

1 **TAXES FOR EDUCATION FUNDING AMENDMENTS**

2 2011 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Dixon M. Pitcher**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill imposes a tax on certain nonalcoholic beverages and deposits the revenue
10 collected from the tax into the Education Fund.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ imposes a tax on certain nonalcoholic beverages;
- 15 ▶ establishes the tax rate;
- 16 ▶ creates administration and collection procedures for the tax; and
- 17 ▶ deposits the revenue collected from the tax into the Education Fund.

18 **Money Appropriated in this Bill:**

19 None

20 **Other Special Clauses:**

21 This bill takes effect on July 1, 2011.

22 **Utah Code Sections Affected:**

23 ENACTS:

24 **59-28-101**, Utah Code Annotated 1953

25 **59-28-102**, Utah Code Annotated 1953

26 **59-28-103**, Utah Code Annotated 1953

27 **59-28-104**, Utah Code Annotated 1953



- 59 (4) "Natural fruit juice" means:
- 60 (a) the original liquid resulting from the pressing of fruit;
- 61 (b) liquid resulting from the reconstitution of natural fruit juice concentrate; or
- 62 (c) liquid resulting from the restoration of water to dehydrated natural fruit juice.
- 63 (5) "Natural vegetable juice" means:
- 64 (a) original liquid resulting from the pressing of vegetables;
- 65 (b) liquid resulting from the reconstitution of natural vegetable juice concentrate;
- 66 (c) liquid resulting from the restoration of water to dehydrated natural vegetable juice.
- 67 (6) "Nonalcoholic beverage" means a beverage sold for human consumption that:
- 68 (a) is sold in a container; and
- 69 (b) is not:
 - 70 (i) an alcoholic beverage as defined in Section 32B-1-102;
 - 71 (ii) a drug as defined in Section 59-12-102; or
 - 72 (iii) a nutritional supplement.
- 73 (7) (a) Except as provided in Subsection (7)(c), "soft drink" means a nonalcoholic
- 74 beverage that is not:
 - 75 (i) hot coffee or hot tea;
 - 76 (ii) infant formula;
 - 77 (iii) milk;
 - 78 (iv) greater than 50% natural fruit juice; or
 - 79 (v) greater than 50% natural vegetable juice.
- 80 (b) "Soft drink" includes:
 - 81 (i) a carbonated nonalcoholic beverage, including:
 - 82 (A) cola;
 - 83 (B) cream soda;
 - 84 (C) a fruit-flavored carbonated beverage;
 - 85 (D) ginger ale;
 - 86 (E) root beer; or
 - 87 (F) soda water;
 - 88 (ii) a nonalcoholic beverage that:
 - 89 (A) is intended to increase energy; and

90 (B) is a beverage described in Subsection (7)(a);
 91 (iii) a syrup or dry mixture that is commonly mixed with liquid to make a beverage;
 92 (iv) water that;
 93 (A) is carbonated; or
 94 (B) has added natural or artificial flavoring; or
 95 (v) a nonalcoholic beverage similar to the beverages described in Subsections (7)(b)(i)
 96 through (iv).

97 (c) "Soft drink" does not include water except for water described in Subsection
 98 (7)(b)(iv).

99 Section 3. Section **59-28-103** is enacted to read:

100 **59-28-103. Imposition of tax -- Rate.**

- 101 (1) There is imposed a tax on the sale or purchase of a soft drink.
 102 (2) The tax rate of the tax imposed under Subsection (1) is 1% of the sales price, as
 103 defined in Section 59-12-102.

104 Section 4. Section **59-28-104** is enacted to read:

105 **59-28-104. Collection of tax.**

106 A seller of a soft drink shall:

- 107 (1) collect the tax imposed by Section 59-28-103 from the purchaser; and
 108 (2) remit the tax collected under Subsection (1) to the commission:
 109 (a) quarterly on or before the last day of the month immediately following the last day
 110 of each calendar quarter;
 111 (b) by electronic means; and
 112 (c) on a return prescribed by the commission.

113 Section 5. Section **59-28-105** is enacted to read:

114 **59-28-105. Deposit of tax revenue.**

115 The commission shall deposit revenues collected from the tax imposed by this chapter
 116 into the Education Fund.

117 Section 6. Section **59-28-106** is enacted to read:

118 **59-28-106. Records.**

- 119 (1) A seller of a soft drink shall maintain records, statements, books, or accounts
 120 necessary to determine the amount of tax that the seller of a soft drink is required to remit to

121 the commission under this chapter.

122 (2) The commission may require a seller of a soft drink to make or keep the records,
123 statements, books, or accounts the commission considers sufficient to show the amount of tax
124 for which the seller of a soft drink is required to remit to the commission under this chapter:

125 (a) by notice served upon the seller of a soft drink; or

126 (b) by administrative rule made in accordance with Title 63G, Chapter 3, Utah

127 Administrative Rulemaking Act.

128 (3) After notice by the commission, a seller of a soft drink shall open the records,
129 statements, books, or accounts specified in Subsection (2) for examination by the commission
130 or a duly authorized agent of the commission.

131 Section 7. Section **59-28-107** is enacted to read:

132 **59-28-107. Rulemaking authority.**

133 The commission may make rules in accordance with Title 63G, Chapter 3, Utah
134 Administrative Rulemaking Act, to implement and enforce this chapter.

135 Section 8. Section **59-28-108** is enacted to read:

136 **59-28-108. Penalties and interest.**

137 A seller of a soft drink that fails to comply with any provision of this chapter is subject
138 to penalties and interest as provided in Sections 59-1-401 and 59-1-402.

139 Section 9. **Effective date.**

140 This bill takes effect on July 1, 2011.

Legislative Review Note
as of 2-25-11 2:02 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 426

SHORT TITLE: Taxes for Education Funding Amendments

SPONSOR: Pitcher, D.

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill could increase the General Fund by \$5,500,000 annually.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
General Fund	\$0	\$5,500,000	\$5,500,000
Total Revenue	\$0	\$5,500,000	\$5,500,000
Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	\$5,500,000	\$5,500,000
Net Impact, General/Education Funds	\$0	\$5,500,000	\$5,500,000

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Businesses and residents could see an increase of 1 percent for certain purchases which translates to one cent per dollar.