

PROPERTY TAXES-UNIFORM FEES AND**CERTIFIED TAX RATE**

1998 GENERAL SESSION

STATE OF UTAH

Sponsor: George Mantes

AN ACT RELATING TO THE PROPERTY TAX ACT; IMPOSING A UNIFORM FEE OF \$30 PER YEAR IN LIEU OF OTHER UNIFORM FEES AND PROPERTY TAXES ON CERTAIN TANGIBLE PERSONAL PROPERTY THAT WEIGHS 12,000 POUNDS OR LESS; MODIFYING THE EQUIVALENT TAX FOR APPORTIONALLY REGISTERED VEHICLES; ESTABLISHING REIMBURSEMENT FEES FOR COUNTIES TO PAY TO THE COMMISSION FOR COLLECTING UNIFORM FEES; INCREASING TAXING ENTITIES' CERTIFIED TAX RATES TO OFFSET THE DECREASE IN REVENUES FROM UNIFORM FEES; INCREASING THE CERTIFIED REVENUE LEVY TO OFFSET THE DECREASE IN REVENUES FROM UNIFORM FEES; REQUIRING PROPERTY TAX NOTICES TO CONTAIN A STATEMENT FOR THE 1999 CALENDAR YEAR THAT A TAXING ENTITY'S PROPERTY TAX RATE INCREASE OR A PORTION OF THE PROPERTY TAX RATE INCREASE IS ATTRIBUTABLE TO A REDUCTION IN UNIFORM FEES BY THE LEGISLATURE; MAKING TECHNICAL CHANGES; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

41-1a-222, as last amended by Chapter 360, Laws of Utah 1997

41-1a-301, as last amended by Chapter 360, Laws of Utah 1997

53A-17a-135, as last amended by Chapters 274 and 388, Laws of Utah 1997

59-2-405, as last amended by Chapters 10, 360, and 388, Laws of Utah 1997

59-2-406, as last amended by Chapters 28 and 99, Laws of Utah 1995

59-2-407, as last amended by Chapter 339, Laws of Utah 1995

SB0050

1 **59-2-801**, as last amended by Chapter 360, Laws of Utah 1997

2 **59-2-906.1**, as last amended by Chapters 292 and 388, Laws of Utah 1997

3 **59-2-919**, as last amended by Chapter 292, Laws of Utah 1997

4 **59-2-924**, as last amended by Chapter 2, Laws of Utah 1997, Second Special Session

5 **59-2-1317**, as last amended by Chapter 2, Laws of Utah 1997, Second Special Session

6 **59-7-611**, as enacted by Chapter 345, Laws of Utah 1997

7 **59-10-601**, as last amended by Chapter 345, Laws of Utah 1997

8 ENACTS:

9 **59-2-405.1**, Utah Code Annotated 1953

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

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

12 **41-1a-222. Application for multiyear registration -- Payment of taxes -- Penalties.**

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

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

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

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

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

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

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

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

1 name of the fleet.

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

4 (a) Section 41-1a-206 [or];

5 (b) Section 41-1a-207 [or];

6 (c) Section 59-2-405.1; or

7 (d) Subsection 41-1a-301(11).

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

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

12 **41-1a-301. Apportioned registration and licensing of interstate vehicles.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(c) (i) In lieu of a permanent registration card or license plate, the division may issue one temporary permit authorizing operation of new or unlicensed vehicles until the permanent registration is completed.

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

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

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

(ii) The plate must be displayed on the front of the power unit or on the rear of the trailer, as appropriate.

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

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

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

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

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

(ii) The fiscal mileage reporting period begins July 1, and continues through June 30 of

1 the year immediately preceding the calendar year in which the registration year begins.

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

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

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

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

9 (ii) If a lessee is the registrant of a leased vehicle, both the lessor's and lessee's name shall
10 appear on the registration.

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

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

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

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

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

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

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

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

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

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

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

31 (iii) When a replacement vehicle is of greater weight than the replaced vehicle, additional

1 registration fees are due.

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

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

9 (i) Multiply the number of vehicles or combination vehicles registered in each weight class
10 by the equivalent tax figure from the following table:

Vehicle or Combination	Equivalent
Registered Weight	Tax
<u>12,000 pounds or less</u>	<u>\$30</u>
[6,000] <u>12,001</u> - 18,000 pounds	\$100
18,001 - 34,000 pounds	200
34,001 - 48,000 pounds	300
48,001 - 64,000 pounds	450
64,001 pounds and over	600

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

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

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

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

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

31 **53A-17a-135. Certified revenue levy.**

1 (1) (a) In order to qualify for receipt of the state contribution toward the basic program and
2 as its contribution toward its costs of the basic program, each school district shall impose a
3 minimum basic tax rate per dollar of taxable value that generates \$171,589,730 in revenues
4 statewide.

5 (b) The preliminary estimate for the 1997-98 tax rate is .002014.

6 (c) The State Tax Commission shall certify on or before June 22 the rate that generates
7 \$171,589,730 in revenues statewide.

8 (d) If the minimum basic tax rate exceeds the certified revenue levy as defined in Section
9 59-2-102, the state is subject to the notice requirements of Section 59-2-926.

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

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

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

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

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

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

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

31 **59-2-405. Uniform fee on tangible personal property required to be registered with**

1 the state.

2 (1) The property described in Subsection (2), except Subsections (2)(b) [and (c)] (ii) and
3 (iii), is exempt from ad valorem property taxes pursuant to Utah Constitution Article XIII, Section
4 14.

5 (2) (a) [There] Except as provided in Subsection (2)(b), there is levied an annual statewide
6 uniform fee in lieu of the ad valorem tax [based on the value of] on:

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

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

10 (iii) recreational vehicles[;] required to be registered with the state that weigh 12,001
11 pounds or more; and

12 (iv) all other tangible personal property weighing 12,001 pounds or more that is required
13 to be registered with the state before it is used on a public highway, on a public waterway, on
14 public land, or in the air.

15 (b) The following personal property is exempt from the statewide uniform fee imposed by
16 this section:

17 [(a)] (i) aircraft;

18 [(b)] (ii) vintage vehicles as defined in Section 41-21-1;

19 [(c)] (iii) state-assessed commercial vehicles; and

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

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

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

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

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

1 same proportion in which revenue collected from ad valorem real property tax is distributed.

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

4 Section 5. Section **59-2-405.1** is enacted to read:

5 **59-2-405.1. Uniform fee on tangible personal property weighing 12,000 pounds or**
6 **less.**

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

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

11 (i) motor vehicles required to be registered with the state that weigh 12,000 pounds or less;

12 (ii) recreational vehicles required to be registered with the state that weigh 12,000 pounds
13 or less;

14 (iii) state-assessed commercial vehicles required to be registered with the state that weigh
15 12,000 pounds or less; and

16 (iv) all other tangible personal property weighing 12,000 pounds or less that is required
17 to be registered with the state before it is used on a public highway, on a public waterway, on
18 public land, or in the air.

19 (b) The following personal property is exempt from the statewide uniform fee imposed by
20 this section:

21 (i) aircraft;

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

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

25 (3) Beginning on January 1, 1999, the uniform fee under Subsection (2) is \$30 per year.

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

30 (5) (a) The revenues collected in each county from the uniform fee shall be distributed by
31 the county to each taxing entity in which the property described in Subsection (2) is located in the

1 same proportion in which revenue collected from ad valorem real property tax is distributed.

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

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

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

7 **59-2-406. Collection of uniform fees and other motor vehicle fees.**

8 (1) (a) For the purposes of efficiency in the collection of the uniform fee required by this
9 section, the commission shall enter into a contract for the collection of [both] the uniform [fee]
10 fees required [by Section] under Sections 59-2-405 and 59-2-405.1 and certain fees required by
11 Title 41.

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

14 (i) the collection by the commission of:

15 (A) the uniform [fee] fees required [by Section] under Sections 59-2-405[,] and
16 59-2-405.1; and

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

18 (ii) the collection by the county of:

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

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

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

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

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

28 (iii) plate fees for vehicles;

29 (iv) permit fees; and

30 (v) impound fees.

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

(a) be responsible for the collection of:

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

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

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

(c) meet the performance standards and comply with applicable training requirements specified in the contract; and

(d) be subject to a penalty if performance is below the performance standards specified in the contract.

(3) [The] (a) (i) Except as provided in Subsection (3)(b), the commission shall recommend a reimbursement fee in accordance with Section 63-38-3.2, sufficient to cover the costs of collecting the fees.

(ii) The reimbursement fees under Subsection (3)(a)(i) shall be appropriated by the Legislature.

(b) Notwithstanding Subsection (3)(a), a county is required to pay an annual reimbursement fee of 70 cents per item of tangible personal property:

(i) described in:

(A) Subsection 59-2-405(2)(a); or

(B) Subsection 59-2-405.1(2)(a), except Subsection 59-2-405.1(2)(a)(iii):

(i) that is located within the county; and

(ii) for which the commission collects a uniform fee:

(A) under Section 59-2-405 or 59-2-405.1; and

(B) as a condition to:

(I) registration as defined in Section 41-1a-102; or

(II) renewal of registration.

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

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

(6) If the county elects not to collect the uniform fee and the Title 41 fees[.];

(a) the commission shall:

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

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

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

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

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

59-2-407. Administration of uniform fees.

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

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

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

(ii) renewal of registration.

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

Section 8. Section **59-2-801** is amended to read:

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

(1) After all objections are heard and disposed of and before May 25 of each year, the commission shall apportion the total assessment of all property assessed by it to the several tax areas as follows:

(a) all property of public utilities, except the rolling stock, and all property of pipeline,

1 power, canal, and irrigation companies, to each tax area through which the public utility, pipeline,
2 power, canal, or irrigation company operates, in proportion to its value in each tax area;

3 (b) the rolling stock of all railroads and street railroads, except the rolling stock included
4 in Subsection (2), to the tax areas through which railroads operate, in the proportion which the
5 length of the main tracks, sidetracks, passing tracks, switches, and tramways of those railroads in
6 each tax area bears to the total length of the main tracks, passing tracks and sidetracks, switches,
7 and tramways in the state, with rolling stock of standard and narrow gauge railroads apportioned
8 to their standard and narrow gauge lines, respectively;

9 (c) the property of car companies, to the several tax areas in which railroads are operated,
10 in the proportion which the length of main tracks, passing tracks, sidetracks, switches, and
11 tramways of all railroads in each tax area bears to the total length of the main tracks, passing
12 tracks, sidetracks, switches, and tramways of all railroads in the state; and

13 (d) the assessment of all mines and mining claims and properties respectively to the tax
14 area in which the mines or mining claims and properties assessed are located.

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

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

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

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

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

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

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

31 (5) Each county shall apportion its share of the revenues to the taxing entities within its

1 boundaries in the same proportion as other real and personal and other state-assessed property
2 values.

3 Section 9. Section **59-2-906.1** is amended to read:

4 **59-2-906.1. Property Tax Valuation Agency Fund -- Creation -- Statewide levy --**
5 **Additional county levy permitted.**

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

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

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

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

17 (2) (a) Except as authorized in Subsection (2)(b), beginning in fiscal year 1996-97 to fund
18 the Property Tax Valuation Agency Fund the Legislature shall authorize the amount of the
19 multicounty assessing and collecting levy, except that the multicounty assessing and collecting
20 levy may not exceed the certified revenue levy as defined in Section 53A-17a-103.

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

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

28 (d) For the calendar year beginning on January 1, 1999, and ending on December 31, 1999,
29 the certified revenue levy shall be increased by the amount necessary to offset the decrease in
30 revenues from uniform fees on tangible personal property under Section 59-2-405.1 as a result of
31 the decrease in uniform fees on tangible personal property under Section 59-2-405.1 enacted by

1 the Legislature during the 1998 Annual General Session.

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

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

7 (i) exempt from the redevelopment provisions of Subsections 17A-2-1199.48(1),
8 17A-2-1199.48(2), 17A-2-1247(1), and 17A-2-1247(2);

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

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

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

15 (i) The revenue shall be transmitted no later than the [~~10th~~] tenth day of the month
16 following the end of the quarter in which the revenue is collected.

17 (ii) If revenue is transmitted after the [~~10th~~] tenth day of the month following the end of
18 the quarter in which the revenue is collected, the county shall pay an interest penalty at the rate of
19 10% each year until the revenue is transmitted.

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

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

26 (a) The purpose of the levy established in this Subsection (4) is to promote the accurate
27 valuation of property, the establishment and maintenance of uniform assessment levels within and
28 among counties, and the efficient administration of the property tax system, including the costs
29 of assessment, collection, and distribution of property taxes.

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

31 (i) exempt from the redevelopment provisions of Subsections 17A-2-1199.48(1),

1 17A-2-1199.48(2), 17A-2-1247(1), and 17A-2-1247(2);

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

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

5 Section 10. Section **59-2-919** is amended to read:

6 **59-2-919. Resolution proposing tax increases -- Notice -- Contents of notice of**
7 **proposed tax increase -- Personal mailed notice in addition to advertisement -- Contents of**
8 **personal mailed notice -- Hearing -- Dates.**

9 A tax rate in excess of the certified tax rate may not be levied until a resolution has been
10 approved by the taxing entity in accordance with the following procedure:

11 (1) (a) The taxing entity shall advertise its intent to exceed the certified tax rate in a
12 newspaper or combination of newspapers of general circulation in the taxing entity.

13 (b) The advertisement shall be no less than 1/4 page in size and the type used shall be no
14 smaller than 18 point, and surrounded by a 1/4-inch border.

15 (c) The advertisement may not be placed in that portion of the newspaper where legal
16 notices and classified advertisements appear.

17 (d) It is legislative intent that, whenever possible, the advertisement appear in a newspaper
18 that is published at least one day per week.

19 (e) It is further the intent of the Legislature that the newspaper or combination of
20 newspapers selected be of general interest and readership in the taxing entity, and not of limited
21 subject matter.

22 (f) The advertisement shall be run once each week for the two weeks preceding the
23 adoption of the final budget.

24 (g) The advertisement shall state that the taxing entity will meet on a certain day, time, and
25 place fixed in the advertisement, which shall be not less than seven days after the day the first
26 advertisement is published, for the purpose of hearing comments regarding any proposed increase
27 and to explain the reasons for the proposed increase.

28 (h) The meeting on the proposed increase may coincide with the hearing on the proposed
29 budget of the taxing entity.

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

31 "NOTICE OF PROPOSED TAX INCREASE

1 The (name of the taxing entity) is proposing to increase its property tax revenue. As a
2 result of the proposed increase, the tax on a (insert the average value of a residence in the taxing
3 entity rounded to the nearest thousand dollars) residence will be \$_____, and the tax on a
4 business having the same value as the average value of a residence in the taxing entity will be
5 \$_____. Without the proposed increase the tax on a (insert the average value of a residence
6 in the taxing entity rounded to the nearest thousand dollars) residence would be \$_____, and
7 the tax on a business having the same value as the average value of a residence in the taxing entity
8 would be \$_____. The (name of the taxing entity) is proposing to increase its property tax
9 revenue from \$_____ collected last year to \$_____ proposed this year, an increase of
10 _____%.

11 The (insert year) proposed tax rate is _____. Without the proposed increase the rate
12 would be _____.

13 All concerned citizens are invited to a public hearing on the tax increase to be held on (date
14 and time) at (meeting place)."

15 (3) The commission shall adopt rules governing the joint use of one advertisement under
16 this section or Section 59-2-918 by two or more taxing entities and may, upon petition by any
17 taxing entity, authorize either:

18 (a) the use of weekly newspapers in counties having both daily and weekly newspapers
19 where the weekly newspaper would provide equal or greater notice to the taxpayer; or

20 (b) the use of a commission-approved direct notice to each taxpayer if the cost of the
21 advertisement would cause undue hardship and the direct notice is different and separate from that
22 provided for in Subsection (4).

23 (4) In addition to providing the notice required by Subsections (1) and (2), the county
24 auditor, on or before July 22 of each year, shall notify, by mail, each owner of real estate as
25 defined in Section 59-2-102 who is listed on the assessment roll. The notice shall:

26 (a) be sent to all owners of real property by mail not less than ten days before the day on
27 which:

28 (i) the county board of equalization meets; and

29 (ii) the taxing entity holds a public hearing on the proposed increase in the certified tax
30 rate;

31 (b) the notice shall be printed on a form that is:

- 1 (i) approved by the commission; and
2 (ii) uniform in content in all counties in the state;
3 (c) contain for each property:
4 (i) the value of the property;
5 (ii) the date the county board of equalization will meet to hear complaints on the valuation;
6 (iii) itemized tax information for all taxing entities, including a separate statement for the
7 minimum school levy under Section 53A-17a-135 stating:
8 (A) the dollar amount the taxpayer would have paid based on last year's rate; and
9 (B) the amount of the taxpayer's liability under the current rate;
10 (iv) the tax impact on the property;
11 (v) the time and place of the required public hearing for each entity;
12 (vi) property tax information pertaining to taxpayer relief, options for payment of taxes,
13 and collection procedures;
14 (vii) other information specifically authorized to be included on the notice under Title 59,
15 Chapter 2, Property Tax Act; [and]
16 (viii) other property tax information approved by the commission[-]; and
17 (ix) for the calendar year beginning on January 1, 1999, and ending on December 31,
18 1999, the following statement: "This proposed tax increase or a portion of this proposed tax
19 increase is to offset a reduction in uniform fees on tangible personal property by the Legislature
20 during the 1998 Annual General Session."
21 (5) The taxing entity, after the hearing has been held in accordance with the above
22 procedures, may adopt a resolution levying a tax rate in excess of the certified tax rate. If the
23 resolution adopting the tax rate is not adopted on the day of the public hearing, the scheduled time
24 and place for consideration and adoption of the resolution shall be announced at the public hearing.
25 If the resolution is to be considered at a day and time that is more than two weeks after the public
26 hearing described in Subsection (4)(c)(v), the taxing entity shall advertise the date of the proposed
27 adoption of the resolution in the same manner as provided under Subsections (1) and (2).
28 (6) All hearings shall be open to the public. The governing body of the taxing entity
29 conducting the hearing shall permit all interested parties desiring to be heard an opportunity to
30 present oral testimony within reasonable time limits.
31 (7) Each taxing entity shall notify the county legislative body by March 1 of each year of

1 the date, time, and place of its public hearing. A taxing entity may not schedule its hearing at the
2 same time as another overlapping taxing entity in the same county, but all taxing entities in which
3 the power to set tax levies is vested in the same governing board or authority may consolidate the
4 required hearings into one hearing. The county legislative body shall resolve any conflicts in
5 hearing dates and times after consultation with each affected taxing entity.

6 Section 11. Section **59-2-924** is amended to read:

7 **59-2-924. Report of valuation of property to county auditor and commission --**
8 **Transmittal by auditor to governing bodies -- Certified tax rate -- Adoption of tentative**
9 **budget.**

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

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

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

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

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

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

20 (iii) the certified tax rate; and

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

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

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

25 (A) collections from redemptions;

26 (B) interest; and

27 (C) penalties.

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

31 (iv) The certified tax rates for the taxing entities described in this Subsection (2)(a)(iv)

1 shall be calculated as follows:

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

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

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

7 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
8 purposes and such other levies imposed solely for the municipal-type services identified in Section
9 17-34-2 and Subsection 17-36-3(22);

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

13 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,
14 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

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

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

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

21 (iii) "New growth" means:

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

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

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

31 (d) (i) Beginning July 1, 1997, if a county has imposed a sales and use tax under Title 59,

Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

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

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

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

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

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

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

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

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

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

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

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

(4) (a) The taxable value for the base year under Subsection 17A-2-1247(2)(a) or 17A-2-1202(2), as the case may be, shall be reduced for any year to the extent necessary to provide

1 a redevelopment agency established under Title 17A, Chapter 2, Part 12, Neighborhood
2 Redevelopment Agencies, with approximately the same amount of money the agency would have
3 received without a reduction in the county's certified tax rate if:

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

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

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

10 (b) The taxable value of the base year under Subsection 17A-2-1247(2)(a) or
11 17A-2-1202(2), as the case may be, shall be increased in any year to the extent necessary to
12 provide a redevelopment agency with approximately the same amount of money as the agency
13 would have received without an increase in the certified tax rate that year if:

14 (i) in that year the taxable value for the base year under Subsection 17A-2-1247(2) or
15 17A-2-1202(2) is reduced due to a decrease in the certified tax rate under Subsection (2)(c) or
16 (2)(d)(i); and

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

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

25 Section 12. Section **59-2-1317** is amended to read:

26 **59-2-1317. Index of property owners -- Tax notice -- Contents of notice.**

27 (1) The treasurer shall:

28 (a) collect the taxes; and

29 (b) furnish to each taxpayer, except those taxpayers under Sections 59-2-1302 and
30 59-2-1307, by mail, postage prepaid, or leave at the taxpayer's residence or usual place of business,
31 if known, a notice stating:

(i) the kind and value of property assessed to the taxpayer;

(ii) the street address of the property, if available to the county;

(iii) that the property may be subject to a detailed review in the next year under Section 59-2-303.1;

(iv) the amount of taxes levied;

(v) property tax information pertaining to taxpayer relief, options for payment of taxes, and collection procedures;

(vi) other information specifically authorized to be included on the notice under Title 59, Chapter 2, Property Tax Act; [and]

(vii) other property tax information approved by the commission[-]; and

(viii) for the calendar year beginning on January 1, 1999, and ending on December 31, 1999, the following statement: "This tax increase or a portion of this tax increase is to offset a reduction in uniform fees on tangible personal property by the Legislature during the 1998 Annual General Session."

(2) For any property for which property taxes are delinquent, the treasurer shall stamp on the notice "Prior taxes are delinquent on this parcel."

(3) The notice shall:

(a) separately state all taxes levied only on a certain kind or class of property for a special purpose;

(b) have printed or stamped on it when and where the taxes are payable;

(c) state the date on which the taxes will be delinquent; and

(d) state the penalty provided by law.

(4) (a) The notice shall be mailed by November 1.

(b) The treasurer shall keep on file in the treasurer's office the information set forth in the notice.

(c) The county treasurer is not required to mail out a tax receipt acknowledging payment.

Section 13. Section **59-7-611** is amended to read:

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

(1) As used in this section:

1 (a) "Active solar system":

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

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

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

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

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

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

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

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

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

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

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

27 (i) "Individual taxpayer" means any person who is a taxpayer as defined in Section
28 59-10-103 and a resident individual as defined in Section 59-10-103.

29 (j) "Passive solar system":

30 (i) means a direct thermal system which utilizes the structure of a building and its operable
31 components to provide for collection, storage, and distribution of heating or cooling during the

appropriate times of the year by utilizing the climate resources available at the site; and

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

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

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

(i) Section 59-2-404 [through];

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

(iii) Section 59-2-405.1.

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

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

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

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

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

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

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

(B) if the business entity assigns its right to the tax credit to an individual taxpayer under Subsection (2)(a)(iii)(A), the individual taxpayer may claim the tax credit as if the individual

1 taxpayer had completed or participated in the costs of the residential energy system under Section
2 59-10-602.

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

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

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

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

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

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

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

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

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

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

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

30 (iii) If the amount of a tax credit under this section exceeds a business entity's tax liability
31 under this chapter for a taxable year, the amount of the credit exceeding the liability may be carried

over for a period which does not exceed the next four taxable years.

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

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

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

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

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

Section 14. Section **59-10-601** is amended to read:

59-10-601. Definitions.

As used in this part:

(1) "Active solar system":

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

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

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

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

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

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

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

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

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

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

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

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

(10) "Passive solar system":

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

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

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

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

(i) Section 59-2-404 [through];

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

(iii) Section 59-2-405.1.

(13) "Wind system" means a system of apparatus and equipment capable of intercepting and converting wind energy into mechanical or electrical energy and transferring these forms of

1 energy by a separate apparatus to the point of use or storage.

2 Section 15. **Effective date.**

3 This act takes effect on January 1, 1999.

Legislative Review Note
as of 1-27-98 7:38 AM

This bill raises the following constitution or statutory concerns:

Utah Constitution Article XIII, Section 14 provides that if the Legislature exempts certain "tangible personal property . . . required by law to be registered with the state before it is used on a public highway, on a public waterway, on public land, or in the air . . . it shall provide for uniform statewide fees or uniform statewide rates of assessment or levy in lieu of the tax on such property." For purposes of imposing the uniform fee authorized under Utah Constitution Article XIII, Section 14, this legislation creates two classes of property. The first class of property is subject to an annual fee based on the property's fair market value while the second class is subject to a flat annual fee. Utah courts have not yet ruled on the issue of whether a fee that is imposed at different rates based on the classification of property meets the uniformity requirement of Utah Constitution Article XIII, Section 14. A limited legal review of this issue suggests that it is unclear whether a court would find that the classifications and differential rates provided for in this legislation meet the constitutional uniformity requirement.

Office of Legislative Research and General Counsel