

**TAX TREATMENT OF PERSONAL PROPERTY**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: LaWanna Lou Shurtliff**

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**LONG TITLE**

**General Description:**

This bill amends the Motor Vehicles Act, the Property Tax Act, the Corporate Franchise and Income Taxes chapter, and the Individual Income Tax Act to address the property tax treatment of motor homes.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ specifies the uniform fees that are received by a city library fund;
- ▶ reduces uniform statewide fees on motor homes required to be registered with the state to a rate of:
  - 1.25% of the value of a motor home, beginning January 1, 2006; and
  - 1% of the value of a motor home, beginning January 1, 2008;
- ▶ provides for the collection of uniform statewide fees;
- ▶ provides that the uniform statewide fees on motor homes shall be imposed at the time of registration and renewal of registration;
- ▶ addresses the appeals process for personal property;
- ▶ provides that for purposes of the corporate franchise and income tax credits and individual income tax credits for renewable energy systems, a residential unit does not include motor homes subject to uniform statewide fees;
- ▶ grants rulemaking authority to the State Tax Commission; and
- ▶ makes technical changes.



28 **Monies Appropriated in this Bill:**

29 None

30 **Other Special Clauses:**

31 This bill takes effect on January 1, 2006.

32 **Utah Code Sections Affected:**

33 AMENDS:

- 34 **9-7-401**, as last amended by Chapter 13, Laws of Utah 1998
- 35 **41-1a-222**, as last amended by Chapter 322, Laws of Utah 1998
- 36 **59-2-405**, as last amended by Chapter 12, Laws of Utah 2001, First Special Session
- 37 **59-2-405.1**, as last amended by Chapter 12, Laws of Utah 2001, First Special Session
- 38 **59-2-406**, as last amended by Chapters 109 and 322, Laws of Utah 1998
- 39 **59-2-407**, as last amended by Chapter 207, Laws of Utah 1999
- 40 **59-2-924**, as last amended by Chapter 122, Laws of Utah 2003
- 41 **59-2-1005**, as last amended by Chapter 146, Laws of Utah 1994
- 42 **59-7-614**, as enacted by Chapter 6, Laws of Utah 2001, First Special Session
- 43 **59-10-134**, as enacted by Chapter 6, Laws of Utah 2001, First Special Session

44 ENACTS:

45 **59-2-405.2**, Utah Code Annotated 1953



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

48 Section 1. Section **9-7-401** is amended to read:

49 **9-7-401. Tax for establishment and maintenance of public library -- City library**  
50 **fund.**

- 51 (1) A city governing body may establish and maintain a public library.
- 52 (2) For this purpose, cities may levy annually a tax not to exceed .001 of taxable value
- 53 of taxable property in the city. The tax is in addition to all taxes levied by cities and is not
- 54 limited by the levy limitation imposed on cities by law. However, if bonds are issued for
- 55 purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment
- 56 of the bonds and any interest may be levied.
- 57 (3) The taxes described in Subsection (2) shall:
- 58 (a) be levied and collected in the same manner as other general taxes of the city; and

59 ~~shall~~

60 (b) constitute a fund to be known as the city library fund.

61 (4) The city library fund shall receive a portion of:

62 (a) the uniform fee imposed by Section 59-2-404 in accordance with the procedures  
63 established in Section 59-2-404;

64 (b) the statewide uniform fee [on tangible personal property] imposed by Section  
65 59-2-405 in accordance with the procedures established in Subsection 59-2-405(5)[-];

66 (c) the statewide uniform fee imposed by Section 59-2-405.1 in accordance with the  
67 procedures established in Section 59-2-405.1; and

68 (d) the uniform statewide fee imposed by Section 59-2-405.2 in accordance with the  
69 procedures established in Section 59-2-405.2.

70 Section 2. Section **41-1a-222** is amended to read:

71 **41-1a-222. Application for multiyear registration -- Payment of taxes -- Penalties.**

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

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

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

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

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

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

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

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

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

- 94 (a) Section 41-1a-206;
- 95 (b) Section 41-1a-207;
- 96 (c) Subsection 41-1a-301(11);
- 97 [~~(c)~~] (d) Section 59-2-405.1; or
- 98 [~~(d)~~ Subsection 41-1a-301(11);]
- 99 (e) Section 59-2-405.2.

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

103 Section 3. Section **59-2-405** is amended to read:

104 **59-2-405. Uniform fee on tangible personal property required to be registered**  
105 **with the state -- Distribution of revenues -- Appeals.**

106 (1) The property described in Subsection (2), except Subsections (2)(b)(ii) and (iii), is  
107 exempt from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section  
108 [~~14~~] 2, Subsection (6).

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

- 111 (i) motor vehicles required to be registered with the state that weigh 12,001 pounds or  
112 more;
- 113 (ii) motorcycles as defined in Section 41-1a-102 that are required to be registered with  
114 the state;
- 115 (iii) watercraft required to be registered with the state;
- 116 (iv) recreational vehicles required to be registered with the state; and
- 117 (v) all other tangible personal property required to be registered with the state before it  
118 is used on a public highway, on a public waterway, on public land, or in the air.

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

- 121 (i) aircraft;
- 122 (ii) vintage vehicles as defined in Section 41-21-1;
- 123 (iii) state-assessed commercial vehicles;
- 124 (iv) tangible personal property subject to a uniform fee imposed by:
- 125 (A) Section 59-2-405.1; [and] or
- 126 (B) Section 59-2-405.2; and
- 127 (v) personal property that is exempt from state or county ad valorem property taxes
- 128 under the laws of this state or of the federal government.

129 (3) Beginning on January 1, 1999, the uniform fee is 1.5% of the fair market value of

130 the personal property, as established by the commission.

131 (4) Notwithstanding Section 59-2-407, property subject to the uniform fee that is

132 brought into the state and is required to be registered in Utah shall, as a condition of

133 registration, be subject to the uniform fee unless all property taxes or uniform fees imposed by

134 the state of origin have been paid for the current calendar year.

135 (5) (a) The revenues collected in each county from the uniform fee shall be distributed

136 by the county to each taxing entity in which the property described in Subsection (2) is located

137 in the same proportion in which revenue collected from ad valorem real property tax is

138 distributed.

139 (b) Each taxing entity shall distribute the revenues received under Subsection (5)(a) in

140 the same proportion in which revenue collected from ad valorem real property tax is

141 distributed.

142 (6) ~~[Appeals of the valuation of]~~ An appeal relating to the uniform fee imposed on the

143 tangible personal property described in Subsection (2) shall be filed pursuant to Section

144 59-2-1005.

145 Section 4. Section **59-2-405.1** is amended to read:

146 **59-2-405.1. Uniform fee on certain vehicles weighing 12,000 pounds or less --**

147 **Distribution of revenues -- Appeals.**

148 (1) The property described in Subsection (2), except Subsection (2)(b)(ii), is exempt

149 from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section [14] 2,

150 Subsection (6).

151 (2) (a) Except as provided in Subsection (2)(b), there is levied as provided in this part a

152 statewide uniform fee in lieu of the ad valorem tax on:

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

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

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

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

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

160 (i) aircraft;

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

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

163 (A) Section 59-2-405; ~~[and]~~ or

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

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

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

| Age of Vehicle                         | Uniform Fee |
|--|-------------|
| 12 or more years                       | \$10        |
| 9 or more years but less than 12 years | \$50        |
| 6 or more years but less than 9 years  | \$80        |
| 3 or more years but less than 6 years  | \$110       |
| Less than 3 years                      | \$150       |

175 (b) Notwithstanding Subsection (3)(a), beginning on September 1, 2001, for a motor  
176 vehicle issued a temporary sports event registration certificate in accordance with Section  
177 41-3-306, the uniform fee for purposes of this section is \$5 for the event period specified on the  
178 temporary sports event registration certificate regardless of the age of the motor vehicle.

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

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

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

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

192 Section 5. Section **59-2-405.2** is enacted to read:

193 **59-2-405.2. Uniform statewide fee on motor homes -- Distribution of revenues.**

194 (1) For purposes of this section, "motor home" means:

195 (a) a motor home, as defined in Section 13-14-102, that is required to be registered  
196 with the state; or

197 (b) a self-propelled vehicle that is:

198 (i) modified for primary use as a temporary dwelling for travel, recreational, or  
199 vacation use; and

200 (ii) required to be registered with the state.

201 (2) In accordance with Utah Constitution Article XIII, Section 2, Subsection (6),  
202 beginning on January 1, 2006, a motor home is:

203 (a) exempt from the tax imposed by Section 59-2-103; and

204 (b) in lieu of the tax imposed by Section 59-2-103, subject to a uniform statewide fee  
205 as provided in Subsection (3).

206 (3) The uniform statewide fee described in Subsection (2)(b) is:

207 (a) beginning on January 1, 2006, and ending December 31, 2007, 1.25% of the fair  
208 market value of the motor home, as established by the commission; and

209 (b) beginning on January 1, 2008, 1% of the fair market value of the motor home, as  
210 established by the commission.

211 (4) Notwithstanding Section 59-2-407, a motor home subject to the uniform statewide  
212 fee imposed by this section that is brought into the state shall, as a condition of registration, be  
213 subject to the uniform statewide fee unless all property taxes or uniform fees imposed by the

214 state of origin have been paid for the current calendar year.

215 (5) (a) Each county shall distribute the revenue collected by the county from the  
216 uniform statewide fee imposed by this section to each taxing entity in which each motor home  
217 subject to the uniform statewide fee is located in the same proportion in which revenue  
218 collected from the ad valorem property tax is distributed.

219 (b) Each taxing entity described in Subsection (5)(a) that receives revenue from the  
220 uniform statewide fee imposed by this section shall distribute the revenue in the same  
221 proportion in which revenue collected from the ad valorem property tax is distributed.

222 (6) An appeal relating to the uniform statewide fee imposed on a motor home by this  
223 section shall be filed pursuant to Section 59-2-1005.

224 Section 6. Section **59-2-406** is amended to read:

225 **59-2-406. Collection of uniform fees and other motor vehicle fees.**

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

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

232 (i) the collection by the commission of:

233 (A) the uniform fees required under Sections 59-2-405 [~~and~~], 59-2-405.1, and  
234 59-2-405.2; and

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

236 (ii) the collection by the county of:

237 (A) the uniform fees required under Sections 59-2-405 [~~and~~], 59-2-405.1, and  
238 59-2-405.2; and

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

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

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

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

247 (iii) plate fees for vehicles;

248 (iv) permit fees; and

249 (v) impound fees.

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

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

254 (a) be responsible for the collection of:

255 (i) the uniform fees under Sections 59-2-405 [~~and~~], 59-2-405.1, and 59-2-405.2; and

256 (ii) [~~the applicable Title 41~~] any fees described in Subsection (1)(c) as agreed to in the  
257 contract;

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

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

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

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

269 (b) The reimbursement fee shall be based on two dollars per standard unit for the first  
270 5,000 standard units in each county and one dollar per standard unit for all other standard units  
271 and shall be annually adjusted by the commission beginning July 1, 1999.

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

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

276 Legislature.

277 (4) All counties that elect to collect the uniform ~~[fee]~~ fees described in Subsection  
278 (1)(b)(ii)(A) and any other ~~[Title 41]~~ fees described in Subsection (1)(c) as provided by  
279 contract shall be subject to similar contractual terms.

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

284 (6) If the county elects not to collect the uniform ~~[fee and the Title 41]~~ fees described  
285 in Subsection (1)(b)(ii)(A) and the fees described in Subsection (1)(c):

286 (a) the commission shall:

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

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

292 (b) the county shall pay the commission a reimbursement fee as provided in Subsection  
293 (3).

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

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

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

300 Section 7. Section **59-2-407** is amended to read:

301 **59-2-407. Administration of uniform fees.**

302 (1) (a) Except as provided in Subsection 59-2-405(4), the uniform fee authorized in  
303 Sections 59-2-404 and 59-2-405 shall be assessed at the same time and in the same manner as  
304 ad valorem personal property taxes under Chapter 2, Part 13, Collection of Taxes, except that  
305 in listing personal property subject to the uniform fee with real property as permitted by  
306 Section 59-2-1302, the assessor or, if this duty has been reassigned in an ordinance under

307 Section 17-16-5.5, the treasurer shall list only the amount of the uniform fee due, and not the  
 308 taxable value of the property subject to the uniform fee.

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

311 (i) registration as defined in Section 41-1a-102; and  
 312 (ii) renewal of registration.

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

315 (i) registration as defined in Section 41-1a-102; and  
 316 (ii) renewal of a registration.

317 (2) The remedies for nonpayment of the uniform fees authorized by Sections 59-2-404,  
 318 59-2-405, [~~and~~] 59-2-405.1, and 59-2-405.2 shall be the same as those provided in Chapter 2,  
 319 Part 13, Collection of Taxes, for nonpayment of ad valorem personal property taxes.

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

321 **59-2-924. Report of valuation of property to county auditor and commission --**  
 322 **Transmittal by auditor to governing bodies -- Certified tax rate -- Rulemaking authority**  
 323 **-- Adoption of tentative budget.**

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

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

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

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

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

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

334 (iii) the certified tax rate; and

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

336 (2) (a) (i) The "certified tax rate" means a tax rate that will provide the same ad  
 337 valorem property tax revenues for a taxing entity as were budgeted by that taxing entity for the

338 prior year.

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

341 (A) collections from redemptions;

342 (B) interest; and

343 (C) penalties.

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

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

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

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

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

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

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

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

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

366 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,  
367 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

368 (II) levies to pay for the costs of state legislative mandates or judicial or administrative

369 orders under Section 59-2-906.3.

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

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

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

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

379 (iii) "New growth" means:

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

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

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

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

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

389 (I) the Legislature;

390 (II) a court;

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

392 (IV) the commission in an administrative order.

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

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

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

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

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

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

412 (f) For the calendar year beginning on January 1, 1999, and ending on December 31,  
413 1999, a taxing entity's certified tax rate shall be adjusted by the amount necessary to offset the  
414 adjustment in revenues from uniform fees on tangible personal property under Section  
415 59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property under  
416 Section 59-2-405.1 enacted by the Legislature during the 1998 Annual General Session.

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

418 (i) "1998 actual collections" means the amount of revenues a taxing entity actually  
419 collected for the calendar year beginning on January 1, 1998, under Section 59-2-405 for:

420 (A) motor vehicles required to be registered with the state that weigh 12,000 pounds or  
421 less; and

422 (B) state-assessed commercial vehicles required to be registered with the state that  
423 weigh 12,000 pounds or less.

424 (ii) "1999 actual collections" means the amount of revenues a taxing entity actually  
425 collected for the calendar year beginning on January 1, 1999, under Section 59-2-405.1.

426 (h) For the calendar year beginning on January 1, 2000, the commission shall make the  
427 following adjustments:

428 (i) the commission shall make the adjustment described in Subsection (2)(i)(i) if, for  
429 the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were  
430 greater than the sum of:

- 431 (A) the taxing entity's 1999 actual collections; and  
432 (B) any adjustments the commission made under Subsection (2)(f);  
433 (ii) the commission shall make the adjustment described in Subsection (2)(i)(ii) if, for  
434 the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were  
435 greater than the taxing entity's 1999 actual collections, but the taxing entity's 1998 actual  
436 collections were less than the sum of:  
437 (A) the taxing entity's 1999 actual collections; and  
438 (B) any adjustments the commission made under Subsection (2)(f); and  
439 (iii) the commission shall make the adjustment described in Subsection (2)(i)(iii) if, for  
440 the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were  
441 less than the taxing entity's 1999 actual collections.  
442 (i) (i) For purposes of Subsection (2)(h)(i), the commission shall increase a taxing  
443 entity's certified tax rate under this section and a taxing entity's certified revenue levy under  
444 Section 59-2-906.1 by the amount necessary to offset the difference between:  
445 (A) the taxing entity's 1998 actual collections; and  
446 (B) the sum of:  
447 (I) the taxing entity's 1999 actual collections; and  
448 (II) any adjustments the commission made under Subsection (2)(f).  
449 (ii) For purposes of Subsection (2)(h)(ii), the commission shall decrease a taxing  
450 entity's certified tax rate under this section and a taxing entity's certified revenue levy under  
451 Section 59-2-906.1 by the amount necessary to offset the difference between:  
452 (A) the sum of:  
453 (I) the taxing entity's 1999 actual collections; and  
454 (II) any adjustments the commission made under Subsection (2)(f); and  
455 (B) the taxing entity's 1998 actual collections.  
456 (iii) For purposes of Subsection (2)(h)(iii), the commission shall decrease a taxing  
457 entity's certified tax rate under this section and a taxing entity's certified revenue levy under  
458 Section 59-2-906.1 by the amount of any adjustments the commission made under Subsection  
459 (2)(f).  
460 (j) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for  
461 purposes of Subsections (2)(f) through (i), the commission may make rules establishing the

462 method for determining a taxing entity's 1998 actual collections and 1999 actual collections.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

512 (A) establishes a countywide special service district under Title 17A, Chapter 2, Part  
513 13, Utah Special Service District Act, to provide jail service, as provided in Subsection  
514 17A-2-1304(1)(a)(x); and

515 (B) levies a property tax on behalf of the special service district under Section  
516 17A-2-1322.

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

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

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

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

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

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

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

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

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

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

537 (Aa) for participating counties, in the unincorporated area of all participating counties;  
538 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

600 Section 9. Section **59-2-1005** is amended to read:

601 **59-2-1005. Procedures for appeal of personal property valuation -- Time for**  
602 **appeal -- Hearing -- Decision -- Appeal to commission.**

603 (1) ~~[The]~~ For personal property assessed by a county assessor in accordance with  
604 Section 59-2-301, the county legislative body shall include with the signed statement required  
605 by Section 59-2-306, a notice of procedures for an appeal ~~[of any]~~ relating to the value of the  
606 personal property ~~[valuation with each tax notice]~~. If personal property is subject to a fee in  
607 lieu of tax or the uniform tax under Article XIII, Sec. ~~[14]~~ 2, Utah Constitution, and the fee or  
608 tax is based upon the value of the property, the basis of the value may be appealed to the  
609 commission.

610 (2) ~~[Any]~~ For the personal property described in Subsection (1), a taxpayer ~~[dissatisfied~~  
611 with the taxable value of the taxpayer's personal property] may make an appeal relating to the  
612 value of the personal property by filing an application with the county legislative body no later  
613 than 30 days after the mailing of the tax notice.

614 (3) (a) After giving reasonable notice, the county legislative body shall hear ~~[the]~~ an  
615 appeal filed in accordance with Subsection (2) and render a written decision.

616 (b) The written decision described in Subsection (3)(a) shall be rendered no later than

617 60 days after receipt of the appeal.

618 (4) If any taxpayer is dissatisfied with ~~the~~ a decision ~~of~~ rendered in accordance with  
619 Subsection (3) by the county legislative body, the taxpayer may file an appeal with the  
620 commission ~~as established~~ in accordance with Section 59-2-1006.

621 (5) For personal property assessed by the commission in accordance with Section  
622 59-2-201, a taxpayer may make an appeal relating to the personal property in accordance with  
623 Section 59-2-1007.

624 Section 10. Section **59-7-614** is amended to read:

625 **59-7-614. Renewable energy systems tax credit -- Definitions -- Limitations --**  
626 **State tax credit in addition to allowable federal credits -- Certification -- Rulemaking**  
627 **authority -- Reimbursement of Uniform School Fund.**

628 (1) As used in this section:

629 (a) "Active solar system":

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

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

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

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

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

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

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

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

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

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

655 (h) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
656 59-10-103 and an individual as defined in Section 59-10-103.

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

659 (j) "Passive solar system":

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

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

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

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

671 (i) Section 59-2-404;

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

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

674 (iv) Section 59-2-405.2.

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

678 (2) (a) (i) For taxable years beginning on or after January 1, 2001, but beginning on or

679 before December 31, 2006, a business entity that purchases and completes or participates in the  
680 financing of a residential energy system to supply all or part of the energy required for a  
681 residential unit owned or used by the business entity and situated in Utah is entitled to a tax  
682 credit as provided in this Subsection (2)(a).

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

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

689 (C) The credit under this Subsection (2)(a) is allowed for any residential energy system  
690 completed and placed in service on or after January 1, 2001, but on or before December 31,  
691 2006.

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

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

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

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

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

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

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

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

712 (C) The credit under this Subsection (2)(b) is allowed for any commercial energy  
713 system completed and placed in service on or after January 1, 2001, but on or before December  
714 31, 2006.

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

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

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

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

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

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

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

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

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

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

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

746 Section 11. Section **59-10-134** is amended to read:

747 **59-10-134. Renewable energy systems tax credit -- Definitions -- Individual tax**  
748 **credit -- Limitations -- Business tax credit -- Limitations -- State tax credit in addition to**  
749 **allowable federal credits -- Certification -- Rulemaking authority -- Reimbursement of**  
750 **Uniform School Fund.**

751 (1) As used in this part:

752 (a) "Active solar system":

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

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

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

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

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

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

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

771 (ii) (A) in the case of an active solar system used for agricultural water pumping or a

772 wind system, each individual energy generating device shall be a commercial unit; and

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

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

778 (h) "Individual taxpayer" means any person who is a taxpayer as defined in Section  
779 59-10-103 and an individual as defined in Section 59-10-103.

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

782 (j) "Passive solar system":

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

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

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

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

794 (i) Section 59-2-404;

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

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

797 (iv) Section 59-2-405.2.

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

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

803 if:

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

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

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

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

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

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

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

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

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

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

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

833 (c) Individual taxpayers who lease residential energy systems are eligible to use the tax

834 credits for a period no greater than seven years from the initiation of the lease.

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

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

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

846 (iii) The credit under this Subsection (6) is allowed for any residential energy system  
847 completed and placed in service on or after January 1, 2001, but on or before December 31,  
848 2006.

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

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

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

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

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

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

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

865 service.

866 (ii) The total amount of the credit under this Subsection (7) may not exceed \$50,000  
867 per commercial unit.

868 (iii) The credit under this Subsection (7) is allowed for any commercial energy system  
869 completed and placed in service on or after January 1, 2001, but on or before December 31,  
870 2006.

871 (c) A business entity that leases a commercial energy system installed on a commercial  
872 unit is eligible for the tax credit under this Subsection (7) if the lessee can confirm that the  
873 lessor irrevocably elects not to claim the credit.

874 (d) Only the principal recovery portion of the lease payments, which is the cost  
875 incurred by a business entity in acquiring a commercial energy system, excluding interest  
876 charges and maintenance expenses, is eligible for the tax credit under this Subsection (7).

877 (e) A business entity that leases a commercial energy system is eligible to use the tax  
878 credit under this Subsection (7) for a period no greater than seven years from the initiation of  
879 the lease.

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

882 (b) Additional energy systems or parts of energy systems may be claimed for  
883 subsequent years.

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

887 (9) The tax credits provided for under this section are in addition to any tax credits  
888 provided under the laws or rules and regulations of the United States.

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

894 (b) A tax credit may not be taken under this section until the Office of Energy and  
895 Resource Planning has certified that the energy system has been completely installed and is a

896 viable system for saving or production of energy from renewable resources.

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

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

902 Section 12. **Effective date.**

903 This bill takes effect on January 1, 2006.

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**Legislative Review Note**

**as of 12-14-04 6:59 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

**State Impact**

Passage of this bill could decrease local revenues by \$611,000 in FY 2007 and FY 2008.

This loss will change to \$1,222,000 in FY 2009

|               | <u>FY 2006</u><br><u>Approp.</u> | <u>FY 2007</u><br><u>Approp.</u> | <u>FY 2006</u><br><u>Revenue</u> | <u>FY 2007</u><br><u>Revenue</u> |
|---------------|----------------------------------|----------------------------------|----------------------------------|----------------------------------|
| Local Revenue | \$0                              | \$0                              | \$0                              | (\$611,000)                      |
| <b>TOTAL</b>  | <b>\$0</b>                       | <b>\$0</b>                       | <b>\$0</b>                       | <b>(\$611,000)</b>               |

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**Individual and Business Impact**

Passage of this bill will decrease the property taxes owed by owners of motor homes.

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**Office of the Legislative Fiscal Analyst**