

Senator Aaron Osmond proposes the following substitute bill:

PROPERTY TAX EQUALIZATION AMENDMENTS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Aaron Osmond

House Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Minimum Basic Growth Account;
- ▶ amends the calculation of the school minimum basic tax rate;
- ▶ requires a certain amount of revenue collected from the minimum basic tax rate to be deposited into the Minimum Basic Growth Account;
- ▶ distributes money deposited into the Minimum Basic Growth Account to fund the state's portion of the voted levy guarantee, the Capital Outlay Foundation Program, and the Capital Outlay Enrollment Growth Program; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides for retrospective operation.

This bill provides a coordination clause.



26 **Utah Code Sections Affected:**

27 AMENDS:

- 28 **11-13-302**, as last amended by Laws of Utah 2011, Chapter 371
- 29 **53A-17a-103**, as last amended by Laws of Utah 2014, Chapter 389
- 30 **53A-17a-133**, as last amended by Laws of Utah 2014, Chapter 189
- 31 **53A-17a-135**, as last amended by Laws of Utah 2014, Chapter 4
- 32 **59-2-102**, as last amended by Laws of Utah 2014, Chapters 65 and 411

33 ENACTS:

34 **53A-17a-135.1**, Utah Code Annotated 1953

35 **Utah Code Sections Affected by Coordination Clause:**

36 **53A-17a-135**, as last amended by Laws of Utah 2014, Chapter 4



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

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

40 **11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy**
41 **suppliers -- Method of calculating -- Collection -- Extent of tax lien.**

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

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

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

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

57 generating unit providing the additional project capacity occurs; and

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

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

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

67 (i) a levy mandated by the state for the state minimum school program under Section
68 53A-17a-135; and

69 (ii) local levies for capital outlay and other purposes under Sections 53A-16-113,
70 53A-17a-133, and 53A-17a-164.

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

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

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

77 (A) an annual fee; or

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

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

85 (b) As used in this section, "tax rate," when applied in respect to a school district,
86 includes any assessment to be made by the school district under Subsection (2) or Section
87 63M-5-302.

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

92 (d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:

93 (i) take into account the fee base or value of the percentage of the project located
94 within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the
95 capacity, service, or other benefit sold to the supplier or suppliers; and

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

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

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

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

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

105 (A) the project entity; and

106 (B) any county that:

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

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

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

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

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

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

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

122 (I) for that year; and

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

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

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

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

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

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

134 (ii) It is the responsibility of the project entity to enforce the obligations of the
135 purchasers.

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

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

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

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

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

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

148 (A) is not a project entity; and

149 (B) owns an interest in a facility providing additional project capacity if the interest is

150 otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

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

153 (b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax
154 rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

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

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

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

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

165 Section 2. Section **53A-17a-103** is amended to read:

166 **53A-17a-103. Definitions.**

167 As used in this chapter:

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

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

175 (i) the amount of ad valorem property tax revenue to be generated statewide in the
176 previous year from imposing a minimum basic tax rate, as specified in [~~Subsection~~] Section
177 53A-17a-135~~[(1)(a)]~~; and

178 (ii) the product of:

179 (A) new growth, as defined in:

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

181 (II) rules of the State Tax Commission; and
182 (B) the minimum basic tax rate certified by the State Tax Commission for the previous
183 year.

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

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

188 (ii) semiconductor manufacturing equipment.

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

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

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

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

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

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

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

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

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

210 (d) (i) A local school board or charter school governing board may reallocate up to 32
211 instructional hours or 4 school days established under Subsection (4)(c) for teacher preparation

212 time or teacher professional development.

213 (ii) A reallocation of instructional hours or school days under Subsection (4)(d)(i) is
214 subject to the approval of two-thirds of the members of a local school board or charter school
215 governing board voting in a regularly scheduled meeting:

216 (A) at which a quorum of the local school board or charter school governing board is
217 present; and

218 (B) held in compliance with Title 52, Chapter 4, Open and Public Meetings Act.

219 (iii) If a local school board or charter school governing board reallocates instructional
220 hours or school days as provided by this Subsection (4)(d), the school district or charter school
221 shall notify students' parents and guardians of the school calendar at least 90 days before the
222 beginning of the school year.

223 (iv) Instructional hours or school days reallocated for teacher preparation time or
224 teacher professional development pursuant to this Subsection (4)(d) is considered part of a
225 school term referred to in Subsection (4)(b).

226 (e) The Minimum School Program includes a program or allocation funded by a line
227 item appropriation or other appropriation designated as follows:

228 (i) Basic School Program;

229 (ii) Related to Basic Programs;

230 (iii) Voted and Board Levy Programs; or

231 (iv) Minimum School Program.

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

235 Section 3. Section **53A-17a-133** is amended to read:

236 **53A-17a-133. State-supported voted local levy authorized -- Election**
237 **requirements -- State guarantee -- Reconsideration of the program.**

238 (1) As used in this section, "voted and board local levy funding balance" means the
239 difference between:

240 (a) the amount appropriated for the voted and board local levy program in a fiscal year;

241 and

242 (b) the amount necessary to provide the state guarantee per weighted pupil unit as

243 determined under this section and Section 53A-17a-164 in the same fiscal year.

244 (2) An election to consider adoption or modification of a voted local levy is required if
245 initiative petitions signed by 10% of the number of electors who voted at the last preceding
246 general election are presented to the local school board or by action of the board.

247 (3) (a) (i) To impose a voted local levy, a majority of the electors of a district voting at
248 an election in the manner set forth in Subsections (9) and (10) must vote in favor of a special
249 tax.

250 (ii) The tax rate may not exceed .002 per dollar of taxable value.

251 (b) Except as provided in Subsection (3)(c), in order to receive state support the first
252 year, a district must receive voter approval no later than December 1 of the year prior to
253 implementation.

254 (c) Beginning on or after January 1, 2012, a school district may receive state support in
255 accordance with Subsection (4) without complying with the requirements of Subsection (3)(b)
256 if the local school board imposed a tax in accordance with this section during the taxable year
257 beginning on January 1, 2011 and ending on December 31, 2011.

258 (4) (a) In addition to the revenue a school district collects from the imposition of a levy
259 pursuant to this section, the state shall contribute an amount sufficient to guarantee [~~\$27.36~~
260 \$33.27 per weighted pupil unit for each .0001 of the first .0016 per dollar of taxable value.

261 (b) The same dollar amount guarantee per weighted pupil unit for the .0016 per dollar
262 of taxable value under Subsection (4)(a) shall apply to the portion of the board local levy
263 authorized in Section 53A-17a-164, so that the guarantee shall apply up to a total of .002 per
264 dollar of taxable value if a school district levies a tax rate under both programs.

265 (c) (i) Beginning July 1, [~~2014~~] 2015, the [~~\$27.36~~] \$33.27 guarantee under Subsections
266 (4)(a) and (b) shall be indexed each year to the value of the weighted pupil unit for the grades 1
267 through 12 program by making the value of the guarantee equal to [~~.00963~~] .011194 times the
268 value of the prior year's weighted pupil unit for the grades 1 through 12 program.

269 (ii) The guarantee shall increase by .0005 times the value of the prior year's weighted
270 pupil unit for the grades 1 through 12 program for each succeeding year subject to the
271 Legislature appropriating funds for an increase in the guarantee.

272 (d) (i) The amount of state guarantee money to which a school district would otherwise
273 be entitled to receive under this Subsection (4) may not be reduced for the sole reason that the

274 district's levy is reduced as a consequence of changes in the certified tax rate under Section
275 59-2-924 pursuant to changes in property valuation.

276 (ii) Subsection (4)(d)(i) applies for a period of five years following any such change in
277 the certified tax rate.

278 (e) The guarantee provided under this section does not apply to the portion of a voted
279 local levy rate that exceeds the voted local levy rate that was in effect for the previous fiscal
280 year, unless an increase in the voted local levy rate was authorized in an election conducted on
281 or after July 1 of the previous fiscal year and before December 2 of the previous fiscal year.

282 (f) (i) If a voted and board local levy funding balance exists for the prior fiscal year, the
283 State Board of Education shall:

284 (A) use the voted and board local levy funding balance to increase the value of the state
285 guarantee per weighted pupil unit described in Subsection (4)(c) in the current fiscal year; and

286 (B) distribute the state contribution to the voted and board local levy programs to
287 school districts based on the increased value of the state guarantee per weighted pupil unit
288 described in Subsection (4)(f)(i)(A).

289 (ii) The State Board of Education shall report action taken under this Subsection (4)(f)
290 to the Office of the Legislative Fiscal Analyst and the Governor's Office of Planning and
291 Budget.

292 (5) (a) An election to modify an existing voted local levy is not a reconsideration of the
293 existing authority unless the proposition submitted to the electors expressly so states.

294 (b) A majority vote opposing a modification does not deprive the district of authority to
295 continue the levy.

296 (c) If adoption of a voted local levy is contingent upon an offset reducing other local
297 school board levies, the board must allow the electors, in an election, to consider modifying or
298 discontinuing the imposition of the levy prior to a subsequent increase in other levies that
299 would increase the total local school board levy.

300 (d) Nothing contained in this section terminates, without an election, the authority of a
301 school district to continue imposing an existing voted local levy previously authorized by the
302 voters as a voted leeway program.

303 (6) Notwithstanding Section 59-2-919, a school district may budget an increased
304 amount of ad valorem property tax revenue derived from a voted local levy imposed under this

305 section in addition to revenue from new growth as defined in Subsection 59-2-924(4), without
306 having to comply with the notice requirements of Section 59-2-919, if:

307 (a) the voted local levy is approved:

308 (i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

309 (ii) within the four-year period immediately preceding the year in which the school
310 district seeks to budget an increased amount of ad valorem property tax revenue derived from
311 the voted local levy; and

312 (b) for a voted local levy approved or modified in accordance with this section on or
313 after January 1, 2009, the school district complies with the requirements of Subsection (8).

314 (7) Notwithstanding Section 59-2-919, a school district may levy a tax rate under this
315 section that exceeds the certified tax rate without having to comply with the notice
316 requirements of Section 59-2-919 if:

317 (a) the levy exceeds the certified tax rate as the result of a school district budgeting an
318 increased amount of ad valorem property tax revenue derived from a voted local levy imposed
319 under this section;

320 (b) the voted local levy was approved:

321 (i) in accordance with Subsections (9) and (10) on or after January 1, 2003; and

322 (ii) within the four-year period immediately preceding the year in which the school
323 district seeks to budget an increased amount of ad valorem property tax revenue derived from
324 the voted local levy; and

325 (c) for a voted local levy approved or modified in accordance with this section on or
326 after January 1, 2009, the school district complies with requirements of Subsection (8).

327 (8) For purposes of Subsection (6)(b) or (7)(c), the proposition submitted to the
328 electors regarding the adoption or modification of a voted local levy shall contain the following
329 statement:

330 "A vote in favor of this tax means that (name of the school district) may increase
331 revenue from this property tax without advertising the increase for the next five years."

332 (9) (a) Before imposing a property tax levy pursuant to this section, a school district
333 shall submit an opinion question to the school district's registered voters voting on the
334 imposition of the tax rate so that each registered voter has the opportunity to express the
335 registered voter's opinion on whether the tax rate should be imposed.

336 (b) The election required by this Subsection (9) shall be held:

337 (i) at a regular general election conducted in accordance with the procedures and
338 requirements of Title 20A, Election Code, governing regular elections;

339 (ii) at a municipal general election conducted in accordance with the procedures and
340 requirements of Section 20A-1-202; or

341 (iii) at a local special election conducted in accordance with the procedures and
342 requirements of Section 20A-1-203.

343 (c) Notwithstanding the requirements of Subsections (9)(a) and (b), beginning on or
344 after January 1, 2012, a school district may levy a tax rate in accordance with this section
345 without complying with the requirements of Subsections (9)(a) and (b) if the school district
346 imposed a tax in accordance with this section at any time during the taxable year beginning on
347 January 1, 2011, and ending on December 31, 2011.

348 (10) If a school district determines that a majority of the school district's registered
349 voters voting on the imposition of the tax rate have voted in favor of the imposition of the tax
350 rate in accordance with Subsection (9), the school district may impose the tax rate.

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

352 **53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

353 (1) As used in this section, "basic levy increment rate" means a tax rate that will
354 generate an amount of revenue equal to \$75,000,000.

355 ~~[(1)]~~ (2) (a) In order to qualify for receipt of the state contribution toward the basic
356 program and as its contribution toward its costs of the basic program, each school district shall
357 impose a minimum basic tax rate per dollar of taxable value that generates ~~[\$296,709,700]~~
358 \$380,172,300 in revenues statewide.

359 (b) The preliminary estimate for the ~~[2014-15]~~ 2015-16 minimum basic tax rate is
360 ~~[-001477]~~ .001764.

361 (c) The State Tax Commission shall certify on or before June 22 the rate that generates
362 ~~[\$296,709,700]~~ \$380,172,300 in revenues statewide.

363 (d) ~~[H]~~ For the calendar year beginning on January 1, 2016, if the minimum basic tax
364 rate exceeds the certified revenue levy as defined in Section 53A-17a-103, the state is subject
365 to the notice requirements of Section 59-2-926.

366 ~~[(2)]~~ (3) (a) The state shall contribute to each district toward the cost of the basic

367 program in the district that portion which exceeds the proceeds of [~~the levy authorized under~~
368 ~~Subsection (1);~~] the difference between:

- 369 (i) the minimum basic tax rate to be imposed under Subsection (2); and
- 370 (ii) the basic levy increment rate.

371 (b) In [~~accord~~] accordance with the state strategic plan for public education and to
372 fulfill its responsibility for the development and implementation of that plan, the Legislature
373 instructs the State Board of Education, the governor, and the Office of Legislative Fiscal
374 Analyst in each of the coming five years to develop budgets that will fully fund student
375 enrollment growth.

376 [~~(3)~~] (4) (a) If the [proceeds of the levy authorized under Subsection (1) equal or
377 exceed] difference described in Subsection (3)(a) equals or exceeds the cost of the basic
378 program in a school district, no state contribution shall be made to the basic program.

379 (b) The proceeds of the [~~levy authorized under Subsection (1) which~~] difference
380 described in Subsection (3)(a) that exceed the cost of the basic program shall be paid into the
381 Uniform School Fund as provided by law.

382 (5) The State Board of Education shall:

383 (a) deduct from state funds that a school district is authorized to receive under this
384 chapter an amount equal to the proceeds generated within the school district by the basic levy
385 increment rate; and

386 (b) deposit the money described in Subsection (5)(a) into the Minimum Basic Growth
387 Account created in Section [53A-17a-135.1](#).

388 Section 5. Section **53A-17a-135.1** is enacted to read:

389 **53A-17a-135.1. Minimum Basic Growth Account.**

390 (1) As used in this section, "account" means the Minimum Basic Growth Account
391 created in this section.

392 (2) There is created within the Education Fund a restricted account known as the
393 "Minimum Basic Growth Account."

394 (3) The account shall be funded by amounts deposited into the account in accordance
395 with Section [53A-17a-135](#).

396 (4) The account shall earn interest.

397 (5) Interest earned on the account shall be deposited into the account.

398 (6) Upon appropriation by the Legislature:

399 (a) 75% of the money from the account shall be used to fund the state's contribution to
400 the voted levy guarantee described in Subsection 53A-17a-133(4);

401 (b) 20% of the money from the account shall be used to fund the Capital Outlay
402 Foundation Program as provided in Title 53A, Chapter 21, Part 2, Capital Outlay Foundation
403 Program; and

404 (c) 5% of the money from the account shall be used to fund the Capital Outlay
405 Enrollment Growth Program as provided in Title 53A, Chapter 21, Part 3, Capital Outlay
406 Enrollment Growth Program.

407 Section 6. Section **59-2-102** is amended to read:

408 **59-2-102. Definitions.**

409 As used in this chapter and title:

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

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

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

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

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

422 (i) operates:

423 (A) on an interstate route; and

424 (B) on a scheduled basis; and

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

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

428 (i) air charter service; or

429 (ii) air contract service.

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

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

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

440 (ii) the product of:

441 (A) new growth, as defined in:

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

443 (II) rules of the commission; and

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

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

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

449 (ii) semiconductor manufacturing equipment.

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

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

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

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

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

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

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

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

463 (c) vehicles that are:

464 (i) especially constructed for towing or wrecking, and that are not otherwise used to
465 transport goods, merchandise, or people for compensation;

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

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

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

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

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

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

475 (i) a county; and

476 (ii) a school district.

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

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

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

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

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

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

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

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

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

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

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

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

502 (b) Property that is undervalued because of the use of a different valuation
503 methodology or because of a different application of the same valuation methodology is not
504 "escaped property."

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

512 (13) "Farm machinery and equipment," for purposes of the exemption provided under
513 Section [59-2-1101](#), means tractors, milking equipment and storage and cooling facilities, feed
514 handling equipment, irrigation equipment, harvesters, choppers, grain drills and planters, tillage
515 tools, scales, combines, spreaders, sprayers, haying equipment, including balers and cubers,
516 and any other machinery or equipment used primarily for agricultural purposes; but does not
517 include vehicles required to be registered with the Motor Vehicle Division or vehicles or other
518 equipment used for business purposes other than farming.

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

521 (15) "Geothermal resource" means:

- 522 (a) the natural heat of the earth at temperatures greater than 120 degrees centigrade;
523 and
524 (b) the energy, in whatever form, including pressure, present in, resulting from, created
525 by, or which may be extracted from that natural heat, directly or through a material medium.
- 526 (16) (a) "Goodwill" means:
527 (i) acquired goodwill that is reported as goodwill on the books and records:
528 (A) of a taxpayer; and
529 (B) that are maintained for financial reporting purposes; or
530 (ii) the ability of a business to:
531 (A) generate income:
532 (I) that exceeds a normal rate of return on assets; and
533 (II) resulting from a factor described in Subsection (16)(b); or
534 (B) obtain an economic or competitive advantage resulting from a factor described in
535 Subsection (16)(b).
- 536 (b) The following factors apply to Subsection (16)(a)(ii):
537 (i) superior management skills;
538 (ii) reputation;
539 (iii) customer relationships;
540 (iv) patronage; or
541 (v) a factor similar to Subsections (16)(b)(i) through (iv).
- 542 (c) "Goodwill" does not include:
543 (i) the intangible property described in Subsection (20)(a) or (b);
544 (ii) locational attributes of real property, including:
545 (A) zoning;
546 (B) location;
547 (C) view;
548 (D) a geographic feature;
549 (E) an easement;
550 (F) a covenant;
551 (G) proximity to raw materials;
552 (H) the condition of surrounding property; or

553 (I) proximity to markets;
554 (iii) value attributable to the identification of an improvement to real property,
555 including:
556 (A) reputation of the designer, builder, or architect of the improvement;
557 (B) a name given to, or associated with, the improvement; or
558 (C) the historic significance of an improvement; or
559 (iv) the enhancement or assemblage value specifically attributable to the interrelation
560 of the existing tangible property in place working together as a unit.

561 (17) "Governing body" means:
562 (a) for a county, city, or town, the legislative body of the county, city, or town;
563 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
564 Local Districts, the local district's board of trustees;
565 (c) for a school district, the local board of education; or
566 (d) for a special service district under Title 17D, Chapter 1, Special Service District
567 Act:

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

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

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

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

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

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

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

- 584 (i) (A) attachment to land is essential to the operation or use of the item; and
585 (B) the manner of attachment to land suggests that the item will remain attached to the
586 land in the same place over the useful life of the item; or
587 (ii) removal of the item would:
588 (A) cause substantial damage to the item; or
589 (B) require substantial alteration or repair of a structure to which the item is attached.
590 (b) "Improvement" includes:
591 (i) an accessory to an item described in Subsection (19)(a) if the accessory is:
592 (A) essential to the operation of the item described in Subsection (19)(a); and
593 (B) installed solely to serve the operation of the item described in Subsection (19)(a);
594 and
595 (ii) an item described in Subsection (19)(a) that:
596 (A) is temporarily detached from the land for repairs; and
597 (B) remains located on the land.
598 (c) Notwithstanding Subsections (19)(a) and (b), "improvement" does not include:
599 (i) an item considered to be personal property pursuant to rules made in accordance
600 with Section 59-2-107;
601 (ii) a moveable item that is attached to land:
602 (A) for stability only; or
603 (B) for an obvious temporary purpose;
604 (iii) (A) manufacturing equipment and machinery; or
605 (B) essential accessories to manufacturing equipment and machinery;
606 (iv) an item attached to the land in a manner that facilitates removal without substantial
607 damage to:
608 (A) the land; or
609 (B) the item; or
610 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
611 transportable factory-built housing unit is considered to be personal property under Section
612 59-2-1503.
613 (20) "Intangible property" means:
614 (a) property that is capable of private ownership separate from tangible property,

- 615 including:
- 616 (i) money;
 - 617 (ii) credits;
 - 618 (iii) bonds;
 - 619 (iv) stocks;
 - 620 (v) representative property;
 - 621 (vi) franchises;
 - 622 (vii) licenses;
 - 623 (viii) trade names;
 - 624 (ix) copyrights; and
 - 625 (x) patents;
 - 626 (b) a low-income housing tax credit;
 - 627 (c) goodwill; or
 - 628 (d) a renewable energy tax credit or incentive, including:
 - 629 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
 - 630 Code;
 - 631 (ii) a federal energy credit for qualified renewable electricity production facilities under
 - 632 Section 48, Internal Revenue Code;
 - 633 (iii) a federal grant for a renewable energy property under American Recovery and
 - 634 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
 - 635 (iv) a tax credit under Subsection [59-7-614\(2\)\(c\)](#).
 - 636 (21) "Livestock" means:
 - 637 (a) a domestic animal;
 - 638 (b) a fur-bearing animal;
 - 639 (c) a honeybee; or
 - 640 (d) poultry.
 - 641 (22) "Low-income housing tax credit" means:
 - 642 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
 - 643 or
 - 644 (b) a low-income housing tax credit under:
 - 645 (i) Section [59-7-607](#); or

- 646 (ii) Section 59-10-1010.
- 647 (23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 648 (24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
649 valuable mineral.
- 650 (25) "Mining" means the process of producing, extracting, leaching, evaporating, or
651 otherwise removing a mineral from a mine.
- 652 (26) (a) "Mobile flight equipment" means tangible personal property that is:
- 653 (i) owned or operated by an:
- 654 (A) air charter service;
- 655 (B) air contract service; or
- 656 (C) airline; and
- 657 (ii) (A) capable of flight;
- 658 (B) attached to an aircraft that is capable of flight; or
- 659 (C) contained in an aircraft that is capable of flight if the tangible personal property is
660 intended to be used:
- 661 (I) during multiple flights;
- 662 (II) during a takeoff, flight, or landing; and
- 663 (III) as a service provided by an air charter service, air contract service, or airline.
- 664 (b) (i) "Mobile flight equipment" does not include a spare part other than a spare
665 engine that is rotated:
- 666 (A) at regular intervals; and
- 667 (B) with an engine that is attached to the aircraft.
- 668 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
669 commission may make rules defining the term "regular intervals."
- 670 (27) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
671 sand, rock, gravel, and all carboniferous materials.
- 672 (28) "Part-year residential property" means property that is not residential property on
673 January 1 of a calendar year but becomes residential property after January 1 of the calendar
674 year.
- 675 (29) "Personal property" includes:
- 676 (a) every class of property as defined in Subsection (30) that is the subject of

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

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

679 (c) bridges and ferries;

680 (d) livestock; and

681 (e) outdoor advertising structures as defined in Section [72-7-502](#).

682 (30) (a) "Property" means property that is subject to assessment and taxation according
683 to its value.

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

685 (31) "Public utility," for purposes of this chapter, means the operating property of a
686 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
687 company, electrical corporation, telephone corporation, sewerage corporation, or heat
688 corporation where the company performs the service for, or delivers the commodity to, the
689 public generally or companies serving the public generally, or in the case of a gas corporation
690 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
691 consumers within the state for domestic, commercial, or industrial use. Public utility also
692 means the operating property of any entity or person defined under Section [54-2-1](#) except water
693 corporations.

694 (32) (a) Subject to Subsection (32)(b), "qualifying exempt primary residential rental
695 personal property" means household furnishings, furniture, and equipment that:

696 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;

697 (ii) are owned by the owner of the dwelling unit that is the primary residence of a
698 tenant; and

699 (iii) after applying the residential exemption described in Section [59-2-103](#), are exempt
700 from taxation under this chapter in accordance with Subsection [59-2-1115\(2\)](#).

701 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
702 commission may by rule define the term "dwelling unit" for purposes of this Subsection (32)
703 and Subsection (35).

704 (33) "Real estate" or "real property" includes:

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

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

708 all rights and privileges appertaining to these; and

709 (c) improvements.

710 (34) "Relationship with an owner of the property's land surface rights" means a
711 relationship described in Subsection 267(b), Internal Revenue Code:

712 (a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term
713 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

714 (b) using the ownership rules of Subsection 267(c), Internal Revenue Code, for
715 determining the ownership of stock.

716 (35) (a) Subject to Subsection (35)(b), "residential property," for the purposes of the
717 reductions and adjustments under this chapter, means any property used for residential
718 purposes as a primary residence.

719 (b) Subject to Subsection (35)(c), "residential property":

720 (i) except as provided in Subsection (35)(b)(ii), includes household furnishings,
721 furniture, and equipment if the household furnishings, furniture, and equipment are:

722 (A) used exclusively within a dwelling unit that is the primary residence of a tenant;
723 and

724 (B) owned by the owner of the dwelling unit that is the primary residence of a tenant;
725 and

726 (ii) does not include property used for transient residential use.

727 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
728 commission may by rule define the term "dwelling unit" for purposes of Subsection (32) and
729 this Subsection (35).

730 (36) "Split estate mineral rights owner" means a person who:

731 (a) has a legal right to extract a mineral from property;

732 (b) does not hold more than a 25% interest in:

733 (i) the land surface rights of the property where the wellhead is located; or

734 (ii) an entity with an ownership interest in the land surface rights of the property where
735 the wellhead is located;

736 (c) is not an entity in which the owner of the land surface rights of the property where
737 the wellhead is located holds more than a 25% interest; and

738 (d) does not have a relationship with an owner of the land surface rights of the property

739 where the wellhead is located.

740 (37) (a) "State-assessed commercial vehicle" means:

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

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

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

748 (38) "Taxable value" means fair market value less any applicable reduction allowed for
749 residential property under Section [59-2-103](#).

750 (39) "Tax area" means a geographic area created by the overlapping boundaries of one
751 or more taxing entities.

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

755 (41) "Tax roll" means a permanent record of the taxes charged on property, as extended
756 on the assessment roll and may be maintained on the same record or records as the assessment
757 roll or may be maintained on a separate record properly indexed to the assessment roll. It
758 includes tax books, tax lists, and other similar materials.

759 Section 7. **Retrospective operation.**

760 This bill has retrospective operation to January 1, 2015.

761 Section 8. **Coordinating S.B. 97 with S.B. 1 -- Superseding technical and**
762 **substantive amendments.**

763 If this S.B. 97 and S.B. 1, Public Education Base Budget Amendments, both pass and
764 become law, it is the intent of the Legislature that the amendments to Section [53A-17a-135](#) in
765 this S.B. 97 supersede the amendments to Section [53A-17a-135](#) in S.B. 1, when the Office of
766 Legislative Research and General Counsel prepares the Utah Code database for publication.