

1 **REVENUE AND TAX AMENDMENTS**

2 2012 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Curtis S. Bramble**

5 House Sponsor: Patrick Painter

7 **LONG TITLE**

8 **General Description:**

9 This bill makes changes related to the multicounty assessing and collecting levy,
10 including the distribution of multicounty assessing and collecting levy revenues.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ makes changes related to the multicounty assessing and collecting levy, including
- 14 the distribution of multicounty assessing and collecting levy revenues; and
- 15 ▶ makes technical and conforming changes.

16 **Money Appropriated in this Bill:**

17 None

18 **Other Special Clauses:**

19 None

20 **Utah Code Sections Affected:**

21 AMENDS:

22 **59-2-102**, as last amended by Laws of Utah 2010, Chapter 14

23 **59-2-1603**, as last amended by Laws of Utah 2010, Chapter 131

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

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

27 **59-2-102. Definitions.**

28 As used in this chapter and title:

29 (1) "Aerial applicator" means aircraft or rotorcraft used exclusively for the purpose of

30 engaging in dispensing activities directly affecting agriculture or horticulture with an
31 airworthiness certificate from the Federal Aviation Administration certifying the aircraft or
32 rotorcraft's use for agricultural and pest control purposes.

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

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

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

40 (5) (a) Except as provided in Subsection (5)(b), "airline" means an air carrier that:

41 (i) operates:

42 (A) on an interstate route; and

43 (B) on a scheduled basis; and

44 (ii) offers to fly one or more passengers or cargo on the basis of available capacity on a
45 regularly scheduled route.

46 (b) "Airline" does not include an:

47 (i) air charter service; or

48 (ii) air contract service.

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

53 (7) (a) "Certified revenue levy" means a property tax levy that provides an amount of
54 ad valorem property tax revenue equal to the sum of:

55 (i) the amount of ad valorem property tax revenue to be generated statewide in the
56 previous year from imposing a school minimum basic tax rate, as specified in Subsection
57 53A-17a-135(1)(a), or multicounty assessing and collecting levy, as specified in Section

58 59-2-1602; and

59 (ii) the product of:

60 (A) new growth, as defined in:

61 (I) Section 59-2-924; and

62 (II) rules of the commission; and

63 (B) the school minimum basic tax rate or multicounty assessing and collecting levy
64 certified by the commission for the previous year.

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

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

68 (ii) semiconductor manufacturing equipment.

69 (c) For purposes of calculating the certified revenue levy described in this Subsection
70 (7), the commission shall use:

71 (i) the taxable value of real property assessed by a county assessor contained on the
72 assessment roll;

73 (ii) the taxable value of real and personal property assessed by the commission; and

74 (iii) the taxable year end value of personal property assessed by a county assessor
75 contained on the prior year's assessment roll.

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

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

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

82 (c) vehicles which are:

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

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

- 86 (iii) used as rental passenger cars, travel trailers, or motor homes;
- 87 (iv) used or licensed in this state for use as ambulances or hearses;
- 88 (v) especially designed and used for garbage and rubbish collection; or
- 89 (vi) used exclusively to transport students or their instructors to or from any private,
- 90 public, or religious school or school activities.

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

- 94 (i) a county; and
- 95 (ii) a school district.

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

- 98 (i) the taxing entities described in Subsection (9)(a); and
- 99 (ii) (A) a city or town if the boundaries of the school district under Subsection (9)(a)
100 and the boundaries of the city or town are identical; or

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

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

105 (a) that became a final and unappealable judgment or order no more than 14 months
106 prior to the day on which the notice required by Section 59-2-919.1 is required to be mailed;
107 and

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

- 110 (i) \$5,000; or
- 111 (ii) 2.5% of the total ad valorem property taxes collected by the taxing entity in the
112 previous fiscal year.

113 (11) (a) "Escaped property" means any property, whether personal, land, or any

114 improvements to the property, subject to taxation and is:

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

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

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

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

124 (12) "Fair market value" means the amount at which property would change hands
125 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
126 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
127 market value" shall be determined using the current zoning laws applicable to the property in
128 question, except in cases where there is a reasonable probability of a change in the zoning laws
129 affecting that property in the tax year in question and the change would have an appreciable
130 influence upon the value.

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

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

140 (15) "Geothermal resource" means:

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

142 and

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

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

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

147 (A) of a taxpayer; and

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

149 (ii) the ability of a business to:

150 (A) generate income:

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

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

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

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

156 (i) superior management skills;

157 (ii) reputation;

158 (iii) customer relationships;

159 (iv) patronage; or

160 (v) a factor similar to Subsections (16)(b)(i) through (iv).

161 (c) "Goodwill" does not include:

162 (i) the intangible property described in Subsection (20)(a) or (b);

163 (ii) locational attributes of real property, including:

164 (A) zoning;

165 (B) location;

166 (C) view;

167 (D) a geographic feature;

168 (E) an easement;

169 (F) a covenant;

- 170 (G) proximity to raw materials;
- 171 (H) the condition of surrounding property; or
- 172 (I) proximity to markets;
- 173 (iii) value attributable to the identification of an improvement to real property,
- 174 including:
- 175 (A) reputation of the designer, builder, or architect of the improvement;
- 176 (B) a name given to, or associated with, the improvement; or
- 177 (C) the historic significance of an improvement; or
- 178 (iv) the enhancement or assemblage value specifically attributable to the interrelation
- 179 of the existing tangible property in place working together as a unit.
- 180 (17) "Governing body" means:
- 181 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 182 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
- 183 Local Districts, the local district's board of trustees;
- 184 (c) for a school district, the local board of education; or
- 185 (d) for a special service district under Title 17D, Chapter 1, Special Service District
- 186 Act:
- 187 (i) the legislative body of the county or municipality that created the special service
- 188 district, to the extent that the county or municipal legislative body has not delegated authority
- 189 to an administrative control board established under Section 17D-1-301; or
- 190 (ii) the administrative control board, to the extent that the county or municipal
- 191 legislative body has delegated authority to an administrative control board established under
- 192 Section 17D-1-301.
- 193 (18) (a) For purposes of Section 59-2-103:
- 194 (i) "household" means the association of persons who live in the same dwelling,
- 195 sharing its furnishings, facilities, accommodations, and expenses; and
- 196 (ii) "household" includes married individuals, who are not legally separated, that have
- 197 established domiciles at separate locations within the state.

198 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
199 commission may make rules defining the term "domicile."

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

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

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

206 (ii) removal of the item would:

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

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

209 (b) "Improvement" includes:

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

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

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

213 and

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

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

216 (B) remains located on the land.

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

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

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

221 (A) for stability only; or

222 (B) for an obvious temporary purpose;

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

224 (B) essential accessories to manufacturing equipment and machinery;

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

226 damage to:

227 (A) the land; or

228 (B) the item; or

229 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
230 transportable factory-built housing unit is considered to be personal property under Section
231 59-2-1503.

232 (20) "Intangible property" means:

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

235 (i) money;

236 (ii) credits;

237 (iii) bonds;

238 (iv) stocks;

239 (v) representative property;

240 (vi) franchises;

241 (vii) licenses;

242 (viii) trade names;

243 (ix) copyrights; and

244 (x) patents;

245 (b) a low-income housing tax credit;

246 (c) goodwill; or

247 (d) a renewable energy tax credit or incentive, including:

248 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
249 Code;

250 (ii) a federal energy credit for qualified renewable electricity production facilities under
251 Section 48, Internal Revenue Code;

252 (iii) a federal grant for a renewable energy property under American Recovery and
253 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

- 254 (iv) a tax credit under Subsection 59-7-614(2)(c).
- 255 (21) "Low-income housing tax credit" means:
- 256 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
- 257 or
- 258 (b) a low-income housing tax credit under:
- 259 (i) Section 59-7-607; or
- 260 (ii) Section 59-10-1010.
- 261 (22) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 262 (23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 263 valuable mineral.
- 264 (24) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 265 otherwise removing a mineral from a mine.
- 266 (25) (a) "Mobile flight equipment" means tangible personal property that is:
- 267 (i) owned or operated by an:
- 268 (A) air charter service;
- 269 (B) air contract service; or
- 270 (C) airline; and
- 271 (ii) (A) capable of flight;
- 272 (B) attached to an aircraft that is capable of flight; or
- 273 (C) contained in an aircraft that is capable of flight if the tangible personal property is
- 274 intended to be used:
- 275 (I) during multiple flights;
- 276 (II) during a takeoff, flight, or landing; and
- 277 (III) as a service provided by an air charter service, air contract service, or airline.
- 278 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
- 279 engine that is rotated:
- 280 (A) at regular intervals; and
- 281 (B) with an engine that is attached to the aircraft.

282 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
283 commission may make rules defining the term "regular intervals."

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

286 (27) "Personal property" includes:

287 (a) every class of property as defined in Subsection (28) which is the subject of
288 ownership and not included within the meaning of the terms "real estate" and "improvements";

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

290 (c) bridges and ferries;

291 (d) livestock which, for the purposes of the exemption provided under Section
292 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

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

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

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

297 (29) "Public utility," for purposes of this chapter, means the operating property of a
298 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
299 company, electrical corporation, telephone corporation, sewerage corporation, or heat
300 corporation where the company performs the service for, or delivers the commodity to, the
301 public generally or companies serving the public generally, or in the case of a gas corporation
302 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
303 consumers within the state for domestic, commercial, or industrial use. Public utility also
304 means the operating property of any entity or person defined under Section 54-2-1 except water
305 corporations.

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

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

308 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
309 individuals or corporations growing or being on the lands of this state or the United States, and

310 all rights and privileges appertaining to these; and

311 (c) improvements.

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

315 (32) (a) "State-assessed commercial vehicle" means:

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

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

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

323 (33) "Taxable value" means fair market value less any applicable reduction allowed for
324 residential property under Section 59-2-103.

325 (34) "Tax area" means a geographic area created by the overlapping boundaries of one
326 or more taxing entities.

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

330 (36) "Tax roll" means a permanent record of the taxes charged on property, as extended
331 on the assessment roll and may be maintained on the same record or records as the assessment
332 roll or may be maintained on a separate record properly indexed to the assessment roll. It
333 includes tax books, tax lists, and other similar materials.

334 Section 2. Section **59-2-1603** is amended to read:

335 **59-2-1603. Disbursement of money in the Property Tax Valuation Agency Fund**
336 **-- Use of funds.**

337 (1) The state auditor shall authorize disbursement of money from the Property Tax

338 Valuation Agency Fund to each receiving county in accordance with this section.

339 (2) Except as provided in Section 59-2-1606 and Subsection 59-2-303.1(4), money
340 derived from funds transmitted by contributing counties shall be disbursed pro rata to receiving
341 counties of the second through sixth class based upon the number of adjusted parcel units in
342 each county as determined in Subsection (3).

343 (3) (a) The state auditor shall determine the amount of each county's multicounty
344 assessing and collecting allocation in accordance with this Subsection (3).

345 (b) A county's multicounty assessing and collecting allocation shall be the product of:

346 (i) the county's adjusted parcel ratio; and

347 (ii) a base unit value of [~~\$9~~] \$10.

348 (c) For purposes of this section, a county's adjusted parcel ratio shall be determined by
349 multiplying the sum of the following by the county parcel factor:

350 (i) the number of residential parcels multiplied by 2;

351 (ii) the number of commercial parcels multiplied by 4; and

352 (iii) the number of all other parcels multiplied by 1.

353 (d) For purposes of this Subsection (3), the county class factor is:

354 (i) 0.8 for a county of the first class;

355 (ii) 0.9 for a county of the second class;

356 (iii) 1.0 for a county of the third class;

357 (iv) 1.05 for a county of the fourth class;

358 (v) 1.15 for a county of the fifth class; and

359 (vi) 1.3 for a county of the sixth class.

360 (e) The commission shall provide the state auditor a list of each county's parcel counts
361 described in Subsection (3)(c).

362 (4) (a) A first class county shall transmit \$300,000 to the fund.

363 (b) A second, third, or fourth class contributing county shall transmit to the fund an
364 amount equal to the following:

365 (i) if the contributing county's surplus revenue is equal to or less than the contributing

366 county's minimum county contribution, the minimum county contribution;

367 (ii) if the contributing county's surplus revenue is more than the county's minimum
368 county contribution and less than the county's maximum county contribution, the contributing
369 county's surplus revenue; or

370 (iii) if the contributing county's surplus revenue is equal to or greater than the county's
371 maximum county contribution, the contributing county's maximum county contribution.

372 (5) Money in the Property Tax Valuation Agency Fund on the 10th day of the month
373 following the end of the quarter in which the revenue is collected shall, upon authorization by
374 the state auditor, be transmitted by the state treasurer according to the disbursement formula
375 determined under Subsection (3) no later than five working days after the 10th day of the
376 month following the end of the quarter in which the revenue is collected.

377 (6) If money in the Property Tax Valuation Agency Fund on the 10th day of the month
378 following the end of the quarter in which the revenue is collected is not transmitted to a
379 receiving county within five working days of the 10th day of that month, except as provided for
380 in Subsection (5), income from the investment of that money shall be:

- 381 (a) deposited in and become part of the Property Tax Valuation Agency Fund; and
- 382 (b) disbursed to the receiving county in the next quarter.

383 (7) A county shall use money disbursed from the Property Tax Valuation Agency Fund
384 for:

- 385 (a) establishing and maintaining accurate property valuations and uniform assessment
386 levels as required by Section 59-2-103; and
- 387 (b) improving the efficiency of the property tax system.

388 (8) The state auditor shall reallocate any ~~surplus or~~:

389 (a) deficit from the allocation under Subsection (3) [between] amongst all receiving
390 counties based on their adjusted parcel counts[-]; or

391 (b) surplus from the allocation under Subsection (3) amongst all contributing counties
392 based on the county's percentage of the total contribution under this section.

393 (9) A receiving county may not receive more than \$200,000 total from an allocation

394 under Subsection (3).

395 (10) If money remains in the fund after all allocations have been distributed to
396 receiving counties in a calendar year, the state auditor shall retain the money in the fund for
397 distribution the following calendar year.