1) (a) An owner or operator of a fleet of commercial vehicles based in this state and operating in two or more jurisdictions may register commercial vehicles for operation under the International Registration Plan or the Uniform Vehicle Registration Proration and Reciprocity Agreement by filing an application with the division.

(b) The application shall include information that identifies the vehicle owner, the vehicle, the miles traveled in each jurisdiction, and other information pertinent to the registration of apportioned vehicles.

(c) Vehicles operated exclusively in this state may not be apportioned.

(2) (a) If no operations were conducted during the preceding year, the application shall contain a statement of the proposed operations and an estimate of annual mileage for each jurisdiction.

(b) The division may adjust the estimate if the division is not satisfied with its correctness.

(c) At renewal, the registrant shall use the actual mileage from the preceding year in computing fees due each jurisdiction.

(3) The registration fee for apportioned vehicles shall be determined as follows:

(a) divide the in-jurisdiction miles by the total miles generated during the preceding year;

(b) total the fees for each vehicle based on the fees prescribed in Section 41-1a-1206; and

(c) multiply the sum obtained under Subsection (3)(b) by the quotient obtained under Subsection (3)(a).

(4) Trailers or semitrailers of apportioned fleets may be listed separately as "trailer fleets" with the fees paid according to the total distance those trailers were towed in all jurisdictions during the preceding year mileage reporting period.

(5) (a) (i) When the proper fees have been paid and the property tax or in lieu fee has been cleared under Section 41-1a-206 or 41-1a-207, a registration card, annual decal, and where necessary, license plate, will be issued for each unit listed on the application.

(ii) An original registration must be carried in each vehicle at all times.

(b) Original registration cards for trailers or semitrailers may be carried in the power unit.

(c) (i) In lieu of a permanent registration card or license plate, the division may issue one

temporary permit authorizing operation of new or unlicensed vehicles until the permanent registration is completed.

(ii) Once a temporary permit is issued, the registration process may not be cancelled. Registration must be completed and the fees and any property tax or in lieu fee due must be paid for the vehicle for which the permit was issued.

(iii) Temporary permits may not be issued for renewals.

(d) (i) The division shall issue one distinctive license plate that displays the letters APP for apportioned vehicles.

(ii) The plate shall be displayed on the front of an apportioned truck tractor or power unit or on the rear of any apportioned vehicle.

(iii) Distinctive decals displaying the word "apportioned" and the month and year of expiration shall be issued for each apportioned vehicle.

(e) A nonrefundable administrative fee, determined by the Tax Commission pursuant to Section 63-38-3.2, shall be charged for each temporary permit, registration, or both.

(6) Vehicles that are apportionally registered are fully registered for intrastate and interstate movements, providing the proper interstate and intrastate authority has been secured.

(7) (a) Vehicles added to an apportioned fleet after the beginning of the registration year shall be registered by applying the quotient under Subsection (3)(a) for the original application to the fees due for the remainder of the registration year.

(b) (i) The owner shall maintain and submit complete annual mileage for each vehicle in each jurisdiction, showing all miles operated by the lessor and lessee.

(ii) The fiscal mileage reporting period begins July 1, and continues through June 30 of the year immediately preceding the calendar year in which the registration year begins.

(c) (i) An owner-operator, who is a lessor, may be the registrant and the vehicle may be registered in the name of the owner-operator.

(ii) The identification plates and registration card shall be the property of the lessor and may reflect both the owner-operator's name and that of the carrier as lessee.

(iii) The allocation of fees shall be according to the operational records of the owner-operator.

(d) (i) The lessee may be the registrant of a leased vehicle at the option of the lessor.

(ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name shall

appear on the registration.

(iii) The allocation of fees shall be according to the records of the carrier.

(8) (a) Any registrant whose application for apportioned registration has been accepted shall preserve the records on which the application is based for a period of three years after the close of the registration year.

(b) The records shall be made available to the division upon request for audit as to accuracy of computations, payments, and assessments for deficiencies, or allowances for credits.

(c) An assessment for deficiency or claim for credit may not be made for any period for which records are no longer required.

(d) Interest in the amount prescribed by Section 59-1-402 shall be assessed or paid from the date due until paid on deficiencies found due after audit.

(e) Registrants with deficiencies are subject to the penalties under Section 59-1-401.

(f) The division may enter into agreements with other International Registration Plan jurisdictions for joint audits.

(9) All state fees collected shall be deposited in the Transportation Fund.

(10) If registration is for less than a full year, fees for apportioned registration shall be assessed according to Section 41-1a-1207.

(a) (i) If the registrant is replacing a vehicle for one withdrawn from the fleet and the new vehicle is of the same weight category as the replaced vehicle, the registrant must file a supplemental application.

(ii) A registration card that transfers the license plate to the new vehicle shall be issued.

(iii) When a replacement vehicle is of greater weight than the replaced vehicle, additional registration fees are due.

(b) If a vehicle is withdrawn from an apportioned fleet during the period for which it is registered, the registrant shall notify the division and surrender the registration card and license plate of the withdrawn vehicle.

(11) (a) An out-of-state carrier with an apportionally registered vehicle who has not presented a certificate of property tax or in lieu fee as required by Section 41-1a-206 or 41-1a-207, shall pay, at the time of registration, a proportional part of an equalized highway use tax computed as follows:

(i) Multiply the number of vehicles or combination vehicles registered in each weight class

by the equivalent tax figure from the following [~~tables~~] table:

[~~Vehicle or Combination~~]

[~~Registered Weight~~]	[~~Age of Vehicle~~]	[~~Equivalent Tax~~]
[~~12,000 pounds or less~~]	[~~12 or more years~~]	[~~$10~~]
[~~12,000 pounds or less~~]	[~~9 or more years but less than 12 years~~]	[~~$50~~]
[~~12,000 pounds or less~~]	[~~6 or more years but less than 9 years~~]	[~~$80~~]
[~~12,000 pounds or less~~]	[~~3 or more years but less than 6 years~~]	[~~$110~~]
[~~12,000 pounds or less~~]	[~~Less than 3 years~~]	[~~$150~~]

Vehicle or Combination Registered Weight	Equivalent Tax
[~~12,001 -~~] 18,000 pounds or less	[~~$150~~] $100
18,001 - 34,000 pounds	200
34,001 - 48,000 pounds	300
48,001 - 64,000 pounds	450
64,001 pounds and over	600

(ii) Multiply the equivalent tax value for the total fleet determined under Subsection (11)(a)(i) by the fraction computed under Subsection (3) for the apportioned fleet for the registration year.

(b) Fees shall be assessed as provided in Section 41-1a-1207.

(12) (a) Commercial vehicles meeting the registration requirements of another jurisdiction may, as an alternative to full or apportioned registration, secure a temporary registration permit for a period not to exceed 96 hours or until they leave the state, whichever is less, for a fee of $20 for a single unit and $40 for multiple units.

(b) A state temporary permit or registration fee is not required from nonresident owners or operators of vehicles or combination of vehicles having a gross laden weight of 26,000 pounds or less for each single unit or combination.

Section 3. Section **53A-17a-135** is amended to read:

53A-17a-135. Certified revenue levy.

(1) (a) In order to qualify for receipt of the state contribution toward the basic program and as its contribution toward its costs of the basic program, each school district shall impose a minimum basic tax rate per dollar of taxable value that generates $182,893,646 in revenues

statewide.

(b) The preliminary estimate for the 1999-2000 tax rate is .001847.

(c) The State Tax Commission shall certify on or before June 22 the rate that generates $182,893,646 in revenues statewide.

(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in Section 59-2-102, the state is subject to the notice requirements of Section 59-2-926.

[~~(e) For the calendar year beginning on January 1, 1998, and ending December 31, 1998, the certified revenue levy shall be increased by the amount necessary to offset the decrease in revenues from uniform fees on tangible personal property under Section 59-2-405 as a result of the decrease in uniform fees on tangible personal property under Section 59-2-405 enacted by the Legislature during the 1997 Annual General Session.~~]

[~~(f) For the calendar year beginning on January 1, 1999, and ending on December 31, 1999, the certified revenue levy shall be adjusted by the amount necessary to offset the adjustment in revenues from uniform fees on tangible personal property under Section 59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property under Section 59-2-405.1 enacted by the Legislature during the 1998 Annual General Session.~~]

(2) (a) The state shall contribute to each district toward the cost of the basic program in the district that portion which exceeds the proceeds of the levy authorized under Subsection (1).

(b) In accord with the state strategic plan for public education and to fulfill its responsibility for the development and implementation of that plan, the Legislature instructs the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each of the coming five years to develop budgets that will fully fund student enrollment growth.

(3) (a) If the proceeds of the levy authorized under Subsection (1) equal or exceed the cost of the basic program in a school district, no state contribution shall be made to the basic program.

(b) The proceeds of the levy authorized under Subsection (1) which exceed the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

Section 4. Section **59-2-405** is amended to read:

59-2-405. Uniform fee on tangible personal property required to be registered with the state.

(1) The property described in Subsection (2), except Subsections (2)(b)(ii) and (iii), is exempt from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section 14.

(2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this section an annual statewide uniform fee in lieu of the ad valorem tax on:

(i) motor vehicles required to be registered with the state [~~that weigh 12,001 pounds or more~~];

(ii) watercraft required to be registered with the state;

(iii) recreational vehicles required to be registered with the state; and

(iv) all other tangible personal property required to be registered with the state before it is used on a public highway, on a public waterway, on public land, or in the air.

(b) [~~The~~] Notwithstanding Subsection (2)(a), following personal property is exempt from the statewide uniform fee imposed by this section:

(i) aircraft;

(ii) vintage vehicles as defined in Section 41-21-1;

(iii) state-assessed commercial vehicles; and

(iv) personal property that is exempt from state or county ad valorem property taxes under the laws of this state or of the federal government.

(3) Beginning on January 1, 1999, the uniform fee is 1.5% of the fair market value of the personal property, as established by the commission.

(4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is brought into the state and is required to be registered in Utah shall, as a condition of registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by the state of origin have been paid for the current calendar year.

(5) (a) The revenues collected in each county from the uniform fee shall be distributed by the county to each taxing entity in which the property described in Subsection (2) is located in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in the same proportion in which revenue collected from ad valorem real property tax is distributed.

(6) Appeals of the valuation of the tangible personal property described in Subsection (2) shall be filed pursuant to Section 59-2-1005.

Section 5. Section **59-2-406** is amended to read:

59-2-406. Collection of uniform fees and other motor vehicle fees.

(1) (a) For the purposes of efficiency in the collection of the uniform fee required by this

section, the commission shall enter into a contract for the collection of the uniform fees required under [~~Sections~~] Section 59-2-405 [~~and 59-2-405.1~~] and certain fees required by Title 41, Motor Vehicles.

(b) The contract required by this section shall, at the county's option, provide for one of the following collection agreements:

(i) the collection by the commission of:

(A) the uniform [~~fees~~] fee required under [~~Sections~~] Section 59-2-405 [~~and 59-2-405.1~~]; and

(B) all Title 41 fees listed in Subsection (1)(c); or

(ii) the collection by the county of:

(A) the uniform [~~fees~~] fee required under [~~Sections~~] Section 59-2-405 [~~and 59-2-405.1~~]; and

(B) all Title 41 fees listed in Subsection (1)(c).

(c) The Title 41 fees that are subject to the contractual agreement required by this section are:

(i) registration fees for vehicles, mobile homes, manufactured homes, boats, and off-highway vehicles, with the exception of fleet and proportional registration;

(ii) title fees for vehicles, mobile homes, manufactured homes, boats, and off-highway vehicles;

(iii) plate fees for vehicles;

(iv) permit fees; and

(v) impound fees.

(d) A county may change the election it makes pursuant to Subsection (1)(b) by providing written notice of the change to the commission at least 18 months before the change shall take effect.

(2) The contract shall provide that the party contracting to perform services shall:

(a) be responsible for the collection of:

(i) the uniform [~~fees~~] fee under [~~Sections~~] Section 59-2-405 [~~and 59-2-405.1~~]; and

(ii) the applicable Title 41 fees as agreed to in the contract;

(b) utilize the documents and forms, guidelines, practices, and procedures that meet the contract specifications;

(c) meet the performance standards and comply with applicable training requirements specified in the rules made under Subsection (8)(a); and

(d) be subject to a penalty of 1/2 the difference between the reimbursement fee specified under Subsection (3) and the reimbursement fee for fiscal year 1997-98 if performance is below the performance standards specified in the rules made under Subsection (8)(a).

(3) (a) The commission shall recommend a reimbursement fee for collecting the fees as provided in Subsection (2)(a)[~~, except that the commission may not collect a reimbursement fee on a state-assessed commercial vehicle described in Subsection 59-2-405.1(2)(a)(ii)~~].

(b) The reimbursement fee shall:

(i) be based on:

(A) two dollars per standard unit for the first 5,000 standard units in each county; and

(B) one dollar per standard unit for all other standard units; and [~~shall be~~]

(ii) annually adjusted by the commission beginning on July 1, 1999.

(c) The adjustment shall be equal to any increase in the Consumer Price Index for all urban consumers, prepared by the United States Bureau of Labor Statistics, during the preceding calendar year.

(d) The reimbursement fees under this Subsection (3) shall be appropriated by the Legislature.

(4) All counties that elect to collect the uniform fee and any other Title 41 fees as provided by contract shall be subject to similar contractual terms.

(5) The party performing the collection services by contract shall use appropriate automated systems software and equipment compatible with the system used by the other contracting party in order to ensure the integrity of the current motor vehicle data base and county tax systems, or successor data bases and systems.

(6) If the county elects not to collect the uniform fee and the Title 41 fees:

(a) the commission shall:

(i) collect the uniform fee and Title 41 fees in each county or regional center as negotiated by the counties with the commission in accordance with the requirements of this section; and

(ii) provide information to the county in a format and media consistent with the county's requirements; and

(b) the county shall pay the commission a reimbursement fee as provided in Subsection

(3).

(7) This section shall not limit the authority given to the county in Section 59-2-1302.

(8) (a) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall make rules specifying the performance standards and applicable training requirements for all contracts required by this section.

(b) Beginning on July 1, 1998, each new contract entered into under this section shall be subject to the rules made under Subsection (8)(a).

Section 6. Section **59-2-407** is amended to read:

59-2-407. Administration of uniform fees.

(1) [~~(a)~~] Except as provided in Subsection 59-2-405(4), the uniform fee authorized in Sections 59-2-404 and 59-2-405 shall be assessed at the same time and in the same manner as ad valorem personal property taxes under Chapter 2, Part 13, Collection of Taxes, except that in listing personal property subject to the uniform fee with real property as permitted by Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under Section 17-16-5.5, the treasurer shall list only the amount of the uniform fee due, and not the taxable value of the property subject to the uniform fee.

[~~(b) Except as provided in Subsection 59-2-405(4), the uniform fee authorized in Section 59-2-405.1 shall be assessed at the time of:~~]

[~~(i) registration as defined in Section 41-1a-102; and~~]

[~~(ii) renewal of registration.~~]

(2) The remedies for nonpayment of the uniform fees authorized by Sections 59-2-404[~~,~~] and 59-2-405[~~, and 59-2-405.1~~] shall be the same as those provided in Chapter 2, Part 13, Collection of Taxes, for nonpayment of ad valorem personal property taxes.

Section 7. Section **59-2-801** is amended to read:

59-2-801. Apportionment of property assessed by commission.

(1) Before May 25 of each year, the commission shall apportion to each tax area the total assessment of all of the property the commission assesses as provided in Subsections (1)(a) through (f).

(a) (i) The commission shall apportion the assessments of the property described in Subsection (1)(a)(ii):

(A) to each tax area through which the public utility or company described in Subsection

(1)(a)(ii) operates; and

(B) in proportion to the property's value in each tax area.

(ii) Subsection (1)(a)(i) applies to property owned by:

(A) a public utility, except for the rolling stock of a public utility;

(B) a pipeline company;

(C) a power company;

(D) a canal company; or

(E) an irrigation company.

(b) The commission shall apportion the assessments of the rolling stock of a railroad:

(i) to the tax areas through which railroads operate; and

(ii) in the proportion that the length of the main tracks, sidetracks, passing tracks, switches, and tramways of the railroads in each tax area bears to the total length of the main tracks, sidetracks, passing tracks, switches, and tramways in the state.

(c) The commission shall apportion the assessments of the property of a car company to:

(i) each tax area in which a railroad is operated; and

(ii) in the proportion that the length of the main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in each tax area bears to the total length of the main tracks, passing tracks, sidetracks, switches, and tramways of all of the railroads in the state.

(d) (i) The commission shall apportion the assessments of the property described in Subsection (1)(d)(ii) to each tax area in which the property is located.

(ii) Subsection (1)(d)(i) applies to the following property:

(A) mines;

(B) mining claims; or

(C) mining property.

(e) (i) The commission shall apportion the assessments of the property described in Subsection (1)(e)(ii) to:

(A) each designated tax area; and

(B) in the proportion that the route miles in each designated tax area bear to the total route miles in the state.

(ii) Subsection (1)(e)(i) applies to the mobile flight equipment owned by an:

(A) air charter service;

(B) air contract service; or

(C) airline.

(f) (i) The commission shall apportion the assessments of the property described in Subsection (1)(f)(ii) to each tax area in which the property is located as of January 1 of each year.

(ii) Subsection (1)(f)(i) applies to the real and tangible personal property, other than mobile flight equipment, owned by an:

(A) air charter service;

(B) air contract service; or

(C) airline.

(2) (a) (i) [~~(A)~~] State-assessed commercial vehicles [~~that weigh 12,001 pounds or more~~] shall be taxed at a statewide average rate which is calculated from the overall county average tax rates from the preceding year, exclusive of the property subject to the statewide uniform fee, weighted by lane miles of principal routes in each county.

[~~(B)~~] (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission shall adopt rules to define "principal routes."

[~~(ii) State-assessed commercial vehicles that weigh 12,000 pounds or less are subject to the uniform fee provided in Section 59-2-405.1.~~]

(b) The combined revenue from all state-assessed commercial vehicles shall be apportioned to the counties based on:

(i) 40% by the percentage of lane miles of principal routes within each county as determined by the commission; and

(ii) 60% by the percentage of total state-assessed vehicles having business situs in each county.

(c) At least quarterly, the commission shall apportion the total taxes paid on state-assessed commercial vehicles to the counties.

(d) Each county shall apportion its share of the revenues under this Subsection (2) to the taxing entities within its boundaries in the same proportion as the assessments of other:

(i) real property;

(ii) tangible personal property; and

(iii) property assessed by the commission.

Section 8. Section **59-2-924** is amended to read:

59-2-924. Report of valuation of property to county auditor and commission -- Transmittal by auditor to governing bodies -- Certified tax rate -- Adoption of tentative budget.

(1) (a) Before June 1 of each year, the county assessor of each county shall deliver to the county auditor and the commission the following statements:

(i) a statement containing the aggregate valuation of all taxable property in each taxing entity; and

(ii) a statement containing the taxable value of any additional personal property estimated by the county assessor to be subject to taxation in the current year.

(b) The county auditor shall, on or before June 8, transmit to the governing body of each taxing entity:

(i) the statements described in Subsections (1)(a)(i) and (ii);

(ii) an estimate of the revenue from personal property;

(iii) the certified tax rate; and

(iv) all forms necessary to submit a tax levy request.

(2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad valorem property tax revenues for a taxing entity as were collected by that taxing entity for the prior year.

(ii) For purposes of this Subsection (2), "ad valorem property tax revenues" do not include:

(A) collections from redemptions;

(B) interest; and

(C) penalties.

(iii) Except as provided in Subsection (2)(a)(iv), the certified tax rate shall be calculated by dividing the ad valorem property tax revenues collected for the prior year by the taxing entity by the taxable value established in accordance with Section 59-2-913.

(iv) The certified tax rates for the taxing entities described in this Subsection (2)(a)(iv) shall be calculated as follows:

(A) except as provided in Subsection (2)(a)(iv)(B), for new taxing entities the certified tax rate is zero;

(B) for each municipality incorporated on or after July 1, 1996, the certified tax rate is:

(I) in a county of the first, second, or third class, the levy imposed for municipal-type services under Sections 17-34-1 and 17-36-9; and

(II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county purposes and such other levies imposed solely for the municipal-type services identified in Section 17-34-2 and Subsection 17-36-3(22);

(C) for debt service voted on by the public, the certified tax rate shall be the actual levy imposed by that section, except that the certified tax rates for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125, 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

(II) levies to pay for the costs of state legislative mandates or judicial or administrative orders under Section 59-2-906.3.

(v) A judgment levy imposed under Section 59-2-1328 or Section 59-2-1330 shall be established at that rate which is sufficient to generate only the revenue required to satisfy the known, unpaid judgments. The ad valorem property tax revenue generated by the judgment levy shall not be considered in establishing the taxing entity's aggregate certified tax rate.

(b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use the taxable value of property on the assessment roll.

(ii) For purposes of Subsection (2)(b)(i), the taxable value of property on the assessment roll does not include new growth as defined in Subsection (2)(b)(iii).

(iii) "New growth" means:

(A) the difference between the increase in taxable value of the taxing entity from the previous calendar year to the current year; minus

(B) the amount of increase to locally assessed real property taxable values resulting from factoring, reappraisal, or any other adjustments.

(c) (i) Beginning on January 1, 1997, through December 31, 2000, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as a result of any county imposing a sales and use tax under Title 59, Chapter 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(ii) Beginning on January 1, 2001, if a taxing entity receives increased revenues from uniform fees on tangible personal property under Section 59-2-404 or 59-2-405 as a result of any county imposing a sales and use tax under Title 59, Chapter 12, Part 11, County Option Sales and

Use Tax, the taxing entity shall decrease its certified tax rate to offset the increased revenues.

(d) (i) Beginning on July 1, 1997, through December 31, 2000, if a county has imposed a sales and use tax under Title 59, Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(A) decreased on a one-time basis by the amount of the estimated sales tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(B) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-404, 59-2-405, or 59-2-405.1 as a result of the decrease in the certified tax rate under Subsection (2)(d)(i)(A).

(ii) Beginning on January 1, 2001, if a county has imposed a sales and use tax under Title 59, Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

(A) decreased on a one-time basis by the amount of the estimated sales tax revenue to be distributed to the county under Subsection 59-12-1102(3); and

(B) increased by the amount necessary to offset the county's reduction in revenue from uniform fees on tangible personal property under Section 59-2-404 or 59-2-405 as a result of the decrease in the certified tax rate under Subsection (2)(d)(ii)(A).

[~~(ii)~~] (iii) The commission shall determine estimates of sales tax distributions for purposes of [~~Subsection~~] Subsections (2)(d)(i) and (2)(d)(ii).

(e) For the calendar year beginning on January 1, 1998, and ending December 31, 1998, a taxing entity's certified tax rate shall be increased by the amount necessary to offset the decrease in revenues from uniform fees on tangible personal property under Section 59-2-405 as a result of the decrease in uniform fees on tangible personal property under Section 59-2-405 enacted by the Legislature during the 1997 Annual General Session.

(f) Beginning January 1, 1998, if a municipality has imposed an additional resort communities sales tax under Section 59-12-402, the municipality's certified tax rate shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of estimated revenue from the additional resort communities sales tax imposed under Section 59-12-402.

(g) For the calendar year beginning on January 1, 1999, and ending on December 31, 1999, a taxing entity's certified tax rate shall be adjusted by the amount necessary to offset the adjustment in revenues from uniform fees on tangible personal property under Section 59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property under Section 59-2-405.1 enacted

by the Legislature during the 1998 Annual General Session.

(h) For the calendar year beginning on January 1, 2000, the commission shall decrease a taxing entity's certified tax rate under this section and certified revenue levy under Section 59-2-906.1 by the amount necessary to offset any increases the commission made to the taxing entity's certified tax rate for the calendar year beginning on January 1, 1999, under:

(i) Subsection (2)(g); or

(ii) Section 59-2-906.1.

(3) (a) On or before June 22, each taxing entity shall annually adopt a tentative budget.

(b) If the taxing entity intends to exceed the certified tax rate, it shall notify the county auditor of:

(i) its intent to exceed the certified tax rate; and

(ii) the amount by which it proposes to exceed the certified tax rate.

(c) The county auditor shall notify all property owners of any intent to exceed the certified tax rate in accordance with Subsection 59-2-919(2).

(4) (a) The taxable value for the base year under Subsection 17A-2-1247(2)(a) or 17A-2-1202(2), as the case may be, shall be reduced for any year to the extent necessary to provide a redevelopment agency established under Title 17A, Chapter 2, Part 12, Utah Neighborhood Development Act, with approximately the same amount of money the agency would have received without a reduction in the county's certified tax rate if:

(i) in that year there is a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i);

(ii) the amount of the decrease is more than 20% of the county's certified tax rate of the previous year; and

(iii) the decrease results in a reduction of the amount to be paid to the agency under Section 17A-2-1247 or 17A-2-1247.5.

(b) The taxable value of the base year under Subsection 17A-2-1247(2)(a) or 17A-2-1202(2), as the case may be, shall be increased in any year to the extent necessary to provide a redevelopment agency with approximately the same amount of money as the agency would have received without an increase in the certified tax rate that year if:

(i) in that year the taxable value for the base year under Subsection 17A-2-1247(2) or 17A-2-1202(2) is reduced due to a decrease in the certified tax rate under Subsection (2)(c) or

(2)(d)(i); and

(ii) The certified tax rate of a city, school district, or special district increases independent of the adjustment to the taxable value of the base year.

(c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i), the amount of money allocated and, when collected, paid each year to a redevelopment agency established under Title 17A, Chapter 2, Part 12, Utah Neighborhood Development Act, for the payment of bonds or other contract indebtedness, but not for administrative costs, may not be less than that amount would have been without a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i).

(5) (a) Except as provided in Subsections (5)(d) through (f), for the calendar year beginning on January 1, 1998, and ending December 31, 1998, to impose a tax rate that exceeds the certified tax rate established in Subsection (2), a taxing entity shall obtain approval for the tax increase by a majority vote of the:

(i) governing body; and

(ii) people as provided in Subsection (5)(b).

(b) To obtain voter approval for a tax increase under Subsection (5)(a), a taxing entity shall:

(i) hold an election on the fourth Tuesday in June; and

(ii) conduct the election according to the procedures and requirements of Title 20A, Election Code, governing local elections.

(c) A tax rate imposed by a taxing entity under this Subsection (5) may not exceed the maximum levy permitted by law under Section 59-2-908.

(d) Notwithstanding Subsection (5)(a), a school district is not required to obtain voter approval under this Subsection (5) to impose a tax rate that exceeds the certified tax rate:

(i) under Section 53A-17a-135, if the Legislature increases the minimum basic tax rate under Section 53A-17a-135;

(ii) under Section 53A-21-103;

(iii) under Section 53A-16-111;

(iv) if, on or after January 1, 1997, but on or before December 31, 1997, the school district obtained voter approval to impose the tax rate; or

(v) if, on or after January 1, 1998, the school district obtains voter approval to impose the

tax rate under a statutory provision, other than the provisions of this section, requiring voter approval to impose the tax rate.

(e) Notwithstanding Subsection (5)(a), a municipality is not required to obtain voter approval under this Subsection (5) to impose a tax rate that exceeds the certified tax rate if:

(i) the municipality meets the requirements of Sections 59-2-918 and 59-2-919; and

(ii) in adopting the resolution required under Section 59-2-919, the municipal legislative body obtains approval to impose the tax rate by two-thirds of all members of the municipal legislative body.

(f) Notwithstanding Subsection (5)(a), a county or municipality is not required to obtain voter approval under this Subsection (5) to impose a tax rate under Section 17A-2-1322 that exceeds the certified tax rate calculated for a special service district established under Title 17A, Chapter 2, Part 13, Utah Special Service District Act, if the county or municipality obtained voter approval to impose a tax on property within the special service district:

(i) under Section 17A-2-1322; and

(ii) on or after June 1, 1996.

Section 9. Section **59-7-611** is amended to read:

59-7-611. Energy saving systems tax credit -- Limitations -- Definitions -- Tax credit in addition to other credits -- Certification -- Rulemaking authority -- Reimbursement of Uniform School Fund.

(1) As used in this section:

(a) "Active solar system":

(i) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(ii) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(b) "Biomass system" means any system of apparatus and equipment capable of converting organic plant, wood, or waste products into electrical and thermal energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(c) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(d) "Commercial energy system" means any active solar, passive solar, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(e) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(f) (i) "Commercial unit" means any building or structure which a business entity uses to transact its business except as provided in Subsection (1)(f)(ii); and

(ii) (A) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(B) if an energy system is the building or structure which a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(g) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and transferring this form of energy by separate apparatus to the point of use or storage.

(h) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and a resident individual as defined in Section 59-10-103.

(i) "Office of Energy and Resource Planning" means the Office of Energy and Resource Planning, Department of Natural Resources.

(j) "Passive solar system":

(i) means a direct thermal system which utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(ii) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(k) "Residential energy system" means any active solar, passive solar, wind, or hydroenergy system used to supply energy to or for any residential unit.

(l) "Residential unit" means any house, condominium, apartment, or similar dwelling unit which serves as a dwelling for a person, group of persons, or a family but does not include property subject to the fees in lieu of the ad valorem tax under:

(i) Section 59-2-404; or

(ii) Section 59-2-405[~~; or~~].

[~~(iii) Section 59-2-405.1.~~]

(m) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(2) (a) (i) A business entity that purchases and completes or participates in the financing of a residential energy system to supply all or part of the energy required for a residential unit owned or used by the business entity and situated in Utah is entitled to a tax credit as provided in this Subsection (2)(a).

(ii) (A) A business entity is entitled to a tax credit equal to 25% of the costs of a residential energy system installed with respect to each residential unit it owns or uses, including installation costs, against any tax due under this chapter for the taxable year in which the energy system is completed and placed in service.

(B) The total amount of the credit under this Subsection (2)(a) may not exceed $2,000 per residential unit.

(C) The credit under this Subsection (2)(a) is allowed for any residential energy system completed and placed in service on or after January 1, 1997, but prior to January 1, 2001.

(iii) If a business entity sells a residential unit to an individual taxpayer prior to making a claim for the tax credit under this Subsection (2)(a), the business entity may:

(A) assign its right to this tax credit to the individual taxpayer; and

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual taxpayer had completed or participated in the costs of the residential energy system under Section 59-10-602.

(b) (i) A business entity that purchases or participates in the financing of a commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

(A) the commercial energy system supplies all or part of the energy required by commercial units owned or used by the business entity; or

(B) the business entity sells all or part of the energy produced by the commercial energy system as a commercial enterprise.

(ii) (A) A business entity is entitled to a tax credit equal to 10% of the costs of any commercial energy system installed, including installation costs, against any tax due under this chapter for the taxable year in which the commercial energy system is completed and placed in

service.

(B) The total amount of the credit under this Subsection (2)(b) may not exceed $50,000 per commercial unit.

(C) The credit under this Subsection (2)(b) is allowed for any commercial energy system completed and placed in service on or after January 1, 1997, but prior to January 1, 2001.

(iii) A business entity that leases a commercial energy system installed on a commercial unit is eligible for the tax credit under this Subsection (2)(b) if the lessee can confirm that the lessor irrevocably elects not to claim the credit.

(iv) Only the principal recovery portion of the lease payments, which is the cost incurred by a business entity in acquiring a commercial energy system, excluding interest charges and maintenance expenses, is eligible for the tax credit under this Subsection (2)(b).

(v) A business entity that leases a commercial energy system is eligible to use the tax credit under this Subsection (2)(b) for a period no greater than seven years from the initiation of the lease.

(c) (i) A tax credit under this section may be claimed for the taxable year in which the energy system is completed and placed in service.

(ii) Additional energy systems or parts of energy systems may be claimed for subsequent years.

(iii) If the amount of a tax credit under this section exceeds a business entity's tax liability under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried over for a period which does not exceed the next four taxable years.

(3) (a) The tax credits provided for under Subsection (2) are in addition to any tax credits provided under the laws or rules and regulations of the United States.

(b) (i) The Office of Energy and Resource Planning may promulgate standards for residential and commercial energy systems that cover the safety, reliability, efficiency, leasing, and technical feasibility of the systems to ensure that the systems eligible for the tax credit use the state's renewable and nonrenewable energy resources in an appropriate and economic manner.

(ii) A tax credit may not be taken under Subsection (2) until the Office of Energy and Resource Planning has certified that the energy system has been completely installed and is a viable system for saving or production of energy from renewable resources.

(c) The Office of Energy and Resource Planning and the commission are authorized to promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

which are necessary to implement this section.

(d) The Uniform School Fund shall be reimbursed by transfers from the General Fund for any credits taken under this section.

Section 10. Section **59-10-601** is amended to read:

59-10-601. Definitions.

As used in this part:

(1) "Active solar system":

(a) means a system of equipment capable of collecting and converting incident solar radiation into thermal, mechanical, or electrical energy, and transferring these forms of energy by a separate apparatus to storage or to the point of use; and

(b) includes water heating, space heating or cooling, and electrical or mechanical energy generation.

(2) "Biomass system" means any system of apparatus and equipment capable of converting organic plant, wood, or waste products into electrical and thermal energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

(3) "Business entity" means any sole proprietorship, estate, trust, partnership, association, corporation, cooperative, or other entity under which business is conducted or transacted.

(4) "Commercial energy system" means any active solar, passive solar, wind, hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial enterprise.

(5) "Commercial enterprise" means a business entity whose purpose is to produce electrical, mechanical, or thermal energy for sale from a commercial energy system.

(6) (a) "Commercial unit" means any building or structure which a business entity uses to transact its business, except as provided in Subsection (6)(b); and

(b) (i) in the case of an active solar system used for agricultural water pumping or a wind system, each individual energy generating device shall be a commercial unit; and

(ii) if an energy system is the building or structure which a business entity uses to transact its business, a commercial unit is the complete energy system itself.

(7) "Office of Energy and Resource Planning" means the Office of Energy and Resource Planning, Department of Natural Resources.

(8) "Hydroenergy system" means a system of apparatus and equipment capable of intercepting and converting kinetic water energy into electrical or mechanical energy and

transferring this form of energy by separate apparatus to the point of use or storage.

(9) "Individual taxpayer" means any person who is a taxpayer as defined in Section 59-10-103 and a resident individual as defined in Section 59-10-103.

(10) "Passive solar system":

(a) means a direct thermal system which utilizes the structure of a building and its operable components to provide for collection, storage, and distribution of heating or cooling during the appropriate times of the year by utilizing the climate resources available at the site; and

(b) includes those portions and components of a building that are expressly designed and required for the collection, storage, and distribution of solar energy.

(11) "Residential energy system" means any active solar, passive solar, wind, or hydroenergy system used to supply energy to or for any residential unit.

(12) "Residential unit" means any house, condominium, apartment, or similar dwelling unit which serves as a dwelling for a person, group of persons, or a family but does not include property subject to the fees in lieu of the ad valorem tax under:

(a) Section 59-2-404; or

(b) Section 59-2-405[~~; or~~].

[~~(c) Section 59-2-405.1.~~]

(13) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of energy by a separate apparatus to the point of use or storage.

Section 11. **Repealer.**

This act repeals:

Section **59-2-405.1, Uniform fee on tangible personal property weighing 12,000 pounds or less.**

Section 12. **Effective date.**

This act takes effect on January 1, 2001.

Legislative Review Note
as of 1-28-00 9:12 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel