

SCHOOL PROPERTY TAX FUNDING

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill makes changes related to school property taxes and funding.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ sets the school minimum basic tax rate at a fixed rate;
- ▶ repeals certain public notice requirements related to the school minimum basic tax rate;
- ▶ amends a school board local levy;
- ▶ establishes certain public notice and hearing requirements if a school district imposes a local tax rate that does not offset the revenue increase from the fixed school minimum basic tax rate; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill has retrospective operation to January 1, 2013.

Utah Code Sections Affected:

AMENDS:

11-13-302, as last amended by Laws of Utah 2011, Chapter 371



- 28 **53A-16-113**, as enacted by Laws of Utah 2011, Chapter 371
- 29 **53A-17a-103**, as last amended by Laws of Utah 2011, Chapter 371
- 30 **53A-17a-135**, as last amended by Laws of Utah 2012, Chapters 4 and 421
- 31 **53A-17a-164**, as enacted by Laws of Utah 2011, Chapter 371
- 32 **59-2-102**, as last amended by Laws of Utah 2012, Chapter 240
- 33 **59-2-926**, as last amended by Laws of Utah 2009, Chapter 388
- 34 **63I-1-253**, as last amended by Laws of Utah 2012, Chapter 369



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

37 Section 1. Section **11-13-302** is amended to read:

38 **11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy**
39 **suppliers -- Method of calculating -- Collection -- Extent of tax lien.**

40 (1) (a) Each project entity created under this chapter that owns a project and that sells
41 any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible
42 property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad
43 valorem property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in
44 this section to each taxing jurisdiction within which the project or any part of it is located.

45 (b) For purposes of this section, "annual fee" means the annual fee described in
46 Subsection (1)(a) that is in lieu of ad valorem property tax.

47 (c) The requirement to pay an annual fee shall commence:

48 (i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of
49 impact alleviation payments under contracts or determination orders provided for in Sections
50 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the
51 candidate in which the date of commercial operation of the last generating unit, other than any
52 generating unit providing additional project capacity, of the project occurs, or, in the case of
53 any facilities providing additional project capacity, with the fiscal year of the candidate
54 following the fiscal year of the candidate in which the date of commercial operation of the
55 generating unit providing the additional project capacity occurs; and

56 (ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in
57 Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the
58 project commences, or, in the case of facilities providing additional project capacity, with the

59 fiscal year of the taxing jurisdiction in which construction of those facilities commences.

60 (d) The requirement to pay an annual fee shall continue for the period of the useful life
61 of the project or facilities.

62 (2) (a) The annual fees due a school district shall be as provided in Subsection (2)(b)
63 because the ad valorem property tax imposed by a school district and authorized by the
64 Legislature represents both:

65 (i) a levy mandated by the state for the state minimum school program under Section
66 53A-17a-135; and

67 (ii) local levies for capital outlay and other purposes under Sections 53A-16-113,
68 53A-17a-133, and 53A-17a-164.

69 (b) The annual fees due a school district shall be as follows:

70 (i) the project entity shall pay to the school district an annual fee for the state minimum
71 school program at the rate imposed by the school district and authorized by the Legislature
72 under Subsection 53A-17a-135[~~(1)~~](2); and

73 (ii) for all other local property tax levies authorized to be imposed by a school district,
74 the project entity shall pay to the school district either:

75 (A) an annual fee; or

76 (B) impact alleviation payments under contracts or determination orders provided for
77 in Sections 11-13-305 and 11-13-306.

78 (3) (a) An annual fee due a taxing jurisdiction for a particular year shall be calculated
79 by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by
80 multiplying the fee base or value determined in accordance with Subsection (4) for that year of
81 the portion of the project located within the jurisdiction by the percentage of the project which
82 is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

83 (b) As used in this section, "tax rate," when applied in respect to a school district,
84 includes any assessment to be made by the school district under Subsection (2) or Section
85 63M-5-302.

86 (c) There is to be credited against the annual fee due a taxing jurisdiction for each year,
87 an amount equal to the debt service, if any, payable in that year by the project entity on bonds,
88 the proceeds of which were used to provide public facilities and services for impact alleviation
89 in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

90 (d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:
91 (i) take into account the fee base or value of the percentage of the project located
92 within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the
93 capacity, service, or other benefit sold to the supplier or suppliers; and

94 (ii) reflect any credit to be given in that year.

95 (4) (a) Except as otherwise provided in this section, the annual fees required by this
96 section shall be paid, collected, and distributed to the taxing jurisdiction as if:

97 (i) the annual fees were ad valorem property taxes; and

98 (ii) the project were assessed at the same rate and upon the same measure of value as
99 taxable property in the state.

100 (b) (i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by
101 this section, the fee base of a project may be determined in accordance with an agreement
102 among:

103 (A) the project entity; and

104 (B) any county that:

105 (I) is due an annual fee from the project entity; and

106 (II) agrees to have the fee base of the project determined in accordance with the
107 agreement described in this Subsection (4).

108 (ii) The agreement described in Subsection (4)(b)(i):

109 (A) shall specify each year for which the fee base determined by the agreement shall be
110 used for purposes of an annual fee; and

111 (B) may not modify any provision of this chapter except the method by which the fee
112 base of a project is determined for purposes of an annual fee.

113 (iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county
114 described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in
115 Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing
116 jurisdiction.

117 (iv) (A) If there is not agreement as to the fee base of a portion of a project for any
118 year, for purposes of an annual fee, the State Tax Commission shall determine the value of that
119 portion of the project for which there is not an agreement:

120 (I) for that year; and

121 (II) using the same measure of value as is used for taxable property in the state.

122 (B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax
123 Commission in accordance with rules made by the State Tax Commission.

124 (c) Payments of the annual fees shall be made from:

125 (i) the proceeds of bonds issued for the project; and

126 (ii) revenues derived by the project entity from the project.

127 (d) (i) The contracts of the project entity with the purchasers of the capacity, service, or
128 other benefits of the project whose tangible property is not exempted by Utah Constitution
129 Article XIII, Section 3, from the payment of ad valorem property tax shall require each
130 purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for,
131 its share, determined in accordance with the terms of the contract, of these fees.

132 (ii) It is the responsibility of the project entity to enforce the obligations of the
133 purchasers.

134 (5) (a) The responsibility of the project entity to make payment of the annual fees is
135 limited to the extent that there is legally available to the project entity, from bond proceeds or
136 revenues, money to make these payments, and the obligation to make payments of the annual
137 fees is not otherwise a general obligation or liability of the project entity.

138 (b) No tax lien may attach upon any property or money of the project entity by virtue of
139 any failure to pay all or any part of an annual fee.

140 (c) The project entity or any purchaser may contest the validity of an annual fee to the
141 same extent as if the payment was a payment of the ad valorem property tax itself.

142 (d) The payments of an annual fee shall be reduced to the extent that any contest is
143 successful.

144 (6) (a) The annual fee described in Subsection (1):

145 (i) shall be paid by a public agency that:

146 (A) is not a project entity; and

147 (B) owns an interest in a facility providing additional project capacity if the interest is
148 otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

149 (ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in
150 accordance with Subsection (6)(b).

151 (b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax

152 rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

153 (i) the fee base or value of the facility providing additional project capacity located
154 within the jurisdiction;

155 (ii) the percentage of the ownership interest of the public agency in the facility; and

156 (iii) the portion, expressed as a percentage, of the public agency's ownership interest
157 that is attributable to the capacity, service, or other benefit from the facility that is sold by the
158 public agency to an energy supplier or suppliers whose tangible property is not exempted by
159 Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

160 (c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the
161 obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect
162 to its ownership interest as though it were a project entity.

163 Section 2. Section **53A-16-113** is amended to read:

164 **53A-16-113. Capital local levy -- First class county required levy.**

165 (1) (a) Subject to the other requirements of this section and Subsection
166 53A-17a-135(7), for a calendar year beginning on or after January 1, 2012, a local school board
167 may levy a tax to fund the school district's capital projects.

168 (b) A tax rate imposed by a school district pursuant to this section may not exceed
169 .0030 per dollar of taxable value in any calendar year.

170 [~~(2) A school district that imposes a capital local levy in the calendar year beginning on~~
171 ~~January 1, 2012, is exempt from the public notice and hearing requirements of Section~~
172 ~~59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to~~
173 ~~or less than the sum of the following amounts:]~~

174 [~~(a) the amount of revenue generated during the calendar year beginning on January 1,~~
175 ~~2011, from the sum of the following levies of a school district:]~~

176 [~~(i) a capital outlay levy imposed under Section 53A-16-107; and]~~

177 [~~(ii) the portion of the 10% of basic levy described in Section 53A-17a-145 that is~~
178 ~~budgeted for debt service or capital outlay; and]~~

179 [~~(b) revenue from new growth as defined in Subsection 59-2-924(4)(c).]~~

180 [(3)] (2) Beginning January 1, 2012, in order to qualify for receipt of the state
181 contribution toward the Minimum School Program described in Section 53A-17a-103, a local
182 school board in a county of the first class shall impose a capital local levy of a least .0006 per

183 dollar of taxable value.

184 [~~(4)~~] (3) (a) The county treasurer of a county of the first class shall distribute revenues
185 generated by the .0006 portion of the capital local levy required in Subsection (2) to school
186 districts within the county in accordance with Section 53A-16-114.

187 (b) If a school district in a county of the first class imposes a capital local levy pursuant
188 to this section that exceeds .0006 per dollar of taxable value, the county treasurer shall
189 distribute revenues generated by the portion of the capital local levy that exceeds .0006 to the
190 school district imposing the levy.

191 Section 3. Section **53A-17a-103** is amended to read:

192 **53A-17a-103. Definitions.**

193 As used in this chapter:

194 (1) "Basic state-supported school program" or "basic program" means public education
195 programs for kindergarten, elementary, and secondary school students that are operated and
196 maintained for the amount derived by multiplying the number of weighted pupil units for each
197 school district or charter school by the value established each year in statute, except as
198 otherwise provided in this chapter.

199 (2) (a) "Certified revenue levy" means a property tax levy that provides an amount of
200 ad valorem property tax revenue equal to the sum of:

201 (i) the amount of ad valorem property tax revenue to be generated statewide in the
202 previous year from imposing a minimum basic tax rate, as specified in [~~Subsection~~] Section
203 53A-17a-135[~~(1)(a)~~]; and

204 (ii) the product of:

205 (A) new growth, as defined in:

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

207 (II) rules of the State Tax Commission; and

208 (B) the minimum basic tax rate certified by the State Tax Commission for the previous
209 year.

210 (b) For purposes of this Subsection (2), "ad valorem property tax revenue" does not
211 include property tax revenue received statewide from personal property that is:

212 (i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3, County
213 Assessment; and

214 (ii) semiconductor manufacturing equipment.

215 (c) For purposes of calculating the certified revenue levy described in this Subsection
216 (2), the State Tax Commission shall use:

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

219 (ii) the taxable value of real and personal property assessed by the State Tax
220 Commission; and

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

223 (3) "Pupil in average daily membership (ADM)" means a full-day equivalent pupil.

224 (4) (a) "State-supported minimum school program" or "Minimum School Program"
225 means public school programs for kindergarten, elementary, and secondary schools as
226 described in this Subsection (4).

227 (b) The minimum school program established in school districts and charter schools
228 shall include the equivalent of a school term of nine months as determined by the State Board
229 of Education.

230 (c) (i) The board shall establish the number of days or equivalent instructional hours
231 that school is held for an academic school year.

232 (ii) Education, enhanced by utilization of technologically enriched delivery systems,
233 when approved by local school boards or charter school governing boards, shall receive full
234 support by the State Board of Education as it pertains to fulfilling the attendance requirements,
235 excluding time spent viewing commercial advertising.

236 (d) The Minimum School Program includes a program or allocation funded by a line
237 item appropriation or other appropriation designated as follows:

238 (i) Basic School Program;

239 (ii) Related to Basic Programs;

240 (iii) Voted and Board Levy Programs; or

241 (iv) Minimum School Program.

242 (5) "Weighted pupil unit or units or WPU or WPUs" means the unit of measure of
243 factors that is computed in accordance with this chapter for the purpose of determining the
244 costs of a program on a uniform basis for each district.

245 Section 4. Section **53A-17a-135** is amended to read:

246 **53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

247 (1) As used in this section:

248 (a) "Adjusted certified tax rate for board-authorized discretionary local taxes" means a
 249 combined certified tax rate for the board-authorized discretionary local taxes for a year minus
 250 the basic levy increment rate for that year.

251 (b) "Basic levy increment rate" means the difference between the:

252 (i) minimum basic tax rate provided in Subsection (2); and

253 (ii) the certified revenue levy.

254 (c) "Board-authorized discretionary local taxes" means taxes imposed in accordance
 255 with Sections 53A-16-113 and 53A-17a-164.

256 (d) "Certified tax rate" is as defined in Section 59-2-924.

257 (e) "Fixed minimum basic tax rate" means a tax rate of 0.001691.

258 ~~[(+)]~~ (2) (a) In order to qualify for receipt of the state contribution toward the basic
 259 program and as its contribution toward its costs of the basic program, each school district shall
 260 impose a minimum basic tax rate per dollar of taxable value ~~[that generates \$289,021,900 in~~
 261 ~~revenues statewide]~~ in accordance with this section.

262 ~~[(b) The preliminary estimate for the 2012-13 minimum basic tax rate is .001665.]~~

263 (b) Beginning on January 1, 2013, the minimum basic tax rate is the greater of:

264 (i) the certified revenue levy; or

265 (ii) the fixed minimum basic tax rate.

266 ~~[(+)]~~ (3) The State Tax Commission shall certify on or before June 22 the ~~[rate that~~
 267 ~~generates \$289,021,900 in revenues statewide]~~ minimum basic tax rate to be imposed under
 268 Subsection (2).

269 ~~[(d) If the minimum basic tax rate exceeds the certified revenue levy as defined in~~
 270 ~~Section 53A-17a-103, the state is subject to the notice requirements of Section 59-2-926.]~~

271 ~~[(2)]~~ (4) (a) The state shall contribute to each district toward the cost of the basic
 272 program in the district that portion which exceeds the proceeds of the levy authorized under
 273 Subsection ~~[(+)]~~ (2).

274 (b) In accord with the state strategic plan for public education and to fulfill its
 275 responsibility for the development and implementation of that plan, the Legislature instructs

276 the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each
277 of the coming five years to develop budgets that will fully fund student enrollment growth.

278 ~~[(3)]~~ (5) (a) If the proceeds of the levy authorized under Subsection ~~[(1)]~~ (2) equal or
279 exceed the cost of the basic program in a school district, no state contribution shall be made to
280 the basic program.

281 (b) The proceeds of the levy authorized under Subsection ~~[(1)]~~ (2) ~~[which]~~ that exceed
282 the cost of the basic program shall be paid into the Uniform School Fund as provided by law.

283 (6) The Legislature shall annually increase the dollar amount appropriated for the basic
284 program by an amount equal to any difference between:

285 (a) the amount of revenue generated statewide by the tax rate imposed in accordance
286 with Subsection (2); and

287 (b) the amount of revenue that would be generated statewide by a tax rate equal to the
288 certified revenue levy.

289 (7) A school district is subject to the notice and hearing requirements of Section
290 59-2-919 if the school district imposes a combined tax rate for board-authorized discretionary
291 local taxes that exceeds the adjusted certified tax rate for board-authorized discretionary local
292 taxes.

293 Section 5. Section **53A-17a-164** is amended to read:

294 **53A-17a-164. Board local levy -- State guarantee.**

295 (1) As used in this section:

296 (a) "Property tax base per student" means a school district's total taxable property
297 values divided by the school district's student enrollment, based on the October enrollment
298 counts.

299 (b) "Statewide average property tax base per student" means the total statewide taxable
300 property value divided by total school district student enrollment, based on the October
301 enrollment counts.

302 ~~[(1)]~~ (2) Subject to the other requirements of this section and Subsection
303 53A-17a-135(7), for a calendar year beginning on or after January 1, 2012, a local school board
304 may levy a tax to fund the school district's general fund.

305 ~~[(2)]~~ (3) (a) Except as provided in Subsection ~~[(2)]~~ (3)(b), a tax rate imposed by a
306 school district pursuant to this section may not exceed .0018 per dollar of taxable value in any

307 calendar year.

308 (b) A tax rate imposed by a school district pursuant to this section may not exceed
309 .0025 per dollar of taxable value in any calendar year if[-];

310 (i) the school district had a property tax base per student less than the statewide
311 average property tax base per student in any of the prior three years; or

312 (ii) during the calendar year beginning on January 1, 2011, the school district's
313 combined tax rate for the following levies was greater than .0018 per dollar of taxable value:

314 [(i)] (A) a recreation levy imposed under Section 11-2-7;

315 [(ii)] (B) a transportation levy imposed under Section 53A-17a-127;

316 [(iii)] (C) a board-authorized levy imposed under Section 53A-17a-134;

317 [(iv)] (D) an impact aid levy imposed under Section 53A-17a-143;

318 [(v)] (E) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is
319 budgeted for purposes other than capital outlay or debt service;

320 [(vi)] (F) a reading levy imposed under Section 53A-17a-151; and

321 [(vii)] (G) a tort liability levy imposed under Section 63G-1-704.

322 [(3)] (4) (a) In addition to the revenue a school district collects from the imposition of a
323 levy pursuant to this section, the state shall contribute an amount sufficient to guarantee that
324 each .0001 of the first .0004 per dollar of taxable value generates an amount equal to .010544
325 times the value of the prior year's weighted pupil unit.

326 (b) (i) The amount of state guarantee money to which a school district would otherwise
327 be entitled to under this Subsection [(3)] (4) may not be reduced for the sole reason that the
328 district's levy is reduced as a consequence of changes in the certified tax rate under Section
329 59-2-924 pursuant to changes in property valuation.

330 (ii) Subsection [(3)] (4)(b)(i) applies for a period of five years following any changes in
331 the certified tax rate.

332 [~~(4) A school district that imposes a board local levy in the calendar year beginning on~~
333 ~~January 1, 2012, is exempt from the public notice and hearing requirements of Section~~
334 ~~59-2-919 if the school district budgets an amount of ad valorem property tax revenue equal to~~
335 ~~or less than the sum of the following amounts:]~~

336 [~~(a) the amount of revenue generated during the calendar year beginning on January 1,~~
337 ~~2011, from the sum of the following levies of a school district:]~~

- 338 ~~[(i) a recreation levy imposed under Section 11-2-7;]~~
- 339 ~~[(ii) a transportation levy imposed under Section 53A-17a-127;]~~
- 340 ~~[(iii) a board-authorized levy imposed under Section 53A-17a-134;]~~
- 341 ~~[(iv) an impact aid levy imposed under Section 53A-17a-143;]~~
- 342 ~~[(v) the portion of a 10% of basic levy imposed under Section 53A-17a-145 that is~~
- 343 ~~budgeted for purposes other than capital outlay or debt service;]~~
- 344 ~~[(vi) a reading levy imposed under Section 53A-17a-151; and]~~
- 345 ~~[(vii) a tort liability levy imposed under Section 63G-1-704; and]~~
- 346 ~~[(b) revenue from new growth as defined in Subsection 59-2-924(4)(c).]~~

Section 6. 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 engaging in dispensing activities directly affecting agriculture or horticulture with an airworthiness certificate from the Federal Aviation Administration certifying the aircraft or rotorcraft'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 regularly scheduled route.

(b) "Airline" does not include an:

(i) air charter service; or

369 (ii) air contract service.

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

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

376 (i) the amount of ad valorem property tax revenue to be generated statewide in the
377 previous year from imposing a school minimum basic tax rate, as specified in [Subsection]
378 Section 53A-17a-135~~(+)(a)~~, or multicounty assessing and collecting levy, as specified in
379 Section 59-2-1602; and

380 (ii) the product of:

381 (A) new growth, as defined in:

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

383 (II) rules of the commission; and

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

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

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

389 (ii) semiconductor manufacturing equipment.

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

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

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

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

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

398 (a) any commercial vehicle, trailer, or semitrailer which is not apportioned under
399 Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or

400 property in furtherance of the owner's commercial enterprise;

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

403 (c) vehicles which are:

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

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

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

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

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

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

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

415 (i) a county; and

416 (ii) a school district.

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

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

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

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

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

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

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

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

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

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

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

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

442 (b) Property which is undervalued because of the use of a different valuation
443 methodology or because of a different application of the same valuation methodology is not
444 "escaped property."

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

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

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

461 (15) "Geothermal resource" means:

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

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

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

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

468 (A) of a taxpayer; and

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

470 (ii) the ability of a business to:

471 (A) generate income:

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

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

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

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

477 (i) superior management skills;

478 (ii) reputation;

479 (iii) customer relationships;

480 (iv) patronage; or

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

482 (c) "Goodwill" does not include:

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

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

485 (A) zoning;

486 (B) location;

487 (C) view;

488 (D) a geographic feature;

489 (E) an easement;

490 (F) a covenant;

491 (G) proximity to raw materials;

492 (H) the condition of surrounding property; or

493 (I) proximity to markets;
494 (iii) value attributable to the identification of an improvement to real property,
495 including:
496 (A) reputation of the designer, builder, or architect of the improvement;
497 (B) a name given to, or associated with, the improvement; or
498 (C) the historic significance of an improvement; or
499 (iv) the enhancement or assemblage value specifically attributable to the interrelation
500 of the existing tangible property in place working together as a unit.

501 (17) "Governing body" means:
502 (a) for a county, city, or town, the legislative body of the county, city, or town;
503 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
504 Local Districts, the local district's board of trustees;
505 (c) for a school district, the local board of education; or
506 (d) for a special service district under Title 17D, Chapter 1, Special Service District
507 Act:

508 (i) the legislative body of the county or municipality that created the special service
509 district, to the extent that the county or municipal legislative body has not delegated authority
510 to an administrative control board established under Section 17D-1-301; or

511 (ii) the administrative control board, to the extent that the county or municipal
512 legislative body has delegated authority to an administrative control board established under
513 Section 17D-1-301.

514 (18) (a) For purposes of Section 59-2-103:
515 (i) "household" means the association of persons who live in the same dwelling,
516 sharing its furnishings, facilities, accommodations, and expenses; and
517 (ii) "household" includes married individuals, who are not legally separated, that have
518 established domiciles at separate locations within the state.

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

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

- 524 (i) (A) attachment to land is essential to the operation or use of the item; and
- 525 (B) the manner of attachment to land suggests that the item will remain attached to the
- 526 land in the same place over the useful life of the item; or
- 527 (ii) removal of the item would:
- 528 (A) cause substantial damage to the item; or
- 529 (B) require substantial alteration or repair of a structure to which the item is attached.
- 530 (b) "Improvement" includes:
- 531 (i) an accessory to an item described in Subsection (19)(a) if the accessory is:
- 532 (A) essential to the operation of the item described in Subsection (19)(a); and
- 533 (B) installed solely to serve the operation of the item described in Subsection (19)(a);
- 534 and
- 535 (ii) an item described in Subsection (19)(a) that:
- 536 (A) is temporarily detached from the land for repairs; and
- 537 (B) remains located on the land.
- 538 (c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:
- 539 (i) an item considered to be personal property pursuant to rules made in accordance
- 540 with Section 59-2-107;
- 541 (ii) a moveable item that is attached to land:
- 542 (A) for stability only; or
- 543 (B) for an obvious temporary purpose;
- 544 (iii) (A) manufacturing equipment and machinery; or
- 545 (B) essential accessories to manufacturing equipment and machinery;
- 546 (iv) an item attached to the land in a manner that facilitates removal without substantial
- 547 damage to:
- 548 (A) the land; or
- 549 (B) the item; or
- 550 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
- 551 transportable factory-built housing unit is considered to be personal property under Section
- 552 59-2-1503.
- 553 (20) "Intangible property" means:
- 554 (a) property that is capable of private ownership separate from tangible property,

555 including:

556 (i) money;

557 (ii) credits;

558 (iii) bonds;

559 (iv) stocks;

560 (v) representative property;

561 (vi) franchises;

562 (vii) licenses;

563 (viii) trade names;

564 (ix) copyrights; and

565 (x) patents;

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

567 (c) goodwill; or

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

569 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue

570 Code;

571 (ii) a federal energy credit for qualified renewable electricity production facilities under

572 Section 48, Internal Revenue Code;

573 (iii) a federal grant for a renewable energy property under American Recovery and

574 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and

575 (iv) a tax credit under Subsection 59-7-614(2)(c).

576 (21) "Low-income housing tax credit" means:

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

578 or

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

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

581 (ii) Section 59-10-1010.

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

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

584 valuable mineral.

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

586 otherwise removing a mineral from a mine.

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

588 (i) owned or operated by an:

589 (A) air charter service;

590 (B) air contract service; or

591 (C) airline; and

592 (ii) (A) capable of flight;

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

594 (C) contained in an aircraft that is capable of flight if the tangible personal property is
595 intended to be used:

596 (I) during multiple flights;

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

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

599 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
600 engine that is rotated:

601 (A) at regular intervals; and

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

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

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

607 (27) "Personal property" includes:

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

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

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

611 (c) bridges and ferries;

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

613 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and

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

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

- 617 (b) "Property" does not include intangible property as defined in this section.
- 618 (29) "Public utility," for purposes of this chapter, means the operating property of a
- 619 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
- 620 company, electrical corporation, telephone corporation, sewerage corporation, or heat
- 621 corporation where the company performs the service for, or delivers the commodity to, the
- 622 public generally or companies serving the public generally, or in the case of a gas corporation
- 623 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
- 624 consumers within the state for domestic, commercial, or industrial use. Public utility also
- 625 means the operating property of any entity or person defined under Section 54-2-1 except water
- 626 corporations.
- 627 (30) "Real estate" or "real property" includes:
- 628 (a) the possession of, claim to, ownership of, or right to the possession of land;
- 629 (b) all mines, minerals, and quarries in and under the land, all timber belonging to
- 630 individuals or corporations growing or being on the lands of this state or the United States, and
- 631 all rights and privileges appertaining to these; and
- 632 (c) improvements.
- 633 (31) "Residential property," for the purposes of the reductions and adjustments under
- 634 this chapter, means any property used for residential purposes as a primary residence. It does
- 635 not include property used for transient residential use or condominiums used in rental pools.
- 636 (32) (a) "State-assessed commercial vehicle" means:
- 637 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate
- 638 to transport passengers, freight, merchandise, or other property for hire; or
- 639 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and
- 640 transports the vehicle owner's goods or property in furtherance of the owner's commercial
- 641 enterprise.
- 642 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which
- 643 are specified in Subsection (8)(c) as county-assessed commercial vehicles.
- 644 (33) "Taxable value" means fair market value less any applicable reduction allowed for
- 645 residential property under Section 59-2-103.
- 646 (34) "Tax area" means a geographic area created by the overlapping boundaries of one
- 647 or more taxing entities.

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

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

655 Section 7. Section 59-2-926 is amended to read:

656 **59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.**

657 If the state authorizes a levy [~~pursuant to Section 53A-17a-135 that exceeds the~~
658 ~~certified revenue levy as defined in Section 53A-17a-103 or authorizes a levy~~] pursuant to
659 Section 59-2-1602 that exceeds the certified revenue levy as defined in Section 59-2-102, the
660 state shall publish a notice no later than 10 days after the last day of the annual legislative
661 general session that meets the following requirements:

662 (1) (a) The Office of the Legislative Fiscal Analyst shall advertise that the state
663 authorized a levy that generates revenue in excess of the previous year's ad valorem tax
664 revenue, plus new growth, but exclusive of revenue from collections from redemptions,
665 interest, and penalties:

- 666 (i) in a newspaper of general circulation in the state; and
- 667 (ii) as required in Section 45-1-101.

668 (b) Except an advertisement published on a website, the advertisement described in
669 Subsection (1)(a):

- 670 (i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18
671 point, and surrounded by a 1/4-inch border:
- 672 (ii) may not be placed in that portion of the newspaper where legal notices and
673 classified advertisements appear; and
- 674 (iii) shall be run once.

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

676 "NOTICE OF TAX INCREASE

677 The state has budgeted an increase in its property tax revenue from \$_____ to
678 \$_____ or ____%. The increase in property tax revenues will come from the following

679 sources (include all of the following provisions):

680 (a) \$ _____ of the increase will come from (provide an explanation of the cause
681 of adjustment or increased revenues, such as reappraisals or factoring orders);

682 (b) \$ _____ of the increase will come from natural increases in the value of the
683 tax base due to (explain cause of new growth, such as new building activity, annexation, etc.);

684 (c) a home valued at \$100,000 in the state of Utah, which, based on last year's [~~levy~~
685 ~~for the basic state-supported school program,~~] levy for the Property Tax Valuation Agency
686 Fund, [~~or both~~] paid \$ _____ in property taxes would pay the following:

687 (i) \$ _____ if the state of Utah did not budget an increase in property tax revenue
688 exclusive of new growth; and

689 (ii) \$ _____ under the increased property tax revenues exclusive of new growth
690 budgeted by the state of Utah."

691 Section 8. Section **63I-1-253** is amended to read:

692 **63I-1-253. Repeal dates, Titles 53, 53A, and 53B.**

693 The following provisions are repealed on the following dates:

694 (1) Section 53-3-232, Conditional licenses, is repealed July 1, 2015.

695 (2) Title 53A, Chapter 1a, Part 6, Public Education Job Enhancement Program is
696 repealed July 1, 2020.

697 (3) The State Instructional Materials Commission, created in Section 53A-14-101, is
698 repealed July 1, 2016.

699 (4) Subsections 53A-16-113[~~(3)~~](2) and [~~(4)~~] (3) are repealed December 31, 2016.

700 (5) Section 53A-16-114 is repealed December 31, 2016.

701 (6) Section 53A-17a-163, Performance-based Compensation Pilot Program is repealed
702 July 1, 2016.

703 (7) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money
704 from the Land Exchange Distribution Account to the Geological Survey for test wells, other
705 hydrologic studies, and air quality monitoring in the West Desert, is repealed July 1, 2020.

706 Section 9. **Retrospective operation.**

707 This bill has retrospective operation to January 1, 2013.

Legislative Review Note
as of 2-18-13 4:07 PM

Office of Legislative Research and General Counsel