

**Senator John L. Valentine** proposes to substitute the following bill:

**TAX COMMISSION REVISIONS**

1999 GENERAL SESSION

STATE OF UTAH

**Sponsor: John L. Valentine**

1 AN ACT RELATING TO REVENUE AND TAXATION; REQUIRING CERTAIN  
2 TAXPAYERS ASSESSED BY THE STATE TAX COMMISSION TO FILE A STATEMENT  
3 CONTAINING CERTAIN PROPERTY TAX INFORMATION; REQUIRING THE STATE TAX  
4 COMMISSION TO PREPARE A RECORD OF ASSESSMENT FOR AIRLINES, AIR  
5 CHARTER SERVICES, AND AIR CONTRACT SERVICES; PROVIDING PENALTIES FOR  
6 FAILING TO FILE A PROPERTY TAX STATEMENT WITH THE STATE TAX  
7 COMMISSION UNDER CERTAIN CIRCUMSTANCES; AUTHORIZING THE STATE TAX  
8 COMMISSION TO EXTEND THE TIME PERIOD FOR FILING A PROPERTY TAX  
9 STATEMENT UNDER CERTAIN CIRCUMSTANCES; ADDRESSING THE  
10 CIRCUMSTANCES UNDER WHICH A TAXPAYER MAY CLAIM A REFUND FOR AN  
11 OVERPAYMENT OF A SALES AND USE TAX; PROVIDING PROCEDURES FOR  
12 CLAIMING THE REFUND; AND MAKING TECHNICAL CHANGES.

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

14 AMENDS:

15 **59-2-202**, as last amended by Chapter 209, Laws of Utah 1996

16 **59-2-204**, as enacted by Chapter 4, Laws of Utah 1987

17 **59-2-207**, as enacted by Chapter 4, Laws of Utah 1987

18 **59-12-110**, as last amended by Chapter 299, Laws of Utah 1998

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

20 Section 1. Section **59-2-202** is amended to read:

21 **59-2-202. Statement of taxpayer -- Penalty for failure to file statement or information**

## 26 -- Assessment without statement -- Appeals.

27 (1) (a) A person, or an officer or agent of that person, owning or operating [~~a public utility~~  
28 ~~in this state, or owning or operating a pipeline, power, canal, irrigation, or telephone company in~~  
29 ~~more than one county in this state,]~~ property described in Subsection (1)(b) shall, on or before  
30 March 1 of each year, [~~furnish to~~] file with the commission a statement:

31 (i) signed and sworn to by the person, officer, or agent;

32 (ii) showing in detail all real property[~~, real or~~] and tangible personal[~~, owned by~~] property  
33 located in the state that the person [~~in the state, including a statement of mileage~~] owns or operates;

34 (iii) containing the number of miles of taxable tangible personal property in each county[~~;~~];

35 (A) that the person owns or operates; and

36 (B) as valued [~~at 12 o'clock m. of~~] on January 1 of the year[~~, with~~] for which the person,  
37 officer, or agent is furnishing the statement; and

38 (iv) containing any other information [~~required by~~] the commission requires.

39 (b) Subsection (1)(a) applies to:

40 (i) the following property located in the state:

41 (A) a public utility;

42 (B) an airline;

43 (C) an air charter service; or

44 (D) an air contract service; or

45 (ii) the following property located in more than one county in the state:

46 (A) a pipeline company;

47 (B) a power company;

48 (C) a canal company;

49 (D) an irrigation company; or

50 (E) a telephone company.

51 [(b)] (c) The commission may [~~extend the time~~] allow an extension for filing the statement  
52 under Subsection (1)(a)[~~, except that the extension may~~] for a time period not [~~exceed~~] exceeding  
53 30 days.

54 (2) The commission shall assess and list the property described in Subsection (1)(b) using  
55 the best information obtainable by the commission if a person, or an officer or agent of that person,  
56 fails to file the statement required under Subsection (1)(a) on or before the later of:

57 (a) March 1; or

58 (b) if the commission allows an extension under Subsection (1)(c) for filing the statement,  
59 the day after the last day of the extension period.

60 ~~[(2) A person failing to furnish the statement under Subsection (1)(a) on or before March~~  
61 ~~1 of each year, or any other information considered by the commission necessary to enable it to~~  
62 ~~determine valuations for assessment purposes or for the apportionment of the assessment, shall be~~  
63 ~~assessed by the]~~

64 (3) (a) Except as provided in Subsection (3)(c), the commission shall assess a person a  
65 penalty [equal to 10% of the estimated tax due, except that the penalty may not be less than \$100.]  
66 as provided in Subsection (3)(b), if the person, or an officer or agent of that person, fails to file:

67 (i) the statement required under Subsection (1)(a) on or before the later of:

68 (A) March 1; or

69 (B) if the commission allows an extension under Subsection (1)(c) for filing the statement,  
70 the day after the last day of the extension period; or

71 (ii) any other information the commission determines to be necessary to:

72 (A) establish valuations for assessment purposes; or

73 (B) apportion an assessment.

74 (b) The penalty described in Subsection (3)(a) is an amount equal to the greater of:

75 (i) 10% of the person's estimated tax liability under this chapter for the current calendar  
76 year not to exceed \$50,000; or

77 (ii) \$100.

78 (c) (i) Notwithstanding Subsection (3)(a), the commission may waive, reduce, or  
79 compromise a penalty imposed under this section if the commission finds there are reasonable  
80 grounds for the waiver, reduction, or compromise.

81 (ii) If the commission waives, reduces, or compromises a penalty under Subsection  
82 (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or  
83 compromising the penalty.

84 ~~[(3)]~~ (4) The county treasurer shall collect the penalty imposed under Subsection [(2)] (3)  
85 [shall be collected according to the procedures and requirements of] as provided in Section  
86 59-2-1308.

87 ~~[(4)]~~ (5) A person subject to a penalty under Subsection [(2)] (3) may appeal the penalty

88 according to procedures and requirements of Title 63, Chapter 46b, Administrative Procedures  
89 Act.

90 Section 2. Section **59-2-204** is amended to read:

91 **59-2-204. Record of assessment of public utility companies -- Review by county**  
92 **assessor.**

93 (1) Each year, the commission shall prepare a record of assessment of the following  
94 companies:

95 (a) public utility companies[-];

96 (b) airlines;

97 (c) air charter services; and

98 (d) air contract services.

99 (2) The record of assessment under Subsection (1) shall include:

100 (a) the name of [every] each person engaged in [any public utility] business within the state  
101 in a company described in Subsection (1);

102 (b) for each company described in Subsection (1), the total value of all of the company's  
103 tangible and intangible properties [of the person]; and

104 (c) any other information as determined by the commission.

105 [~~2~~-The] (3) At the request of a county assessor, the commission shall provide to the  
106 county assessor:

107 (a) the record of [the] assessment described in Subsection (1); and

108 (b) the information upon which the assessments and apportionments contained in the  
109 record of assessment are made [are available for review upon request by a county assessor].

110 Section 3. Section **59-2-207** is amended to read:

111 **59-2-207. Statements for mines -- Penalty for failure to file statement or information**  
112 **-- Assessment without statement -- Penalty -- Appeals.**

113 (1) (a) [~~The owner or operator, as provided in this part, of every mine or mining claim and~~  
114 ~~other valuable mineral deposits, including lands containing coal or hydrocarbons;] A person, or  
115 an officer or agent of that person, owning or operating property described in Subsection (1)(b) shall  
116 file with the commission, [in] on a form prescribed by the [commissioner] commission, a sworn  
117 statement [with the commission] on or before March 1 of each year[. The statement shall set out  
118 in detail any information required by the commission.];~~

119 (i) showing in detail all real property and tangible personal property located in the state  
120 that the person owns or operates; and

121 (ii) containing any other information the commission requires.

122 (b) Subsection (1)(a) applies to the following property:

123 (i) a mine;

124 (ii) a mining claim; or

125 (iii) a valuable mineral deposit, including lands containing coal or hydrocarbons.

126 (c) The commission may allow an extension for filing the statement under Subsection  
127 (1)(a) for a time period not exceeding 30 days.

128 (2) [If any] The commission shall assess and list the property described in Subsection  
129 (1)(b) using the best information obtainable by the commission if a person, or an officer or agent  
130 of that person, fails to file the statement required under Subsection (1)[, the commission shall  
131 assess and list the property using the best information obtainable by the commission.] on or before  
132 the later of:

133 (a) March 1; or

134 (b) if the commission allows an extension under Subsection (1)(c) for filing the statement,  
135 the day after the last day of the extension period.

136 (3) (a) [Any person who willfully refuses, upon demand, to furnish the statement required  
137 under Subsection (1), is subject to the same penalties as provided under Section 59-2-307. Failure  
138 to furnish the statement following a renewed demand, after conviction, constitutes a separate  
139 offense.] Except as provided in Subsection (3)(c), the commission shall assess a person a penalty  
140 as provided in Subsection (3)(b), if the person, or an officer or agent of that person, fails to file:

141 (i) the statement required under Subsection (1)(a) on or before the later of:

142 (A) March 1; or

143 (B) if the commission allows an extension under Subsection (1)(c) for filing the statement,  
144 the day after the last day of the extension period; or

145 (ii) any other information the commission determines to be necessary to:

146 (A) establish valuations for assessment purposes; or

147 (B) apportion an assessment.

148 (b) The penalty described in Subsection (3)(a) is an amount equal to the greater of:

149 (i) 10% of the person's estimated tax liability under this chapter for the current calendar

150 year not to exceed \$50,000; or

151 (ii) \$100.

152 (c) (i) Notwithstanding Subsection (3)(a), the commission may waive, reduce, or  
153 compromise a penalty imposed under this section if the commission finds there are reasonable  
154 grounds for the waiver, reduction, or compromise.

155 (ii) If the commission waives, reduces, or compromises a penalty under Subsection  
156 (3)(c)(i), the commission shall make a record of the grounds for waiving, reducing, or  
157 compromising the penalty.

158 (4) The county treasurer shall collect the penalty imposed under Subsection (3) as provided  
159 in Section 59-2-1308.

160 (5) A person subject to a penalty under Subsection (3) may appeal the penalty according  
161 to the procedures and requirements of Title 63, Chapter 46b, Administrative Procedures Act.

162 Section 4. Section **59-12-110** is amended to read:

163 **59-12-110. Overpayments, deficiencies, and refunds procedures.**

164 (1) (a) As soon as practicable after a return is filed, the commission shall examine the  
165 return.

166 (b) If the commission determines that the correct amount of tax to be remitted is greater  
167 or less than the amount shown to be due on the return, the commission shall recompute the tax.

168 (c) If the amount paid exceeds the amount due, the excess, plus interest as provided in  
169 Section 59-1-402, shall be credited or refunded to the taxpayer as provided in Subsection (2).

170 (d) The commission may not credit or refund to the taxpayer interest on an overpayment  
171 under Subsection (1)(c) if the commission determines that the overpayment was made for the  
172 purpose of investment.

173 (2) (a) If a taxpayer pays a tax, penalty, or interest more than once or the commission  
174 erroneously receives, collects, or computes any tax, penalty, or interest, including an overpayment  
175 described in Subsection (1)(c), the commission shall:

176 (i) credit the amount of tax, penalty, or interest paid by the taxpayer against any amounts  
177 of tax, penalties, or interest the taxpayer owes; and

178 (ii) refund any balance to the taxpayer or the taxpayer's successors, administrators,  
179 executors, or assigns.

180 (b) Except as provided in Subsection (2)(c), a taxpayer shall file a claim with the

181 commission to obtain a refund or credit under this Subsection (2) within three years from the day  
182 on which the taxpayer overpaid the tax, penalty, or interest.

183 (c) Notwithstanding Subsection (2)(b), beginning on July 1, 1998, the commission shall  
184 extend the period for a taxpayer to file a claim under Subsection (2)(b) if:

185 (i) the three-year period under Subsection (2)(b) has not expired; and

186 (ii) the commission and the taxpayer sign a written agreement:

187 (A) authorizing the extension; and

188 (B) providing for the length of the extension.

189 (d) A taxpayer may file a claim to obtain a refund or credit under this Subsection (2)  
190 regardless of whether the taxpayer received or objected to a notice of deficiency or a notice of  
191 assessment as provided in Subsection 59-12-114(1).

192 (e) A taxpayer may obtain a refund under this Subsection (2) of a tax paid under this  
193 chapter on a sale or use that is taxable under Section 59-12-103 if:

194 (i) the sale or use was exempt from sales and use taxes under Section 59-12-104 on the  
195 date of purchase; and

196 (ii) except as provided in Subsection (2)(c), the taxpayer files a claim for a refund with the  
197 commission as provided in Subsections (2)(b) through (d).

198 [(e)] (f) If the commission denies a claim for a refund or credit under this Subsection (2),  
199 the taxpayer may request a redetermination of the denial by filing a petition or request for agency  
200 action with the commission as provided in Title 63, Chapter 46b, Administrative Procedures Act.

201 (3) If the commission erroneously determines an amount to be due from a taxpayer, the  
202 commission shall authorize the amounts to be cancelled upon its records.

203 (4) (a) Subject to the provisions of Subsection (4)(b), the commission may impose on a  
204 deficiency under this section:

205 (i) a penalty as provided in Section 59-1-401; and

206 (ii) interest as provided in Section 59-1-402.

207 (b) The commission may impose a penalty and interest on the entire deficiency if any part  
208 of the deficiency is due to:

209 (i) negligence;

210 (ii) intentional disregard of law or rule; or

211 (iii) fraud with intent to evade the tax.

212 (5) (a) Except as provided in Subsection (5)(b), a taxpayer shall pay a tax deficiency,  
213 including penalties or interest under this section, within ten days after the commission provides  
214 the taxpayer notice and demand of the deficiency, penalty, or interest.

215 (b) Notwithstanding Subsection (5)(a), a taxpayer may pay a tax deficiency, penalty, or  
216 interest within 30 days after the commission provides the taxpayer notice and demand of the  
217 deficiency, penalty, or interest if the commission determines:

218 (i) that a greater amount was due than was shown on the return; and

219 (ii) the tax is not in jeopardy.

220 (6) (a) Except as provided in Subsections (6)(c) through (f), the commission shall assess  
221 the amount of taxes imposed by this chapter, and any penalties and interest, within three years after  
222 a taxpayer files a return.

223 (b) Except as provided in Subsections (6)(c) through (f), if the commission does not make  
224 an assessment under Subsection (6)(a) within three years, the commission may not commence a  
225 proceeding for the collection of the taxes after the expiration of the three-year period.

226 (c) Notwithstanding Subsections (6)(a) and (b), the commission may make an assessment  
227 or commence a proceeding to collect a tax at any time if a deficiency is due to:

228 (i) fraud; or

229 (ii) failure to file a return.

230 (d) Notwithstanding Subsections (6)(a) and (b), beginning on July 1, 1998, the commission  
231 may extend the period to make an assessment or to commence a proceeding to collect the tax under  
232 this chapter if:

233 (i) the three-year period under this Subsection (6) has not expired; and

234 (ii) the commission and the taxpayer sign a written agreement:

235 (A) authorizing the extension; and

236 (B) providing for the length of the extension.

237 (e) If the commission delays an audit at the request of a taxpayer, the commission may  
238 make an assessment as provided in Subsection (6)(f) if:

239 (i) the taxpayer subsequently refuses to agree to an extension request by the commission;

240 and

241 (ii) the three-year period under this Subsection (6) expires before the commission

242 completes the audit.



243 (f) An assessment under Subsection (6)(e) shall be:  
244 (i) for the time period for which the commission could not make an assessment because  
245 of the expiration of the three-year period; and  
246 (ii) in an amount equal to the difference between:  
247 (A) the commission's estimate of the amount of taxes the taxpayer would have been  
248 assessed for the time period described in Subsection (6)(f)(i); and  
249 (B) the amount of taxes the taxpayer actually paid for the time period described in  
250 Subsection (6)(f)(i).