

**EXEMPTIONS TO RESIDENTIAL PROPERTY
TAX**

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Ed Mayne

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- defines terms;
- provides for an exemption from taxation of a portion of the fair market value of a qualifying secondary residence;
- clarifies the exemption from taxation of a portion of the fair market value of a primary residence;
- establishes procedures and requirements for claiming an exemption for a qualifying secondary residence;
- requires the State Tax Commission to make distributions from the General Fund to counties for the amount of exemptions claimed for qualifying secondary residences;
- establishes procedures for making distributions from the General Fund;
- provides that certain adjustments shall be made to a taxing entity's certified tax rate to offset the amounts of residential exemptions allowed to qualifying secondary residences; and
- makes technical changes.

Monies Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 This bill takes effect on January 1, 2006.

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **59-2-102**, as last amended by Chapters 162, 243, 281 and 303, Laws of Utah 2004

34 **59-2-103**, as last amended by Chapters 90 and 281, Laws of Utah 2004

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

36 ENACTS:

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

38

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:

44 (a) used exclusively for the purpose of engaging in dispensing activities directly
45 affecting agriculture or horticulture [with]; and

46 (b) that has an airworthiness certificate from the Federal Aviation Administration
47 certifying the aircraft or rotorcraft's use for agricultural and pest control purposes.

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

51 (3) "Air contract service" means an air carrier operation that meets the following
52 criteria:

53 (a) the service is available only to customers who engage the services of the carrier
54 through a contractual agreement; and

55 (b) excess capacity on any trip [and] is not available to the public at large.

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

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

59 scheduled routes.

60 (6) "Assessment roll" means a permanent record of the assessment of property as
61 assessed by the county assessor and the commission and may be maintained manually or as a
62 computerized file;

63 (a) as a consolidated record; or

64 (b) as multiple records by:

65 (i) type[;];

66 (ii) classification[;]; or

67 (iii) categories.

68 (7) "Certified revenue levy" means a property tax levy that provides the same amount
69 of ad valorem property tax revenue as was collected for the prior year, plus new growth, but
70 exclusive of revenue from collections from:

71 (a) redemptions[;];

72 (b) interest[;]; and

73 (c) penalties.

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

75 (a) any commercial vehicle, trailer, or semitrailer ~~[which]~~ that is not:

76 (i) apportioned under Section 41-1a-301; and ~~[is not]~~

77 (ii) operated interstate to transport the vehicle owner's goods or property in furtherance
78 of the owner's commercial enterprise;

79 (b) any passenger vehicle;

80 (i) owned by a business; and

81 (ii) used by ~~[its]~~ the business' employees for transportation as a;

82 (A) company car; or

83 (B) vanpool vehicle; and

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

85 (i) especially constructed for towing or wrecking, and ~~[which]~~ are not otherwise used
86 to transport for compensation:

87 (A) goods[;];

88 (B) merchandise[;]; or

89 (C) people ~~[for compensation]~~;

(ii) used or licensed as:

(A) taxicabs; or

(B) limousines;

(iii) used as:

(A) rental passenger cars[;];

(B) travel trailers[;]; or

(C) motor homes;

(iv) used or licensed in this state for use as:

(A) ambulances; or

(B) hearses;

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

(vi) used exclusively to transport students or their instructors to or from any:

(A) private[;] activities;

(B) public[~~;~~~~or~~] activities;

(C) religious school activities; or

(D) school activities.

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

(i) a county; and

(ii) a school district.

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

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

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

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

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

(a) that became a final and unappealable judgment or order no more than 14 months

prior to the day on which the notice required by Subsection 59-2-919(4) is required to be mailed; and

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

(i) \$5,000; or

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

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

(i) the assessing authority:

(A) inadvertently [omitted] omits from the tax rolls~~[-assigned]~~;

(B) assigns to the incorrect parcel~~[-]~~; or ~~[assessed]~~

(C) assesses to the wrong taxpayer ~~[by the assessing authority]~~;

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

(iii) is undervalued because of errors made by the assessing authority based upon ~~[incomplete or erroneous]~~ information furnished by the taxpayer~~[-]~~ that is:

(A) incomplete; or

(B) erroneous.

(b) ~~[Property which]~~ "Escaped property" does not include property that is undervalued because of:

(i) the use of a different valuation methodology; or ~~[because of]~~

(ii) a different application of the same valuation methodology ~~[is not "escaped property."].~~

(12) (a) "Fair market value" means the amount at which property would change hands between a willing buyer and a willing seller, when:

(i) neither [being] the buyer or the seller is under any compulsion to buy or sell; and

(ii) both [having] the buyer and the seller have reasonable knowledge of the relevant facts.

(b) For purposes of taxation, "fair market value" shall be determined using the current zoning laws applicable to the property in question, except in cases where:

(i) there is a reasonable probability of a change in the zoning laws affecting that property in the tax year in question; and

(ii) the change would have an appreciable influence upon the value.

(13) (a) "Farm machinery and equipment," for purposes of the exemption provided under Section 59-2-1101, means:

(i) tractors[;];

(ii) milking equipment and storage and cooling facilities[;];

(iii) feed handling equipment[;];

(iv) irrigation equipment[;];

(v) harvesters[;];

(vi) choppers[;];

(vii) grain drills and planters[;];

(viii) tillage tools[;];

(ix) scales[;];

(x) combines[;];

(xi) spreaders[;];

(xii) sprayers[;];

(xiii) haying equipment[;]; and

(xiv) any other machinery or equipment used primarily for agricultural purposes[~~;~~but].

(b) "Farm machinery and equipment" does not include [~~vehicles~~];

(i) a vehicle required to be registered with the Motor Vehicle Division [~~or vehicles~~]; or

(ii) a vehicle or other equipment used for business purposes other than farming.

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

(15) "Geothermal resource" means:

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

and

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

(16) (a) For purposes of Section 59-2-103:

(i) "household" means the association of persons who live in the same dwelling,

sharing its furnishings, facilities, accommodations, and expenses; and

(ii) "household" includes married individuals, who are not legally separated, that have established domiciles at separate locations within the state.

(b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the commission may make rules defining the term "domicile."

(17) (a) Except as provided in Subsection (17)(c), "improvement" means a building, structure, fixture, fence, or other item that is permanently attached to land, regardless of whether the title has been acquired to the land, if:

(i) (A) attachment to land is essential to the operation or use of the item; and

(B) the manner of attachment to land suggests that the item will remain attached to the land in the same place over the useful life of the item; or

(ii) removal of the item would:

(A) cause substantial damage to the item; or

(B) require substantial alteration or repair of a structure to which the item is attached.

(b) "Improvement" includes:

(i) an accessory to an item described in Subsection (17)(a) if the accessory is:

(A) essential to the operation of the item described in Subsection (17)(a); and

(B) installed solely to serve the operation of the item described in Subsection (17)(a);

and

(ii) an item described in Subsection (17)(a) that:

(A) is temporarily detached from the land for repairs; and

(B) remains located on the land.

(c) Notwithstanding Subsections (17)(a) and (b), "improvement" does not include:

(i) an item considered to be personal property pursuant to rules made in accordance with Section 59-2-107;

(ii) a moveable item that is attached to land:

(A) for stability only; or

(B) for an obvious temporary purpose;

(iii) (A) manufacturing equipment and machinery; or

(B) essential accessories to manufacturing equipment and machinery; ~~or~~

(iv) an item attached to the land in a manner that facilitates removal without substantial

214 damage to:

215 (A) the land; or

216 (B) the item; or

217 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that

218 transportable factory-built housing unit is considered to be personal property under Section

219 59-2-1503.

220 (18) "Intangible property" means:

221 (a) property that is capable of private ownership separate from tangible property,

222 including:

223 (i) moneys;

224 (ii) credits;

225 (iii) bonds;

226 (iv) stocks;

227 (v) representative property;

228 (vi) franchises;

229 (vii) licenses;

230 (viii) trade names;

231 (ix) copyrights; and

232 (x) patents; or

233 (b) a low-income housing tax credit.

234 (19) "Low-income housing tax credit" means:

235 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

236 or

237 (b) a low-income housing tax credit under:

238 (i) Section 59-7-607; or

239 (ii) Section 59-10-129.

240 (20) "Metalliferous minerals" includes:

241 (a) gold[;];

242 (b) silver[;];

243 (c) copper[;];

244 (d) lead[;];

245 (e) zinc[;]; and
246 (f) uranium.
247 (21) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
248 valuable mineral.
249 (22) "Mining" means the process of:
250 (a) producing[;];
251 (b) extracting[;];
252 (c) leaching[;];
253 (d) evaporating[;]; or
254 (e) otherwise removing a mineral from a mine.
255 (23) (a) "Mobile flight equipment" means tangible personal property that is:
256 (i) owned or operated by an:
257 (A) air charter service;
258 (B) air contract service; or
259 (C) airline; and
260 (ii) (A) capable of flight;
261 (B) attached to an aircraft that is capable of flight; or
262 (C) contained in an aircraft that is capable of flight if the tangible personal property is
263 intended to be used:
264 (I) during multiple flights;
265 (II) during a takeoff, flight, or landing; and
266 (III) as a service provided by an air charter service, air contract service, or airline.
267 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
268 engine that is rotated:
269 (A) at regular intervals; and
270 (B) with an engine that is attached to the aircraft.
271 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
272 the commission may make rules defining the term "regular intervals."
273 (24) "Nonmetalliferous minerals" includes[~~but is not limited to~~];
274 (a) oil[;];
275 (b) gas[;];

276 (c) coal[;];
277 (d) salts[;];
278 (e) sand[;];
279 (f) rock[;];
280 (g) gravel[;]; and
281 (h) all carboniferous materials.
282 (25) "Personal property" includes:
283 (a) ~~[every]~~ each class of property as defined in Subsection ~~[(26) which]~~ (27) that is:
284 (i) the subject of ownership; and
285 (ii) not ~~[included within the meaning of the terms]~~ "real estate" ~~[and "improvements"]~~;
286 (b) gas and water mains and pipes laid in:
287 (i) roads[;];
288 (ii) streets[;]; or
289 (iii) alleys;
290 (c) bridges ~~[and]~~;
291 (d) ferries;
292 ~~[(d)]~~ (e) livestock which, for the purposes of the exemption provided under Section
293 59-2-1112, means all:
294 (i) domestic animals[;];
295 (ii) honeybees[;];
296 (iii) poultry[;];
297 (iv) fur-bearing animals[;]; and
298 (v) fish; and
299 ~~[(e)]~~ (f) outdoor advertising structures as defined in Section 72-7-502.
300 (26) (a) "Primary residence" means property used:
301 (i) for residential purposes; and
302 (ii) as a domicile.
303 (b) "Primary residence" does not include:
304 (i) property used as a transient residence; or
305 (ii) a condominium used in a rental pool.
306 (c) In accordance with Title 63, Chapter 46a, Utah Administrative Rule Making Act,

the commission may by rule define the terms:

(i) "domicile";

(ii) "rental pool"; or

(iii) "transient residence."

~~[(26)]~~ (27) (a) "Property" means property that is subject to assessment and taxation according to its value.

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

~~[(27)]~~ (28) (a) "Public utility," for purposes of this chapter, means the operating property of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline company, electrical corporation, telephone corporation, sewerage corporation, or heat corporation where:

(i) the company performs the service for, or delivers the commodity to[;];

(A) the public generally; or

(B) companies serving the public generally[;]; or

(ii) in the case of a gas corporation or an electrical corporation, where the gas or electricity is sold or furnished to any member or consumers within the state for:

(A) domestic[;] use;

(B) commercial[;] use; or

(C) industrial use.

(b) "Public utility" also means the operating property of any entity or person defined under Section 54-2-1 except water corporations.

(29) (a) "Qualifying secondary residence" means property that:

(i) is used for residential purposes;

(ii) is not a primary residence;

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

(A) a county;

(B) a city;

(C) a town;

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

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

(F) an interlocal cooperation entity created under Title 11, Chapter 13, Interlocal

Cooperation Act; and

(iv) is not rented to another person during a calender year for which a residential exemption for a qualifying secondary residence is claimed in accordance with Section 59-2-1115.

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

(i) a condominium used in a rental pool;

(ii) a houseboat;

(iii) property owned by:

(A) a for-profit business entity; or

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

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

(v) a tent; or

(vi) property similar to the property described in Subsections (29)(b)(i) through (v).

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

(i) the terms:

(A) "houseboat";

(B) "rental pool"; or

(C) "tent"; or

(ii) what constitutes property similar to the property described in Subsections (29)(b)(i) through (v).

[~~(28)~~] (30) "Real estate" or "real property" includes:

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

(b) all mines, minerals, and quarries in and under the land[;];

(c) all timber belonging to individuals or corporations growing or being on the lands of this state or the United States[~~, and~~];

(d) all rights and privileges appertaining to [~~these~~] Subsections (30)(b) and (c); and

[~~(e)~~] (e) improvements.

(31) For purposes of Subsection (29), "related persons" means a relationship in which each owner of a residence is related to all of the other owners of the residence as:

(a) an ancestor;

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

370 (c) a lineal descendant;

371 (d) a spouse;

372 (e) a stepbrother or stepsister;

373 (f) a stepfather or stepmother;

374 (g) a stepgrandchild;

375 (h) a stepdaughter or stepson; or

376 (i) a spouse of an owner described in Subsections (31)(a) through (h).

377 ~~[(29)]~~ (32) "Residential property," for the purposes of the reductions and adjustments
378 under this chapter, means ~~[any property used for residential purposes as a primary residence. It~~
379 ~~does not include property used for transient residential use or condominiums used in rental~~
380 ~~pools.];~~

381 (a) a primary residence; or

382 (b) a qualifying secondary residence.

383 ~~[(30)]~~ (33) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number
384 of miles calculated by the commission that is:

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

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

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

388 (ii) where an aircraft:

389 (A) takes off; or

390 (B) lands.

391 ~~[(31)]~~ (34) (a) "State-assessed commercial vehicle" means:

392 (i) any commercial vehicle, trailer, or semitrailer ~~[which]~~ that operates interstate or
393 intrastate to transport:

394 (A) passengers[;];

395 (B) freight[;];

396 (C) merchandise[;]; or

397 (D) other property for hire; or

398 (ii) any commercial vehicle, trailer, or semitrailer ~~[which]~~ that operates interstate and
399 transports the vehicle owner's goods or property in furtherance of the owner's commercial

enterprise.

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

[~~(32)~~] (35) "Taxable value" means fair market value less any applicable reduction
allowed for residential property under Section 59-2-103.

[~~(33)~~] (36) "Tax area" means a geographic area created by the overlapping boundaries
of one or more taxing entities.

[~~(34)~~] (37) "Taxing entity" means any:

(a) county[;];

(b) city[;];

(c) town[;];

(d) school district[;];

(e) special taxing district[;]; or [any]

(f) other political subdivision of the state with the authority to levy a tax on property.

[~~(35)~~] (38) (a) "Tax roll" means a permanent record of the taxes charged on property,
as extended on the assessment roll and may be maintained:

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

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

(b) "Tax roll" includes:

(i) tax books[;];

(ii) tax lists[;]; and

(iii) other similar materials.

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

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

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

(2) Subject to Subsections (3) and (4) [~~, beginning on January 1, 1995, the fair market~~
~~value of residential property located within the state shall be reduced by 45%, representing a~~
~~residential exemption allowed under Utah Constitution Article XIII, Section 2.], pursuant to~~
Utah Constitution Article XIII, Section 2, the fair market value of residential property located

431 within this state shall be reduced as follows:

432 (a) beginning on January 1, 2006, the fair market value of a primary residence located
433 within the state shall be reduced by 45%; and

434 (b) subject to Section 59-2-1115, beginning on January 1, 2006, the fair market value
435 of a qualifying secondary residence shall be reduced by 25% of up to the first \$100,000 of the
436 fair market value of the qualifying secondary residence.

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

439 (4) (a) ~~[Except as provided in Subsection (4)(b)(ii), beginning]~~ Beginning on January
440 1, ~~[2005, the]~~ 2006, a residential exemption in Subsection (2) is limited to:

441 (i) except as provided in Subsection (4)(b), one primary residence per household[-];
442 and

443 (ii) one qualifying secondary residence per household.

444 (b) ~~[An]~~ For purposes of Subsection (4)(a)(i), an owner of multiple ~~[residential~~
445 ~~properties]~~ primary residences located within the state is allowed a residential exemption under
446 Subsection (2)(a) for:

447 (i) subject to Subsection (4)(a)(i), the primary residence of the owner; and

448 (ii) each residential property that is the primary residence of a tenant.

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

450 **59-2-924. Report of valuation of property to county auditor and commission --**
451 **Transmittal by auditor to governing bodies -- Certified tax rate -- Rulemaking authority**
452 **-- Adoption of tentative budget.**

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

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

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

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

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

- (ii) an estimate of the revenue from personal property;
- (iii) the certified tax rate; and
- (iv) all forms necessary to submit a tax levy request.

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

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

- (A) collections from redemptions;
- (B) interest; and
- (C) penalties.

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

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

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

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

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

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

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

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

(C) for debt service voted on by the public, the certified tax rate shall be the actual levy

imposed by that section, except that the certified tax rates for the following levies shall be calculated in accordance with Section 59-2-913 and this section:

(I) school leeways provided for under ~~Sections~~;

(Aa) Section 11-2-7;

(Bb) Section 53A-16-110;

(Cc) Section 53A-17a-125;

(Dd) Section 53A-17a-127;

(Ee) Section 53A-17a-134;

(Ff) Section 53A-17a-143;

(Gg) Section 53A-17a-145; and

(Hh) Section 53A-21-103; and

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

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

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

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

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

(iii) "New growth" means:

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

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

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

(A) the amount of increase to locally assessed real property taxable values resulting from;

(I) factoring;

(II) reappraisal; or ~~any~~

524 (III) other adjustments; or

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

528 (I) the Legislature;

529 (II) a court;

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

531 (IV) the commission in an administrative order.

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

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

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

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

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

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

551 (f) For the calendar year beginning on January 1, 1999, and ending on December 31,
552 1999, a taxing entity's certified tax rate shall be adjusted by the amount necessary to offset the
553 adjustment in revenues from uniform fees on tangible personal property under Section
554 59-2-405.1 as a result of the adjustment in uniform fees on tangible personal property under

Section 59-2-405.1 enacted by the Legislature during the 1998 Annual General Session.

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

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

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

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

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

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

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

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

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

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

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

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

(iii) the commission shall make the adjustment described in Subsection (2)(i)(iii) if, for the calendar year beginning on January 1, 1999, a taxing entity's 1998 actual collections were less than the taxing entity's 1999 actual collections.

(i) (i) For purposes of Subsection (2)(h)(i), the commission shall increase a taxing entity's certified tax rate under this section and a taxing entity's certified revenue levy under Section 59-2-906.1 by the amount necessary to offset the difference between:

(A) the taxing entity's 1998 actual collections; and

(B) the sum of:

586 (I) the taxing entity's 1999 actual collections; and

587 (II) any adjustments the commission made under Subsection (2)(f).

588 (ii) For purposes of Subsection (2)(h)(ii), the commission shall decrease a taxing
589 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
590 Section 59-2-906.1 by the amount necessary to offset the difference between:

591 (A) the sum of:

592 (I) the taxing entity's 1999 actual collections; and

593 (II) any adjustments the commission made under Subsection (2)(f); and

594 (B) the taxing entity's 1998 actual collections.

595 (iii) For purposes of Subsection (2)(h)(iii), the commission shall decrease a taxing
596 entity's certified tax rate under this section and a taxing entity's certified revenue levy under
597 Section 59-2-906.1 by the amount of any adjustments the commission made under Subsection
598 (2)(f).

599 (j) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, for
600 purposes of Subsections (2)(f) through (i), the commission may make rules establishing the
601 method for determining a taxing entity's 1998 actual collections and 1999 actual collections.

602 (k) (i) (A) For fiscal year 2000, the certified tax rate of each county required under
603 Subsection 17-34-1(4)(a) to provide advanced life support and paramedic services to the
604 unincorporated area of the county shall be decreased by the amount necessary to reduce
605 revenues in that fiscal year by an amount equal to the difference between the amount the county
606 budgeted in its 2000 fiscal year budget for advanced life support and paramedic services
607 countywide and the amount the county spent during fiscal year 2000 for those services,
608 excluding amounts spent from a municipal services fund for those services.

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

614 (ii) (A) A city or town located within a county of the first class to which Subsection
615 (2)(k)(i) applies may increase its certified tax rate by the amount necessary to generate within
616 the city or town the same amount of revenues as the county would collect from that city or

town if the decrease under Subsection (2)(k)(i) did not occur.

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

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

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

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

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

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

(B) (I) Except as provided in Subsection (2)(l)(ii)(B)(II), an increase in the city or town's certified tax rate under Subsection (2)(l)(ii)(A), whether occurring in a single fiscal year or spread over multiple fiscal years, is subject to the notice and hearing requirements of Sections 59-2-918 and 59-2-919.

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

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

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

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

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

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

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

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

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

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

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

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

(I) calculating, for each participating county and each participating municipality, the property tax revenue necessary to cover all of the costs associated with providing fire protection, paramedic, and emergency services:

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

(Bb) for a participating municipality, in the municipality; and

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

(Aa) for participating counties, in the unincorporated area of all participating counties; and

(Bb) for participating municipalities, in all the participating municipalities.

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

(E) "Fire protection tax rate" means:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) For the calendar year beginning on January 1, 2006, a taxing entity's certified tax rate shall be decreased by the amount necessary to offset the total amount of taxable value that a county assessor reports to the commission in accordance with Subsection 59-2-1115(6).

(iii) For calendar years beginning on or after January 1, 2007, if for the current calendar year a county assessor reports to the commission in accordance with Subsection 59-2-1115(6) that there is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) A county assessor shall allow a residential exemption for a qualifying secondary

residence if the county assessor determines that:

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

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

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

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

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

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

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

(d) certifying that:

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

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

(3) An owner of a qualifying secondary residence that is receiving the residential exemption described in Subsection (1) shall notify the county assessor in writing within 30 days after the day on which:

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

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

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

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

(a) the statement described in Subsection (2) is valid; and

(b) another statement is not required to be filed in accordance with Subsection (2).

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

803 (i) this section; and

804 (ii) Section 59-2-103.

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

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

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

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

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

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

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

820 (I) to the commission; and

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

823 (B) within 30 days after the day on which the county legislative body submits the
824 information required by Subsection (5)(b) to the commission if the county legislative body
825 submits the information required by Subsection (5)(b) after the date described in Subsection
826 (5)(c)(ii)(A)(II).

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

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

832 (A) county assessor allows a residential exemption; and

833 (B) county legislative body receives the distribution; and

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

(A) located within the county; and

(B) for which the county legislative body receives the distribution.

(6) For calendar years beginning on or after January 1, 2006, for each taxing entity within which one or more qualifying secondary residences are located for which a county assessor allows a residential exemption, the county assessor shall report to the commission in writing:

(a) on or before June 1 of each calendar year; and

(b) the total amount of taxable value that the county assessor allows as a residential exemption for all qualifying secondary residences located within that taxing entity for that calendar year.

Section 5. **Effective date.**

This bill takes effect on January 1, 2006.

Legislative Review Note

as of 12-13-04 11:14 AM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number SB0033

Exemptions To Residential Property*24-Jan-05**8:29 AM*

State Impact

Passage of this bill could decrease the General Fund by \$5,401,000 in FY 2007 and by \$5,500,000 in FY 2008. There would be no impact to the locals, as any loss of revenues will be covered by the State. Some eligible individuals may not apply.

	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2006</u>	<u>FY 2007</u>
	<u>Approp.</u>	<u>Approp.</u>	<u>Revenue</u>	<u>Revenue</u>
General Fund	\$0	\$0	\$0	(\$5,401,000)
TOTAL	\$0	\$0	\$0	(\$5,401,000)

Individual and Business Impact

Owners of certain secondary residences would receive a 25 percent property tax break on the first \$100,000 value of their homes. Some eligible individuals may not apply.

Office of the Legislative Fiscal Analyst