

1 **UNIFORM STATEWIDE FEES FOR CERTAIN**
2 **TANGIBLE PERSONAL PROPERTY**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Chad E. Bennion**

7 **LONG TITLE**

8 **General Description:**

9 This bill amends the Motor Vehicles title, the Property Tax Act, the Corporate
10 Franchise and Income Taxes chapter, and the Individual Income Tax Act to address the
11 imposition of uniform statewide fees on certain tangible personal property.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ imposes uniform statewide fees on certain tangible personal property required to be
16 registered with the state;
- 17 ▶ provides for the collection of the uniform statewide fees;
- 18 ▶ provides that the uniform statewide fees shall be imposed at the time of registration
19 and renewal of registration;
- 20 ▶ requires certain adjustments to be made to a taxing entity's certified tax rate and the
21 certified revenue levy;
- 22 ▶ provides that for purposes of the corporate franchise and income tax credits and
23 individual income tax credits for renewable energy systems a residential unit does
24 not include property subject to the uniform statewide fees; and
- 25 ▶ makes technical changes.

26 **Monies Appropriated in this Bill:**

27 None



28 **Other Special Clauses:**

29 This bill takes effect on January 1, 2005.

30 **Utah Code Sections Affected:**

31 AMENDS:

- 32 **41-1a-222**, as last amended by Chapter 322, Laws of Utah 1998
- 33 **59-2-405**, as last amended by Chapter 12, Laws of Utah 2001, First Special Session
- 34 **59-2-405.1**, as last amended by Chapter 12, Laws of Utah 2001, First Special Session
- 35 **59-2-406**, as last amended by Chapters 109 and 322, Laws of Utah 1998
- 36 **59-2-407**, as last amended by Chapter 207, Laws of Utah 1999
- 37 **59-2-906.1**, as last amended by Chapter 320, Laws of Utah 2003
- 38 **59-2-924**, as last amended by Chapter 122, Laws of Utah 2003
- 39 **59-7-614**, as enacted by Chapter 6, Laws of Utah 2001, First Special Session
- 40 **59-10-134**, as enacted by Chapter 6, Laws of Utah 2001, First Special Session

41 ENACTS:

42 **59-2-405.2**, Utah Code Annotated 1953



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

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

46 **41-1a-222. Application for multiyear registration -- Payment of taxes -- Penalties.**

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

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

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

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

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

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

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

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

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

69 (a) Section 41-1a-206;

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

71 (c) Subsection 41-1a-301(11);

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

73 [~~(d) Subsection 41-1a-301(11);~~]

74 (e) Section 59-2-405.2.

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

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

79 **59-2-405. Uniform fee on tangible personal property required to be registered**
80 **with the state -- Distribution of revenues -- Appeals.**

81 (1) The property described in Subsection (2), except Subsections (2)(b)(ii) and (iii), is
82 exempt from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section
83 [14] 2, Subsection (6).

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

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

88 (ii) motorcycles as defined in Section 41-1a-102 that are required to be registered with
89 the state;

90 (iii) watercraft required to be registered with the state;
91 (iv) recreational vehicles required to be registered with the state; and
92 (v) all other tangible personal property required to be registered with the state before it
93 is used on a public highway, on a public waterway, on public land, or in the air.

94 (b) The following tangible personal property is exempt from the statewide uniform fee
95 imposed by this section:

96 (i) aircraft;

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

98 (iii) state-assessed commercial vehicles;

99 (iv) tangible personal property subject to a uniform fee imposed by:

100 (A) Section 59-2-405.1; or

101 (B) Section 59-2-405.2; and

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

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

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

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

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

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

119 Section 3. Section **59-2-405.1** is amended to read:

120 **59-2-405.1. Uniform fee on certain vehicles weighing 12,000 pounds or less --**

121 **Distribution of revenues -- Appeals.**

122 (1) The property described in Subsection (2), except Subsection (2)(b)(ii), is exempt
 123 from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section [14] 2,
 124 Subsection (6).

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

127 (i) motor vehicles as defined in Section 41-1a-102 that:

128 (A) are required to be registered with the state; and

129 (B) weigh 12,000 pounds or less; and

130 (ii) state-assessed commercial vehicles required to be registered with the state that
 131 weigh 12,000 pounds or less.

132 (b) The following tangible personal property is exempt from the statewide uniform fee
 133 imposed by this section:

134 (i) aircraft;

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

136 (iii) tangible personal property subject to ~~the~~ a uniform fee imposed by:

137 (A) Section 59-2-405; or

138 (B) Section 59-2-405.2; and

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

141 (3)(a) Except as provided in Subsection (3)(b), beginning on January 1, 1999, the
 142 uniform fee for purposes of this section is as follows:

143	Age of Vehicle	Uniform Fee
144	12 or more years	\$10
145	9 or more years but less than 12 years	\$50
146	6 or more years but less than 9 years	\$80
147	3 or more years but less than 6 years	\$110
148	Less than 3 years	\$150

149 (b) Notwithstanding Subsection (3)(a), beginning on September 1, 2001, for a motor
 150 vehicle issued a temporary sports event registration certificate in accordance with Section
 151 41-3-306, the uniform fee for purposes of this section is \$5 for the event period specified on the

152 temporary sports event registration certificate regardless of the age of the motor vehicle.

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

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

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

164 (6) ~~[Appeals of the valuation of]~~ An appeal relating to the uniform fee imposed on the
165 tangible personal property described in Subsection (2) shall be filed pursuant to Section
166 59-2-1005.

167 Section 4. Section **59-2-405.2** is enacted to read:

168 **59-2-405.2. Definitions -- Uniform statewide fee on certain tangible personal**
169 **property -- Distribution of revenues -- Rulemaking authority.**

170 (1) As used in this section:

171 (a) "all-terrain vehicle" means an all-terrain type I vehicle as defined in Section
172 41-22-2;

173 (b) "outboard motor" is as defined in Section 41-1a-102;

174 (c) "personal watercraft" is as defined in Section 73-18-2;

175 (d) "snowmobile" is as defined in Section 41-22-2;

176 (e) "street motorcycle" means a motorcycle as defined in Section 41-1a-102 if the
177 motorcycle is designed primarily for use and operation on paved highways;

178 (f) "travel trailer" is as defined in Section 41-1a-102;

179 (g) "type 1 vessel" means a vessel as defined in Section 73-18-2, including an outboard
180 motor of the vessel, if the length of that vessel is less than 15 feet;

181 (h) "type 2 vessel" means a vessel as defined in Section 73-18-2, including an outboard
182 motor of the vessel, if the length of that vessel is 15 feet or more but less than 19 feet;

183 (i) "type 3 vessel" means a vessel as defined in Section 73-18-2, including an outboard
 184 motor of the vessel, if the length of that vessel is 19 feet or more but less than 23 feet;

185 (j) "type 4 vessel" means a vessel as defined in Section 73-18-2, including an outboard
 186 motor of the vessel, if the length of that vessel is 23 feet or more but less than 27 feet; and

187 (k) "type 5 vessel" means a vessel as defined in Section 73-18-2, including an outboard
 188 motor of the vessel, if the length of that vessel is 27 feet or more but less than 31 feet.

189 (2) (a) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),
 190 beginning on January 1, 2005, the tangible personal property described in Subsection (2)(b) is:

191 (i) exempt from the tax imposed by Section 59-2-103; and

192 (ii) in lieu of the tax imposed by Section 59-2-103, subject to uniform statewide fees as
 193 provided in this section.

194 (b) The following tangible personal property applies to Subsection (2)(a) if that
 195 tangible personal property is required to be registered with the state:

196 (i) an all-terrain vehicle;

197 (ii) a personal watercraft;

198 (iii) a snowmobile;

199 (iv) a street motorcycle;

200 (v) a travel trailer;

201 (vi) a type 1 vessel;

202 (vii) a type 2 vessel;

203 (viii) a type 3 vessel;

204 (ix) a type 4 vessel; and

205 (x) a type 5 vessel.

206 (3) For purposes of this section, the uniform statewide fees are:

207 (a) for an all-terrain vehicle or a snowmobile:

<u>Age of All-Terrain Vehicle or Snowmobile</u>	<u>Uniform Statewide Fee</u>
<u>12 or more years</u>	<u>\$10</u>
<u>9 or more years but less than 12 years</u>	<u>\$15</u>
<u>6 or more years but less than 9 years</u>	<u>\$20</u>
<u>3 or more years but less than 6 years</u>	<u>\$30</u>
<u>Less than 3 years</u>	<u>\$50</u>

214	<u>(b) for a personal watercraft:</u>	
215	<u>Age of Personal Watercraft</u>	<u>Uniform Statewide Fee</u>
216	<u>12 or more years</u>	<u>\$10</u>
217	<u>9 or more years but less than 12 years</u>	<u>\$20</u>
218	<u>6 or more years but less than 9 years</u>	<u>\$30</u>
219	<u>3 or more years but less than 6 years</u>	<u>\$40</u>
220	<u>Less than 3 years</u>	<u>\$50</u>
221	<u>(c) for a street motorcycle:</u>	
222	<u>Age of Street Motorcycle</u>	<u>Uniform Statewide Fee</u>
223	<u>12 or more years</u>	<u>\$10</u>
224	<u>9 or more years but less than 12 years</u>	<u>\$35</u>
225	<u>6 or more years but less than 9 years</u>	<u>\$50</u>
226	<u>3 or more years but less than 6 years</u>	<u>\$70</u>
227	<u>Less than 3 years</u>	<u>\$85</u>
228	<u>(c) for a travel trailer:</u>	
229	<u>Age of Travel Trailer</u>	<u>Uniform Statewide Fee</u>
230	<u>12 or more years</u>	<u>\$20</u>
231	<u>9 or more years but less than 12 years</u>	<u>\$50</u>
232	<u>6 or more years but less than 9 years</u>	<u>\$85</u>
233	<u>3 or more years but less than 6 years</u>	<u>\$120</u>
234	<u>Less than 3 years</u>	<u>\$140</u>
235	<u>(d) for a type 1 vessel, \$10 regardless of the age of the vessel;</u>	
236	<u>(e) for a type 2 vessel:</u>	
237	<u>Age of Type 2 Vessel</u>	<u>Uniform Statewide Fee</u>
238	<u>12 or more years</u>	<u>\$25</u>
239	<u>9 or more years but less than 12 years</u>	<u>\$65</u>
240	<u>6 or more years but less than 9 years</u>	<u>\$80</u>
241	<u>3 or more years but less than 6 years</u>	<u>\$95</u>
242	<u>Less than 3 years</u>	<u>\$110</u>
243	<u>(f) for a type 3 vessel:</u>	
244	<u>Age of Type 3 Vessel</u>	<u>Uniform Statewide Fee</u>

245	<u>12 or more years</u>	<u>\$50</u>
246	<u>9 or more years but less than 12 years</u>	<u>\$120</u>
247	<u>6 or more years but less than 9 years</u>	<u>\$175</u>
248	<u>3 or more years but less than 6 years</u>	<u>\$220</u>
249	<u>Less than 3 years</u>	<u>\$275</u>

250 (g) for a type 4 vessel:

251	<u>Age of Type 4 Vessel</u>	<u>Uniform Statewide Fee</u>
252	<u>12 or more years</u>	<u>\$100</u>
253	<u>9 or more years but less than 12 years</u>	<u>\$180</u>
254	<u>6 or more years but less than 9 years</u>	<u>\$240</u>
255	<u>3 or more years but less than 6 years</u>	<u>\$310</u>
256	<u>Less than 3 years</u>	<u>\$400</u>

257 (h) for a type 5 vessel:

258	<u>Age of Type 5 Vessel</u>	<u>Uniform Statewide Fee</u>
259	<u>12 or more years</u>	<u>\$120</u>
260	<u>9 or more years but less than 12 years</u>	<u>\$250</u>
261	<u>6 or more years but less than 9 years</u>	<u>\$350</u>
262	<u>3 or more years but less than 6 years</u>	<u>\$500</u>
263	<u>Less than 3 years</u>	<u>\$700</u>

264 (4) Notwithstanding Section 59-2-407, tangible personal property subject to the
 265 uniform statewide fees imposed by this section that is brought into the state shall, as a
 266 condition of registration, be subject to the uniform statewide fees unless all property taxes or
 267 uniform fees imposed by the state of origin have been paid for the current calendar year.

268 (5) (a) The revenues collected in each county from the uniform statewide fees imposed
 269 by this section shall be distributed by the county to each taxing entity in which each item of
 270 tangible personal property subject to the uniform statewide fees is located in the same
 271 proportion in which revenues collected from the ad valorem property tax are distributed.

272 (b) Each taxing entity described in Subsection (5)(a) that receives revenues from the
 273 uniform statewide fees imposed by this section shall distribute the revenues in the same
 274 proportion in which revenues collected from the ad valorem property tax are distributed.

275 (6) An appeal relating to the uniform statewide fees imposed on the tangible personal

276 property described in Subsection (2) shall be filed pursuant to Section 59-2-1005.

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

278 **59-2-406. Collection of uniform fees and other motor vehicle fees.**

279 (1) (a) For the purposes of efficiency in the collection of the uniform fee required by
280 this section, the commission shall enter into a contract for the collection of the uniform fees
281 required under Sections 59-2-405 [~~and~~], 59-2-405.1, and 59-2-405.2 and certain fees required
282 by Title 41, Motor Vehicles.

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

285 (i) the collection by the commission of:

286 (A) the uniform fees required under Sections 59-2-405 [~~and~~], 59-2-405.1, and
287 59-2-405.2; and

288 (B) all [~~Title 41~~] fees listed in Subsection (1)(c); or

289 (ii) the collection by the county of:

290 (A) the uniform fees required under Sections 59-2-405 [~~and~~], 59-2-405.1, and
291 59-2-405.2; and

292 (B) all [~~Title 41~~] fees listed in Subsection (1)(c).

293 (c) [~~The Title 41~~] For purposes of Subsections (1)(b)(i)(B) and (1)(b)(ii)(B), the fees
294 that are subject to the contractual agreement required by this section are the following fees
295 imposed by Title 41, Motor Vehicles:

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

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

300 (iii) plate fees for vehicles;

301 (iv) permit fees; and

302 (v) impound fees.

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

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

- 307 (a) be responsible for the collection of:
- 308 (i) the uniform fees under Sections 59-2-405 [~~and~~], 59-2-405.1, and 59-2-405.2; and
- 309 (ii) [~~the applicable Title 41~~] any fees described in Subsection (1)(c) as agreed to in the
- 310 contract;
- 311 (b) utilize the documents and forms, guidelines, practices, and procedures that meet the
- 312 contract specifications;
- 313 (c) meet the performance standards and comply with applicable training requirements
- 314 specified in the rules made under Subsection (8)(a); and
- 315 (d) be subject to a penalty of 1/2 the difference between the reimbursement fee
- 316 specified under Subsection (3) and the reimbursement fee for fiscal year 1997-98 if
- 317 performance is below the performance standards specified in the rules made under Subsection
- 318 (8)(a).
- 319 (3) (a) The commission shall recommend a reimbursement fee for collecting the fees as
- 320 provided in Subsection (2)(a), except that the commission may not collect a reimbursement fee
- 321 on a state-assessed commercial vehicle described in Subsection 59-2-405.1(2)(a)(ii).
- 322 (b) The reimbursement fee shall be based on two dollars per standard unit for the first
- 323 5,000 standard units in each county and one dollar per standard unit for all other standard units
- 324 and shall be annually adjusted by the commission beginning July 1, 1999.
- 325 (c) The adjustment shall be equal to any increase in the Consumer Price Index for all
- 326 urban consumers, prepared by the United States Bureau of Labor Statistics, during the
- 327 preceding calendar year.
- 328 (d) The reimbursement fees under this Subsection (3) shall be appropriated by the
- 329 Legislature.
- 330 (4) All counties that elect to collect the uniform [~~fee~~] fees described in Subsection
- 331 (1)(b)(ii)(A) and any other [~~Title 41~~] fees described in Subsection (1)(c) as provided by
- 332 contract shall be subject to similar contractual terms.
- 333 (5) The party performing the collection services by contract shall use appropriate
- 334 automated systems software and equipment compatible with the system used by the other
- 335 contracting party in order to ensure the integrity of the current motor vehicle data base and
- 336 county tax systems, or successor data bases and systems.
- 337 (6) If the county elects not to collect the uniform [~~fee~~] fees described in Subsection

338 (1)(b)(ii)(A) and the ~~[Title 41]~~ fees described in Subsection (1)(c):

339 (a) the commission shall:

340 (i) collect the uniform ~~[fee]~~ fees described in Subsection (1)(b)(ii)(A) and ~~[Title 41]~~ the
 341 fees described in Subsection (1)(c) in each county or regional center as negotiated by the
 342 counties with the commission in accordance with the requirements of this section; and

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

345 (b) the county shall pay the commission a reimbursement fee as provided in Subsection
 346 (3).

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

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

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

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

354 **59-2-407. Administration of uniform fees.**

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

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

364 (i) registration as defined in Section 41-1a-102; and

365 (ii) renewal of registration.

366 (c) Except as provided in Subsection 59-2-405.2(4), the uniform statewide fee imposed
 367 by Section 59-2-405.2 shall be assessed at the time of:

368 (i) registration as defined in Section 41-1a-102; and

369 (ii) renewal of registration.

370 (2) The remedies for nonpayment of the uniform fees authorized by Sections 59-2-404,
371 59-2-405, [~~and~~] 59-2-405.1, and 59-2-405.2 shall be the same as those provided in Chapter 2,
372 Part 13, Collection of Taxes, for nonpayment of ad valorem personal property taxes.

373 Section 7. Section **59-2-906.1** is amended to read:

374 **59-2-906.1. Property Tax Valuation Agency Fund -- Creation -- Statewide levy --**
375 **Additional county levy permitted.**

376 (1) (a) There is created the Property Tax Valuation Agency Fund, to be funded by a
377 multicounty assessing and collecting levy not to exceed .0003 as provided in Subsection (2).

378 (b) The multicounty assessing and collecting levy under Subsection (1)(a) shall be
379 imposed annually by each county in the state.

380 (c) The purpose of the multicounty assessing and collecting levy created under
381 Subsection (1)(a) and the disbursement formulas established in Section 59-2-906.2 is to
382 promote the accurate valuation of property, the establishment and maintenance of uniform
383 assessment levels within and among counties, and the efficient administration of the property
384 tax system, including the costs of assessment, collection, and distribution of property taxes.

385 (d) Income derived from the investment of money in the fund created in this
386 Subsection (1) shall be deposited in and become part of the fund.

387 (2) (a) Except as authorized in Subsection (2)(b), beginning in fiscal year 1996-97 to
388 fund the Property Tax Valuation Agency Fund the Legislature shall authorize the amount of the
389 multicounty assessing and collecting levy, except that the multicounty assessing and collecting
390 levy may not exceed the certified revenue levy as defined in Section 59-2-102.

391 (b) If the Legislature authorizes a multicounty assessing and collecting levy that
392 exceeds the certified revenue levy, it is subject to the notice requirements of Section 59-2-926.

393 [~~(c) For the calendar year beginning on January 1, 1998, and ending December 31,~~
394 ~~1998, the certified revenue levy shall be increased by the amount necessary to offset the~~
395 ~~decrease in revenues from uniform fees on tangible personal property under Section 59-2-405~~
396 ~~as a result of the decrease in uniform fees on tangible personal property under Section 59-2-405~~
397 ~~enacted by the Legislature during the 1997 Annual General Session.]~~

398 [~~(d)~~] (c) For the calendar year beginning on January 1, [1999] 2005, [~~and ending on~~
399 ~~December 31, 1999;~~] the certified revenue levy shall be adjusted by the amount necessary to

400 offset [~~the adjustment in revenues from uniform fees on tangible personal property under~~
401 ~~Section 59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property~~
402 ~~under Section 59-2-405.1 enacted by the Legislature during the 1998 Annual General Session]~~
403 any changes in revenues as a result of the enactment of Section 59-2-405.2.

404 (d) For the calendar year beginning on January 1, 2006, the certified revenue levy
405 under this section is subject to any adjustments required by Section 59-2-924.

406 (3) (a) The multicounty assessing and collecting levy authorized by the Legislature
407 under Subsection (2) shall be separately stated on the tax notice as a multicounty assessing and
408 collecting levy.

409 (b) The multicounty assessing and collecting levy authorized by the Legislature under
410 Subsection (2) is:

411 (i) exempt from the redevelopment provisions of Sections 17B-4-1003 and
412 17B-4-1004;

413 (ii) in addition to and exempt from the maximum levies allowable under Section
414 59-2-908; and

415 (iii) exempt from the notice requirements of Sections 59-2-918 and 59-2-919.

416 (c) Each county shall transmit quarterly to the state treasurer the portion of the .0003
417 multicounty assessing and collecting levy which is above the amount to which that county is
418 entitled to under Section 59-2-906.2.

419 (i) The revenue shall be transmitted no later than the tenth day of the month following
420 the end of the quarter in which the revenue is collected.

421 (ii) If revenue is transmitted after the tenth day of the month following the end of the
422 quarter in which the revenue is collected, the county shall pay an interest penalty at the rate of
423 10% each year until the revenue is transmitted.

424 (d) The state treasurer shall deposit the revenue from the multicounty assessing and
425 collecting levy, any interest accrued from that levy, and any penalties received under
426 Subsection (3)(c) in the Property Tax Valuation Agency Fund.

427 (4) Each county may levy an additional property tax up to .0002 per dollar of taxable
428 value of taxable property as reported by each county. This levy shall be stated on the tax notice
429 as a county assessing and collecting levy.

430 (a) The purpose of the levy established in this Subsection (4) is to promote the accurate

431 valuation of property, the establishment and maintenance of uniform assessment levels within
432 and among counties, and the efficient administration of the property tax system, including the
433 costs of assessment, collection, and distribution of property taxes.

434 (b) Any levy established in Subsection (4)(a) is:

435 (i) exempt from the redevelopment provisions of Sections 17B-4-1003 and
436 17B-4-1004;

437 (ii) in addition to and exempt from the maximum levies allowable under Section
438 59-2-908; and

439 (iii) is subject to the notice requirements of Sections 59-2-918 and 59-2-919.

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

441 **59-2-924. Report of valuation of property to county auditor and commission --**

442 **Transmittal by auditor to governing bodies -- Certified tax rate -- Rulemaking authority**

443 **-- Adoption of tentative budget.**

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

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

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

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

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

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

454 (iii) the certified tax rate; and

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

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

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

461 (A) collections from redemptions;

462 (B) interest; and

463 (C) penalties.

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

467 (iv) (A) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
468 Act, the commission shall make rules determining the calculation of ad valorem property tax
469 revenues budgeted by a taxing entity.

470 (B) For purposes of Subsection (2)(a)(iv)(A), ad valorem property tax revenues
471 budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax
472 revenues are calculated for purposes of Section 59-2-913.

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

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

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

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

480 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
481 purposes and such other levies imposed solely for the municipal-type services identified in
482 Section 17-34-1 and Subsection 17-36-3(22);

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

486 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,
487 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

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

490 (vi) (A) A judgment levy imposed under Section 59-2-1328 or Section 59-2-1330 shall
491 be established at that rate which is sufficient to generate only the revenue required to satisfy
492 one or more eligible judgments, as defined in Section 59-2-102.

493 (B) The ad valorem property tax revenue generated by the judgment levy shall not be
494 considered in establishing the taxing entity's aggregate certified tax rate.

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

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

499 (iii) "New growth" means:

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

502 (B) the amount of an increase in taxable value described in Subsection (2)(b)(iv).

503 (iv) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:

504 (A) the amount of increase to locally assessed real property taxable values resulting
505 from factoring, reappraisal, or any other adjustments; or

506 (B) the amount of an increase in the taxable value of property assessed by the
507 commission under Section 59-2-201 resulting from a change in the method of apportioning the
508 taxable value prescribed by:

509 (I) the Legislature;

510 (II) a court;

511 (III) the commission in an administrative rule; or

512 (IV) the commission in an administrative order.

513 (c) Beginning January 1, 1997, if a taxing entity receives increased revenues from
514 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, [or] 59-2-405.1,
515 or 59-2-405.2 as a result of any county imposing a sales and use tax under Chapter 12, Part 11,
516 County Option Sales and Use Tax, the taxing entity shall decrease its certified tax rate to offset
517 the increased revenues.

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

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

522 (B) increased by the amount necessary to offset the county's reduction in revenue from
523 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, [or] 59-2-405.1,

524 or 59-2-405.2 as a result of the decrease in the certified tax rate under Subsection (2)(d)(i)(A).

525 (ii) The commission shall determine estimates of sales and use tax distributions for
526 purposes of Subsection (2)(d)(i).

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

532 (f) For the calendar year beginning on January 1, [~~1999~~] 2005, [~~and ending on~~
533 ~~December 31, 1999,~~] a taxing entity's certified tax rate shall be adjusted by the amount
534 necessary to offset [~~the adjustment~~] any changes in the taxing entity's revenues [~~from uniform~~
535 ~~fees on tangible personal property under Section 59-2-405.1~~] as a result of the [~~adjustment in~~
536 ~~uniform fees on tangible personal property under Section 59-2-405.1 enacted by the Legislature~~
537 ~~during the 1998 Annual General Session~~] enactment of Section 59-2-405.2.

538 (g) For purposes of Subsections (2)(h) through (j):

539 (i) "[~~1998~~] 2004 actual collections" means the amount of revenues a taxing entity
540 actually collected for the calendar year beginning on January 1, [~~1998~~] 2004, under Section
541 59-2-405 for[~~:~~] the tangible personal property described in Section 59-2-405.2.

542 [~~(A) motor vehicles required to be registered with the state that weigh 12,000 pounds~~
543 ~~or less; and]~~

544 [~~(B) state-assessed commercial vehicles required to be registered with the state that~~
545 ~~weigh 12,000 pounds or less.]~~

546 (ii) "[~~1999~~] 2005 actual collections" means the amount of revenues a taxing entity
547 actually collected for the calendar year beginning on January 1, [~~1999~~] 2005, under Section
548 [~~59-2-405.1~~] 59-2-405.2.

549 (h) For the calendar year beginning on January 1, [~~2000~~] 2006, the commission shall
550 make the following adjustments:

551 (i) the commission shall make the adjustment described in Subsection (2)(i)(i) if, for
552 the calendar year beginning on January 1, [~~1999~~] 2005, a taxing entity's [~~1998~~] 2004 actual
553 collections were greater than the sum of:

554 (A) the taxing entity's [~~1999~~] 2005 actual collections; and

555 (B) any adjustments the commission made under Subsection (2)(f);
556 (ii) the commission shall make the adjustment described in Subsection (2)(i)(ii) if, for
557 the calendar year beginning on January 1, [~~1999~~] 2005, a taxing entity's [~~1998~~] 2004 actual
558 collections were greater than the taxing entity's [~~1999~~] 2005 actual collections, but the taxing
559 entity's [~~1998~~] 2004 actual collections were less than the sum of:
560 (A) the taxing entity's [~~1999~~] 2005 actual collections; and
561 (B) any adjustments the commission made under Subsection (2)(f); and
562 (iii) the commission shall make the adjustment described in Subsection (2)(i)(iii) if, for
563 the calendar year beginning on January 1, [~~1999~~] 2005, a taxing entity's [~~1998~~] 2004 actual
564 collections were less than the taxing entity's [~~1999~~] 2005 actual collections.
565 (i) (i) For purposes of Subsection (2)(h)(i), the commission shall increase a taxing
566 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
567 Section 59-2-906.1 by the amount necessary to offset the difference between:
568 (A) the taxing entity's [~~1998~~] 2004 actual collections; and
569 (B) the sum of:
570 (I) the taxing entity's [~~1999~~] 2005 actual collections; and
571 (II) any adjustments the commission made under Subsection (2)(f).
572 (ii) For purposes of Subsection (2)(h)(ii), the commission shall decrease a taxing
573 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
574 Section 59-2-906.1 by the amount necessary to offset the difference between:
575 (A) the sum of:
576 (I) the taxing entity's [~~1999~~] 2005 actual collections; and
577 (II) any adjustments the commission made under Subsection (2)(f); and
578 (B) the taxing entity's [~~1998~~] 2004 actual collections.
579 (iii) For purposes of Subsection (2)(h)(iii), the commission shall decrease a taxing
580 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
581 Section 59-2-906.1 by the amount of any adjustments the commission made under Subsection
582 (2)(f).
583 (j) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
584 purposes of Subsections (2)(f) through (i), the commission may make rules establishing the
585 method for determining a taxing entity's [~~1998~~] 2004 actual collections and [~~1999~~] 2005 actual

586 collections.

587 (k) (i) (A) For fiscal year 2000, the certified tax rate of each county required under
588 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the
589 unincorporated area of the county shall be decreased by the amount necessary to reduce
590 revenues in that fiscal year by an amount equal to the difference between the amount the county
591 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services
592 countywide and the amount the county spent during fiscal year 2000 for those services,
593 excluding amounts spent from a municipal services fund for those services.

594 (B) For fiscal year 2001, the certified tax rate of each county to which Subsection
595 (2)(k)(i)(A) applies shall be decreased by the amount necessary to reduce revenues in that fiscal
596 year by the amount that the county spent during fiscal year 2000 for advanced life support and
597 paramedic services countywide, excluding amounts spent from a municipal services fund for
598 those services.

599 (ii) (A) A city or town located within a county of the first class to which Subsection
600 (2)(k)(i) applies may increase its certified tax rate by the amount necessary to generate within
601 the city or town the same amount of revenues as the county would collect from that city or
602 town if the decrease under Subsection (2)(k)(i) did not occur.

603 (B) An increase under Subsection (2)(k)(ii)(A), whether occurring in a single fiscal
604 year or spread over multiple fiscal years, is not subject to the notice and hearing requirements
605 of Sections 59-2-918 and 59-2-919.

606 (l) (i) The certified tax rate of each county required under Subsection 17-34-1(4)(b) to
607 provide detective investigative services to the unincorporated area of the county shall be
608 decreased:

609 (A) in fiscal year 2001 by the amount necessary to reduce revenues in that fiscal year
610 by at least \$4,400,000; and

611 (B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year
612 by an amount equal to the difference between \$9,258,412 and the amount of the reduction in
613 revenues under Subsection (2)(l)(i)(A).

614 (ii) (A) (I) Beginning with municipal fiscal year 2002, a city or town located within a
615 county to which Subsection (2)(l)(i) applies may increase its certified tax rate to generate
616 within the city or town the same amount of revenue as the county would have collected during

617 county fiscal year 2001 from within the city or town except for Subsection (2)(l)(i)(A).

618 (II) Beginning with municipal fiscal year 2003, a city or town located within a county
619 to which Subsection (2)(l)(i) applies may increase its certified tax rate to generate within the
620 city or town the same amount of revenue as the county would have collected during county
621 fiscal year 2002 from within the city or town except for Subsection (2)(l)(i)(B).

622 (B) (I) Except as provided in Subsection (2)(l)(ii)(B)(II), an increase in the city or
623 town's certified tax rate under Subsection (2)(l)(ii)(A), whether occurring in a single fiscal year
624 or spread over multiple fiscal years, is subject to the notice and hearing requirements of
625 Sections 59-2-918 and 59-2-919.

626 (II) For an increase under this Subsection (2)(l)(ii) that generates revenue that does not
627 exceed the same amount of revenue as the county would have collected except for Subsection
628 (2)(l)(i), the requirements of Sections 59-2-918 and 59-2-919 do not apply if the city or town:

629 (Aa) publishes a notice that meets the size, type, placement, and frequency
630 requirements of Section 59-2-919, reflects that the increase is a shift of a tax from one imposed
631 by the county to one imposed by the city or town, and explains how the revenues from the tax
632 increase will be used; and

633 (Bb) holds a public hearing on the tax shift that may be held in conjunction with the
634 city or town's regular budget hearing.

635 (m) (i) This Subsection (2)(m) applies to each county that:

636 (A) establishes a countywide special service district under Title 17A, Chapter 2, Part
637 13, Utah Special Service District Act, to provide jail service, as provided in Subsection
638 17A-2-1304(1)(a)(x); and

639 (B) levies a property tax on behalf of the special service district under Section
640 17A-2-1322.

641 (ii) (A) The certified tax rate of each county to which this Subsection (2)(m) applies
642 shall be decreased by the amount necessary to reduce county revenues by the same amount of
643 revenues that will be generated by the property tax imposed on behalf of the special service
644 district.

645 (B) Each decrease under Subsection (2)(m)(ii)(A) shall occur contemporaneously with
646 the levy on behalf of the special service district under Section 17A-2-1322.

647 (n) (i) As used in this Subsection (2)(n):

648 (A) "Annexing county" means a county whose unincorporated area is included within a
649 fire district by annexation.

650 (B) "Annexing municipality" means a municipality whose area is included within a fire
651 district by annexation.

652 (C) "Equalized fire protection tax rate" means the tax rate that results from:

653 (I) calculating, for each participating county and each participating municipality, the
654 property tax revenue necessary to cover all of the costs associated with providing fire
655 protection, paramedic, and emergency services:

656 (Aa) for a participating county, in the unincorporated area of the county; and

657 (Bb) for a participating municipality, in the municipality; and

658 (II) adding all the amounts calculated under Subsection (2)(n)(i)(C)(I) for all
659 participating counties and all participating municipalities and then dividing that sum by the
660 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

661 (Aa) for participating counties, in the unincorporated area of all participating counties;
662 and

663 (Bb) for participating municipalities, in all the participating municipalities.

664 (D) "Fire district" means a county service area under Title 17A, Chapter 2, Part 4,
665 County Service Area Act, in the creation of which an election was not required under
666 Subsection 17B-2-214(3)(c).

667 (E) "Fire protection tax rate" means:

668 (I) for an annexing county, the property tax rate that, when applied to taxable property
669 in the unincorporated area of the county, generates enough property tax revenue to cover all the
670 costs associated with providing fire protection, paramedic, and emergency services in the
671 unincorporated area of the county; and

672 (II) for an annexing municipality, the property tax rate that generates enough property
673 tax revenue in the municipality to cover all the costs associated with providing fire protection,
674 paramedic, and emergency services in the municipality.

675 (F) "Participating county" means a county whose unincorporated area is included
676 within a fire district at the time of the creation of the fire district.

677 (G) "Participating municipality" means a municipality whose area is included within a
678 fire district at the time of the creation of the fire district.

679 (ii) In the first year following creation of a fire district, the certified tax rate of each
680 participating county and each participating municipality shall be decreased by the amount of
681 the equalized fire protection tax rate.

682 (iii) In the first year following annexation to a fire district, the certified tax rate of each
683 annexing county and each annexing municipality shall be decreased by the fire protection tax
684 rate.

685 (iv) Each tax levied under this section by a fire district shall be considered to be levied
686 by:

687 (A) each participating county and each annexing county for purposes of the county's
688 tax limitation under Section 59-2-908; and

689 (B) each participating municipality and each annexing municipality for purposes of the
690 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a
691 city.

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

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

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

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

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

699 (4) (a) The taxable value for the base year under Subsection 17B-4-102(4) shall be
700 reduced for any year to the extent necessary to provide a redevelopment agency established
701 under Title 17B, Chapter 4, Redevelopment Agencies Act, with approximately the same
702 amount of money the agency would have received without a reduction in the county's certified
703 tax rate if:

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

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

708 (iii) the decrease results in a reduction of the amount to be paid to the agency under
709 Section 17B-4-1003 or 17B-4-1004.

710 (b) The base taxable value under Subsection 17B-4-102(4) shall be increased in any
711 year to the extent necessary to provide a redevelopment agency with approximately the same
712 amount of money as the agency would have received without an increase in the certified tax
713 rate that year if:

714 (i) in that year the base taxable value under Subsection 17B-4-102(4) is reduced due to
715 a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i); and

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

718 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or
719 (2)(d)(i), the amount of money allocated and, when collected, paid each year to a
720 redevelopment agency established under Title 17B, Chapter 4, Redevelopment Agencies Act,
721 for the payment of bonds or other contract indebtedness, but not for administrative costs, may
722 not be less than that amount would have been without a decrease in the certified tax rate under
723 Subsection (2)(c) or (2)(d)(i).

724 Section 9. Section **59-7-614** is amended to read:

725 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**
726 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**
727 **authority -- Reimbursement of Uniform School Fund.**

728 (1) As used in this section:

729 (a) "Active solar system":

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

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

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

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

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

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

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

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

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

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

755 (h) "Individual taxpayer" means any person who is a taxpayer as defined in Section
756 59-10-103 and an individual as defined in Section 59-10-103.

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

759 (j) "Passive solar system":

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

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

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

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

771 (i) Section 59-2-404;

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

773 (iii) Section 59-2-405.1; or

774 (iv) Section 59-2-405.2.

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

778 (2) (a) (i) For taxable years beginning on or after January 1, 2001, but beginning on or
779 before December 31, 2006, a business entity that purchases and completes or participates in the
780 financing of a residential energy system to supply all or part of the energy required for a
781 residential unit owned or used by the business entity and situated in Utah is entitled to a tax
782 credit as provided in this Subsection (2)(a).

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

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

789 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system
790 completed and placed in service on or after January 1, 2001, but on or before December 31,
791 2006.

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

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

795 (B) if the business entity assigns its right to the tax credit to an individual taxpayer
796 under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the
797 individual taxpayer had completed or participated in the costs of the residential energy system
798 under Section 59-10-134.

799 (b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or
800 before December 31, 2006, a business entity that purchases or participates in the financing of a
801 commercial energy system is entitled to a tax credit as provided in this Subsection (2)(b) if:

802 (A) the commercial energy system supplies all or part of the energy required by

803 commercial units owned or used by the business entity; or

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

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

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

812 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy
813 system completed and placed in service on or after January 1, 2001, but on or before December
814 31, 2006.

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

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

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

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

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

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

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

833 (b) (i) The Office of Energy and Resource Planning may promulgate standards for

834 residential and commercial energy systems that cover the safety, reliability, efficiency, leasing,
835 and technical feasibility of the systems to ensure that the systems eligible for the tax credit use
836 the state's renewable and nonrenewable energy resources in an appropriate and economic
837 manner.

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

841 (c) The Office of Energy and Resource Planning and the commission are authorized to
842 promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
843 Act, which are necessary to implement this section.

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

846 Section 10. Section **59-10-134** is amended to read:

847 **59-10-134. Renewable energy systems tax credit -- Definitions -- Individual tax**
848 **credit -- Limitations -- Business tax credit -- Limitations -- State tax credit in addition to**
849 **allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of**
850 **Uniform School Fund.**

851 (1) As used in this part:

852 (a) "Active solar system":

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

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

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

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

864 (d) "Commercial energy system" means any active solar, passive solar, wind,

865 hydroenergy, or biomass system used to supply energy to a commercial unit or as a commercial
866 enterprise.

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

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

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

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

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

878 (h) "Individual taxpayer" means any person who is a taxpayer as defined in Section
879 59-10-103 and an individual as defined in Section 59-10-103.

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

882 (j) "Passive solar system":

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

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

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

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

894 (i) Section 59-2-404;

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

896 (iii) Section 59-2-405.1; or

897 (iv) Section 59-2-405.2.

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

901 (2) For taxable years beginning on or after January 1, 2001, but beginning on or before
902 December 31, 2006, any individual taxpayer may claim a tax credit as provided in this section
903 if:

904 (a) the individual taxpayer purchases and completes or participates in the financing of a
905 residential energy system to supply all or part of the energy for the individual taxpayer's
906 residential unit in the state; or

907 (b) (i) a business entity sells a residential unit to an individual taxpayer prior to making
908 a claim for a tax credit under Subsection (6) or Section 59-7-614; and

909 (ii) the business entity assigns its right to the tax credit to the individual taxpayer as
910 provided in Subsection (6)(c) or Subsection 59-7-614(2)(a)(iii).

911 (3) (a) An individual taxpayer meeting the requirements of Subsection (2) is entitled to
912 a tax credit equal to 25% of the costs of the energy system, including installation costs, against
913 any income tax liability of the individual taxpayer under this chapter for the taxable year in
914 which the residential energy system is completed and placed in service.

915 (b) The total amount of the credit under this section may not exceed \$2,000 per
916 residential unit.

917 (c) The credit under this section is allowed for any residential energy system completed
918 and placed in service on or after January 1, 2001, but on or before December 31, 2006.

919 (4) (a) The tax credit provided for in this section shall be claimed in the return for the
920 taxable year in which the energy system is completed and placed in service.

921 (b) Additional residential energy systems or parts of residential energy systems may be
922 similarly claimed in returns for subsequent taxable years as long as the total amount claimed
923 does not exceed \$2,000 per residential unit.

924 (c) If the amount of the tax credit under this section exceeds the income tax liability of
925 the individual taxpayer for that taxable year, then the amount not used may be carried over for
926 a period which does not exceed the next four taxable years.

927 (5) (a) Individual taxpayers who lease a residential energy system installed on a
928 residential unit are eligible for the residential energy tax credits if the lessee can confirm that
929 the lessor irrevocably elects not to claim the state tax credit.

930 (b) Only the principal recovery portion of the lease payments, which is the cost
931 incurred by the taxpayer in acquiring the residential energy system excluding interest charges
932 and maintenance expenses, is eligible for the tax credits.

933 (c) Individual taxpayers who lease residential energy systems are eligible to use the tax
934 credits for a period no greater than seven years from the initiation of the lease.

935 (6) (a) A business entity that purchases and completes or participates in the financing
936 of a residential energy system to supply all or part of the energy required for a residential unit
937 owned or used by the business entity and situated in Utah is entitled to a tax credit as provided
938 in this Subsection (6).

939 (b) (i) For taxable years beginning on or after January 1, 2001, but beginning on or
940 before December 31, 2006, a business entity is entitled to a tax credit equal to 25% of the costs
941 of a residential energy system installed with respect to each residential unit it owns or uses,
942 including installation costs, against any tax due under this chapter for the taxable year in which
943 the energy system is completed and placed in service.

944 (ii) The total amount of the credit under this Subsection (6) may not exceed \$2,000 per
945 residential unit.

946 (iii) The credit under this Subsection (6) is allowed for any residential energy system
947 completed and placed in service on or after January 1, 2001, but on or before December 31,
948 2006.

949 (c) If a business entity sells a residential unit to an individual taxpayer prior to making
950 a claim for the tax credit under this Subsection (6), the business entity may:

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

952 (ii) if the business entity assigns its right to the tax credit to an individual taxpayer
953 under Subsection (6)(c)(i), the individual taxpayer may claim the tax credit as if the individual
954 taxpayer had completed or participated in the costs of the residential energy system under this
955 section.

956 (7) (a) A business entity that purchases or participates in the financing of a commercial
957 energy system is entitled to a tax credit as provided in this Subsection (7) if:

- 958 (i) the commercial energy system supplies all or part of the energy required by
959 commercial units owned or used by the business entity; or
- 960 (ii) the business entity sells all or part of the energy produced by the commercial
961 energy system as a commercial enterprise.
- 962 (b) (i) A business entity is entitled to a tax credit equal to 10% of the costs of any
963 commercial energy system installed, including installation costs, against any tax due under this
964 chapter for the taxable year in which the commercial energy system is completed and placed in
965 service.
- 966 (ii) The total amount of the credit under this Subsection (7) may not exceed \$50,000
967 per commercial unit.
- 968 (iii) The credit under this Subsection (7) is allowed for any commercial energy system
969 completed and placed in service on or after January 1, 2001, but on or before December 31,
970 2006.
- 971 (c) A business entity that leases a commercial energy system installed on a commercial
972 unit is eligible for the tax credit under this Subsection (7) if the lessee can confirm that the
973 lessor irrevocably elects not to claim the credit.
- 974 (d) Only the principal recovery portion of the lease payments, which is the cost
975 incurred by a business entity in acquiring a commercial energy system, excluding interest
976 charges and maintenance expenses, is eligible for the tax credit under this Subsection (7).
- 977 (e) A business entity that leases a commercial energy system is eligible to use the tax
978 credit under this Subsection (7) for a period no greater than seven years from the initiation of
979 the lease.
- 980 (8) (a) A tax credit under this section may be claimed for the taxable year in which the
981 energy system is completed and placed in service.
- 982 (b) Additional energy systems or parts of energy systems may be claimed for
983 subsequent years.
- 984 (c) If the amount of a tax credit under this section exceeds a business entity's tax
985 liability under this chapter for a taxable year, the amount of the credit exceeding the liability
986 may be carried over for a period which does not exceed the next four taxable years.
- 987 (9) The tax credits provided for under this section are in addition to any tax credits
988 provided under the laws or rules and regulations of the United States.

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

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

997 (11) The Office of Energy and Resource Planning and the commission are authorized
998 to promulgate rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
999 Act, which are necessary to implement this section.

1000 (12) The Uniform School Fund shall be reimbursed by transfers from the General Fund
1001 for any credits taken under this section.

1002 Section 11. **Effective date.**

1003 This bill takes effect on January 1, 2005.

Legislative Review Note

as of 2-23-04 2:06 PM

Utah Constitution Article XIII, Section 2, Subsection (6) provides that the Legislature may exempt from property tax by statute "[t]angible personal property required by law to be registered with the State before it is used on a public highway or waterway, on public land, or in the air." This constitutional provision further requires that "[i]f the Legislature exempts [this] tangible personal property from property tax . . . it shall provide for the payment of uniform statewide fees or uniform statewide rates of assessment or taxation on that property in lieu of the property tax." This bill establishes multiple classes of tangible personal property and subjects each class to a different fee schedule. Utah courts have not yet ruled on the issue of whether the uniformity requirement of Utah Constitution Article XIII, Section 2, Subsection (6) permits the classification of tangible personal property and the imposition of different fees on the basis of those classes. A limited legal review of this issue suggests that it is unclear whether a court would find that the classifications and accompanying fee schedules provided for in this bill meet the constitutional uniformity requirement.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0318

Uniform Statewide Fees for Certain Tangible Personal Property

23-Feb-04

5:03 PM

State Impact

Passage of this bill would be revenue neutral for locals.

Individual and Business Impact

No significant fiscal impact.

Office of the Legislative Fiscal Analyst