

SB0054S01 compared with SB0054

~~{deleted text}~~ shows text that was in SB0054 but was deleted in SB0054S01.

inserted text shows text that was not in SB0054 but was inserted into SB0054S01.

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Senator Benjamin M. McAdams proposes the following substitute bill:

AMENDMENTS RELATED TO EDUCATION FUNDING

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Benjamin M. McAdams

House Sponsor: _____

LONG TITLE

General Description:

This bill makes changes to tax and education provisions to provide for education funding and requires certain advertisement related to education funding.

Highlighted Provisions:

This bill:

- ▶ modifies definitions;
- ▶ increases the maximum property tax rate allowed under a voter-authorized school district property tax levy;
- ▶ makes changes to a state-funded program related to the voter-authorized school district property tax levy;
- ▶ establishes a set tax rate for the school minimum basic levy, subject to the rate generating a specified revenue amount;

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- ▶ if certain conditions are met, requires the Executive Appropriations Committee to make a recommendation related to the school basic levy;
- ▶ creates the Prioritizing Public Education Restricted Account within the Uniform School Fund;
- ▶ changes certain advertising requirements related to the school minimum basic levy;
- ▶ changes the personal exemption component of the individual income tax taxpayer tax credit calculation from a percentage of the federal personal exemption to a fixed dollar amount per exemption;
- ▶ designates certain sales and use tax revenue to the Prioritizing Public Education Restricted Account;
- ▶ requires notification to and a recommendation by the Executive Appropriations Committee if sales and use tax deposits into the Prioritizing Public Education Restricted account reach certain levels; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

This bill provides for retrospective operation.

Utah Code Sections Affected:

AMENDS:

53A-17a-103, as last amended by Laws of Utah 2011, Chapter 371

53A-17a-133, as last amended by Laws of Utah 2011, Chapters 364 and 371

53A-17a-134, as last amended by Laws of Utah 2011, Chapters 342 and 371

53A-17a-135, as last amended by Laws of Utah 2011, Chapter 7

59-2-102, as last amended by Laws of Utah 2010, Chapter 14

59-2-926, as last amended by Laws of Utah 2009, Chapter 388

59-10-1018, as renumbered and amended by Laws of Utah 2008, Chapter 389

59-12-103, as last amended by Laws of Utah 2011, Chapters 285, 303, 342, and 441

59-12-1201, as last amended by Laws of Utah 2011, Chapter 309

ENACTS:

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53A-17a-170, Utah Code Annotated 1953

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

Section 1. Section **53A-17a-103** is amended to read:

53A-17a-103. Definitions.

As used in this chapter:

(1) "Basic state-supported school program" or "basic program" means public education programs for kindergarten, elementary, and secondary school students that are operated and maintained for the amount derived by multiplying the number of weighted pupil units for each school district or charter school by the value established each year in statute, except as otherwise provided in this chapter.

(2) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing a minimum basic tax rate, as specified in Subsection 53A-17a-135(1)[~~(a)~~]; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the State Tax Commission; and

(B) the minimum basic tax rate certified by the State Tax Commission for the previous year.

(b) For purposes of this Subsection (2), "ad valorem property tax revenue" does not include property tax revenue received statewide from personal property that is:

(i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3, County Assessment; and

(ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (2), the State Tax Commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

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(ii) the taxable value of real and personal property assessed by the State Tax Commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(3) "Pupil in average daily membership (ADM)" means a full-day equivalent pupil.

(4) (a) "State-supported minimum school program" or "Minimum School Program" means public school programs for kindergarten, elementary, and secondary schools as described in this Subsection (4).

(b) The minimum school program established in school districts and charter schools shall include the equivalent of a school term of nine months as determined by the State Board of Education.

(c) (i) The board shall establish the number of days or equivalent instructional hours that school is held for an academic school year.

(ii) Education, enhanced by utilization of technologically enriched delivery systems, when approved by local school boards or charter school governing boards, shall receive full support by the State Board of Education as it pertains to fulfilling the attendance requirements, excluding time spent viewing commercial advertising.

(d) The Minimum School Program includes a program or allocation funded by a line item appropriation or other appropriation designated as follows:

- (i) Basic School Program;
- (ii) Related to Basic Programs;
- (iii) Voted and Board Levy Programs; or
- (iv) Minimum School Program.

(5) "Weighted pupil unit or units or WPU or WPUs" means the unit of measure of factors that is computed in accordance with this chapter for the purpose of determining the costs of a program on a uniform basis for each district.

Section 2. Section **53A-17a-133** is amended to read:

53A-17a-133. State-supported voted local levy authorized -- Election requirements -- State guarantee -- Reconsideration of the program.

(1) An election to consider adoption or modification of a voted local levy is required if initiative petitions signed by 10% of the number of electors who voted at the last preceding

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general election are presented to the local school board or by action of the board.

(2) (a) (i) To impose a voted local levy, a majority of the electors of a district voting at an election in the manner set forth in Subsections (8) and (9) must vote in favor of a special tax.

(ii) The tax rate may not exceed [~~.002~~] .0024 per dollar of taxable value.

(b) Except as provided in Subsection (2)(c), in order to receive state support the first year, a district must receive voter approval no later than December 1 of the year prior to implementation.

(c) Beginning on or after January 1, 2012, a school district may receive state support in accordance with Subsection (3) without complying with the requirements of Subsection (2)(b) if the local school board imposed a tax in accordance with this section during the taxable year beginning on January 1, 2011 and ending on December 31, 2011.

(3) (a) In addition to the revenue a school district collects from the imposition of a levy pursuant to this section, the state shall contribute an amount sufficient to guarantee \$25.25 per weighted pupil unit for each .0001 of the first [~~.0016~~] .0020 per dollar of taxable value.

(b) The same dollar amount guarantee per weighted pupil unit for the [~~.0016~~] .0020 per dollar of taxable value under Subsection (3)(a) shall apply to the portion of the board local levy authorized in Section 53A-17a-164, so that the guarantee shall apply up to a total of [~~.002~~] .0024 per dollar of taxable value if a school district levies a tax rate under both programs.

(c) (i) Beginning July 1, 2011, the \$25.25 guarantee under Subsections (3)(a) and (b) shall be indexed each year to the value of the weighted pupil unit by making the value of the guarantee equal to .010544 times the value of the prior year's weighted pupil unit.

(ii) The guarantee shall increase by .0005 times the value of the prior year's weighted pupil unit for each succeeding year subject to the Legislature appropriating funds for an increase in the guarantee.

(d) (i) The amount of state guarantee money to which a school district would otherwise be entitled to receive under this Subsection (3) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (3)(d)(i) applies for a period of five years following any such change in the certified tax rate.

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(e) The guarantee provided under this section does not apply to the portion of a voted local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal year, unless an increase in the voted local levy rate was authorized in an election conducted on or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

(4) (a) An election to modify an existing voted local levy is not a reconsideration of the existing authority unless the proposition submitted to the electors expressly so states.

(b) A majority vote opposing a modification does not deprive the district of authority to continue the levy.

(c) If adoption of a voted local levy is contingent upon an offset reducing other local school board levies, the board must allow the electors, in an election, to consider modifying or discontinuing the imposition of the levy prior to a subsequent increase in other levies that would increase the total local school board levy.

(d) Nothing contained in this section terminates, without an election, the authority of a school district to continue imposing an existing voted local levy previously authorized by the voters as a voted leeway program.

(5) Notwithstanding Section 59-2-919, a school district may budget an increased amount of ad valorem property tax revenue derived from a voted local levy imposed under this section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without having to comply with the notice requirements of Section 59-2-919, if:

(a) the voted local levy is approved:

(i) in accordance with Subsections (8) and (9) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(b) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with the requirements of Subsection (7).

(6) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this section that exceeds the certified tax rate without having to comply with the notice requirements of Section 59-2-919 if:

(a) the levy exceeds the certified tax rate as the result of a school district budgeting an increased amount of ad valorem property tax revenue derived from a voted local levy imposed

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under this section;

(b) the voted local levy was approved:

(i) in accordance with Subsections (8) and (9) on or after January 1, 2003; and

(ii) within the four-year period immediately preceding the year in which the school district seeks to budget an increased amount of ad valorem property tax revenue derived from the voted local levy; and

(c) for a voted local levy approved or modified in accordance with this section on or after January 1, 2009, the school district complies with requirements of Subsection (7).

(7) For purposes of Subsection (5)(b) or (6)(c), the proposition submitted to the electors regarding the adoption or modification of a voted local levy shall contain the following statement:

"A vote in favor of this tax means that (name of the school district) may increase revenue from this property tax without advertising the increase for the next five years."

(8) (a) Before imposing a property tax levy pursuant to this section, a school district shall submit an opinion question to the school district's registered voters voting on the imposition of the tax rate so that each registered voter has the opportunity to express the registered voter's opinion on whether the tax rate should be imposed.

(b) The election required by this Subsection (8) shall be held:

(i) at a regular general election conducted in accordance with the procedures and requirements of Title 20A, Election Code, governing regular elections;

(ii) at a municipal general election conducted in accordance with the procedures and requirements of Section 20A-1-202; or

(iii) at a local special election conducted in accordance with the procedures and requirements of Section 20A-1-203.

(c) Notwithstanding the requirements of Subsections (8)(a) and (b), beginning on or after January 1, 2012, a school district may levy a tax rate in accordance with this section without complying with the requirements of Subsections (8)(a) and (b) if the school district imposed a tax in accordance with this section at any time during the taxable year beginning on January 1, 2011, and ending on December 31, 2011.

(9) If a school district determines that a majority of the school district's registered voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax

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rate in accordance with Subsection (8), the school district may impose the tax rate.

Section 3. Section **53A-17a-134** is amended to read:

53A-17a-134. Board-approved leeway -- Purpose -- State support -- Disapproval.

(1) Except as provided in Subsection (9), a local school board may levy a tax rate of up to .0004 per dollar of taxable value to maintain a school program above the cost of the basic school program as follows:

(a) a local school board shall use the money generated by the tax for class size reduction within the school district;

(b) if a local school board determines that the average class size in the school district is not excessive, it may use the money for other school purposes but only if the board has declared the use for other school purposes in a public meeting prior to levying the tax rate; and

(c) a district may not use the money for other school purposes under Subsection (1)(b) until it has certified in writing that its class size needs are already being met and has identified the other school purposes for which the money will be used to the State Board of Education and the state board has approved their use for other school purposes.

(2) (a) The state shall contribute an amount sufficient to guarantee \$25.25 per weighted pupil unit for each .0001 per dollar of taxable value.

(b) The guarantee shall increase in the same manner as provided for the voted local levy guarantee in Subsection 53A-17a-133(3)(c).

(c) (i) The amount of state guarantee money to which a school district would otherwise be entitled to under this Subsection (2) may not be reduced for the sole reason that the district's levy is reduced as a consequence of changes in the certified tax rate under Section 59-2-924 pursuant to changes in property valuation.

(ii) Subsection (2)(c)(i) applies for a period of five years following any such change in the certified tax rate.

(d) The guarantee provided under this section does not apply to:

(i) a board-authorized leeway in the first fiscal year the leeway is in effect, unless the leeway was approved by voters pursuant to Subsections (4) through (6); or

(ii) the portion of a board-authorized leeway rate that is in excess of the board-authorized leeway rate that was in effect for the previous fiscal year.

(3) The levy authorized under this section is not in addition to the maximum rate of

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[.002] .0024 authorized in Section 53A-17a-133, but is a board-authorized component of the total tax rate under that section.

(4) As an exception to Section 53A-17a-133, the board-authorized levy does not require voter approval, but the board may require voter approval if requested by a majority of the board.

(5) An election to consider disapproval of the board-authorized levy is required, if within 60 days after the levy is established by the board, referendum petitions signed by the number of legal voters required in Section 20A-7-301, who reside within the school district, are filed with the school district.

(6) (a) A local school board shall establish its board-approved levy by April 1 to have the levy apply to the fiscal year beginning July 1 in that same calendar year except that if an election is required under this section, the levy applies to the fiscal year beginning July 1 of the next calendar year.

(b) The approval and disapproval votes authorized in Subsections (4) and (5) shall occur at a general election in even-numbered years, except that a vote required under this section in odd-numbered years shall occur at a special election held on a day in odd-numbered years that corresponds to the general election date. The school district shall pay for the cost of a special election.

(7) (a) Modification or termination of a voter-approved leeway rate authorized under this section is governed by Section 53A-17a-133.

(b) A board-authorized leeway rate may be modified or terminated by a majority vote of the board subject to disapproval procedures specified in this section.

(8) A board levy election does not require publication of a voter information pamphlet.

(9) Beginning January 1, 2012, a local school board may not levy a tax in accordance with this section.

Section 4. Section **53A-17a-135** is amended to read:

53A-17a-135. Minimum basic tax rate -- Certified revenue levy.

(1) (a) In order to qualify for receipt of the state contribution toward the basic program and as its contribution toward its costs of the basic program, each school district shall impose a minimum basic tax rate per dollar of taxable value [~~that generates \$284,221,713 in revenues statewide~~] in accordance with this section.

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(b) ~~[The preliminary estimate for the 2011-12]~~ Beginning on January 1, 2012, the minimum basic tax rate is ~~[-.001628:]~~ the greater of:

(i) .001665; or

(ii) the ~~tax rate that generates the sum of:~~

~~— (A) \$289,021,885 in revenues statewide; and~~

~~— (B) revenues that would be generated by multiplying the minimum basic tax rate that was imposed under this section in the prior year by the sum of new growth, as defined in Section 59-2-924, statewide for each year after 2012;~~ certified revenue levy.

(c) The State Tax Commission shall certify on or before June 22 the minimum basic tax rate ~~[that generates \$284,221,713 in revenues statewide]~~ to be imposed under Subsection (1)(b).

(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.

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

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

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

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

(4) (a) The Legislative Fiscal Analyst shall notify the Executive Appropriations Committee no later than the February 28 preceding a fiscal year in which the sales and use tax revenues deposited into the Prioritizing Public Education Restricted Account in accordance with Section 59-12-103 are projected to be equal to the public education funding target described in Subsection 59-12-103(13).

(b) Upon receipt of the notification required by Subsection (4)(a), the Executive

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Appropriations Committee shall recommend to the Legislature whether the minimum basic tax rate imposed under this section should:

(i) remain the same; or

(ii) be adjusted.

Section 5. Section **53A-17a-170** is enacted to read:

53A-17a-170. Definitions -- Prioritizing Public Education Restricted Account -- Creation -- Funding -- Distribution of funds.

(1) As used in this section, "account" means the Prioritizing Public Education Restricted Account.

(2) There is created within the Uniform School Fund a restricted account known as the "Prioritizing Public Education Restricted Account."

(3) The account shall be funded by:

(a) revenues deposited in accordance with Section 59-12-103;

(b) other amounts as provided by statute; and

(c) other appropriations made by the Legislature.

(4) The State Office of Education shall annually determine and report the number of public education students, based on October enrollment counts, to the Division of Finance ~~and the Tax Commission~~ as necessary ~~{ for the Division of Finance }~~ to make allocations in accordance with Section 59-12-103.

(5) The Legislature shall annually appropriate funds in the account to the State Board of Education for allocation to school districts and charter schools for expenditure on local public education purposes.

Section 6. Section **59-2-102** is amended to read:

59-2-102. Definitions.

As used in this chapter and title:

(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

(2) "Air charter service" means an air carrier operation which requires the customer to hire an entire aircraft rather than book passage in whatever capacity is available on a scheduled

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trip.

(3) "Air contract service" means an air carrier operation available only to customers who engage the services of the carrier through a contractual agreement and excess capacity on any trip and is not available to the public at large.

(4) "Aircraft" is as defined in Section 72-10-102.

(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

(i) operates:

(A) on an interstate route; and

(B) on a scheduled basis; and

(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

(ii) air contract service.

(6) "Assessment roll" means a permanent record of the assessment of property as assessed by the county assessor and the commission and may be maintained manually or as a computerized file as a consolidated record or as multiple records by type, classification, or categories.

(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of ad valorem property tax revenue equal to the sum of:

(i) the amount of ad valorem property tax revenue to be generated statewide in the previous year from imposing ~~{a}~~[a] the school minimum basic tax rate ~~{f}~~, as specified in Section 53A-17a-135, or the multicounty assessing and collecting levy, as specified in ~~[Subsection 53A-17a-135(1)(a)]~~ Section 59-2-1602; and

(ii) the product of:

(A) new growth, as defined in:

(I) Section 59-2-924; and

(II) rules of the commission; and

(B) the ~~{f}~~school minimum basic ~~{f}~~ tax rate, as specified in Section 53A-17a-135, or the multicounty assessing and collecting levy tax rate, as specified in Section 59-2-1602, certified by the commission for the previous year.

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(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not include property tax revenue received by a taxing entity from personal property that is:

- (i) assessed by a county assessor in accordance with Part 3, County Assessment; and
- (ii) semiconductor manufacturing equipment.

(c) For purposes of calculating the certified revenue levy described in this Subsection (7), the commission shall use:

(i) the taxable value of real property assessed by a county assessor contained on the assessment roll;

(ii) the taxable value of real and personal property assessed by the commission; and

(iii) the taxable year end value of personal property assessed by a county assessor contained on the prior year's assessment roll.

(8) "County-assessed commercial vehicle" means:

(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in furtherance of the owner's commercial enterprise;

(b) any passenger vehicle owned by a business and used by its employees for transportation as a company car or vanpool vehicle; and

(c) vehicles which are:

(i) especially constructed for towing or wrecking, and which are not otherwise used to transport goods, merchandise, or people for compensation;

(ii) used or licensed as taxicabs or limousines;

(iii) used as rental passenger cars, travel trailers, or motor homes;

(iv) used or licensed in this state for use as ambulances or hearses;

(v) especially designed and used for garbage and rubbish collection; or

(vi) used exclusively to transport students or their instructors to or from any private, public, or religious school or school activities.

(9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only the following taxing entities:

(i) a county; and

(ii) a school district.

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(b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created by the overlapping boundaries of:

(i) the taxing entities described in Subsection (9)(a); and

(ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and the boundaries of the city or town are identical; or

(B) a special service district if the boundaries of the school district under Subsection (9)(a) are located entirely within the special service district.

(10) "Eligible judgment" means a final and unappealable judgment or order under Section 59-2-1330:

(a) that became a final and unappealable judgment or order no more than 14 months prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed; and

(b) for which a taxing entity's share of the final and unappealable judgment or order is greater than or equal to the lesser of:

(i) \$5,000; or

(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the previous fiscal year.

(11) (a) "Escaped property" means any property, whether personal, land, or any improvements to the property, subject to taxation and is:

(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed to the wrong taxpayer by the assessing authority;

(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to comply with the reporting requirements of this chapter; or

(iii) undervalued because of errors made by the assessing authority based upon incomplete or erroneous information furnished by the taxpayer.

(b) Property which is undervalued because of the use of a different valuation methodology or because of a different application of the same valuation methodology is not "escaped property."

(12) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair

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market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question and the change would have an appreciable influence upon the value.

(13) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or equipment used primarily for agricultural purposes; but does not include vehicles required to be registered with the Motor Vehicle Division or vehicles or other equipment used for business purposes other than farming.

(14) "Geothermal fluid" means water in any form at temperatures greater than 120 degrees centigrade naturally present in a geothermal system.

(15) "Geothermal resource" means:

(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

(b) the energy, in whatever form, including pressure, present in, resulting from, created by, or which may be extracted from that natural heat, directly or through a material medium.

(16) (a) "Goodwill" means:

(i) acquired goodwill that is reported as goodwill on the books and records:

(A) of a taxpayer; and

(B) that are maintained for financial reporting purposes; or

(ii) the ability of a business to:

(A) generate income:

(I) that exceeds a normal rate of return on assets; and

(II) resulting from a factor described in Subsection (16)(b); or

(B) obtain an economic or competitive advantage resulting from a factor described in Subsection (16)(b).

(b) The following factors apply to Subsection (16)(a)(ii):

(i) superior management skills;

(ii) reputation;

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- (iii) customer relationships;
- (iv) patronage; or
- (v) a factor similar to Subsections (16)(b)(i) through (iv).
- (c) "Goodwill" does not include:
 - (i) the intangible property described in Subsection (20)(a) or (b);
 - (ii) locational attributes of real property, including:
 - (A) zoning;
 - (B) location;
 - (C) view;
 - (D) a geographic feature;
 - (E) an easement;
 - (F) a covenant;
 - (G) proximity to raw materials;
 - (H) the condition of surrounding property; or
 - (I) proximity to markets;
 - (iii) value attributable to the identification of an improvement to real property,

including:

- (A) reputation of the designer, builder, or architect of the improvement;
- (B) a name given to, or associated with, the improvement; or
- (C) the historic significance of an improvement; or
- (iv) the enhancement or assemblage value specifically attributable to the interrelation of the existing tangible property in place working together as a unit.

(17) "Governing body" means:

- (a) for a county, city, or town, the legislative body of the county, city, or town;
- (b) for a local district under Title 17B, Limited Purpose Local Government Entities -

Local Districts, the local district's board of trustees;

- (c) for a school district, the local board of education; or
- (d) for a special service district under Title 17D, Chapter 1, Special Service District

Act:

- (i) the legislative body of the county or municipality that created the special service district, to the extent that the county or municipal legislative body has not delegated authority

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to an administrative control board established under Section 17D-1-301; or

(ii) the administrative control board, to the extent that the county or municipal legislative body has delegated authority to an administrative control board established under Section 17D-1-301.

(18) (a) For purposes of Section 59-2-103:

(i) "household" means the association of persons who live in the same dwelling, sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(19) (a) Except as provided in Subsection (19)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (19)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (19)(a); and

(B) installed solely to serve the operation of the item described in Subsection (19)(a);

and

(ii) an item described in Subsection (19)(a) that:

(A) is temporarily detached from the land for repairs; and

(B) remains located on the land.

(c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

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(ii) a moveable item that is attached to land:

(A) for stability only; or

(B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery;

(iv) an item attached to the land in a manner that facilitates removal without substantial damage to:

(A) the land; or

(B) the item; or

(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that transportable factory-built housing unit is considered to be personal property under Section 59-2-1503.

(20) "Intangible property" means:

(a) property that is capable of private ownership separate from tangible property,

including:

(i) money;

(ii) credits;

(iii) bonds;

(iv) stocks;

(v) representative property;

(vi) franchises;

(vii) licenses;

(viii) trade names;

(ix) copyrights; and

(x) patents;

(b) a low-income housing tax credit;

(c) goodwill; or

(d) a renewable energy tax credit or incentive, including:

(i) a federal renewable energy production tax credit under Section 45, Internal Revenue Code;

(ii) a federal energy credit for qualified renewable electricity production facilities under

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Section 48, Internal Revenue Code;

(iii) a federal grant for a renewable energy property under American Recovery and Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

(iv) a tax credit under Subsection 59-7-614(2)(c).

(21) "Low-income housing tax credit" means:

(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

or

(b) a low-income housing tax credit under:

(i) Section 59-7-607; or

(ii) Section 59-10-1010.

(22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

(23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous valuable mineral.

(24) "Mining" means the process of producing, extracting, leaching, evaporating, or otherwise removing a mineral from a mine.

(25) (a) "Mobile flight equipment" means tangible personal property that is:

(i) owned or operated by an:

(A) air charter service;

(B) air contract service; or

(C) airline; and

(ii) (A) capable of flight;

(B) attached to an aircraft that is capable of flight; or

(C) contained in an aircraft that is capable of flight if the tangible personal property is intended to be used:

(I) during multiple flights;

(II) during a takeoff, flight, or landing; and

(III) as a service provided by an air charter service, air contract service, or airline.

(b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine that is rotated:

(A) at regular intervals; and

(B) with an engine that is attached to the aircraft.

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(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may make rules defining the term "regular intervals."

(26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts, sand, rock, gravel, and all carboniferous materials.

(27) "Personal property" includes:

(a) every class of property as defined in Subsection (28) which is the subject of ownership and not included within the meaning of the terms "real estate" and "improvements";

(b) gas and water mains and pipes laid in roads, streets, or alleys;

(c) bridges and ferries;

(d) livestock which, for the purposes of the exemption provided under Section 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

(e) outdoor advertising structures as defined in Section 72-7-502.

(28) (a) "Property" means property that is subject to assessment and taxation according to its value.

(b) "Property" does not include intangible property as defined in this section.

(29) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where the company performs the service for, or delivers the commodity to, the public generally or companies serving the public generally, or in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for domestic, commercial, or industrial use. Public utility also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(30) "Real estate" or "real property" includes:

(a) the possession of, claim to, ownership of, or right to the possession of land;

(b) all mines, minerals, and quarries in and under the land, all timber belonging to individuals or corporations growing or being on the lands of this state or the United States, and all rights and privileges appertaining to these; and

(c) improvements.

(31) "Residential property," for the purposes of the reductions and adjustments under

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this chapter, means any property used for residential purposes as a primary residence. It does not include property used for transient residential use or condominiums used in rental pools.

(32) (a) "State-assessed commercial vehicle" means:

(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to transport passengers, freight, merchandise, or other property for hire; or

(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

(b) "State-assessed commercial vehicle" does not include vehicles used for hire which are specified in Subsection (8)(c) as county-assessed commercial vehicles.

(33) "Taxable value" means fair market value less any applicable reduction allowed for residential property under Section 59-2-103.

(34) "Tax area" means a geographic area created by the overlapping boundaries of one or more taxing entities.

(35) "Taxing entity" means any county, city, town, school district, special taxing district, local district under Title 17B, Limited Purpose Local Government Entities - Local Districts, or other political subdivision of the state with the authority to levy a tax on property.

(36) "Tax roll" means a permanent record of the taxes charged on property, as extended on the assessment roll and may be maintained on the same record or records as the assessment roll or may be maintained on a separate record properly indexed to the assessment roll. It includes tax books, tax lists, and other similar materials.

Section 7. Section **59-2-926** is amended to read:

59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.

If the state authorizes a levy pursuant to Section 53A-17a-135 that exceeds the certified revenue levy as defined in Section 53A-17a-103 or authorizes a levy pursuant to Section 59-2-1602 that exceeds the certified revenue levy as defined in Section 59-2-102, the state shall publish a notice no later than 10 days after the last day of the annual [legislative] general session that meets the following requirements:

(1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state authorized a levy that generates revenue in excess of the previous year's ad valorem tax revenue, plus new growth, but exclusive of revenue from collections from redemptions,

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interest, and penalties:

- (i) in a newspaper of general circulation in the state; and
- (ii) as required in Section 45-1-101.

(b) Except an advertisement published on a website, the advertisement described in Subsection (1)(a):

(i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18 point, and surrounded by a 1/4-inch border[?];

(ii) may not be placed in that portion of the newspaper where legal notices and classified advertisements appear; and

(iii) shall be run once.

(2) The form and content of the notice shall be substantially as follows:

"NOTICE OF [~~TAX~~] REVENUE INCREASE

The state has budgeted an increase in its property tax revenue from \$_____ to \$_____ or ____%. The increase in property tax revenues will come from the following sources (include all of the following provisions):

(a) \$_____ of the increase will come from (provide an explanation of the cause of adjustment or increased revenues, such as reappraisals or factoring orders);

(b) \$_____ of the increase will come from natural increases in the value of the tax base due to (explain cause of new growth, such as new building activity, annexation, etc.);

(c) a home valued at \$100,000 in the state of Utah which based on last year's (levy for the basic state-supported school program, levy for the Property Tax Valuation Agency Fund, or both) paid \$_____ in property taxes would pay the following:

(i) \$_____ if the state of Utah did not budget an increase in property tax revenue exclusive of new growth; and

(ii) \$_____ under the increased property tax revenues exclusive of new growth budgeted by the state of Utah."

(include the following if the advertisement is required as a result of a levy imposed under Section 53A-17a-135)

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"EXPLANATION OF NEED FOR ADDITIONAL REVENUE

- Last year, Utah had _____ enrolled public school students, which is

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(B) files a single federal individual income tax return for the taxable year.

(2) Except as provided in Section 59-10-1002.2, and subject to Subsections (3) through (5), a claimant may claim a nonrefundable tax credit against taxes otherwise due under this part equal to the sum of:

(a) (i) for a claimant that deducts the standard deduction on the claimant's federal individual income tax return for the taxable year, 6% of the amount the claimant deducts as allowed as the standard deduction on the claimant's federal individual income tax return for that taxable year; or

(ii) for a claimant that itemizes deductions on the claimant's federal individual income tax return for the taxable year, the product of:

(A) the difference between:

(I) the amount the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and

(II) any amount of state or local income taxes the claimant deducts as allowed as an itemized deduction on the claimant's federal individual income tax return for that taxable year; and

(B) 6%; and

(b) the product of:

(i) [~~75% of the total amount~~] \$2,775 multiplied by number of personal exemptions the claimant [~~deducts~~] claims as allowed as a personal exemption [~~deduction~~] on the claimant's federal individual income tax return for that taxable year; and

(ii) 6%.

(3) A claimant may not carry forward or carry back a tax credit under this section.

(4) The tax credit allowed by Subsection (2) shall be reduced by \$.013 for each dollar by which a claimant's state taxable income exceeds:

(a) for a claimant who has a single filing status, \$12,000;

(b) for a claimant who has a head of household filing status, \$18,000; or

(c) for a claimant who has a joint filing status, \$24,000.

(5) (a) For taxable years beginning on or after January 1, 2009, the commission shall increase or decrease the following dollar amounts by a percentage equal to the percentage difference between the consumer price index for the preceding calendar year and the consumer

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price index for calendar year 2007:

- (i) the dollar amount listed in Subsection (4)(a); and
- (ii) the dollar amount listed in Subsection (4)(b).

(b) After the commission increases or decreases the dollar amounts listed in Subsection (5)(a), the commission shall round those dollar amounts listed in Subsection (5)(a) to the nearest whole dollar.

(c) After the commission rounds the dollar amounts as required by Subsection (5)(b), the commission shall increase or decrease the dollar amount listed in Subsection (4)(c) so that the dollar amount listed in Subsection (4)(c) is equal to the product of:

- (i) the dollar amount listed in Subsection (4)(a); and
- (ii) two.

(d) For purposes of Subsection (5)(a), the commission shall calculate the consumer price index as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section 9. Section **59-12-103** is amended to read:

59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use tax revenues.

(1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged for the following transactions:

- (a) retail sales of tangible personal property made within the state;
- (b) amounts paid for:

- (i) telecommunications service, other than mobile telecommunications service, that originates and terminates within the boundaries of this state;

- (ii) mobile telecommunications service that originates and terminates within the boundaries of one state only to the extent permitted by the Mobile Telecommunications Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

- (iii) an ancillary service associated with a:

- (A) telecommunications service described in Subsection (1)(b)(i); or
 - (B) mobile telecommunications service described in Subsection (1)(b)(ii);

- (c) sales of the following for commercial use:

- (i) gas;
 - (ii) electricity;

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- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;
- (d) sales of the following for residential use:

- (i) gas;
- (ii) electricity;
- (iii) heat;
- (iv) coal;
- (v) fuel oil; or
- (vi) other fuels;

(e) sales of prepared food;

(f) except as provided in Section 59-12-104, amounts paid or charged as admission or user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;

(g) amounts paid or charged for services for repairs or renovations of tangible personal property, unless Section 59-12-104 provides for an exemption from sales and use tax for:

(i) the tangible personal property; and

(ii) parts used in the repairs or renovations of the tangible personal property described in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations of that tangible personal property;

(h) except as provided in Subsection 59-12-104(7), amounts paid or charged for assisted cleaning or washing of tangible personal property;

(i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations and services that are regularly rented for less than 30 consecutive days;

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(j) amounts paid or charged for laundry or dry cleaning services;

(k) amounts paid or charged for leases or rentals of tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) otherwise consumed;

(l) amounts paid or charged for tangible personal property if within this state the tangible personal property is:

(i) stored;

(ii) used; or

(iii) consumed; and

(m) amounts paid or charged for a sale:

(i) (A) of a product transferred electronically; or

(B) of a repair or renovation of a product transferred electronically; and

(ii) regardless of whether the sale provides:

(A) a right of permanent use of the product; or

(B) a right to use the product that is less than a permanent use, including a right:

(I) for a definite or specified length of time; and

(II) that terminates upon the occurrence of a condition.

(2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate equal to the sum of:

(A) 4.70%; and

(B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

(i) a state tax imposed on the transaction at a tax rate of 2%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the transaction under this chapter other than this part.

(c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed on amounts paid or charged for food and food ingredients equal to the sum of:

(i) a state tax imposed on the amounts paid or charged for food and food ingredients at a tax rate of 1.75%; and

(ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the amounts paid or charged for food and food ingredients under this chapter other than this part.

(d) (i) For a bundled transaction that is attributable to food and food ingredients and tangible personal property other than food and food ingredients, a state tax and a local tax is imposed on the entire bundled transaction equal to the sum of:

(A) a state tax imposed on the entire bundled transaction equal to the sum of:

(I) the tax rate described in Subsection (2)(a)(i)(A); and

(II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional State Sales and Use Tax Act; and

(Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

(B) a local tax imposed on the entire bundled transaction at the sum of the tax rates described in Subsection (2)(a)(ii).

(ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled transaction described in Subsection (2)(d)(i):

(A) if the sales price of the bundled transaction is attributable to tangible personal

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property, a product, or a service that is subject to taxation under this chapter and tangible personal property, a product, or service that is not subject to taxation under this chapter, the entire bundled transaction is subject to taxation under this chapter unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is not subject to taxation under this chapter from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise; or

(B) if the sales price of a bundled transaction is attributable to two or more items of tangible personal property, products, or services that are subject to taxation under this chapter at different rates, the entire bundled transaction is subject to taxation under this chapter at the higher tax rate unless:

(I) the seller is able to identify by reasonable and verifiable standards the tangible personal property, product, or service that is subject to taxation under this chapter at the lower tax rate from the books and records the seller keeps in the seller's regular course of business; or

(II) state or federal law provides otherwise.

(iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the seller's regular course of business includes books and records the seller keeps in the regular course of business for nontax purposes.

(e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax rate imposed under the following shall take effect on the first day of a calendar quarter:

(i) Subsection (2)(a)(i)(A);

(ii) Subsection (2)(b)(i);

(iii) Subsection (2)(c)(i); or

(iv) Subsection (2)(d)(i)(A)(I).

(f) (i) A tax rate increase shall take effect on the first day of the first billing period that begins after the effective date of the tax rate increase if the billing period for the transaction begins before the effective date of a tax rate increase imposed under:

(A) Subsection (2)(a)(i)(A);

(B) Subsection (2)(b)(i);

(C) Subsection (2)(c)(i); or

(D) Subsection (2)(d)(i)(A)(I).

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(ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period that began before the effective date of the repeal of the tax or the tax rate decrease if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal or change in a tax rate takes effect:

- (A) on the first day of a calendar quarter; and
- (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.

(ii) Subsection (2)(g)(i) applies to the tax rates described in the following:

- (A) Subsection (2)(a)(i)(A);
- (B) Subsection (2)(b)(i);
- (C) Subsection (2)(c)(i); or
- (D) Subsection (2)(d)(i)(A)(I).

(iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission may by rule define the term "catalogue sale."

(3) (a) The following state taxes shall be deposited into the General Fund:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); or
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) The following local taxes shall be distributed to a county, city, or town as provided in this chapter:

- (i) the tax imposed by Subsection (2)(a)(ii);
- (ii) the tax imposed by Subsection (2)(b)(ii);
- (iii) the tax imposed by Subsection (2)(c)(ii); and
- (iv) the tax imposed by Subsection (2)(d)(i)(B).

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(4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b) through (g):

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:

(A) by a 1/16% tax rate on the transactions described in Subsection (1); and

(B) for the fiscal year; or

(ii) \$17,500,000.

(b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Department of Natural Resources to:

(A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species; or

(B) award grants, up to the amount authorized by the Legislature in an appropriations act, to political subdivisions of the state to implement the measures described in Subsections 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

(ii) Money transferred to the Department of Natural Resources under Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or any other person to list or attempt to have listed a species as threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.

(iii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund created in Section 4-18-6.

(d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water

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Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of water rights.

(ii) At the end of each fiscal year:

(A) 50% of any unexpended dedicated credits shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24;

(B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5; and

(C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan Program Subaccount created in Section 73-10c-5.

(e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources.

(ii) In addition to the uses allowed of the Water Resources Conservation and Development Fund under Section 73-10-24, the Water Resources Conservation and Development Fund may also be used to:

(A) conduct hydrologic and geotechnical investigations by the Division of Water Resources in a cooperative effort with other state, federal, or local entities, for the purpose of quantifying surface and ground water resources and describing the hydrologic systems of an area in sufficient detail so as to enable local and state resource managers to plan for and accommodate growth in water use without jeopardizing the resource;

(B) fund state required dam safety improvements; and

(C) protect the state's interest in interstate water compact allocations, including the hiring of technical and legal staff.

(f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

(g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use by the Division of Drinking Water to:

(i) provide for the installation and repair of collection, treatment, storage, and distribution facilities for any public water system, as defined in Section 19-4-102;

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- (ii) develop underground sources of water, including springs and wells; and
- (iii) develop surface water sources.

(5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2006, the difference between the following amounts shall be expended as provided in this Subsection (5), if that difference is greater than \$1:

(i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

(ii) \$17,500,000.

(b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Department of Natural Resources as dedicated credits; and

(B) expended by the Department of Natural Resources for watershed rehabilitation or restoration.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the remaining difference described in Subsection (5)(a) shall be:

(A) transferred each fiscal year to the Division of Water Resources as dedicated credits; and

(B) expended by the Division of Water Resources for cloud-seeding projects authorized by Title 73, Chapter 15, Modification of Weather.

(ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(d) After making the transfers required by Subsections (5)(b) and (c), 94% of the remaining difference described in Subsection (5)(a) shall be deposited into the Water Resources Conservation and Development Fund created in Section 73-10-24 for use by the Division of Water Resources for:

(i) preconstruction costs:

(A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter

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26, Bear River Development Act; and

(B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

(ii) the cost of employing a civil engineer to oversee any project authorized by Title 73, Chapter 26, Bear River Development Act;

(iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

(iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

(e) After making the transfers required by Subsections (5)(b) and (c) and subject to Subsection (5)(f), 6% of the remaining difference described in Subsection (5)(a) shall be transferred each year as dedicated credits to the Division of Water Rights to cover the costs incurred for employing additional technical staff for the administration of water rights.

(f) At the end of each fiscal year, any unexpended dedicated credits described in Subsection (5)(e) over \$150,000 lapse to the Water Resources Conservation and Development Fund created in Section 73-10-24.

(6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1, 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16% tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in the Transportation Fund created by Section 72-2-102.

(7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies, beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable transactions under Subsection (1).

(b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated

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by a 1/64% tax rate on the taxable transactions under Subsection (1).

(8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); and
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in Subsection (7)(a), and until Subsection (8)(c) applies, for the 2011-12 fiscal year only, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); and
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(c) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7)(b), and until Subsection (8)(d) or (e) applies, when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and

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vehicle-related products:

- (i) the tax imposed by Subsection (2)(a)(i)(A);
- (ii) the tax imposed by Subsection (2)(b)(i);
- (iii) the tax imposed by Subsection (2)(c)(i); and
- (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

(d) Notwithstanding Subsection (3)(a), in addition to the amounts deposited in Subsection (7)(a), until Subsection (8)(e) applies, and subject to Subsection (8)(f), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Centennial Highway Fund Restricted Account created by Section 72-2-118:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- (A) the tax imposed by Subsection (2)(a)(i)(A);
- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(d)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(d)(i)(A) through (D) in the 2010-11 fiscal year.

(e) Notwithstanding Subsection (3)(a), in addition to the amounts deposited under Subsection (7)(b), and subject to Subsection (8)(f), when the highway general obligation bonds have been paid off and the highway projects completed that are intended to be paid from revenues deposited in the Centennial Highway Fund Restricted Account as determined by the Executive Appropriations Committee under Subsection 72-2-118(6)(d), for a fiscal year beginning on or after July 1, 2012, the Division of Finance shall deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124:

(i) a portion of the taxes listed under Subsection (3)(a) in an amount equal to 8.3% of the revenues collected from the following taxes, which represents a portion of the approximately 17% of sales and use tax revenues generated annually by the sales and use tax

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on vehicles and vehicle-related products:

- (A) the tax imposed by Subsection (2)(a)(i)(A);
- (B) the tax imposed by Subsection (2)(b)(i);
- (C) the tax imposed by Subsection (2)(c)(i); and
- (D) the tax imposed by Subsection (2)(d)(i)(A)(I); plus

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) that exceeds the amount collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) in the 2010-11 fiscal year.

(f) (i) Subject to Subsections (8)(f)(ii) and (iii), in any fiscal year that the portion of the sales and use taxes deposited under Subsection (8)(d) or (e) represents an amount that is a total lower percentage of the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) generated in the current fiscal year than the total percentage of sales and use taxes deposited in the previous fiscal year, the Division of Finance shall deposit an amount under Subsection (8)(d) or (e) equal to the product of:

(A) the total percentage of sales and use taxes deposited under Subsection (8)(d) or (e) in the previous fiscal year; and

(B) the total sales and use tax revenue generated by the taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year.

(ii) In any fiscal year in which the portion of the sales and use taxes deposited under Subsection (8)(d) or (e) would exceed 17% of the revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year, the Division of Finance shall deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) for the current fiscal year under Subsection (8)(d) or (e).

(iii) In all subsequent fiscal years after a year in which 17% of the revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) was deposited under Subsection (8)(d) or (e), the Division of Finance shall annually deposit 17% of the revenues collected from the sales and use taxes described in Subsections (8)(e)(i)(A) through (D) in the current fiscal year under Subsection (8)(d) or (e).

(9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the

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Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

(b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal year beginning on or after July 1, 2009, the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

(c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101 have been paid off and the highway projects completed that are included in the prioritized project list under Subsection 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund of 2005 created by Section 72-2-124.

(10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

(11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)~~(c)~~(d).

(b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii), and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general obligation bonds authorized by Section 63B-16-101 have been paid off and the highway projects completed that are included in the prioritized project list under Subsection 72-2-125(4) as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall

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deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1).

(ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)~~(e)~~(d).

(12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a .025% tax rate on the transactions described in Subsection (1) to be expended to address chokepoints in construction management.

(b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into the Transportation Fund any tax revenue generated by amounts paid or charged for food and food ingredients, except for tax revenue generated by a bundled transaction attributable to food and food ingredients and tangible personal property other than food and food ingredients described in Subsection (2)~~(e)~~(d).

(13) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2012, the Division of Finance shall annually deposit a portion of the taxes listed under Subsection (3)(a) into the Prioritizing Public Education Restricted Account created in Section 53A-17a-170 equal to the lesser of:

(i) the per-pupil funding target for the fiscal year calculated in accordance with Subsection (13)(b); or

(ii) an amount equal to 30% of the growth in the amount of revenues collected in the current fiscal year from the sales and use taxes described in Subsection (3)(a) that exceeds the revenues collected from the sales and use taxes described in Subsection (3)(a) in fiscal year 2010-11.

(b) (i) For purposes of Subsection (13)(a), the per-pupil funding target is:

(A) for fiscal year 2011-12, \$750 per enrolled public school student, based on October enrollment counts; or

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(B) for a fiscal year after fiscal year 2011-12, \$750 per enrolled public school student, based on October enrollment counts, increased or decreased by a percentage equal to the percentage difference between the consumer price index for the calendar year in which the fiscal year begins and calendar year 2011, rounded up to the nearest \$10 increment.

(ii) For purposes of Subsection (13)(b)(i), the consumer price index is calculated as provided in Sections 1(f)(4) and 1(f)(5), Internal Revenue Code.

Section 10. Section **59-12-1201** is amended to read:

59-12-1201. Motor vehicle rental tax -- Rate -- Exemptions -- Administration, collection, and enforcement of tax -- Administrative charge -- Deposits.

(1) (a) Except as provided in Subsection (3), there is imposed a tax of 2.5% on all short-term leases and rentals of motor vehicles not exceeding 30 days.

(b) The tax imposed in this section is in addition to all other state, county, or municipal fees and taxes imposed on rentals of motor vehicles.

(2) (a) Subject to Subsection (2)(b), a tax rate repeal or tax rate change for the tax imposed under Subsection (1) shall take effect on the first day of a calendar quarter.

(b) (i) For a transaction subject to a tax under Subsection (1), a tax rate increase shall take effect on the first day of the first billing period:

(A) that begins after the effective date of the tax rate increase; and

(B) if the billing period for the transaction begins before the effective date of a tax rate increase imposed under Subsection (1).

(ii) For a transaction subject to a tax under Subsection (1), the repeal of a tax or a tax rate decrease shall take effect on the first day of the last billing period:

(A) that began before the effective date of the repeal of the tax or the tax rate decrease; and

(B) if the billing period for the transaction begins before the effective date of the repeal of the tax or the tax rate decrease imposed under Subsection (1).

(3) A motor vehicle is exempt from the tax imposed under Subsection (1) if:

(a) the motor vehicle is registered for a gross laden weight of 12,001 or more pounds;

(b) the motor vehicle is rented as a personal household goods moving van; or

(c) the lease or rental of the motor vehicle is made for the purpose of temporarily replacing a person's motor vehicle that is being repaired pursuant to a repair agreement or an

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insurance agreement.

(4) (a) (i) The tax authorized under this section shall be administered, collected, and enforced in accordance with:

(A) the same procedures used to administer, collect, and enforce the tax under Part 1, Tax Collection; and

(B) Chapter 1, General Taxation Policies.

(ii) Notwithstanding Subsection (4)(a)(i), a tax under this part is not subject to Subsections 59-12-103(4) through ~~[(12)]~~ (13) or Section 59-12-107.1 or 59-12-123.

(b) The commission shall retain and deposit an administrative charge in accordance with Section 59-1-306 from the revenues the commission collects from a tax under this part.

(c) Except as provided under Subsection (4)(b), all revenue received by the commission under this section shall be deposited daily with the state treasurer and credited monthly to the Transportation Corridor Preservation Revolving Loan Fund under Section 72-2-117.

Section 11. **Effective date -- Retrospective operation.**

(1) Except as provided in Subsections (2) and (3), this bill takes effect on July 1, 2012.

(2) The amendments to the following sections have retrospective operation to January 1, 2012:

(a) Section 53A-17a-103;

(b) Section 53A-17a-135;

(c) Section 59-2-102; and

(d) Section 59-2-926.

(3) The amendments to Section 59-10-1018 have retrospective operation for a taxable year beginning on or after January 1, 2012.

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Legislative Review Note

as of ~~1-31-12 10:43 AM~~

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~~Office of Legislative Research and General Counsel~~