

1 **TRUTH IN TAXATION - JUDGMENT LEVY**

2 2000 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Howard A. Stephenson**

5 AN ACT RELATING TO THE PROPERTY TAX ACT; CLARIFYING THE ELIGIBILITY
6 REQUIREMENTS FOR THE IMPOSITION OF A JUDGMENT LEVY; MAKING TECHNICAL
7 CHANGES; AND PROVIDING FOR RETROSPECTIVE OPERATION.

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

9 AMENDS:

10 **59-2-102**, as last amended by Chapter 134, Laws of Utah 1999

11 **59-2-918.5**, as enacted by Chapter 353, Laws of Utah 1999

12 **59-2-924**, as last amended by Chapter 353, Laws of Utah 1999

13 **59-2-1328**, as last amended by Chapter 353, Laws of Utah 1999

14 **59-2-1330**, as last amended by Chapter 353, Laws of Utah 1999

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

16 Section 1. Section **59-2-102** is amended to read:

17 **59-2-102. Definitions.**

18 As used in this chapter and title:

19 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
20 engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness
21 certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft's use for
22 agricultural and pest control purposes.

23 (2) "Air charter service" means an air carrier operation which requires the customer to hire
24 an entire aircraft rather than book passage in whatever capacity is available on a scheduled trip.

25 (3) "Air contract service" means an air carrier operation available only to customers who
26 engage the services of the carrier through a contractual agreement and excess capacity on any trip
27 and is not available to the public at large.

28 (4) "Aircraft" is as defined in Section 72-10-102.

29 (5) "Airline" means any air carrier operating interstate routes on a scheduled basis which
30 offers to fly passengers or cargo on the basis of available capacity on regularly scheduled routes.

31 (6) "Assessment roll" means a permanent record of the assessment of property as assessed
32 by the county assessor and the commission and may be maintained manually or as a computerized
33 file as a consolidated record or as multiple records by type, classification, or categories.

34 (7) "Certified revenue levy" means a property tax levy that provides the same amount of
35 ad valorem property tax revenue as was collected for the prior year, plus new growth, but exclusive
36 of revenue from collections from redemptions, interest, and penalties.

37 (8) "County-assessed commercial vehicle" means:

38 (a) any commercial vehicle, trailer, or semitrailer which is not apportioned under Section
39 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or property in
40 furtherance of the owner's commercial enterprise;

41 (b) any passenger vehicle owned by a business and used by its employees for
42 transportation as a company car or vanpool vehicle; and

43 (c) vehicles which are:

44 (i) especially constructed for towing or wrecking, and which are not otherwise used to
45 transport goods, merchandise, or people for compensation;

46 (ii) used or licensed as taxicabs or limousines;

47 (iii) used as rental passenger cars, travel trailers, or motor homes;

48 (iv) used or licensed in this state for use as ambulances or hearses;

49 (v) especially designed and used for garbage and rubbish collection; or

50 (vi) used exclusively to transport students or their instructors to or from any private,
51 public, or religious school or school activities.

52 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,
53 "designated tax area" means a tax area created by the overlapping boundaries of only the following
54 taxing entities:

55 (i) a county; and

56 (ii) a school district.

57 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created
58 by the overlapping boundaries of:

59 (i) the taxing entities described in Subsection (9)(a); and

60 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a) and
61 the boundaries of the city or town are identical; or

62 (B) a special service district if the boundaries of the school district under Subsection (9)(a)
63 are located entirely within the special service district.

64 (10) "Eligible judgment" means a judgment or final order under Section 59-2-1328 or
65 Section 59-2-1330:

66 (a) that became a final and unappealable judgment or order no more than 14 months prior
67 to the day on which the notice required by Subsection 59-2-919(4) is required to be mailed; and

68 (b) for which a taxing entity's share of the judgment or order is greater than or equal to the
69 lesser of:

70 (i) \$1,000; or

71 (ii) 1% of the total ad valorem property taxes collected by the taxing entity in the previous
72 fiscal year.

73 [~~(10)~~] (11) (a) "Escaped property" means any property, whether personal, land, or any
74 improvements to the property, subject to taxation and is:

75 (i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
76 to the wrong taxpayer by the assessing authority;

77 (ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
78 comply with the reporting requirements of this chapter; or

79 (iii) undervalued because of errors made by the assessing authority based upon incomplete
80 or erroneous information furnished by the taxpayer.

81 (b) Property which is undervalued because of the use of a different valuation methodology
82 or because of a different application of the same valuation methodology is not "escaped property."

83 [~~(11)~~] (12) "Fair market value" means the amount at which property would change hands
84 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and
85 both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair market
86 value" shall be determined using the current zoning laws applicable to the property in question,
87 except in cases where there is a reasonable probability of a change in the zoning laws affecting that
88 property in the tax year in question and the change would have an appreciable influence upon the
89 value.

90 [~~(12)~~] (13) "Farm machinery and equipment," for purposes of the exemption provided
91 under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,
92 feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,
93 tillage tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or
94 equipment used primarily for agricultural purposes; but does not include vehicles required to be
95 registered with the Motor Vehicle Division or vehicles or other equipment used for business
96 purposes other than farming.

97 [~~(13)~~] (14) "Geothermal fluid" means water in any form at temperatures greater than 120
98 degrees centigrade naturally present in a geothermal system.

99 [~~(14)~~] (15) "Geothermal resource" means:

100 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade; and

101 (b) the energy, in whatever form, including pressure, present in, resulting from, created by,
102 or which may be extracted from that natural heat, directly or through a material medium.

103 [~~(15)~~] (16) "Improvements" includes all buildings, structures, fixtures, fences, and
104 improvements erected upon or affixed to the land, whether the title has been acquired to the land
105 or not.

106 [~~(16)~~] (17) "Intangible property":

107 (a) means property that is capable of private ownership separate from tangible property;

108 and

109 (b) includes:

110 (i) moneys;

111 (ii) credits;

112 (iii) bonds;

113 (iv) stocks;

114 (v) representative property;

115 (vi) franchises;

116 (vii) licenses;

117 (viii) trade names;

118 (ix) copyrights; and

119 (x) patents.

120 [~~(17)~~] (18) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

121 [~~(18)~~] (19) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
122 valuable mineral.

123 [~~(19)~~] (20) "Mining" means the process of producing, extracting, leaching, evaporating,
124 or otherwise removing a mineral from a mine.

125 [~~(20)~~] (21) (a) "Mobile flight equipment" means tangible personal property that is:

126 (i) owned or operated by an:

127 (A) air charter service;

128 (B) air contract service; or

129 (C) airline; and

130 (ii) (A) capable of flight;

131 (B) attached to an aircraft that is capable of flight; or

132 (C) contained in an aircraft that is capable of flight if the tangible personal property is
133 intended to be used:

134 (I) during multiple flights;

135 (II) during a takeoff, flight, or landing; and

136 (III) as a service provided by an air charter service, air contract service, or airline.

137 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare engine
138 that is rotated:

139 (A) at regular intervals; and

140 (B) with an engine that is attached to the aircraft.

141 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
142 commission may make rules defining the term "regular intervals."

143 [~~(21)~~] (22) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
144 sand, rock, gravel, and all carboniferous materials.

145 [~~(22)~~] (23) "Personal property" includes:

146 (a) every class of property as defined in Subsection [~~(23)~~] (24) which is the subject of
147 ownership and not included within the meaning of the terms "real estate" and "improvements";

148 (b) gas and water mains and pipes laid in roads, streets, or alleys;

149 (c) bridges and ferries; and

150 (d) livestock which, for the purposes of the exemption provided under Section 59-2-1112,
151 means all domestic animals, honeybees, poultry, fur-bearing animals, and fish.

152 [~~(23)~~] (24) (a) "Property" means property that is subject to assessment and taxation
153 according to its value.

154 (b) "Property" does not include intangible property as defined in this section.

155 [~~(24)~~] (25) "Public utility," for purposes of this chapter, means the operating property of
156 a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
157 company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation
158 where the company performs the service for, or delivers the commodity to, the public generally
159 or companies serving the public generally, or in the case of a gas corporation or an electrical
160 corporation, where the gas or electricity is sold or furnished to any member or consumers within
161 the state for domestic, commercial, or industrial use. Public utility also means the operating
162 property of any entity or person defined under Section 54-2-1 except water corporations.

163 [~~(25)~~] (26) "Real estate or property" includes:

164 (a) the possession of, claim to, ownership of, or right to the possession of land;

165 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
166 individuals or corporations growing or being on the lands of this state or the United States, and all
167 rights and privileges appertaining to these; and

168 (c) improvements.

169 [~~(26)~~] (27) "Residential property," for the purposes of the reductions and adjustments
170 under this chapter, means any property used for residential purposes as a primary residence. It
171 does not include property used for transient residential use or condominiums used in rental pools.

172 [~~(27)~~] (28) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number
173 of miles calculated by the commission that is:

174 (a) measured in a straight line by the commission; and

175 (b) equal to the distance between a geographical location that begins or ends:

176 (i) at a boundary of the state; and

177 (ii) where an aircraft:

178 (A) takes off; or

179 (B) lands.

180 [~~(28)~~] (29) (a) "State-assessed commercial vehicle" means:

181 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate to
182 transport passengers, freight, merchandise, or other property for hire; or

183 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and transports
184 the vehicle owner's goods or property in furtherance of the owner's commercial enterprise.

185 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which are
186 specified in Subsection (8)(c) as county-assessed commercial vehicles.

187 [~~29~~] (30) "Taxable value" means fair market value less any applicable reduction allowed
188 for residential property under Section 59-2-103.

189 [~~30~~] (31) "Tax area" means a geographic area created by the overlapping boundaries of
190 one or more taxing entities.

191 [~~31~~] (32) "Taxing entity" means any county, city, town, school district, special taxing
192 district, or any other political subdivision of the state with the authority to levy a tax on property.

193 [~~32~~] (33) "Tax roll" means a permanent record of the taxes charged on property, as
194 extended on the assessment roll and may be maintained on the same record or records as the
195 assessment roll or may be maintained on a separate record properly indexed to the assessment roll.
196 It includes tax books, tax lists, and other similar materials.

197 Section 2. Section **59-2-918.5** is amended to read:

198 **59-2-918.5. Hearings on judgment levies -- Advertisement.**

199 (1) A taxing entity may not impose a judgment levy unless it first advertises its intention
200 to do so and holds a public hearing in accordance with the requirements of this section.

201 (2) (a) The advertisement required by this section may be combined with the advertisement
202 required by either Section 59-2-918 or Section 59-2-919.

203 (b) The advertisement shall be at least 1/8 of a page in size and shall meet the type,
204 placement, and frequency requirements established under Section 59-2-919.

205 (c) (i) For taxing entities operating under a July 1 through June 30 fiscal year the public
206 hearing shall be held at the same time as the hearing at which the annual budget is adopted.

207 (ii) For taxing entities operating under a January 1 through December 31 fiscal year:

208 (A) for eligible judgments issued from June 1 through December 15, the public hearing
209 shall be held at the same time as the hearing at which the annual budget is adopted; and

210 (B) for eligible judgments issued from December 16 through May 31, the public hearing
211 shall be held at the same time as the hearing at which property tax levies are set.

212 (3) The advertisement shall specify the date, time, and location of the public hearing at
213 which the levy will be considered and shall set forth the total [~~judgment~~] amount of the eligible

214 judgment and the tax impact on an average residential and business property located within the
215 taxing entity.

216 (4) If a final decision regarding the judgment levy is not made at the public hearing, the
217 taxing entity shall announce at the public hearing the scheduled time and place for consideration
218 and adoption of the judgment levy.

219 (5) The date, time, and place of public hearings required by Subsections 59-2-918.5(c)(i)
220 and 59-2-918.5(c)(ii)(B) shall be included on the notice mailed to property owners pursuant to
221 Subsection 59-2-919(4).

222 Section 3. Section **59-2-924** is amended to read:

223 **59-2-924. Report of valuation of property to county auditor and commission --**
224 **Transmittal by auditor to governing bodies -- Certified tax rate -- Adoption of tentative**
225 **budget.**

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

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

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

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

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

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

236 (iii) the certified tax rate; and

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

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

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

241 (A) collections from redemptions;

242 (B) interest; and

243 (C) penalties.

244 (iii) Except as provided in Subsection (2)(a)(iv), the certified tax rate shall be calculated

245 by dividing the ad valorem property tax revenues collected for the prior year by the taxing entity
246 by the taxable value established in accordance with Section 59-2-913.

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

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

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

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

254 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
255 purposes and such other levies imposed solely for the municipal-type services identified in Section
256 17-34-2 and Subsection 17-36-3(22);

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

260 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,
261 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

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

264 (v) (A) A judgment levy imposed under Section 59-2-1328 or Section 59-2-1330 shall be
265 established at that rate which is sufficient to generate only the revenue required to satisfy [~~the~~
266 ~~known, unpaid judgments~~] one or more eligible judgments, as defined in Section 59-2-102.

267 (B) The ad valorem property tax revenue generated by the judgment levy shall not be
268 considered in establishing the taxing entity's aggregate certified tax rate.

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

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

273 (iii) "New growth" means:

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

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

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

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

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

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

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

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

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

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

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

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

307 auditor of:

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

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

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

312 (4) (a) The taxable value for the base year under Subsection 17A-2-1247(2)(a) or
313 17A-2-1202(2), as the case may be, shall be reduced for any year to the extent necessary to provide
314 a redevelopment agency established under Title 17A, Chapter 2, Part 12, Utah Neighborhood
315 Development Act, with approximately the same amount of money the agency would have received
316 without a reduction in the county's certified tax rate if:

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

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

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

323 (b) The taxable value of the base year under Subsection 17A-2-1247(2)(a) or
324 17A-2-1202(2), as the case may be, shall be increased in any year to the extent necessary to
325 provide a redevelopment agency with approximately the same amount of money as the agency
326 would have received without an increase in the certified tax rate that year if:

327 (i) in that year the taxable value for the base year under Subsection 17A-2-1247(2) or
328 17A-2-1202(2) is reduced due to a decrease in the certified tax rate under Subsection (2)(c) or
329 (2)(d)(i); and

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

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

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

- 342 (i) governing body; and
- 343 (ii) people as provided in Subsection (5)(b).

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

- 346 (i) hold an election on the fourth Tuesday in June; and
- 347 (ii) conduct the election according to the procedures and requirements of Title 20A,
348 Election Code, governing local elections.

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

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

- 353 (i) under Section 53A-17a-135, if the Legislature increases the minimum basic tax rate
354 under Section 53A-17a-135;
- 355 (ii) under Section 53A-21-103;
- 356 (iii) under Section 53A-16-111;
- 357 (iv) if, on or after January 1, 1997, but on or before December 31, 1997, the school district
358 obtained voter approval to impose the tax rate; or
- 359 (v) if, on or after January 1, 1998, the school district obtains voter approval to impose the
360 tax rate under a statutory provision, other than the provisions of this section, requiring voter
361 approval to impose the tax rate.

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

- 364 (i) the municipality meets the requirements of Sections 59-2-918 and 59-2-919; and
- 365 (ii) in adopting the resolution required under Section 59-2-919, the municipal legislative
366 body obtains approval to impose the tax rate by two-thirds of all members of the municipal
367 legislative body.

368 (f) Notwithstanding Subsection (5)(a), a county or municipality is not required to obtain

369 voter approval under this Subsection (5) to impose a tax rate under Section 17A-2-1322 that
 370 exceeds the certified tax rate calculated for a special service district established under Title 17A,
 371 Chapter 2, Part 13, Utah Special Service District Act, if the county or municipality obtained voter
 372 approval to impose a tax on property within the special service district:

- 373 (i) under Section 17A-2-1322; and
 374 (ii) on or after June 1, 1996.

375 Section 4. Section **59-2-1328** is amended to read:

376 **59-2-1328. Payment under protest -- Judgment for recovery -- Payment -- Tax levy.**

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

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

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

391 (2) (a) Each taxing entity may levy a tax to pay its share of [~~the judgment under Subsection~~
 392 ~~(1)~~] one or more eligible judgments, as defined in Section 59-2-102.

393 (b) [~~This~~] The levy under Subsection (2)(a) is in addition to, and exempt from, the
 394 maximum levy established for the taxing entity.

395 [~~No taxing entity may impose a judgment levy under this section if the amount of the~~
 396 ~~judgment is less than the smaller of:]~~

397 [~~(i) \$1000; or~~]

398 [~~(ii) 1% of the total ad valorem property taxes collected by the taxing entity in the previous~~
 399 ~~fiscal year.]~~

399a **§ (3) UNLESS OTHERWISE AGREED TO BY A TAXING ENTITY AND A TAXPAYER, ALL REFUNDS**
 399b **AND INTEREST ORDERED UNDER THIS SECTION SHALL BE PAID BY TAXING ENTITIES TO**
 399c **TAXPAYERS: §**

- 399d — (a) WITHIN 60 DAYS OF THE DATE THE REFUND IS ORDERED; OR
- 399e (b) IF A JUDGMENT LEVY IS IMPOSED BY THE TAXING ENTITY RELATING TO THE REFUND,
- 399f NO LATER THAN DECEMBER 31 OF THE YEAR IN WHICH THE JUDGMENT LEVY IS IMPOSED. §

400 Section 5. Section **59-2-1330** is amended to read:

401 **59-2-1330. Payment of property taxes -- Unlawful collection by county -- Liability**
402 **of state or taxing entity -- Disputed taxes.**

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

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

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

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

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

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

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

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

419 (ii) (A) on the amount of taxes received from the time the state or a taxing entity received
420 the taxes; and

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

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

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

426 (ii) the amount of the judgment levy is included on the notice under Section 59-2-919; and

427 (iii) the judgment or final order is an eligible judgment, as defined in Section 59-2-102.

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

430 ~~[(c) No taxing entity may impose a judgment levy under this section if the amount of the~~

431 judgment is less than the smaller of:]

432 (i) ~~\$1000; or~~

433 (ii) ~~1% of the total ad valorem property taxes collected by the taxing entity in the previous~~
434 ~~fiscal year.]~~

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

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

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

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

443a **§ (6) UNLESS OTHERWISE AGREED TO BY A TAXING ENTITY AND A TAXPAYER, ALL REFUNDS**
443b **AND INTEREST ORDERED UNDER THIS SECTION SHALL BE PAID BY TAXING ENTITIES TO**
443c **TAXPAYERS:**

443d **(a) WITHIN 60 DAYS OF THE DATE THE REFUND IS ORDERED; OR**

443e **(b) IF A JUDGMENT LEVY IS IMPOSED BY THE TAXING ENTITY RELATING TO THE REFUND,**
443f **NO LATER THAN DECEMBER 31 OF THE YEAR IN WHICH THE JUDGMENT LEVY IS IMPOSED. §**

444 Section 6. **Retrospective operation.**

445 This act has retrospective operation to January 1, 2000.

Legislative Review Note

as of 12-15-99 11:18 AM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel

Committee Note

The Revenue and Taxation Interim Committee recommended this bill.