

PROPERTY TAX ASSESSMENT REVISIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

Senate Sponsor: Wayne L. Niederhauser

LONG TITLE

Committee Note:

The Revenue and Taxation Interim Committee recommended this bill.

General Description:

This bill amends provisions in the Property Tax Act relating to the real property appraisal requirements for county assessors.

Highlighted Provisions:

This bill:

- defines terms;
- requires a county assessor of a first, second, or third class county to use a computer assisted mass appraisal system to conduct its annual update of property values;
- requires a county assessor to maintain a record of the last appraisal date for each parcel of real property located within the county assessor's county on the county's computer system;
- requires a county assessor to prepare a five-year plan to comply with the statutory appraisal requirements;
- requires a county assessor to include the last appraisal date for a parcel of property on the property owner's tax notice; and
- makes technical changes.

Monies Appropriated in this Bill:

None



28 **Other Special Clauses:**

29 This bill takes effect on January 1, 2009.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **59-2-102**, as last amended by Laws of Utah 2007, Chapters 107, 234, and 329

33 **59-2-303.1**, as last amended by Laws of Utah 1995, Chapter 271

34 **59-2-505**, as last amended by Laws of Utah 2003, Chapter 208

35 **59-2-918.5**, as last amended by Laws of Utah 2000, Chapter 61

36 **59-2-918.6**, as enacted by Laws of Utah 2007, Chapter 297

37 **59-2-919**, as last amended by Laws of Utah 2006, Chapters 26 and 104

38 **59-2-1004**, as last amended by Laws of Utah 2001, Chapter 106

39 **59-2-1330**, as last amended by Laws of Utah 2002, Chapters 196 and 240

40 ENACTS:

41 **59-2-919.1**, Utah Code Annotated 1953



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

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

45 **59-2-102. Definitions.**

46 As used in this chapter and title:

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

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

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

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

58 (5) "Airline" means any air carrier operating interstate routes on a scheduled basis

59 which offers to fly passengers or cargo on the basis of available capacity on regularly scheduled
60 routes.

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

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

68 (b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not
69 include property tax revenue received by a taxing entity from personal property that is:

70 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and

71 (ii) semiconductor manufacturing equipment.

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

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

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

78 (c) vehicles which are:

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

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

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

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

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

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

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

90 (i) a county; and

91 (ii) a school district.

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

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

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

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

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

101 (a) that became a final and unappealable judgment or order no more than 14 months
102 prior to the day on which the notice required by [~~Subsection 59-2-919(4)~~] Section 59-2-919.1 is
103 required to be mailed; and

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

106 (i) \$5,000; or

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

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

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

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

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

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

120 (12) "Fair market value" means the amount at which property would change hands

121 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
122 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
123 market value" shall be determined using the current zoning laws applicable to the property in
124 question, except in cases where there is a reasonable probability of a change in the zoning laws
125 affecting that property in the tax year in question and the change would have an appreciable
126 influence upon the value.

127 (13) "Farm machinery and equipment," for purposes of the exemption provided under
128 Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities, feed
129 handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage
130 tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery or
131 equipment used primarily for agricultural purposes; but does not include vehicles required to be
132 registered with the Motor Vehicle Division or vehicles or other equipment used for business
133 purposes other than farming.

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

136 (15) "Geothermal resource" means:

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

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

141 (16) (a) "Goodwill" means:

142 (i) acquired goodwill that is reported as goodwill on the books and records:

143 (A) of a taxpayer; and

144 (B) that are maintained for financial reporting purposes; or

145 (ii) the ability of a business to:

146 (A) generate income:

147 (I) that exceeds a normal rate of return on assets; and

148 (II) resulting from a factor described in Subsection (16)(b); or

149 (B) obtain an economic or competitive advantage resulting from a factor described in
150 Subsection (16)(b).

151 (b) The following factors apply to Subsection (16)(a)(ii):

- 152 (i) superior management skills;
- 153 (ii) reputation;
- 154 (iii) customer relationships;
- 155 (iv) patronage; or
- 156 (v) a factor similar to Subsections (16)(b)(i) through (iv).
- 157 (c) "Goodwill" does not include:
- 158 (i) the intangible property described in Subsection (20)(a) or (b);
- 159 (ii) locational attributes of real property, including:
- 160 (A) zoning;
- 161 (B) location;
- 162 (C) view;
- 163 (D) a geographic feature;
- 164 (E) an easement;
- 165 (F) a covenant;
- 166 (G) proximity to raw materials;
- 167 (H) the condition of surrounding property; or
- 168 (I) proximity to markets;
- 169 (iii) value attributable to the identification of an improvement to real property,
- 170 including:
- 171 (A) reputation of the designer, builder, or architect of the improvement;
- 172 (B) a name given to, or associated with, the improvement; or
- 173 (C) the historic significance of an improvement; or
- 174 (iv) the enhancement or assemblage value specifically attributable to the interrelation
- 175 of the existing tangible property in place working together as a unit.
- 176 (17) "Governing body" means:
- 177 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 178 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
- 179 Local Districts, the local district's board of trustees;
- 180 (c) for a school district, the local board of education; or
- 181 (d) for a special service district under Title 17A, Chapter 2, Part 13, Utah Special
- 182 Service District Act:

183 (i) the legislative body of the county or municipality that created the special service
184 district, to the extent that the county or municipal legislative body has not delegated authority
185 to an administrative control board established under Section 17A-2-1326; or

186 (ii) the administrative control board, to the extent that the county or municipal
187 legislative body has delegated authority to an administrative control board established under
188 Section 17A-2-1326.

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

190 (i) "household" means the association of persons who live in the same dwelling,
191 sharing its furnishings, facilities, accommodations, and expenses; and

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

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

196 (19) (a) Except as provided in Subsection (19)(c), "improvement" means a building,
197 structure, fixture, fence, or other item that is permanently attached to land, regardless of
198 whether the title has been acquired to the land, if:

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

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

202 (ii) removal of the item would:

203 (A) cause substantial damage to the item; or

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

205 (b) "Improvement" includes:

206 (i) an accessory to an item described in Subsection (19)(a) if the accessory is:

207 (A) essential to the operation of the item described in Subsection (19)(a); and

208 (B) installed solely to serve the operation of the item described in Subsection (19)(a);

209 and

210 (ii) an item described in Subsection (19)(a) that:

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

212 (B) remains located on the land.

213 (c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:

- 214 (i) an item considered to be personal property pursuant to rules made in accordance
- 215 with Section 59-2-107;
- 216 (ii) a moveable item that is attached to land:
- 217 (A) for stability only; or
- 218 (B) for an obvious temporary purpose;
- 219 (iii) (A) manufacturing equipment and machinery; or
- 220 (B) essential accessories to manufacturing equipment and machinery;
- 221 (iv) an item attached to the land in a manner that facilitates removal without substantial
- 222 damage to:
- 223 (A) the land; or
- 224 (B) the item; or
- 225 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
- 226 transportable factory-built housing unit is considered to be personal property under Section
- 227 59-2-1503.
- 228 (20) "Intangible property" means:
- 229 (a) property that is capable of private ownership separate from tangible property,
- 230 including:
- 231 (i) moneys;
- 232 (ii) credits;
- 233 (iii) bonds;
- 234 (iv) stocks;
- 235 (v) representative property;
- 236 (vi) franchises;
- 237 (vii) licenses;
- 238 (viii) trade names;
- 239 (ix) copyrights; and
- 240 (x) patents;
- 241 (b) a low-income housing tax credit; or
- 242 (c) goodwill.
- 243 (21) "Low-income housing tax credit" means:
- 244 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;

245 or

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

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

248 (ii) Section 59-10-1010.

249 (22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.

250 (23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous

251 valuable mineral.

252 (24) "Mining" means the process of producing, extracting, leaching, evaporating, or

253 otherwise removing a mineral from a mine.

254 (25) (a) "Mobile flight equipment" means tangible personal property that is:

255 (i) owned or operated by an:

256 (A) air charter service;

257 (B) air contract service; or

258 (C) airline; and

259 (ii) (A) capable of flight;

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

261 (C) contained in an aircraft that is capable of flight if the tangible personal property is

262 intended to be used:

263 (I) during multiple flights;

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

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

266 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare

267 engine that is rotated:

268 (A) at regular intervals; and

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

270 (ii) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,

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

272 (26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,

273 sand, rock, gravel, and all carboniferous materials.

274 (27) "Personal property" includes:

275 (a) every class of property as defined in Subsection (28) which is the subject of

276 ownership and not included within the meaning of the terms "real estate" and "improvements";

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

278 (c) bridges and ferries;

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

280 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

281 (e) outdoor advertising structures as defined in Section 72-7-502.

282 (28) (a) "Property" means property that is subject to assessment and taxation according
283 to its value.

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

285 (29) "Public utility," for purposes of this chapter, means the operating property of a
286 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
287 company, electrical corporation, telephone corporation, sewerage corporation, or heat
288 corporation where the company performs the service for, or delivers the commodity to, the
289 public generally or companies serving the public generally, or in the case of a gas corporation
290 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
291 consumers within the state for domestic, commercial, or industrial use. Public utility also
292 means the operating property of any entity or person defined under Section 54-2-1 except water
293 corporations.

294 (30) "Real estate" or "real property" includes:

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

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

299 (c) improvements.

300 (31) "Residential property," for the purposes of the reductions and adjustments under
301 this chapter, means any property used for residential purposes as a primary residence. It does
302 not include property used for transient residential use or condominiums used in rental pools.

303 (32) For purposes of Subsection 59-2-801(1)(e), "route miles" means the number of
304 miles calculated by the commission that is:

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

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

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

308 (ii) where an aircraft:

309 (A) takes off; or

310 (B) lands.

311 (33) (a) "State-assessed commercial vehicle" means:

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

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

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

319 (34) "Taxable value" means fair market value less any applicable reduction allowed for
320 residential property under Section 59-2-103.

321 (35) "Tax area" means a geographic area created by the overlapping boundaries of one
322 or more taxing entities.

323 (36) "Taxing entity" means any county, city, town, school district, special taxing
324 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
325 Districts, or other political subdivision of the state with the authority to levy a tax on property.

326 (37) "Tax roll" means a permanent record of the taxes charged on property, as extended
327 on the assessment roll and may be maintained on the same record or records as the assessment
328 roll or may be maintained on a separate record properly indexed to the assessment roll. It
329 includes tax books, tax lists, and other similar materials.

330 Section 2. Section **59-2-303.1** is amended to read:

331 **59-2-303.1. Mandatory cyclical appraisals.**

332 (1) For purposes of this section:

333 (a) "Appraisal date" means the date a county assessor completes a detailed review of
334 the property characteristics of a parcel of real property in accordance with Subsection (3)(a).

335 (b) "Corrective action" includes:

336 (i) factoring pursuant to Section 59-2-704;

337 (ii) notifying the state auditor that the county failed to comply with the requirements of

338 this section; or

339 (iii) filing a petition for a court order requiring a county to take action.

340 (c) "Mass appraisal system" means a computer assisted mass appraisal system that a
341 county assessor uses to value real property.

342 [~~(1) Beginning January 1, 1994, each~~] (2) (a) The county assessor shall annually
343 update property values of property as provided in Section 59-2-301 based on a systematic
344 review of current market data. [In addition,]

345 (b) The county assessor of a county of the first, second, or third class shall conduct the
346 annual update described in Subsection (2)(a) by using a mass appraisal system on or before the
347 following:

348 (i) for a county of the first class, January 1, 2009;

349 (ii) for a county of the second class, January 1, 2010; and

350 (iii) for a county of the third class, January 1, 2011.

351 (3) (a) In addition to the requirements in Subsection (2), the county assessor shall
352 complete a detailed review of property characteristics for each property at least once every five
353 years.

354 (b) The county assessor shall maintain on the county's computer system, a record of the
355 last appraisal date for each parcel of real property located within the county assessor's county.

356 [~~(a)~~] (4) The commission shall take corrective action if the commission determines
357 that:

358 [~~(i)~~] (a) a county assessor has not satisfactorily followed the current mass appraisal
359 standards, as provided by law;

360 [~~(ii)~~] (b) the sales-assessment ratio, coefficients of dispersion, or other statistical
361 measures of appraisal performance related to the studies required by Section 59-2-704 are not
362 within the standards provided by law; or

363 [~~(iii)~~] (c) the county assessor has failed to comply with the requirements of [Subsection
364 (1)] this section.

365 [~~(b) For purposes of this section, "corrective action" includes:]~~

366 [~~(i) factoring pursuant to Section 59-2-704;~~]

367 [~~(ii) notifying the state auditor that the county failed to comply with the requirements~~
368 ~~of this section; or]~~

369 [~~(iii) filing a petition for a court order requiring a county to take action.~~]

370 [~~(2)(a) By July 1, 1993, each~~] (5) (a) On or before July 1, 2008, the county assessor
 371 shall prepare a five-year plan to comply with the requirements of [~~Subsection (1)~~] Subsections
 372 (2) and (3).

373 (b) The plan shall be available in the county assessor's office for review by the public
 374 upon request.

375 (c) The plan shall be annually reviewed and revised as necessary.

376 Section 3. Section **59-2-505** is amended to read:

377 **59-2-505. Indicia of value for agricultural use assessment -- Inclusion of fair**
 378 **market value on certain property tax notices.**

379 (1) (a) The county assessor shall consider only those indicia of value that the land has
 380 for agricultural use as determined by the commission when assessing land:

381 (i) that meets the requirements of Section 59-2-503 to be assessed under this part; and

382 (ii) for which the owner has:

383 (A) made a timely application in accordance with Section 59-2-508 for assessment
 384 under this part for the tax year for which the land is being assessed; and

385 (B) obtained approval of the application described in Subsection (1)(a)(ii)(A) from the
 386 county assessor.

387 (b) If land that becomes subject to a conservation easement created in accordance with
 388 Title 57, Chapter 18, Land Conservation Easement Act, meets the requirements of Subsection
 389 (1)(a) for assessment under this part, the county assessor shall consider only those indicia of
 390 value that the land has for agricultural use in accordance with Subsection (1)(a) when assessing
 391 the land.

392 (2) In addition to the value determined in accordance with Subsection (1), the fair
 393 market value assessment shall be included on the notices described in:

394 (a) [~~Subsection 59-2-919(4)~~] Section 59-2-919.1; and

395 (b) Section 59-2-1317.

396 (3) The county board of equalization shall review the agricultural use value and fair
 397 market value assessments each year as provided under Section 59-2-1001.

398 Section 4. Section **59-2-918.5** is amended to read:

399 **59-2-918.5. Hearings on judgment levies -- Advertisement.**

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

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

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

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

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

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

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

414 (3) The advertisement shall specify the date, time, and location of the public hearing at
415 which the levy will be considered and shall set forth the total amount of the eligible judgment
416 and the tax impact on an average residential and business property located within the taxing
417 entity.

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

421 (5) The date, time, and place of public hearings required by Subsections
422 59-2-918.5(c)(i) and 59-2-918.5(c)(ii)(B) shall be included on the notice mailed to property
423 owners pursuant to [~~Subsection 59-2-919(4)~~] Section 59-2-919.1.

424 Section 5. Section **59-2-918.6** is amended to read:

425 **59-2-918.6. New and remaining school district budgets -- Advertisement -- Public**
426 **hearing.**

427 (1) As used in this section, "existing school district," "new school district," and
428 "remaining school district" are as defined in Section 53A-2-117.

429 (2) For the first fiscal year in which a new school district created under Section
430 53A-2-118.1 assumes responsibility for providing student instruction, the new school district

431 and the remaining school district or districts may not impose a property tax unless the district
432 imposing the tax:

433 (a) advertises its intention to do so in accordance with Subsection (3); and

434 (b) holds a public hearing in accordance with Subsection (4).

435 (3) The advertisement required by this section:

436 (a) may be combined with the advertisement required by either Section 59-2-918 or
437 59-2-919;

438 (b) shall be at least 1/4 of a page in size and shall meet the type, placement, and
439 frequency requirements established under Section 59-2-919; and

440 (c) shall specify the date, time, and location of the public hearing at which the levy will
441 be considered and shall set forth the total amount of the district's proposed property tax levy
442 and the tax impact on an average residential and business property located within the taxing
443 entity compared to the property tax levy imposed in the prior year by the existing school
444 district.

445 (4) (a) The date, time, and place of public hearings required by this section shall be
446 included on the notice mailed to property owners pursuant to [~~Subsection 59-2-919(4)~~] Section
447 59-2-919.1.

448 (b) If a final decision regarding the property tax levy is not made at the public hearing,
449 the school district shall announce at the public hearing the scheduled time and place for
450 consideration and adoption of the budget and property tax levies.

451 Section 6. Section **59-2-919** is amended to read:

452 **59-2-919. Resolution proposing tax increases -- Notice -- Contents of notice of**
453 **proposed tax increase -- Personal mailed notice in addition to advertisement -- Contents**
454 **of personal mailed notice -- Hearing -- Dates.**

455 A tax rate in excess of the certified tax rate may not be levied until a resolution has
456 been approved by the taxing entity in accordance with the following procedure:

457 (1) (a) (i) The taxing entity shall advertise its intent to exceed the certified tax rate in a
458 newspaper or combination of newspapers of general circulation in the taxing entity.

459 (ii) Notwithstanding Subsection (1)(a)(i), a taxing entity is not required to meet the
460 advertisement or hearing requirements of this section if:

461 (A) the taxing entity:

462 (I) collected less than \$15,000 in ad valorem tax revenues for the previous fiscal year;

463 or

464 (II) is expressly exempted by law from complying with the requirements of this

465 section; or

466 (B) (I) the taxing entity is a party to an interlocal agreement under Title 11, Chapter 13,

467 Interlocal Cooperation Act, that creates an interlocal entity to provide fire protection,

468 emergency, and emergency medical services;

469 (II) the tax rate increase is approved by the taxing entity's voters at an election held for

470 that purpose on or before December 31, 2010;

471 (III) the purpose of the tax rate increase is to pay for fire protection, emergency, and

472 emergency medical services provided by the interlocal entity; and

473 (IV) at least 30 days before its annual budget hearing, the taxing entity:

474 (Aa) adopts a resolution certifying that the taxing entity will dedicate all revenue from

475 the tax rate increase exclusively to pay for fire protection, emergency, and emergency medical

476 services provided by the interlocal entity and that the amount of other revenues, independent of

477 the revenue generated from the tax rate increase, that the taxing entity spends for fire

478 protection, emergency, and emergency medical services each year after the tax rate increase

479 will not decrease below the amount spent by the taxing entity during the year immediately

480 before the tax rate increase without a corresponding decrease in the taxing entity's property tax

481 revenues used in calculating the taxing entity's certified tax rate; and

482 (Bb) sends a copy of the resolution to the commission.

483 (iii) The exception under Subsection (1)(a)(ii)(B) from the advertisement and hearing

484 requirements of this section does not apply to an increase in a taxing entity's tax rate that occurs

485 after December 31, 2010, even if the tax rate increase is approved by the taxing entity's voters

486 before that date.

487 (iv) Notwithstanding Subsection (1)(a)(i), a taxing entity is not required to meet the

488 advertisement requirements of this section if Section 53A-17a-133 allows the taxing entity to

489 levy a tax rate that exceeds that certified tax rate without having to comply with the

490 advertisement requirements of this section.

491 (b) The advertisement described in this section shall:

492 (i) be no less than 1/4 page in size;

493 (ii) use type no smaller than 18 point; and

494 (iii) be surrounded by a 1/4-inch border.

495 (c) The advertisement described in this section may not be placed in that portion of the
496 newspaper where legal notices and classified advertisements appear.

497 (d) It is the intent of the Legislature that:

498 (i) whenever possible, the advertisement described in this section appear in a
499 newspaper that is published at least one day per week; and

500 (ii) the newspaper or combination of newspapers selected:

501 (A) be of general interest and readership in the taxing entity; and

502 (B) not be of limited subject matter.

503 (e) The advertisement described in this section shall:

504 (i) be run once each week for the two weeks preceding the adoption of the final budget;

505 and

506 (ii) state that the taxing entity will meet on a certain day, time, and place fixed in the
507 advertisement, which shall be not less than seven days after the day the first advertisement is
508 published, for the purpose of hearing comments regarding any proposed increase and to explain
509 the reasons for the proposed increase.

510 (f) The meeting on the proposed increase may coincide with the hearing on the
511 proposed budget of the taxing entity.

512 (2) The form and content of the notice shall be substantially as follows:

513 "NOTICE OF PROPOSED TAX INCREASE

514 (NAME OF TAXING ENTITY)

515 The (name of the taxing entity) is proposing to increase its property tax revenue.

516 ● If the proposed budget is approved, this would be an increase of _____% above
517 the (name of the taxing entity) property tax budgeted revenue for the prior year.

518 ● The (name of the taxing entity) tax on a (insert the average value of a residence
519 in the taxing entity rounded to the nearest thousand dollars) residence would
520 increase from \$_____ to \$_____, which is \$_____ per year.

521 ● The (name of the taxing entity) tax on a (insert the value of a business having
522 the same value as the average value of a residence in the taxing entity) business
523 would increase from \$_____ to \$_____, which is \$_____ per year.

524 (Name of taxing entity) property tax revenue from new growth and other sources will
525 increase from \$_____ to \$_____.

526 All concerned citizens are invited to a public hearing on the tax increase.

527 PUBLIC HEARING

528 Date/Time: (date) (time)

529 Location: (name of meeting place and address of meeting place)

530 To obtain more information regarding the tax increase, citizens may contact the (name
531 of the taxing entity) at (phone number of taxing entity)."

532 (3) The commission:

533 (a) shall adopt rules governing the joint use of one advertisement under this section or
534 Section 59-2-918 by two or more taxing entities; and

535 (b) may, upon petition by any taxing entity, authorize either:

536 (i) the use of weekly newspapers in counties having both daily and weekly newspapers
537 where the weekly newspaper would provide equal or greater notice to the taxpayer; or

538 (ii) the use of a commission-approved direct notice to each taxpayer if the:

539 (A) cost of the advertisement would cause undue hardship; and

540 (B) direct notice is different and separate from that provided for in Subsection (4).

541 [~~(4)(a) In addition to providing the notice required by Subsections (1) and (2), the~~
542 ~~county auditor, on or before July 22 of each year, shall notify, by mail, each owner of real~~
543 ~~estate as defined in Section 59-2-102 who is listed on the assessment roll.]~~

544 [~~(b) The notice described in Subsection (4)(a) shall:]~~

545 [~~(i) be sent to all owners of real property by mail not less than ten days before the day~~
546 ~~on which:]~~

547 [~~(A) the county board of equalization meets; and]~~

548 [~~(B) the taxing entity holds a public hearing on the proposed increase in the certified~~
549 ~~tax rate;]~~

550 [~~(ii) be printed on a form that is:]~~

551 [~~(A) approved by the commission; and]~~

552 [~~(B) uniform in content in all counties in the state; and]~~

553 [~~(iii) contain for each property:]~~

554 [~~(A) the value of the property;]~~

555 ~~[(B) the date the county board of equalization will meet to hear complaints on the~~
 556 ~~valuation;]~~

557 ~~[(C) itemized tax information for all taxing entities, including a separate statement for~~
 558 ~~the minimum school levy under Section 53A-17a-135 stating:]~~

559 ~~[(F) the dollar amount the taxpayer would have paid based on last year's rate; and]~~

560 ~~[(H) the amount of the taxpayer's liability under the current rate;]~~

561 ~~[(D) the tax impact on the property;]~~

562 ~~[(E) the time and place of the required public hearing for each entity;]~~

563 ~~[(F) property tax information pertaining to:]~~

564 ~~[(f) taxpayer relief;]~~

565 ~~[(H) options for payment of taxes; and]~~

566 ~~[(HH) collection procedures;]~~

567 ~~[(G) information specifically authorized to be included on the notice under Title 59,~~
 568 ~~Chapter 2, Property Tax Act, and]~~

569 ~~[(H) other property tax information approved by the commission.]~~

570 ~~[(5)]~~ (4) (a) The taxing entity, after holding a hearing as provided in this section, may
 571 adopt a resolution levying a tax rate in excess of the certified tax rate.

572 (b) If a resolution adopting a tax rate is not adopted on the day of the public hearing,
 573 the scheduled time and place for consideration and adoption of the resolution shall be
 574 announced at the public hearing.

575 (c) If a resolution adopting a tax rate is to be considered at a day and time that is more
 576 than two weeks after the public hearing described in Subsection ~~[(4)(b)(iii)(E)]~~
 577 59-2-919.1(2)(c)(v), a taxing entity, other than a taxing entity described in Subsection (1)(a)(ii),
 578 shall advertise the date of the proposed adoption of the resolution in the same manner as
 579 provided under Subsections (1) and (2).

580 ~~[(6)]~~ (5) (a) All hearings described in this section shall be open to the public.

581 (b) The governing body of a taxing entity conducting a hearing shall permit all
 582 interested parties desiring to be heard an opportunity to present oral testimony within
 583 reasonable time limits.

584 ~~[(7)]~~ (6) (a) Each taxing entity shall notify the county legislative body by March 1 of
 585 each year of the date, time, and place a public hearing is held by the taxing entity pursuant to

586 this section.

587 (b) A taxing entity may not schedule a hearing described in this section at the same
588 time as another overlapping taxing entity in the same county, but all taxing entities in which the
589 power to set tax levies is vested in the same governing board or authority may consolidate the
590 required hearings into one hearing.

591 (c) The county legislative body shall resolve any conflicts in hearing dates and times
592 after consultation with each affected taxing entity.

593 ~~[(8)]~~ (7) A taxing entity shall hold a public hearing under this section beginning at or
594 after 6 p.m.

595 Section 7. Section **59-2-919.1** is enacted to read:

596 **59-2-919.1. Property tax notice.**

597 (1) In addition to providing the notice required by Sections 59-2-918 and 59-2-919, the
598 county auditor, on or before July 22 of each year, shall notify, by mail, each owner of real
599 estate as defined in Section 59-2-102 who is listed on the assessment roll.

600 (2) The notice described in Subsection (1) shall:

601 (a) be sent to all owners of real property by mail not less than ten days before the day
602 on which:

603 (i) the county board of equalization meets; and

604 (ii) the taxing entity holds a public hearing on the proposed increase in the certified tax
605 rate;

606 (b) be printed on a form that is:

607 (i) approved by the commission; and

608 (ii) uniform in content in all counties in the state; and

609 (c) contain for each property:

610 (i) the value of the property;

611 (ii) the date the county board of equalization will meet to hear complaints on the
612 valuation;

613 (iii) itemized tax information for all taxing entities, including a separate statement for
614 the minimum school levy under Section 53A-17a-135 stating:

615 (A) the dollar amount the taxpayer would have paid based on last year's rate; and

616 (B) the amount of the taxpayer's liability under the current rate;

- 617 (iv) the tax impact on the property;
 618 (v) the time and place of the required public hearing for each entity;
 619 (vi) property tax information pertaining to:
 620 (A) taxpayer relief;
 621 (B) options for payment of taxes; and
 622 (C) collection procedures;
 623 (vii) information specifically authorized to be included on the notice under Title 59,
 624 Chapter 2, Property Tax Act;
 625 (viii) the last appraisal date of the property as described in Subsection
 626 59-2-303.1(1)(a); and
 627 (ix) other property tax information approved by the commission.

628 Section 8. Section **59-2-1004** is amended to read:

629 **59-2-1004. Appeal to county board of equalization -- Real property -- Time**
 630 **period for appeal -- Decision of board -- Extensions approved by commission -- Appeal to**
 631 **commission.**

632 (1) (a) A taxpayer dissatisfied with the valuation or the equalization of the taxpayer's
 633 real property may make an application to appeal by:

634 (i) filing the application with the county board of equalization within the time period
 635 described in Subsection (2); or

636 (ii) making an application by telephone or other electronic means within the time period
 637 described in Subsection (2) if the county legislative body passes a resolution under Subsection
 638 (5) authorizing applications to be made by telephone or other electronic means.

639 (b) The contents of the application shall be prescribed by rule of the county board of
 640 equalization.

641 (2) (a) Except as provided in Subsection (2)(b), for purposes of Subsection (1), a
 642 taxpayer shall make an application to appeal the valuation or the equalization of the taxpayer's
 643 real property on or before the later of:

644 (i) September 15 of the current calendar year; or

645 (ii) the last day of a 45-day period beginning on the day on which the county auditor
 646 mails the notice under [~~Subsection 59-2-919(4)~~] Section 59-2-919.1.

647 (b) Notwithstanding Subsection (2)(a), in accordance with Title 63, Chapter 46a, Utah

648 Administrative Rulemaking Act, the commission shall make rules providing for circumstances
649 under which the county board of equalization is required to accept an application to appeal that
650 is filed after the time period prescribed in Subsection (2)(a).

651 (3) The owner shall include in the application under Subsection (1)(a)(i) the owner's
652 estimate of the fair market value of the property and any evidence which may indicate that the
653 assessed valuation of the owner's property is improperly equalized with the assessed valuation
654 of comparable properties.

655 (4) (a) The county board of equalization shall meet and hold public hearings as
656 prescribed in Section 59-2-1001.

657 (b) The county board of equalization shall make a decision on each appeal filed in
658 accordance with this section within a 60-day period after the day on which the application is
659 made.

660 (c) The commission may approve the extension of a time period provided for in
661 Subsection (4)(b) for a county board of equalization to make a decision on an appeal.

662 (d) The decision of the board shall contain a determination of the valuation of the
663 property based on fair market value, and a conclusion that the fair market value is properly
664 equalized with the assessed value of comparable properties.

665 (e) If no evidence is presented before the county board of equalization, it will be
666 presumed that the equalization issue has been met.

667 (f) (i) If the fair market value of the property that is the subject of the appeal deviates
668 plus or minus 5% from the assessed value of comparable properties, the valuation of the
669 appealed property shall be adjusted to reflect a value equalized with the assessed value of
670 comparable properties.

671 (ii) The equalized value established under Subsection (4)(f)(i) shall be the assessed
672 value for property tax purposes until the county assessor is able to evaluate and equalize the
673 assessed value of all comparable properties to bring them all into conformity with full fair
674 market value.

675 (5) If any taxpayer is dissatisfied with the decision of the county board of equalization,
676 the taxpayer may file an appeal with the commission as prescribed in Section 59-2-1006.

677 (6) A county legislative body may pass a resolution authorizing taxpayers owing taxes
678 on property assessed by that county to file property tax appeals applications under this section

679 by telephone or other electronic means.

680 Section 9. Section **59-2-1330** is amended to read:

681 **59-2-1330. Payment of property taxes -- Payments to taxpayer by state or taxing**
682 **entity -- Refund of penalties paid by taxpayer -- Refund of interest paid by taxpayer --**
683 **Payment of interest to taxpayer -- Judgment levy -- Objections to assessments by the**
684 **commission -- Time periods for making payments to taxpayer.**

685 (1) Unless otherwise specifically provided by statute, property taxes shall be paid
686 directly to the county assessor or the county treasurer:

687 (a) on the date that the property taxes are due; and

688 (b) as provided in this chapter.

689 (2) A taxpayer shall receive payment as provided in this section if a reduction in the
690 amount of any tax levied against any property for which the taxpayer paid a tax or any portion
691 of a tax under this chapter for a calendar year is required by a final and unappealable judgment
692 or order described in Subsection (3) issued by:

693 (a) a county board of equalization;

694 (b) the commission; or

695 (c) a court of competent jurisdiction.

696 (3) (a) For purposes of Subsection (2), the state or any taxing entity that has received
697 property taxes or any portion of property taxes from a taxpayer described in Subsection (2)
698 shall pay the taxpayer if:

699 (i) the taxes the taxpayer paid in accordance with Subsection (2) are collected by an
700 authorized officer of the:

701 (A) county; or

702 (B) state; and

703 (ii) the taxpayer obtains a final and unappealable judgment or order:

704 (A) from:

705 (I) a county board of equalization;

706 (II) the commission; or

707 (III) a court of competent jurisdiction;

708 (B) against:

709 (I) the taxing entity or an authorized officer of the taxing entity; or

710 (II) the state or an authorized officer of the state; and
711 (C) ordering a reduction in the amount of any tax levied against any property for which
712 a taxpayer paid a tax or any portion of a tax under this chapter for the calendar year.

713 (b) The amount that the state or a taxing entity shall pay a taxpayer shall be determined
714 in accordance with Subsections (4) through (7).

715 (4) For purposes of Subsections (2) and (3), the amount the state shall pay to a taxpayer
716 is equal to the sum of:

717 (a) if the difference described in this Subsection (4)(a) is greater than \$0, the difference
718 between:

719 (i) the tax the taxpayer paid to the state in accordance with Subsection (2); and

720 (ii) the amount of the taxpayer's tax liability to the state after the reduction in the
721 amount of tax levied against the property in accordance with the final and unappealable
722 judgment or order described in Subsection (3);

723 (b) if the difference described in this Subsection (4)(b) is greater than \$0, the difference
724 between:

725 (i) any penalties the taxpayer paid to the state in accordance with Section 59-2-1331;
726 and

727 (ii) the amount of penalties the taxpayer is liable to pay to the state in accordance with
728 Section 59-2-1331 after the reduction in the amount of tax levied against the property in
729 accordance with the final and unappealable judgment or order described in Subsection (3);

730 (c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with
731 Section 59-2-1331 on the amounts described in Subsections (4)(a) and (4)(b); and

732 (d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

733 (i) Subsection (4)(a);

734 (ii) Subsection (4)(b); and

735 (iii) Subsection (4)(c).

736 (5) For purposes of Subsections (2) and (3), the amount a taxing entity shall pay to a
737 taxpayer is equal to the sum of:

738 (a) if the difference described in this Subsection (5)(a) is greater than \$0, the difference
739 between:

740 (i) the tax the taxpayer paid to the taxing entity in accordance with Subsection (2); and

741 (ii) the amount of the taxpayer's tax liability to the taxing entity after the reduction in
742 the amount of tax levied against the property in accordance with the final and unappealable
743 judgment or order described in Subsection (3);

744 (b) if the difference described in this Subsection (5)(b) is greater than \$0, the difference
745 between:

746 (i) any penalties the taxpayer paid to the taxing entity in accordance with Section
747 59-2-1331; and

748 (ii) the amount of penalties the taxpayer is liable to pay to the taxing entity in
749 accordance with Section 59-2-1331 after the reduction in the amount of tax levied against the
750 property in accordance with the final and unappealable judgment or order described in
751 Subsection (3); ~~and~~

752 (c) as provided in Subsection (6)(a), interest the taxpayer paid in accordance with
753 Section 59-2-1331 on the amounts described in Subsections (5)(a) and (5)(b); and

754 (d) as provided in Subsection (6)(b), interest on the sum of the amounts described in:

755 (i) Subsection (5)(a);

756 (ii) Subsection (5)(b); and

757 (iii) Subsection (5)(c).

758 (6) Except as provided in Subsection (7):

759 (a) interest shall be refunded to a taxpayer on the amount described in Subsection
760 (4)(c) or (5)(c) in an amount equal to the amount of interest the taxpayer paid in accordance
761 with Section 59-2-1331; and

762 (b) interest shall be paid to a taxpayer on the amount described in Subsection (4)(d) or
763 (5)(d):

764 (i) beginning on the later of:

765 (A) the day on which the taxpayer paid the tax in accordance with Subsection (2); or

766 (B) January 1 of the calendar year immediately following the calendar year for which
767 the tax was due;

768 (ii) ending on the day on which the state or a taxing entity pays to the taxpayer the
769 amount required by Subsection (4) or (5); and

770 (iii) at the interest rate earned by the state treasurer on public funds transferred to the
771 state treasurer in accordance with Section 51-7-5.

772 (7) Notwithstanding Subsection (6):

773 (a) the state may not pay or refund interest to a taxpayer under Subsection (6) on any
774 tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax levied
775 by the state for that calendar year as stated on the notice required by Section 59-2-1317; and

776 (b) a taxing entity may not pay or refund interest to a taxpayer under Subsection (6) on
777 any tax the taxpayer paid in accordance with Subsection (2) that exceeds the amount of tax
778 levied by the taxing entity for that calendar year as stated on the notice required by Section
779 59-2-1317.

780 (8) (a) Each taxing entity may levy a tax to pay its share of the final and unappealable
781 judgment or order described in Subsection (3) if:

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

784 (ii) the amount of the judgment levy is included on the notice under Section [~~59-2-919~~
785 59-2-919.1]; and

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

788 (b) The levy under Subsection (8)(a) is in addition to, and exempt from, the maximum
789 levy established for the taxing entity.

790 (9) (a) A taxpayer that objects to the assessment of property assessed by the
791 commission shall pay, on or before the date of delinquency established under Subsection
792 59-2-1331(1) or Section 59-2-1332, the full amount of taxes stated on the notice required by
793 Section 59-2-1317 if:

794 (i) the taxpayer has applied to the commission for a hearing in accordance with Section
795 59-2-1007 on the objection to the assessment; and

796 (ii) the commission has not issued a written decision on the objection to the assessment
797 in accordance with Section 59-2-1007.

798 (b) A taxpayer that pays the full amount of taxes due under Subsection (9)(a) is not
799 required to pay penalties or interest on an assessment described in Subsection (9)(a) unless:

800 (i) a final and unappealable judgment or order establishing that the property described
801 in Subsection (9)(a) has a value greater than the value stated on the notice required by Section
802 59-2-1317 is issued by:

803 (A) the commission; or
804 (B) a court of competent jurisdiction; and
805 (ii) the taxpayer fails to pay the additional tax liability resulting from the final and
806 unappealable judgment or order described in Subsection (9)(b)(i) within a 45-day period after
807 the county bills the taxpayer for the additional tax liability.

808 (10) (a) Except as provided in Subsection (10)(b), a payment that is required by this
809 section shall be paid to a taxpayer:

810 (i) within 60 days after the day on which the final and unappealable judgment or order
811 is issued in accordance with Subsection (3); or

812 (ii) if a judgment levy is imposed in accordance with Subsection (8):

813 (A) if the payment to the taxpayer required by this section is \$5,000 or more, no later
814 than December 31 of the year in which the judgment levy is imposed; and

815 (B) if the payment to the taxpayer required by this section is less than \$5,000, within
816 60 days after the date the final and unappealable judgment or order is issued in accordance with
817 Subsection (3).

818 (b) Notwithstanding Subsection (10)(a), a taxpayer may enter into an agreement:

819 (i) that establishes a time period other than a time period described in Subsection
820 (10)(a) for making a payment to the taxpayer that is required by this section; and

821 (ii) with:

822 (A) an authorized officer of a taxing entity for a tax imposed by a taxing entity; or

823 (B) an authorized officer of the state for a tax imposed by the state.

824 Section 10. **Effective date.**

825 This bill takes effect on January 1, 2009.

Legislative Review Note
as of 11-15-07 7:57 AM

Office of Legislative Research and General Counsel

H.B. 54 - Property Tax Assessment Revisions

Fiscal Note

2008 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.
