1	PROPERTY TAX VALUATION AMENDMENTS
2	2010 GENERAL SESSION
3	STATE OF UTAH
4	Chief Sponsor: Neil A. Hansen
5	Senate Sponsor:
6 7	LONG TITLE
8	General Description:
9	This bill changes provisions related to the valuation of certain property under the
10	Property Tax Act.
11	Highlighted Provisions:
12	This bill:
13	 modifies the definition of fair market value with regards to residential property to
14	require a county assessor to value a residence:
15	• for a residence subject to a change in ownership after January 1, 2011, at the
16	acquisition price of the property, with an inflation adjustment;
17	• for a residence with additional improvements after January 1, 2011, at the fair
18	market value in the year of improvement, with an inflation adjustment; and
19	 for all other residential property, at the fair market value of the residence on
20	January 1, 2011 with an inflation adjustment;
21	 requires a person who acquires residential property to file an affidavit with a county
22	assessor; and
23	makes technical changes.
24	Monies Appropriated in this Bill:
25	None
26	Other Special Clauses:
27	This bill takes effect on January 1, 2011.



Uta	h Code Sections Affected:
AM	ENDS:
	59-2-102, as last amended by Laws of Utah 2008, Chapters 61, 231, 283, 301, 360, and
382	
	59-2-103, as last amended by Laws of Utah 2004, Chapters 90 and 281
ENA	ACTS:
	59-2-109 , Utah Code Annotated 1953
Be i	it enacted by the Legislature of the state of Utah:
20.	Section 1. Section 59-2-102 is amended to read:
	59-2-102. Definitions.
	As used in this chapter and title:
	(1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of
enga	aging in dispensing activities directly affecting agriculture or horticulture with an
airw	vorthiness certificate from the Federal Aviation Administration certifying the aircraft or
roto	orcraft's use for agricultural and pest control purposes.
	(2) "Air charter service" means an air carrier operation which requires the customer to
hire	an entire aircraft rather than book passage in whatever capacity is available on a scheduled
trip.	
	(3) "Air contract service" means an air carrier operation available only to customers
who	engage the services of the carrier through a contractual agreement and excess capacity on
any	trip and is not available to the public at large.
	(4) "Aircraft" is as defined in Section 72-10-102.
	(5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:
	(i) operates:
	(A) on an interstate route; and
	(B) on a scheduled basis; and
	(ii) offers to fly one or more passengers or cargo on the basis of available capacity on a
regu	ularly scheduled route.
	(b) "Airline" does not include an:
	(i) air charter service; or

59	(ii) air contract service.
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 as a consolidated record or as multiple records by type, classification, or
63	categories.
64	(7) (a) "Certified revenue levy" means a property tax levy that provides an amount of
65	ad valorem property tax revenue equal to the sum of:
66	(i) the amount of ad valorem property tax revenue to be generated statewide in the
67	previous year from imposing a minimum basic tax rate, as specified in Subsection
68	53A-17a-135(1)(a); and
69	(ii) the product of:
70	(A) new growth, as defined in:
71	(I) Section 59-2-924; and
72	(II) rules of the commission; and
73	(B) the minimum basic tax rate certified by the commission for the previous year.
74	(b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not
75	include property tax revenue received by a taxing entity from personal property that is:
76	(i) assessed by a county assessor in accordance with Part 3, County Assessment; and
77	(ii) semiconductor manufacturing equipment.
78	(c) For purposes of calculating the certified revenue levy described in this Subsection
79	(7), the commission shall use:
80	(i) the taxable value of real property assessed by a county assessor contained on the
81	assessment roll;
82	(ii) the taxable value of real and personal property assessed by the commission; and
83	(iii) the taxable year end value of personal property assessed by a county assessor
84	contained on the prior year's assessment roll.
85	(8) "Consumer price index" means the price index calculated as provided in Sections
86	1(f)(4) and 1(f)(5), Internal Revenue Code.
87	[(8)] <u>(9)</u> "County-assessed commercial vehicle" means:
88	(a) any commercial vehicle, trailer, or semitrailer which is not apportioned under
89	Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or

90	property in furtherance of the owner's commercial enterprise;
91	(b) any passenger vehicle owned by a business and used by its employees for
92	transportation as a company car or vanpool vehicle; and
93	(c) vehicles which are:
94	(i) especially constructed for towing or wrecking, and which are not otherwise used to
95	transport goods, merchandise, or people for compensation;
96	(ii) used or licensed as taxicabs or limousines;
97	(iii) used as rental passenger cars, travel trailers, or motor homes;
98	(iv) used or licensed in this state for use as ambulances or hearses;
99	(v) especially designed and used for garbage and rubbish collection; or
100	(vi) used exclusively to transport students or their instructors to or from any private,
101	public, or religious school or school activities.
102	[(9)] (10) (a) Except as provided in Subsection $[(9)]$ (10)(b), for purposes of Section
103	59-2-801, "designated tax area" means a tax area created by the overlapping boundaries of only
104	the following taxing entities:
105	(i) a county; and
106	(ii) a school district.
107	(b) Notwithstanding Subsection [(9)] (10)(a), "designated tax area" includes a tax area
108	created by the overlapping boundaries of:
109	(i) the taxing entities described in Subsection [(9)] (10)(a); and
110	(ii) (A) a city or town if the boundaries of the school district under Subsection [(9)]
111	(10)(a) and the boundaries of the city or town are identical; or
112	(B) a special service district if the boundaries of the school district under Subsection
113	[(9)] (10)(a) are located entirely within the special service district.
114	[(10)] (11) "Eligible judgment" means a final and unappealable judgment or order
115	under Section 59-2-1330:
116	(a) that became a final and unappealable judgment or order no more than 14 months
117	prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed;
118	and
119	(b) for which a taxing entity's share of the final and unappealable judgment or order is
120	greater than or equal to the lesser of:

121	(i) \$5,000; or
122	(ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
123	previous fiscal year.
124	[(11)] (12) (a) "Escaped property" means any property, whether personal, land, or any
125	improvements to the property, subject to taxation and is:
126	(i) inadvertently omitted from the tax rolls, assigned to the incorrect parcel, or assessed
127	to the wrong taxpayer by the assessing authority;
128	(ii) undervalued or omitted from the tax rolls because of the failure of the taxpayer to
129	comply with the reporting requirements of this chapter; or
130	(iii) undervalued because of errors made by the assessing authority based upon
131	incomplete or erroneous information furnished by the taxpayer.
132	(b) Property which is undervalued because of the use of a different valuation
133	methodology or because of a different application of the same valuation methodology is not
134	"escaped property."
135	[(12)] (13) ["Fair] (a) Except as provided in Subsection (13)(b), "fair market value"
136	means the amount at which property would change hands between a willing buyer and a willing
137	seller, neither being under any compulsion to buy or sell and both having reasonable
138	knowledge of the relevant facts. For purposes of taxation, "fair market value" shall be
139	determined using the current zoning laws applicable to the property in question, except in cases
140	where there is a reasonable probability of a change in the zoning laws affecting that property in
141	the tax year in question and the change would have an appreciable influence upon the value.
142	(b) (i) Except as provided in Subsections (13)(b)(ii) and (iii), "fair market value" for a
143	residential property means the sum of:
144	(A) the fair market value established by the county assessor as of January 1, 2011; and
145	(B) an amount equal to the product of:
146	(I) the cumulative percentage change in the consumer price index since 2011; and
147	(II) the value described in Subsection (13)(b)(i)(A).
148	(ii) For residential property subject to a change in ownership through a bona fide sale
149	after January 1, 2011, "fair market value" means the sum of:
150	(A) the price at which the residential property was acquired in a bona fide sale; and
151	(B) an amount equal to the product of:

152	(I) the cumulative percentage change in the consumer price index since the year of
153	acquisition; and
154	(II) the value described in Subsection (13)(b)(ii)(A).
155	(iii) For residential property to which additional improvements exceeding \$5,000 in
156	value are made after January 1, 2011, "fair market value" means the sum of:
157	(A) fair market value as provided in Subsection (13)(a) in the year additional
158	improvements exceeding \$5,000 are made; and
159	(B) an amount equal to the product of:
160	(I) the cumulative percentage change in the consumer price index since the year in
161	which improvements exceeding \$5,000 are made; and
162	(II) the value described in Subsection (13)(b)(iii)(A).
163	(c) For purposes of Subsection (13)(b), the term "change in ownership" does not
164	include the following purchases or transfer of real property between spouses on or after January
165	<u>1, 2011:</u>
166	(i) a transfer to a trustee for the beneficial use of a spouse, or the surviving spouse of a
167	deceased transferor, or by a trustee of such a trust to the spouse of the trustor;
168	(ii) a transfer to a spouse that takes effect upon the death of a spouse;
169	(iii) a transfer to a spouse or former spouse in connection with a property settlement
170	agreement or decree of dissolution of a marriage or legal separation;
171	(iv) a creation, transfer, or termination, solely between spouses, of any co-owner's
172	interest; or
173	(v) a distribution of a legal entity's property to a spouse or former spouse in exchange
174	for the interest of the spouse in the legal entity in connection with a property settlement
175	agreement or a decree of dissolution of a marriage or legal separation.
176	(d) (i) For purposes of Subsection (13)(b), the term "change in ownership" does not
177	include the purchase or transfer of the residential property between a parent and a child.
178	(ii) This Subsection (13)(d) applies to both voluntary transfers and transfers resulting
179	from a court order or judicial decree.
180	(e) For purposes of Subsection (13)(b), "change in ownership" does not include the
181	acquisition of residential property as a replacement for comparable property if the person
182	acquiring the residential property has been displaced from the residential property by eminent

183	<u>domain.</u>
184	[(13)] (14) "Farm machinery and equipment," for purposes of the exemption provided
185	under Section 59-2-1101, means tractors, milking equipment and storage and cooling facilities,
186	feed handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters,
187	tillage tools, scales, combines, spreaders, sprayers, haying equipment, and any other machinery
188	or equipment used primarily for agricultural purposes; but does not include vehicles required to
189	be registered with the Motor Vehicle Division or vehicles or other equipment used for business
190	purposes other than farming.
191	[(14)] (15) "Geothermal fluid" means water in any form at temperatures greater than
192	120 degrees centigrade naturally present in a geothermal system.
193	[(15)] (16) "Geothermal resource" means:
194	(a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
195	and
196	(b) the energy, in whatever form, including pressure, present in, resulting from, created
197	by, or which may be extracted from that natural heat, directly or through a material medium.
198	[(16)] <u>(17)</u> (a) "Goodwill" means:
199	(i) acquired goodwill that is reported as goodwill on the books and records:
200	(A) of a taxpayer; and
201	(B) that are maintained for financial reporting purposes; or
202	(ii) the ability of a business to:
203	(A) generate income:
204	(I) that exceeds a normal rate of return on assets; and
205	(II) resulting from a factor described in Subsection [(16)] (17)(b); or
206	(B) obtain an economic or competitive advantage resulting from a factor described in
207	Subsection [(16)] <u>(17)</u> (b).
208	(b) The following factors apply to Subsection [(16)] (17)(a)(ii):
209	(i) superior management skills;
210	(ii) reputation;
211	(iii) customer relationships;
212	(iv) patronage; or
213	(v) a factor similar to Subsections [(16)] (17)(b)(i) through (iv).

214	(c) "Goodwill" does not include:
215	(i) the intangible property described in Subsection [(20)] (21)(a) or (b);
216	(ii) locational attributes of real property, including:
217	(A) zoning;
218	(B) location;
219	(C) view;
220	(D) a geographic feature;
221	(E) an easement;
222	(F) a covenant;
223	(G) proximity to raw materials;
224	(H) the condition of surrounding property; or
225	(I) proximity to markets;
226	(iii) value attributable to the identification of an improvement to real property,
227	including:
228	(A) reputation of the designer, builder, or architect of the improvement;
229	(B) a name given to, or associated with, the improvement; or
230	(C) the historic significance of an improvement; or
231	(iv) the enhancement or assemblage value specifically attributable to the interrelation
232	of the existing tangible property in place working together as a unit.
233	[(17)] (18) "Governing body" means:
234	(a) for a county, city, or town, the legislative body of the county, city, or town;
235	(b) for a local district under Title 17B, Limited Purpose Local Government Entities -
236	Local Districts, the local district's board of trustees;
237	(c) for a school district, the local board of education; or
238	(d) for a special service district under Title 17D, Chapter 1, Special Service District
239	Act:
240	(i) the legislative body of the county or municipality that created the special service
241	district, to the extent that the county or municipal legislative body has not delegated authority
242	to an administrative control board established under Section 17D-1-301; or
243	(ii) the administrative control board, to the extent that the county or municipal
244	legislative body has delegated authority to an administrative control board established under

245	Section 17D-1-301.
246	[(18)] <u>(19)</u> (a) For purposes of Section 59-2-103:
247	(i) "household" means the association of persons who live in the same dwelling,
248	sharing its furnishings, facilities, accommodations, and expenses; and
249	(ii) "household" includes married individuals, who are not legally separated, that have
250	established domiciles at separate locations within the state.
251	(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
252	commission may make rules defining the term "domicile."
253	[(19)] (20) (a) Except as provided in Subsection [(19)] (20)(c), "improvement" means a
254	building, structure, fixture, fence, or other item that is permanently attached to land, regardless
255	of whether the title has been acquired to the land, if:
256	(i) (A) attachment to land is essential to the operation or use of the item; and
257	(B) the manner of attachment to land suggests that the item will remain attached to the
258	land in the same place over the useful life of the item; or
259	(ii) removal of the item would:
260	(A) cause substantial damage to the item; or
261	(B) require substantial alteration or repair of a structure to which the item is attached.
262	(b) "Improvement" includes:
263	(i) an accessory to an item described in Subsection [(19)] (20)(a) if the accessory is:
264	(A) essential to the operation of the item described in Subsection [$\frac{(19)}{(20)}$ (a); and
265	(B) installed solely to serve the operation of the item described in Subsection [(19)]
266	(20)(a); and
267	(ii) an item described in Subsection [(19)] (20)(a) that:
268	(A) is temporarily detached from the land for repairs; and
269	(B) remains located on the land.
270	(c) Notwithstanding Subsections [(19)] (20)(a) and (b), "improvement" does not
271	include:
272	(i) an item considered to be personal property pursuant to rules made in accordance
273	with Section 59-2-107;
274	(ii) a moveable item that is attached to land:
275	(A) for stability only; or

276	(B) for an obvious temporary purpose;
277	(iii) (A) manufacturing equipment and machinery; or
278	(B) essential accessories to manufacturing equipment and machinery;
279	(iv) an item attached to the land in a manner that facilitates removal without substantial
280	damage to:
281	(A) the land; or
282	(B) the item; or
283	(v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
284	transportable factory-built housing unit is considered to be personal property under Section
285	59-2-1503.
286	[(20)] (21) "Intangible property" means:
287	(a) property that is capable of private ownership separate from tangible property,
288	including:
289	(i) moneys;
290	(ii) credits;
291	(iii) bonds;
292	(iv) stocks;
293	(v) representative property;
294	(vi) franchises;
295	(vii) licenses;
296	(viii) trade names;
297	(ix) copyrights; and
298	(x) patents;
299	(b) a low-income housing tax credit; or
300	(c) goodwill.
301	[(21)] (22) "Low-income housing tax credit" means:
302	(a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
303	or
304	(b) a low-income housing tax credit under:
305	(i) Section 59-7-607; or
306	(ii) Section 59-10-1010.

307	[(22)] (23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and
308	uranium.
309	[(23)] (24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
310	valuable mineral.
311	[(24)] (25) "Mining" means the process of producing, extracting, leaching, evaporating,
312	or otherwise removing a mineral from a mine.
313	[(25)] (26) (a) "Mobile flight equipment" means tangible personal property that is:
314	(i) owned or operated by an:
315	(A) air charter service;
316	(B) air contract service; or
317	(C) airline; and
318	(ii) (A) capable of flight;
319	(B) attached to an aircraft that is capable of flight; or
320	(C) contained in an aircraft that is capable of flight if the tangible personal property is
321	intended to be used:
322	(I) during multiple flights;
323	(II) during a takeoff, flight, or landing; and
324	(III) as a service provided by an air charter service, air contract service, or airline.
325	(b) (i) "Mobile flight equipment" does not include a spare part other than a spare
326	engine that is rotated:
327	(A) at regular intervals; and
328	(B) with an engine that is attached to the aircraft.
329	(ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
330	commission may make rules defining the term "regular intervals."
331	[(26)] (27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal,
332	salts, sand, rock, gravel, and all carboniferous materials.
333	[(27)] (28) "Personal property" includes:
334	(a) every class of property as defined in Subsection [(28)] (30) which is the subject of
335	ownership and not included within the meaning of the terms "real estate" and "improvements";
336	(b) gas and water mains and pipes laid in roads, streets, or alleys;
337	(c) bridges and ferries;

338	(d) livestock which, for the purposes of the exemption provided under Section
339	59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and
340	(e) outdoor advertising structures as defined in Section 72-7-502.
341	(29) (a) "Primary residential property," for purposes of the reductions and adjustments
342	under this chapter, means any property used for residential purposes as a primary residence.
343	(b) "Primary residential property" does not include property used for transient
344	residential use or a condominium used in a rental pool.
345	[(28)] (30) (a) "Property" means property that is subject to assessment and taxation
346	according to its value.
347	(b) "Property" does not include intangible property as defined in this section.
348	[(29)] (31) "Public utility," for purposes of this chapter, means the operating property
349	of a railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
350	company, electrical corporation, telephone corporation, sewerage corporation, or heat
351	corporation where the company performs the service for, or delivers the commodity to, the
352	public generally or companies serving the public generally, or in the case of a gas corporation
353	or an electrical corporation, where the gas or electricity is sold or furnished to any member or
354	consumers within the state for domestic, commercial, or industrial use. Public utility also
355	means the operating property of any entity or person defined under Section 54-2-1 except water
356	corporations.
357	[(30)] (32) "Real estate" or "real property" includes:
358	(a) the possession of, claim to, ownership of, or right to the possession of land;
359	(b) all mines, minerals, and quarries in and under the land, all timber belonging to
360	individuals or corporations growing or being on the lands of this state or the United States, and
361	all rights and privileges appertaining to these; and
362	(c) improvements.
363	[(31)] (33) "Residential property," for the purposes of valuation and the reductions and
364	adjustments under this chapter, means any property used for residential purposes as a primary
365	or secondary residence. It does not include property used for transient residential use or
366	condominiums used in rental pools.
367	[(32)] (34) (a) "State-assessed commercial vehicle" means:
368	(i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate

369	to transport passengers, freight, merchandise, or other property for hire; or
370	(ii) any commercial vehicle, trailer, or semitrailer which operates interstate and
371	transports the vehicle owner's goods or property in furtherance of the owner's commercial
372	enterprise.
373	(b) "State-assessed commercial vehicle" does not include vehicles used for hire which
374	are specified in Subsection (8)(c) as county-assessed commercial vehicles.
375	[(33)] (35) "Taxable value" means fair market value less any applicable reduction
376	allowed for residential property under Section 59-2-103.
377	[(34)] (36) "Tax area" means a geographic area created by the overlapping boundaries
378	of one or more taxing entities.
379	[(35)] (37) "Taxing entity" means any county, city, town, school district, special taxing
380	district, local district under Title 17B, Limited Purpose Local Government Entities - Local
381	Districts, or other political subdivision of the state with the authority to levy a tax on property.
382	[(36)] (38) "Tax roll" means a permanent record of the taxes charged on property, as
383	extended on the assessment roll and may be maintained on the same record or records as the
384	assessment roll or may be maintained on a separate record properly indexed to the assessment
385	roll. It includes tax books, tax lists, and other similar materials.
386	Section 2. Section 59-2-103 is amended to read:
387	59-2-103. Rate of assessment of property Residential property.
388	(1) All tangible taxable property located within the state shall be assessed and taxed at
389	a uniform and equal rate on the basis of its fair market value, as valued on January 1, unless
390	otherwise provided by law.
391	[(2) Subject to Subsections (3) and (4), beginning on January 1, 1995, the fair market
392	value of residential property located within the state shall be reduced by 45%, representing a
393	residential exemption allowed under Utah Constitution Article XIII, Section 2.]
394	(2) (a) As allowed under Utah Constitution, Article XIII, Section 3, and subject to
395	Subsections (2)(b) and (c), the taxable value of primary residential property, as defined in
396	Section 59-2-102, is the amount remaining after applying an exemption consisting of a 45%
397	reduction to the property's fair market value.
398	[(3)] (b) No more than one acre of land per <u>primary</u> residential unit may qualify for the
399	residential exemption.

400	$[\frac{(4)(a)}{(c)}]$ (c) (i) Except as provided in Subsection $[\frac{(4)(b)}{(2)(c)}]$ (ii), [beginning on
401	January 1, 2005,] the primary residential exemption in Subsection (2)(a) is limited to one
402	primary residence per household.
403	[(b)] (ii) An owner of multiple residential properties located within the state is allowed
404	a residential exemption under Subsection (2)(a) for:
405	$[\frac{(i)}{(A)}]$ subject to Subsection $[\frac{(4)(a)}{(2)(c)(i)}$, the primary residence of the owner;
406	and
407	[(ii)] (B) each <u>primary</u> residential property that is the primary residence of a tenant.
408	(3) The commission shall annually notify a county assessor of the change in the
409	consumer price index to be used for determining the fair market value of residential property.
410	Section 3. Section 59-2-109 is enacted to read:
411	59-2-109. Disclosure of acquisition value of residential property.
412	(1) A person who acquires residential property on or after January 1, 2011 shall file an
413	affidavit:
414	(a) with the county assessor for the county in which the residential property is located;
415	(b) on a form prescribed by the commission by rule;
416	(c) signed by all the owners of the residential property; and
417	(d) stating the price at which the residential property was purchased.
418	(2) If an owner of residential property fails to submit the affidavit required under
419	Subsection (1), the county assessor shall assess the residential property at fair market value
420	using the definition of fair market value as described in Subsection 59-2-102(13)(a).
421	Section 4. Effective date.
422	This bill takes effect on January 1, 2011.

Legislative Review Note as of 2-3-10 3:08 PM

Office of Legislative Research and General Counsel

H.B. 322 - Property Tax Valuation Amendments

Fiscal Note

2010 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 local governments. Enactment of this bill could result in a shift of property tax liabilty among taxpayers.

2/12/2010, 10:33:33 AM, Lead Analyst: Wilko, A./Attny: RHR

Office of the Legislative Fiscal Analyst