

Representative Raymond W. Short proposes to substitute the following bill:

TRUTH IN TAXATION - JUDGMENT LEVY

1999 GENERAL SESSION

STATE OF UTAH

Sponsor: Raymond W. Short

5	Wayne A. Harper	Tammy J. Rowan	Karen W. Morgan
6	Melvin R. Brown	Jack A. Seitz	David Ure
7	Greg J. Curtis	Glenn L. Way	Jeff Alexander
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9	Evan L. Olsen	Judy Ann Buffmire	John E. Swallow
10	Loraine T. Pace	James R. Gowans	

11 AN ACT RELATING TO PROPERTY TAXES; PROVIDING FOR AN ADJUSTMENT TO
12 THE CERTIFIED TAX LEVY WHEN JUDGEMENTS ARE SATISFIED; PROVIDING THAT
13 THE JUDGMENT LEVIES BE SUBJECT TO TRUTH IN TAXATION; AND PROVIDING FOR
14 RETROSPECTIVE OPERATION.

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

16 AMENDS:

17 **59-2-924**, as last amended by Chapters 322 and 418, Laws of Utah 1998

18 **59-2-1328**, as last amended by Chapter 309, Laws of Utah 1997

19 **59-2-1330**, as last amended by Chapter 2, Laws of Utah 1997, Second Special Session

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

21 Section 1. Section **59-2-924** is amended to read:

22 **59-2-924. Report of valuation of property to county auditor and commission --**

23 **Transmittal by auditor to governing bodies -- Certified tax rate -- Adoption of tentative**

24 **budget.**

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

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

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

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

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

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

35 (iii) the certified tax rate; and

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

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

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

40 (A) collections from redemptions;

41 (B) interest; and

42 (C) penalties.

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

46 (iv) The certified tax rates for the taxing entities described in this Subsection (2)(a)(iv)
47 shall be calculated as follows:

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

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

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

53 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
54 purposes and such other levies imposed solely for the municipal-type services identified in Section
55 17-34-2 and Subsection 17-36-3(22);

56 (C) for debt service voted on by the public, the certified tax rate shall be the actual levy
57 imposed by that section, except that the certified tax rates for the following levies shall be

58 calculated in accordance with Section 59-2-913 and this section:

59 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,
60 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

61 (II) levies to pay for the costs of state legislative mandates or judicial or administrative
62 orders under Section 59-2-906.3[-];

63 (D) beginning January 1, 2000, when any judgment has been satisfied by the imposition
64 of a levy provided for in Section 59-2-1328 or 59-2-1330, the certified tax rate shall be decreased
65 by the amount necessary to offset the revenue collected the previous year by the imposition of the
66 judgment levy.

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

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

71 (iii) "New growth" means:

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

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

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

80 (d) (i) Beginning July 1, 1997, if a county has imposed a sales and use tax under Title 59,
81 Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

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

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

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

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

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

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

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

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

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

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

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

110 (4) (a) The taxable value for the base year under Subsection 17A-2-1247(2)(a) or
111 17A-2-1202(2), as the case may be, shall be reduced for any year to the extent necessary to provide
112 a redevelopment agency established under Title 17A, Chapter 2, Part 12, Utah Neighborhood
113 Development Act, with approximately the same amount of money the agency would have received
114 without a reduction in the county's certified tax rate if:

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

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

119 (iii) the decrease results in a reduction of the amount to be paid to the agency under

120 Section 17A-2-1247 or 17A-2-1247.5.

121 (b) The taxable value of the base year under Subsection 17A-2-1247(2)(a) or
122 17A-2-1202(2), as the case may be, shall be increased in any year to the extent necessary to
123 provide a redevelopment agency with approximately the same amount of money as the agency
124 would have received without an increase in the certified tax rate that year if:

125 (i) in that year the taxable value for the base year under Subsection 17A-2-1247(2) or
126 17A-2-1202(2) is reduced due to a decrease in the certified tax rate under Subsection (2)(c) or
127 (2)(d)(i); and

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

130 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i),
131 the amount of money allocated and, when collected, paid each year to a redevelopment agency
132 established under Title 17A, Chapter 2, Part 12, Utah Neighborhood Development Act, for the
133 payment of bonds or other contract indebtedness, but not for administrative costs, may not be less
134 than that amount would have been without a decrease in the certified tax rate under Subsection
135 (2)(c) or (2)(d)(i).

136 (5) (a) Except as provided in Subsections (5)(d) through (f), for the calendar year
137 beginning on January 1, 1998, and ending December 31, 1998, to impose a tax rate that exceeds
138 the certified tax rate established in Subsection (2), a taxing entity shall obtain approval for the tax
139 increase by a majority vote of the:

140 (i) governing body; and

141 (ii) people as provided in Subsection (5)(b).

142 (b) To obtain voter approval for a tax increase under Subsection (5)(a), a taxing entity
143 shall:

144 (i) hold an election on the fourth Tuesday in June; and

145 (ii) conduct the election according to the procedures and requirements of Title 20A,
146 Election Code, governing local elections.

147 (c) A tax rate imposed by a taxing entity under this Subsection (5) may not exceed the
148 maximum levy permitted by law under Section 59-2-908.

149 (d) Notwithstanding Subsection (5)(a), a school district is not required to obtain voter
150 approval under this Subsection (5) to impose a tax rate that exceeds the certified tax rate:

151 (i) under Section 53A-17a-135, if the Legislature increases the minimum basic tax rate
152 under Section 53A-17a-135;
153 (ii) under Section 53A-21-103;
154 (iii) under Section 53A-16-111;
155 (iv) if, on or after January 1, 1997, but on or before December 31, 1997, the school district
156 obtained voter approval to impose the tax rate; or

157 (v) if, on or after January 1, 1998, the school district obtains voter approval to impose the
158 tax rate under a statutory provision, other than the provisions of this section, requiring voter
159 approval to impose the tax rate.

160 (e) Notwithstanding Subsection (5)(a), a municipality is not required to obtain voter
161 approval under this Subsection (5) to impose a tax rate that exceeds the certified tax rate if:

162 (i) the municipality meets the requirements of Sections 59-2-918 and 59-2-919; and

163 (ii) in adopting the resolution required under Section 59-2-919, the municipal legislative
164 body obtains approval to impose the tax rate by two-thirds of all members of the municipal
165 legislative body.

166 (f) Notwithstanding Subsection (5)(a), a county or municipality is not required to obtain
167 voter approval under this Subsection (5) to impose a tax rate under Section 17A-2-1322 that
168 exceeds the certified tax rate calculated for a special service district established under Title 17A,
169 Chapter 2, Part 13, Utah Special Service District Act, if the county or municipality obtained voter
170 approval to impose a tax on property within the special service district:

171 (i) under Section 17A-2-1322; and

172 (ii) on or after June 1, 1996.

173 Section 2. Section **59-2-1328** is amended to read:

174 **59-2-1328. Payment under protest -- Judgment for recovery -- Payment -- Tax levy.**

175 (1) (a) If it is determined in any action that a tax, or any portion of the tax, paid under
176 protest, was unlawfully collected, a judgment for recovery of the tax plus interest as provided by
177 law, together with costs of action, shall be entered in favor of the taxpayer.

178 (b) Upon being presented a duly authenticated copy of the judgment, the proper officer or
179 officers of the state, county, or municipality whose officers collected or received the tax shall audit
180 and allow the judgment, and cause a warrant to be drawn for the amount recovered by the
181 judgment.

182 (c) If the judgment is obtained against a county, and any portion of the taxes included in
183 the judgment are state, district, school, or other taxes levied by a taxing entity which have been or
184 may be paid over to the state or to any school district or other taxing entity by the county, the
185 proper officer or officers of the state, school district, or other taxing entity shall, upon demand by
186 the county, cause a warrant to be drawn upon the treasurer of the state, school district, or other
187 taxing entity in favor of the county for the amount of the taxes received, together with interest as
188 provided by law and an equitable portion of the costs of the action.

189 (2) (a) Each taxing entity may levy a tax to pay its share of the judgment under Subsection
190 (1).

191 (b) This levy is in addition to, and exempt from, the maximum levy established for the
192 taxing entity [~~and is exempt from the requirements of Sections 59-2-918 and 59-2-919~~].

193 Section 3. Section **59-2-1330** is amended to read:

194 **59-2-1330. Payment of property taxes -- Unlawful collection by county -- Liability**
195 **of state or taxing entity -- Disputed taxes.**

196 (1) Unless otherwise specifically provided by statute, property taxes shall be paid directly
197 to the county assessor or the treasurer when due.

198 (2) If the commission or a court of competent jurisdiction orders a reduction in the amount
199 of any tax levied against any property for tax purposes, the taxpayer shall be reimbursed under
200 Subsection (3).

201 (3) (a) The state and any taxing entity which has received property taxes or any portion of
202 property taxes is liable to a judgment debtor for the amount the state or the taxing entity received
203 plus interest as provided in Subsection (3)(b) if:

204 (i) the taxes are collected by the authorized officer of any county;

205 (ii) a taxpayer obtains a judgment or final order from the county board of equalization or
206 the commission against the county or an authorized officer of the county establishing that the taxes
207 have been unlawfully collected; and

208 (iii) any portion of the taxes has been paid to the state or to any taxing entity by the county
209 or its authorized officer.

210 (b) Interest under Subsection (3)(a) shall accrue:

211 (i) at a rate equal to the rate earned by the county;

212 (ii) (A) on the amount of taxes received from the time the state or a taxing entity received

213 the taxes; and

214 (B) for an equitable portion of the costs of action.

215 (4) (a) Each taxing entity may levy a tax to pay its share of the judgment or final order
216 under Subsection (3) if:

217 (i) the judgment or final order is issued no later than 15 days prior to the date the levy is
218 set under Subsection 59-2-924(2)(a); and

219 (ii) the amount of the judgment levy is included on the notice under Section 59-2-919.

220 (b) The levy under Subsection (4)(a) is ~~is~~ in addition to, and exempt from, the
221 maximum levy established for the taxing entity ~~and~~.

222 ~~[(ii) exempt from the requirements of Sections 59-2-918 and 59-2-919 except for~~
223 ~~Subsection 59-2-919(4).]~~

224 (5) (a) An owner of property assessed by the commission that has filed a valuation protest
225 pursuant to Section 59-2-1007 and has not received a final decision on that protest shall pay, on
226 or before the date of delinquency, the full amount of taxes due.

227 (b) A property owner that pays the full amount of taxes due under Subsection (5)(a) is not
228 required to pay penalties or interest on a disputed tax unless:

229 (i) a final decision is entered establishing a value greater than the value stated on the
230 disclosure notice under Section 59-2-1317; and

231 (ii) the property owner fails to pay the additional tax liability within a 45-day period after
232 the county bills the property owner for the additional tax.

233 Section 4. **Retrospective operation.**

234 This act has retrospective operation to January 1, 1999.