

TAX CODE MODIFICATIONS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Benjamin M. McAdams

House Sponsor: _____

LONG TITLE

General Description:

This bill amends the Revenue and Taxation title to adjust a tax rate and to enact a low income tax credit.

Highlighted Provisions:

This bill:

- ▶ adjusts the general state sales and use tax rate; and
- ▶ creates a refundable low income tax credit.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides effective dates.

This bill coordinates with S.B. 270, Modifications to Sales and Use Tax, by providing substantive amendments.

Utah Code Sections Affected:

AMENDS:

59-12-103, as last amended by Laws of Utah 2010, Chapter 412

ENACTS:

59-10-1102.1, Utah Code Annotated 1953

59-10-1109, Utah Code Annotated 1953

Utah Code Sections Affected by Coordination Clause:



28 **59-12-103**, as last amended by Laws of Utah 2010, Chapter 412

29

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

31 Section 1. Section **59-10-1102.1** is enacted to read:

32 **59-10-1102.1. Apportionment of tax credit.**

33 A nonresident individual or a part-year resident individual that claims a tax credit in
34 accordance with Section 59-10-1109 may only claim an apportioned amount of the tax credit
35 equal to the product of:

36 (1) the state income tax percentage for the nonresident individual or part-year resident
37 individual; and

38 (2) the amount of the tax credit that the nonresident individual or part-year resident
39 individual would have been allowed to claim but for the apportionment requirements of this
40 section.

41 Section 2. Section **59-10-1109** is enacted to read:

42 **59-10-1109. Refundable low income tax credit.**

43 (1) As used in this section, "federal earned income tax credit" means the amount of the
44 federal earned income tax credit a claimant claims as allowed for a taxable year in accordance
45 with Section 32, Internal Revenue Code, on the claimant's federal individual income tax return.

46 (2) Except as provided in Section 59-10-1102.1 and subject to Subsection (3), a
47 claimant may claim a refundable low income tax credit equal to 5% of the federal earned
48 income tax credit.

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

51 (4) In accordance with any rules prescribed by the commission under Subsection

52 (5)(b), the commission shall transfer at least annually from the General Fund into the Education
53 Fund an amount equal to the amount of tax credit claimed under this section.

54 (5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
55 commission may make rules:

56 (a) providing procedures for issuing refunds for a tax credit claimed under this section;
57 and

58 (b) ~~§~~ for ~~←~~§ making a transfer from the General Fund into the Education Fund as
58a required by

59 Subsection (4).

60 Section 3. Section **59-12-103** is amended to read:

61 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**
62 **tax revenues.**

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

65 (a) retail sales of tangible personal property made within the state;

66 (b) amounts paid for:

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

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

72 (iii) an ancillary service associated with a:

73 (A) telecommunications service described in Subsection (1)(b)(i); or

74 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

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

76 (i) gas;

77 (ii) electricity;

78 (iii) heat;

79 (iv) coal;

80 (v) fuel oil; or

81 (vi) other fuels;

82 (d) sales of the following for residential use:

83 (i) gas;

84 (ii) electricity;

85 (iii) heat;

86 (iv) coal;

87 (v) fuel oil; or

88 (vi) other fuels;

89 (e) sales of prepared food;

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

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

101 (i) the tangible personal property; and

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

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

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

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

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

112 (i) stored;

113 (ii) used; or

114 (iii) otherwise consumed;

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

117 (i) stored;

118 (ii) used; or

119 (iii) consumed; and

120 (m) amounts paid or charged for a sale:

- 121 (i) (A) of a product that:
- 122 (I) is transferred electronically; and
- 123 (II) would be subject to a tax under this chapter if the product was transferred in a
- 124 manner other than electronically; or
- 125 (B) of a repair or renovation of a product that:
- 126 (I) is transferred electronically; and
- 127 (II) would be subject to a tax under this chapter if the product was transferred in a
- 128 manner other than electronically; and
- 129 (ii) regardless of whether the sale provides:
- 130 (A) a right of permanent use of the product; or
- 131 (B) a right to use the product that is less than a permanent use, including a right:
- 132 (I) for a definite or specified length of time; and
- 133 (II) that terminates upon the occurrence of a condition.
- 134 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
- 135 is imposed on a transaction described in Subsection (1) equal to the sum of:
- 136 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
- 137 (A) [~~4.70%~~] 4.75%; and
- 138 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
- 139 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 140 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
- 141 State Sales and Use Tax Act; and
- 142 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales
- 143 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
- 144 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state
- 145 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and
- 146 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the
- 147 transaction under this chapter other than this part.
- 148 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed
- 149 on a transaction described in Subsection (1)(d) equal to the sum of:
- 150 (i) a state tax imposed on the transaction at a tax rate of 2%; and
- 151 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the

152 transaction under this chapter other than this part.

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

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

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

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

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

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

164 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State
165 Sales and Use Tax Act, if the location of the transaction as determined under Sections
166 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,
167 Additional State Sales and Use Tax Act; and

168 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State
169 Sales and Use Tax Act, if the location of the transaction as determined under Sections
170 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which
171 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

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

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

176 (A) if the sales price of the bundled transaction is attributable to tangible personal
177 property, a product, or a service that is subject to taxation under this chapter and tangible
178 personal property, a product, or service that is not subject to taxation under this chapter, the
179 entire bundled transaction is subject to taxation under this chapter unless:

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

183 (II) state or federal law provides otherwise; or

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

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

191 (II) state or federal law provides otherwise.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

214 (C) Subsection (2)(c)(i); or
215 (D) Subsection (2)(d)(i)(A)(I).

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

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

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

222 (A) Subsection (2)(a)(i)(A);
223 (B) Subsection (2)(b)(i);
224 (C) Subsection (2)(c)(i); or
225 (D) Subsection (2)(d)(i)(A)(I).

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

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

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

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

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

239 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
240 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)
241 through (g):

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

245 (ii) \$17,500,000.

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

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

251 (B) award grants, up to the amount authorized by the Legislature in an appropriations
252 act, to political subdivisions of the state to implement the measures described in Subsections
253 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.

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

258 (iii) At the end of each fiscal year:

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

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

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

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

268 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described
269 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water
270 Rights to cover the costs incurred in hiring legal and technical staff for the adjudication of
271 water rights.

272 (ii) At the end of each fiscal year:

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

275 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan

276 Program Subaccount created in Section 73-10c-5; and

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

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

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

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

290 (B) fund state required dam safety improvements; and

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

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

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

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

301 (ii) develop underground sources of water, including springs and wells; and

302 (iii) develop surface water sources.

303 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
304 2006, the difference between the following amounts shall be expended as provided in this
305 Subsection (5), if that difference is greater than \$1:

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

307 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and
308 (ii) \$17,500,000.

309 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:
310 (A) transferred each fiscal year to the Department of Natural Resources as dedicated
311 credits; and
312 (B) expended by the Department of Natural Resources for watershed rehabilitation or
313 restoration.

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

317 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the
318 remaining difference described in Subsection (5)(a) shall be:
319 (A) transferred each fiscal year to the Division of Water Resources as dedicated
320 credits; and
321 (B) expended by the Division of Water Resources for cloud-seeding projects
322 authorized by Title 73, Chapter 15, Modification of Weather.

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

326 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the
327 remaining difference described in Subsection (5)(a) shall be deposited into the Water
328 Resources Conservation and Development Fund created in Section 73-10-24 for use by the
329 Division of Water Resources for:
330 (i) preconstruction costs:
331 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter
332 26, Bear River Development Act; and
333 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project
334 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;
335 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,
336 Chapter 26, Bear River Development Act;
337 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project

338 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

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

341 (e) Any unexpended monies described in Subsection (5)(d) that remain in the Water
342 Resources Conservation and Development Fund at the end of the fiscal year are nonlapsing.

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

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

350 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,
351 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%
352 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in
353 the Transportation Fund created by Section 72-2-102.

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

359 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds
360 have been paid off and the highway projects completed that are intended to be paid from
361 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the
362 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of
363 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section
364 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated
365 by a 1/64% tax rate on the taxable transactions under Subsection (1).

366 (8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in
367 Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into
368 the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the

369 taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the
370 following taxes, which represents a portion of the approximately 17% of sales and use tax
371 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

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

376 (b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in
377 Subsection (7)(a), and until Subsection (8)(c) applies, for a fiscal year beginning on or after
378 July 1, 2011, the Division of Finance shall deposit into the Centennial Highway Fund
379 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection
380 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a
381 portion of the approximately 17% of sales and use tax revenues generated annually by the sales
382 and use tax on vehicles and vehicle-related products:

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

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

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

400 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the
401 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed
402 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

403 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal
404 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit
405 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the
406 Critical Highway Needs Fund created by Section 72-2-125.

407 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under
408 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101
409 have been paid off and the highway projects completed that are included in the prioritized
410 project list under Subsection 72-2-125(4) as determined in accordance with Subsection
411 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues
412 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund
413 of 2005 created by Section 72-2-124.

414 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year
415 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund
416 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

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

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

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

431 as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall
432 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the
433 amount of tax revenue generated by a .025% tax rate on the transactions described in
434 Subsection (1).

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

440 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection
441 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the
442 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a
443 .025% tax rate on the transactions described in Subsection (1) to be expended to address
444 chokepoints in construction management.

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

450 Section 4. **Effective dates.**

451 (1) The enactments of Sections 59-10-1102.1 and 59-10-1109 have retrospective
452 operation for a taxable year beginning on or after January 1, 2011.

453 (2) The amendments to Section 59-12-103 take effect on July 1, 2011.

454 Section 5. **Coordinating S.B. 189 with S.B. 270 -- Substantive amendments.**

455 If this S.B. 189 and S.B. 270, Modifications to Sales and Use Tax, both pass, it is the
456 intent of the Legislature that the Office of Legislative Research and General Counsel shall
457 prepare the Utah Code database for publication by amending Subsection 59-12-103(2)(a)(i)(A)
458 to read:

459 "(A) [~~4.70%~~] 4.44%; and".

Legislative Review Note
as of 2-24-11 12:51 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

S.B. 189

SHORT TITLE: Tax Code Modifications

SPONSOR: McAdams, B.

2011 GENERAL SESSION, STATE OF UTAH

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

By increasing the general sales tax rate and authorizing a 5% refundable Earned Income Tax Credit (EITC), enactment of this bill increases revenue to the General Fund by \$16,800,500 in FY 2012 and \$17,942,900 in FY 2013, decreases revenue to the Education Fund by \$18,000,000 in FY 2012 and \$19,026,000 in FY 2013, and increases revenue to the Centennial Highway Fund by \$1,520,700 in FY 2012 and \$1,624,000 in FY 2013. The bill authorizes a transfer from the General Fund to the Education Fund to cover the costs of the EITC.

STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
General Fund	\$0	\$17,942,900	\$17,942,900
General Fund, One-Time	\$0	(\$1,142,400)	\$0
Education Fund	\$0	(\$19,026,000)	(\$19,026,000)
Education Fund, One-Time	\$0	\$1,026,000	\$0
Transportation Fund Restricted	\$0	\$1,520,700	\$1,624,000
Total Revenue	\$0	\$321,200	\$540,900
Expenditure:			
General Fund	\$0	(\$19,026,000)	(\$19,026,000)
General Fund, One-Time	\$0	\$1,026,000	\$0
Education Fund	\$0	\$19,026,000	\$19,026,000
Education Fund, One-Time	\$0	(\$1,026,000)	\$0
Total Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	\$321,200	\$540,900
Net Impact, General/Education Funds	\$0	(\$1,199,500)	(\$1,083,100)

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))

By increasing the general sales tax rate and enacting a 5% refundable EITC, this bill shifts tax liability from about 180,000 individuals receiving the EITC to all sales tax payers.