

1 **EXEMPTIONS TO RESIDENTIAL PROPERTY**

2 **TAX**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Ed P. Mayne**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies the Property Tax Act to amend residential property tax exemption
10 provisions and certified tax rate provisions.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides definitions;
- 14 ▶ provides for an exemption from taxation of a portion of the fair market value of a
15 qualifying secondary residence;
- 16 ▶ clarifies the exemption from taxation of a portion of the fair market value of a
17 primary residence;
- 18 ▶ establishes procedures and requirements for claiming an exemption for a qualifying
19 secondary residence;
- 20 ▶ requires the State Tax Commission to make distributions from the General Fund to
21 counties for the amount of exemptions claimed for qualifying secondary residences;
- 22 ▶ establishes procedures for making such distributions;
- 23 ▶ provides that certain adjustments shall be made to a taxing entity's certified tax rate
24 to offset the amounts of residential exemptions allowed to qualifying secondary
25 residences; and
- 26 ▶ makes technical changes.

27 **Monies Appropriated in this Bill:**



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **59-2-102**, as last amended by Chapter 113, Laws of Utah 2003

34 **59-2-103**, as last amended by Chapter 275, Laws of Utah 1995

35 **59-2-924**, as last amended by Chapter 122, Laws of Utah 2003

36 ENACTS:

37 **59-2-1115**, Utah Code Annotated 1953



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

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

41 **59-2-102. Definitions.**

42 As used in this chapter and title:

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

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

50 (3) "Air contract service" means an air carrier operation that is:

51 (a) available only to customers who engage the services of the carrier through a
52 contractual agreement and excess capacity on any trip; and [is]

53 (b) not available to the public at large.

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

55 (5) "Airline" means any air carrier operating interstate routes on a scheduled basis
56 [which] that offers to fly passengers or cargo on the basis of available capacity on regularly
57 scheduled routes.

58 (6) "Assessment roll" means a permanent record of the assessment of property;

59 (a) as assessed by the county assessor and the commission; and

60 (b) that may be maintained manually or as a computerized file as a consolidated record
61 or as multiple records by type, classification, or categories.

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

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

66 (a) any commercial vehicle, trailer, or semitrailer [~~which~~] that:

67 (i) is not apportioned under Section 41-1a-301; and

68 (ii) is not operated interstate to transport the vehicle owner's goods or property in
69 furtherance of the owner's commercial enterprise;

70 (b) any passenger vehicle;

71 (i) owned by a business; and

72 (ii) used by [~~its~~] the business' employees for transportation as a company car or
73 vanpool vehicle; and

74 (c) vehicles [~~which~~] that are:

75 (i) especially constructed for towing or wrecking, and [~~which~~] that are not otherwise
76 used to transport goods, merchandise, or people for compensation;

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

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

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

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

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

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

86 (i) a county; and

87 (ii) a school district.

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

90 (i) the taxing entities described in Subsection (9)(a); and
91 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
92 and the boundaries of the city or town are identical; or

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

95 (10) "Eligible judgment" means a final and unappealable judgment or order under
96 Section 59-2-1330:

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

100 (b) for which a taxing entity's share of the final and unappealable judgment or order is
101 greater than or equal to the lesser of:

102 (i) \$5,000; or

103 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
104 previous fiscal year.

105 (11) (a) "Escaped property" means any property, whether personal, land, or any
106 improvements to the property, subject to taxation and is:

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

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

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

113 (b) ~~[Property which]~~ "Escaped property" does not include property that is undervalued
114 because of the use of a different valuation methodology or because of a different application of
115 the same valuation methodology ~~[is not "escaped property."].~~

116 (12) "Fair market value" means the amount at which property would change hands
117 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
118 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
119 market value" shall be determined using the current zoning laws applicable to the property in
120 question, except in cases where there is a reasonable probability of a change in the zoning laws

121 affecting that property in the tax year in question and the change would have an appreciable
122 influence upon the value.

123 (13) (a) "Farm machinery and equipment," for purposes of the exemption provided
124 under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,
125 feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,
126 tillage tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery
127 or equipment used primarily for agricultural purposes[~~;~~ but].

128 (b) "Farm machinery and equipment" does not include:

129 (i) vehicles required to be registered with the Motor Vehicle Division; or

130 (ii) vehicles or other equipment used for business purposes other than farming.

131 (14) "Geothermal fluid" means water in any form at temperatures greater than 120
132 degrees centigrade naturally present in a geothermal system.

133 (15) "Geothermal resource" means:

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

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

138 (16) "Improvements" includes all buildings, structures, fixtures, fences, and
139 improvements erected upon or affixed to the land, whether the title has been acquired to the
140 land or not.

141 (17) "Intangible property" means:

142 (a) property that is capable of private ownership separate from tangible property,
143 including:

144 (i) moneys;

145 (ii) credits;

146 (iii) bonds;

147 (iv) stocks;

148 (v) representative property;

149 (vi) franchises;

150 (vii) licenses;

151 (viii) trade names;

- 152 (ix) copyrights; and
- 153 (x) patents; or
- 154 (b) a low-income housing tax credit.
- 155 (18) "Low-income housing tax credit" means:
- 156 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
- 157 or
- 158 (b) a low-income housing tax credit under:
- 159 (i) Section 59-7-607; or
- 160 (ii) Section 59-10-129.
- 161 (19) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 162 (20) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 163 valuable mineral.
- 164 (21) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 165 otherwise removing a mineral from a mine.
- 166 (22) (a) "Mobile flight equipment" means tangible personal property that is:
- 167 (i) owned or operated by an:
- 168 (A) air charter service;
- 169 (B) air contract service; or
- 170 (C) airline; and
- 171 (ii) (A) capable of flight;
- 172 (B) attached to an aircraft that is capable of flight; or
- 173 (C) contained in an aircraft that is capable of flight if the tangible personal property is
- 174 intended to be used:
- 175 (I) during multiple flights;
- 176 (II) during a takeoff, flight, or landing; and
- 177 (III) as a service provided by an air charter service, air contract service, or airline.
- 178 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
- 179 engine that is rotated:
- 180 (A) at regular intervals; and
- 181 (B) with an engine that is attached to the aircraft.
- 182 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

183 the commission may make rules defining the term "regular intervals."

184 (23) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
185 sand, rock, gravel, and all carboniferous materials.

186 (24) "Personal property" includes:

187 (a) ~~[every]~~ each class of property as defined in Subsection ~~[(25) which]~~ (26) that is:

188 (i) the subject of ownership; and

189 (ii) not [~~included within the meaning of the terms "~~real estate~~" and "improvements"~~];

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

191 (c) bridges and ferries; and

192 (d) livestock which, for the purposes of the exemption provided under Section

193 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish.

194 (25) (a) "Primary residence" means property used:

195 (i) for residential purposes; and

196 (ii) as a domicile.

197 (b) "Primary residence" does not include:

198 (i) property used as a transient residence; or

199 (ii) a condominium used in a rental pool.

200 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the

201 commission may by rule define the terms:

202 (i) "domicile";

203 (ii) "rental pool"; or

204 (iii) "transient residence."

205 ~~[(25)]~~ (26) (a) "Property" means property that is subject to assessment and taxation
206 according to its value.

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

208 ~~[(26)]~~ (27) "Public utility," for purposes of this chapter, means the operating property
209 of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
210 company, electrical corporation, telephone corporation, sewerage corporation, or heat
211 corporation where the company performs the service for, or delivers the commodity to, the
212 public generally or companies serving the public generally, or in the case of a gas corporation
213 or an electrical corporation, where the gas or electricity is sold or furnished to any member or

214 consumers within the state for domestic, commercial, or industrial use. Public utility also
215 means the operating property of any entity or person defined under Section 54-2-1 except water
216 corporations.

217 (28) (a) "Qualifying secondary residence" means property that:

218 (i) is used for residential purposes;

219 (ii) is not a primary residence;

220 (iii) is not connected to a sewer system or water system that is operated by:

221 (A) a county;

222 (B) a city;

223 (C) a town;

224 (D) a special district created under Title 17A, Special Districts;

225 (E) a local district created under Title 17B, Chapter 2, Local Districts; or

226 (F) an interlocal cooperation entity created under Title 11, Chapter 13, Interlocal
227 Cooperation Act; and

228 (iv) is not rented to another person during a calender year for which a residential
229 exemption for a qualifying secondary residence is claimed in accordance with Section
230 52-2-1115.

231 (b) "Qualifying secondary residence" does not include:

232 (i) a condominium used in a rental pool;

233 (ii) a houseboat;

234 (iii) property owned by:

235 (A) a for-profit business entity; or

236 (B) more than two persons, unless the persons are related persons;

237 (iv) a recreational vehicle as defined in Section 13-14-102;

238 (v) a tent; or

239 (vi) property similar to the property described in Subsections (28)(b)(i) through (v).

240 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the
241 commission may make rules defining:

242 (i) the terms:

243 (A) "houseboat";

244 (B) "rental pool"; or

245 (C) "tent"; or
 246 (ii) what constitutes property similar to the property described in Subsections (28)(b)(i)
 247 through (v).

248 [~~(27)~~] (29) "Real estate" or "real property" includes:

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

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

253 (c) improvements.

254 (30) For purposes of Subsection (28), "related persons" means a relationship in which
 255 each owner of a residence is related to all of the other owners of the residence as:

256 (a) an ancestor;

257 (b) a brother or sister by the whole or half blood;

258 (c) a lineal descendant;

259 (d) a spouse;

260 (e) a stepbrother or stepsister;

261 (f) a stepfather or stepmother;

262 (g) a stepgrandchild;

263 (h) a stepdaughter or stepson; or

264 (i) a spouse of an owner described in Subsections (30)(a) through (h).

265 [~~(28)~~] (31) "Residential property," for the purposes of the reductions and adjustments
 266 under this chapter, means [any property used for residential purposes as]:

267 (a) a primary residence[. It does not include property used for transient residential use
 268 or condominiums used in rental pools.]; or

269 (b) a qualifying secondary residence.

270 [~~(29)~~] (32) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number
 271 of miles calculated by the commission that is:

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

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

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

275 (ii) where an aircraft:

276 (A) takes off; or

277 (B) lands.

278 [~~(30)~~] (33) (a) "State-assessed commercial vehicle" means:

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

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

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

286 [~~(31)~~] (34) "Taxable value" means fair market value less any applicable reduction
287 allowed for residential property under Section 59-2-103.

288 [~~(32)~~] (35) "Tax area" means a geographic area created by the overlapping boundaries
289 of one or more taxing entities.

290 [~~(33)~~] (36) "Taxing entity" means any county, city, town, school district, special taxing
291 district, or any other political subdivision of the state with the authority to levy a tax on
292 property.

293 [~~(34)~~] (37) (a) "Tax roll" means a permanent record of the taxes charged on property[;]:

294 (i) as extended on the assessment roll; and

295 (ii) that may be maintained on:

296 (A) the same record or records as the assessment roll; or [~~may be maintained on~~]

297 (B) a separate record properly indexed to the assessment roll. [~~It~~]

298 (b) "Tax roll" includes tax books, tax lists, and other similar materials.

299 Section 2. Section **59-2-103** is amended to read:

300 **59-2-103. Rate of assessment of property -- Residential property.**

301 (1) [~~At~~] Unless otherwise provided by law, all tangible taxable property shall be
302 assessed and taxed at a uniform and equal rate on the basis of [~~its~~] the property's fair market
303 value, as valued on January 1 [~~, unless otherwise provided by law~~].

304 (2) [~~Beginning January 1, 1995, the~~] The fair market value of residential property [~~shall~~
305 ~~be reduced by 45%, representing a residential exemption allowed under Utah Constitution~~
306 ~~Article XIII, Section 2, Utah Constitution.~~] is subject to the following residential exemptions:

307 (a) beginning on January 1, 1995, 45% of the fair market value of each primary
308 residence in the state is exempt; and

309 (b) subject to Section 59-2-1115, beginning on January 1, 2005, 25% of up to the first
310 \$100,000 of the fair market value of a qualifying secondary residence in the state is exempt.

311 (3) No more than one acre of land per residential unit may qualify for ~~[the]~~ a residential
312 exemption under this section.

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

314 **59-2-924. Report of valuation of property to county auditor and commission --**
315 **Transmittal by auditor to governing bodies -- Certified tax rate -- Rulemaking authority**
316 **-- Adoption of tentative budget.**

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

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

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

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

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

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

327 (iii) the certified tax rate; and

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

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

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

334 (A) collections from redemptions;

335 (B) interest; and

336 (C) penalties.

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

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

340 (iv) (A) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking
341 Act, the commission shall make rules determining the calculation of ad valorem property tax
342 revenues budgeted by a taxing entity.

343 (B) For purposes of Subsection (2)(a)(iv)(A), ad valorem property tax revenues
344 budgeted by a taxing entity shall be calculated in the same manner as budgeted property tax
345 revenues are calculated for purposes of Section 59-2-913.

346 (v) The certified tax rates for the taxing entities described in this Subsection (2)(a)(v)
347 shall be calculated as follows:

348 (A) except as provided in Subsection (2)(a)(v)(B), for new taxing entities the certified
349 tax rate is zero;

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

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

353 (II) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
354 purposes and such other levies imposed solely for the municipal-type services identified in
355 Section 17-34-1 and Subsection 17-36-3(22);

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

359 (I) school leeways provided for under Sections 11-2-7, 53A-16-110, 53A-17a-125,
360 53A-17a-127, 53A-17a-134, 53A-17a-143, 53A-17a-145, and 53A-21-103; and

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

363 (vi) (A) A judgment levy imposed under Section 59-2-1328 or Section 59-2-1330 shall
364 be established at that rate which is sufficient to generate only the revenue required to satisfy
365 one or more eligible judgments, as defined in Section 59-2-102.

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

368 (b) (i) For the purpose of calculating the certified tax rate, the county auditor shall use

369 the taxable value of property on the assessment roll.

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

372 (iii) "New growth" means:

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

375 (B) the amount of an increase in taxable value described in Subsection (2)(b)(iv).

376 (iv) Subsection (2)(b)(iii)(B) applies to the following increases in taxable value:

377 (A) the amount of increase to locally assessed real property taxable values resulting
378 from factoring, reappraisal, or any other adjustments; or

379 (B) the amount of an increase in the taxable value of property assessed by the
380 commission under Section 59-2-201 resulting from a change in the method of apportioning the
381 taxable value prescribed by:

382 (I) the Legislature;

383 (II) a court;

384 (III) the commission in an administrative rule; or

385 (IV) the commission in an administrative order.

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

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

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

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

398 (ii) The commission shall determine estimates of sales and use tax distributions for
399 purposes of Subsection (2)(d)(i).

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

405 (f) For the calendar year beginning on January 1, 1999, and ending on December 31,
406 1999, a taxing entity's certified tax rate shall be adjusted by the amount necessary to offset the
407 adjustment in revenues from uniform fees on tangible personal property under Section
408 59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property under
409 Section 59-2-405.1 enacted by the Legislature during the 1998 Annual General Session.

410 (g) For purposes of Subsections (2)(h) through (j):

411 (i) "1998 actual collections" means the amount of revenues a taxing entity actually
412 collected for the calendar year beginning on January 1, 1998, under Section 59-2-405 for:

413 (A) motor vehicles required to be registered with the state that weigh 12,000 pounds or
414 less; and

415 (B) state-assessed commercial vehicles required to be registered with the state that
416 weigh 12,000 pounds or less.

417 (ii) "1999 actual collections" means the amount of revenues a taxing entity actually
418 collected for the calendar year beginning on January 1, 1999, under Section 59-2-405.1.

419 (h) For the calendar year beginning on January 1, 2000, the commission shall make the
420 following adjustments:

421 (i) the commission shall make the adjustment described in Subsection (2)(i)(i) if, for
422 the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were
423 greater than the sum of:

424 (A) the taxing entity's 1999 actual collections; and

425 (B) any adjustments the commission made under Subsection (2)(f);

426 (ii) the commission shall make the adjustment described in Subsection (2)(i)(ii) if, for
427 the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were
428 greater than the taxing entity's 1999 actual collections, but the taxing entity's 1998 actual
429 collections were less than the sum of:

430 (A) the taxing entity's 1999 actual collections; and

- 431 (B) any adjustments the commission made under Subsection (2)(f); and
432 (iii) the commission shall make the adjustment described in Subsection (2)(i)(iii) if, for
433 the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were
434 less than the taxing entity's 1999 actual collections.
- 435 (i) (i) For purposes of Subsection (2)(h)(i), the commission shall increase a taxing
436 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
437 Section 59-2-906.1 by the amount necessary to offset the difference between:
- 438 (A) the taxing entity's 1998 actual collections; and
439 (B) the sum of:
440 (I) the taxing entity's 1999 actual collections; and
441 (II) any adjustments the commission made under Subsection (2)(f).
- 442 (ii) For purposes of Subsection (2)(h)(ii), the commission shall decrease a taxing
443 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
444 Section 59-2-906.1 by the amount necessary to offset the difference between:
- 445 (A) the sum of:
446 (I) the taxing entity's 1999 actual collections; and
447 (II) any adjustments the commission made under Subsection (2)(f); and
448 (B) the taxing entity's 1998 actual collections.
- 449 (iii) For purposes of Subsection (2)(h)(iii), the commission shall decrease a taxing
450 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
451 Section 59-2-906.1 by the amount of any adjustments the commission made under Subsection
452 (2)(f).
- 453 (j) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
454 purposes of Subsections (2)(f) through (i), the commission may make rules establishing the
455 method for determining a taxing entity's 1998 actual collections and 1999 actual collections.
- 456 (k) (i) (A) For fiscal year 2000, the certified tax rate of each county required under
457 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the
458 unincorporated area of the county shall be decreased by the amount necessary to reduce
459 revenues in that fiscal year by an amount equal to the difference between the amount the county
460 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services
461 countywide and the amount the county spent during fiscal year 2000 for those services,

462 excluding amounts spent from a municipal services fund for those services.

463 (B) For fiscal year 2001, the certified tax rate of each county to which Subsection
464 (2)(k)(i)(A) applies shall be decreased by the amount necessary to reduce revenues in that fiscal
465 year by the amount that the county spent during fiscal year 2000 for advanced life support and
466 paramedic services countywide, excluding amounts spent from a municipal services fund for
467 those services.

468 (ii) (A) A city or town located within a county of the first class to which Subsection
469 (2)(k)(i) applies may increase its certified tax rate by the amount necessary to generate within
470 the city or town the same amount of revenues as the county would collect from that city or
471 town if the decrease under Subsection (2)(k)(i) did not occur.

472 (B) An increase under Subsection (2)(k)(ii)(A), whether occurring in a single fiscal
473 year or spread over multiple fiscal years, is not subject to the notice and hearing requirements
474 of Sections 59-2-918 and 59-2-919.

475 (l) (i) The certified tax rate of each county required under Subsection 17-34-1(4)(b) to
476 provide detective investigative services to the unincorporated area of the county shall be
477 decreased:

478 (A) in fiscal year 2001 by the amount necessary to reduce revenues in that fiscal year
479 by at least \$4,400,000; and

480 (B) in fiscal year 2002 by the amount necessary to reduce revenues in that fiscal year
481 by an amount equal to the difference between \$9,258,412 and the amount of the reduction in
482 revenues under Subsection (2)(l)(i)(A).

483 (ii) (A) (I) Beginning with municipal fiscal year 2002, a city or town located within a
484 county to which Subsection (2)(l)(i) applies may increase its certified tax rate to generate
485 within the city or town the same amount of revenue as the county would have collected during
486 county fiscal year 2001 from within the city or town except for Subsection (2)(l)(i)(A).

487 (II) Beginning with municipal fiscal year 2003, a city or town located within a county
488 to which Subsection (2)(l)(i) applies may increase its certified tax rate to generate within the
489 city or town the same amount of revenue as the county would have collected during county
490 fiscal year 2002 from within the city or town except for Subsection (2)(l)(i)(B).

491 (B) (I) Except as provided in Subsection (2)(l)(ii)(B)(II), an increase in the city or
492 town's certified tax rate under Subsection (2)(l)(ii)(A), whether occurring in a single fiscal year

493 or spread over multiple fiscal years, is subject to the notice and hearing requirements of
494 Sections 59-2-918 and 59-2-919.

495 (II) For an increase under this Subsection (2)(l)(ii) that generates revenue that does not
496 exceed the same amount of revenue as the county would have collected except for Subsection
497 (2)(l)(i), the requirements of Sections 59-2-918 and 59-2-919 do not apply if the city or town:

498 (aa) publishes a notice that meets the size, type, placement, and frequency requirements
499 of Section 59-2-919, reflects that the increase is a shift of a tax from one imposed by the county
500 to one imposed by the city or town, and explains how the revenues from the tax increase will
501 be used; and

502 (bb) holds a public hearing on the tax shift that may be held in conjunction with the
503 city or town's regular budget hearing.

504 (m) (i) This Subsection (2)(m) applies to each county that:

505 (A) establishes a countywide special service district under Title 17A, Chapter 2, Part
506 13, Utah Special Service District Act, to provide jail service, as provided in Subsection
507 17A-2-1304(1)(a)(x); and

508 (B) levies a property tax on behalf of the special service district under Section
509 17A-2-1322.

510 (ii) (A) The certified tax rate of each county to which this Subsection (2)(m) applies
511 shall be decreased by the amount necessary to reduce county revenues by the same amount of
512 revenues that will be generated by the property tax imposed on behalf of the special service
513 district.

514 (B) Each decrease under Subsection (2)(m)(ii)(A) shall occur contemporaneously with
515 the levy on behalf of the special service district under Section 17A-2-1322.

516 (n) (i) As used in this Subsection (2)(n):

517 (A) "Annexing county" means a county whose unincorporated area is included within a
518 fire district by annexation.

519 (B) "Annexing municipality" means a municipality whose area is included within a fire
520 district by annexation.

521 (C) "Equalized fire protection tax rate" means the tax rate that results from:

522 (I) calculating, for each participating county and each participating municipality, the
523 property tax revenue necessary to cover all of the costs associated with providing fire

524 protection, paramedic, and emergency services:

525 (aa) for a participating county, in the unincorporated area of the county; and

526 (bb) for a participating municipality, in the municipality; and

527 (II) adding all the amounts calculated under Subsection (2)(n)(i)(C)(I) for all
528 participating counties and all participating municipalities and then dividing that sum by the
529 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

530 (aa) for participating counties, in the unincorporated area of all participating counties;
531 and

532 (bb) for participating municipalities, in all the participating municipalities.

533 (D) "Fire district" means a county service area under Title 17A, Chapter 2, Part 4,
534 County Service Area Act, in the creation of which an election was not required under
535 Subsection 17B-2-214(3)(c).

536 (E) "Fire protection tax rate" means:

537 (I) for an annexing county, the property tax rate that, when applied to taxable property
538 in the unincorporated area of the county, generates enough property tax revenue to cover all the
539 costs associated with providing fire protection, paramedic, and emergency services in the
540 unincorporated area of the county; and

541 (II) for an annexing municipality, the property tax rate that generates enough property
542 tax revenue in the municipality to cover all the costs associated with providing fire protection,
543 paramedic, and emergency services in the municipality.

544 (F) "Participating county" means a county whose unincorporated area is included
545 within a fire district at the time of the creation of the fire district.

546 (G) "Participating municipality" means a municipality whose area is included within a
547 fire district at the time of the creation of the fire district.

548 (ii) In the first year following creation of a fire district, the certified tax rate of each
549 participating county and each participating municipality shall be decreased by the amount of
550 the equalized fire protection tax rate.

551 (iii) In the first year following annexation to a fire district, the certified tax rate of each
552 annexing county and each annexing municipality shall be decreased by the fire protection tax
553 rate.

554 (iv) Each tax levied under this section by a fire district shall be considered to be levied

555 by:

556 (A) each participating county and each annexing county for purposes of the county's
557 tax limitation under Section 59-2-908; and

558 (B) each participating municipality and each annexing municipality for purposes of the
559 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a
560 city.

561 (o) (i) As used in this Subsection (2)(o):

562 (A) "net decrease in residential exemptions allowed to qualifying secondary
563 residences" means the difference between the following if that difference is at least \$1:

564 (I) the amount of taxable value that a county assessor reports to the commission in
565 accordance with Subsection 59-2-1115(6) for a taxing entity for the current calendar year; and

566 (II) the amount of taxable value that the county assessor reported to the commission in
567 accordance with Subsection 59-2-1115(6) for that taxing entity for the calendar year
568 immediately preceding the current calendar year; and

569 (B) "net increase in residential exemptions allowed to qualifying secondary residences"
570 means the difference between the following if that difference is at least \$1:

571 (I) the amount of taxable value that a county assessor reported to the commission in
572 accordance with Subsection 59-2-1115(6) for a taxing entity for the calendar year immediately
573 preceding the current calendar year; and

574 (II) the amount of taxable value that the county assessor reports to the commission in
575 accordance with Subsection 59-2-1115(6) for that taxing entity for the current calendar year.

576 (ii) For the calendar year beginning on January 1, 2005, a taxing entity's certified tax
577 rate shall be decreased by the amount necessary to offset the total amount of taxable value that
578 a county assessor reports to the commission in accordance with Subsection 59-2-1115(6).

579 (iii) For calendar years beginning on or after January 1, 2006, if for the current calendar
580 year a county assessor reports to the commission in accordance with Subsection 59-2-1115(6)
581 that there is:

582 (A) a net decrease in residential exemptions allowed to qualifying secondary residences
583 for a taxing entity, the taxing entity's certified tax rate shall be increased by the amount
584 necessary to offset the amount of that net decrease in residential exemptions allowed to
585 qualifying secondary residences; or

586 (B) a net increase in residential exemptions allowed to qualifying secondary residences
587 for a taxing entity, the taxing entity's certified tax rate shall be decreased by the amount
588 necessary to offset the amount of that net increase in residential exemptions allowed to
589 qualifying secondary residences.

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

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

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

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

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

597 (4) (a) The taxable value for the base year under Subsection 17B-4-102(4) shall be
598 reduced for any year to the extent necessary to provide a redevelopment agency established
599 under Title 17B, Chapter 4, Redevelopment Agencies Act, with approximately the same
600 amount of money the agency would have received without a reduction in the county's certified
601 tax rate if:

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

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

606 (iii) the decrease results in a reduction of the amount to be paid to the agency under
607 Section 17B-4-1003 or 17B-4-1004.

608 (b) The base taxable value under Subsection 17B-4-102(4) shall be increased in any
609 year to the extent necessary to provide a redevelopment agency with approximately the same
610 amount of money as the agency would have received without an increase in the certified tax
611 rate that year if:

612 (i) in that year the base taxable value under Subsection 17B-4-102(4) is reduced due to
613 a decrease in the certified tax rate under Subsection (2)(c) or (2)(d)(i); and

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

616 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2)(c) or

617 (2)(d)(i), the amount of money allocated and, when collected, paid each year to a
618 redevelopment agency established under Title 17B, Chapter 4, Redevelopment Agencies Act,
619 for the payment of bonds or other contract indebtedness, but not for administrative costs, may
620 not be less than that amount would have been without a decrease in the certified tax rate under
621 Subsection (2)(c) or (2)(d)(i).

622 Section 4. Section **59-2-1115** is enacted to read:

623 **59-2-1115. Residential exemption for a qualifying secondary residence -- Signed**
624 **statement -- Distributions to county from General Fund -- Report to commission.**

625 (1) A county assessor shall allow a residential exemption for a qualifying secondary
626 residence if the county assessor determines that:

627 (a) the requirements of Subsection (2) are met;

628 (b) the property is a qualifying secondary residence; and

629 (c) none of the owners of the qualifying secondary residence claim a residential
630 exemption for any other qualifying secondary residence in the state.

631 (2) An owner of a qualifying secondary residence seeking to claim a residential
632 exemption provided for in Section 59-2-103 for the qualifying secondary residence shall file a
633 statement with the county assessor:

634 (a) of the county in which the qualifying secondary residence is located;

635 (b) that is signed by all of the owners of the qualifying secondary residence;

636 (c) subject to Subsection (4), on or before April 1 of the year for which the owner
637 requests the residential exemption for the qualifying secondary residence; and

638 (d) certifying that:

639 (i) the property is a qualifying secondary residence; and

640 (ii) none of the owners are claiming a residential exemption for any other qualifying
641 secondary residence in the state.

642 (3) An owner shall notify the county assessor in writing within 30 days after the day on
643 which:

644 (a) there is a change of ownership of the property;

645 (b) the property is not a qualifying secondary residence; or

646 (c) an owner applies to claim a residential exemption for another qualifying residence
647 in the state.

648 (4) If a county assessor allows a residential exemption for a qualifying secondary
649 residence under this section, for the time period during which the qualifying secondary
650 residence is eligible for the residential exemption:

651 (a) the statement described in Subsection (2) is valid; and
652 (b) another statement is not required to be filed in accordance with Subsection (2).

653 (5) (a) The commission shall make distributions from the General Fund in accordance
654 with this Subsection (5) to fund the residential exemptions a county assessor allows for
655 qualifying secondary residences within the county in accordance with:

656 (i) this section; and
657 (ii) Section 59-2-103.

658 (b) For purposes of Subsection (5)(a), a county legislative body shall submit to the
659 commission a list of:

660 (i) each owner signing a statement that is filed with the county assessor in accordance
661 with Subsection (2);

662 (ii) for each property allowed a residential exemption for a qualifying secondary
663 residence by the county assessor, the amount of the reduction of tax as a result of the residential
664 exemption; and

665 (iii) for all the properties allowed residential exemptions for qualifying secondary
666 residences by the county assessor, the total amount of the reduction of tax as a result of the
667 residential exemptions.

668 (c) The commission shall distribute the amount described in Subsection (5)(b)(iii):

669 (i) to the county in which the qualifying secondary residences described in Subsection
670 (5)(b)(iii) are located; and

671 (ii) (A) on or before January 1 of each year if the county legislative body submits the
672 list required by Subsection (5)(b):

673 (I) to the commission; and

674 (II) on or before November 30 of the year in which the residential exemptions for a
675 qualifying secondary residence are granted; or

676 (B) within 30 days after the day on which the county legislative body submits the list
677 required by Subsection (5)(b) to the commission if the county legislative body submits the list
678 required by Subsection (5)(b) after the date described in Subsection (5)(c)(ii)(A)(II).

679 (d) A county legislative body that receives a distribution from the commission as
680 provided in Subsection (5)(c) shall distribute the amount the county legislative body receives
681 from the commission:

682 (i) to a taxing entity within the county if within that taxing entity one or more
683 qualifying secondary residences are located for which the:

684 (A) county assessor allows a residential exemption; and
685 (B) county legislative body receives the distribution; and

686 (ii) in proportion to the percentage by which the total amount of taxable value that the
687 county assessor allows as a residential exemption for all qualifying secondary residences
688 located within each taxing entity described in Subsection (5)(d)(i) bears to the total taxable
689 value that the county assessor allows as a residential exemption for all qualifying secondary
690 residences:

691 (A) located within the county; and
692 (B) for which the county legislative body receives the distribution.

693 (6) For calendar years beginning on or after January 1, 2005, for each taxing entity
694 within which one or more qualifying secondary residences are located for which a county
695 assessor allows a residential exemption, the county assessor shall report to the commission in
696 writing:

697 (a) on or before June 1 of each calendar year; and
698 (b) the total amount of taxable value that the county assessor allows as a residential
699 exemption for all qualifying secondary residences located within that taxing entity for that
700 calendar year.

Legislative Review Note
as of 12-1-03 10:44 AM

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

Office of Legislative Research and General Counsel