

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 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.

Utah Code Sections Affected:

AMENDS:

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



28 [53A-17a-103](#), as last amended by Laws of Utah 2014, Chapter 389
 29 [53A-17a-135](#), as last amended by Laws of Utah 2014, Chapter 4
 30 [59-2-102](#), as last amended by Laws of Utah 2014, Chapters 65 and 411
 31 [59-2-926](#), as last amended by Laws of Utah 2009, Chapter 388

32 ENACTS:

33 [53A-17a-135.1](#), Utah Code Annotated 1953



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

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

37 **11-13-302. Payment of fee in lieu of ad valorem property tax by certain energy**
 38 **suppliers -- Method of calculating -- Collection -- Extent of tax lien.**

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

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

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

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

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

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

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

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

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

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

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

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

74 (A) an annual fee; or

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

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

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

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

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

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

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

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

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

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

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

102 (A) the project entity; and

103 (B) any county that:

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

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

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

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

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

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

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

119 (I) for that year; and

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

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

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

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

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

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

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

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

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

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

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

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

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

145 (A) is not a project entity; and

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

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

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

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

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

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

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

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

163 **53A-17a-103. Definitions.**

164 As used in this chapter:

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

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

172 (i) the amount of ad valorem property tax revenue to be generated statewide in the
173 previous year from imposing a minimum basic tax rate, as specified in [~~Subsection~~] Section
174 53A-17a-135~~[(1)(a)]~~; and

175 (ii) the product of:

176 (A) new growth, as defined in:

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

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

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

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

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

185 (ii) semiconductor manufacturing equipment.

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

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

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

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

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

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

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

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

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

207 (d) (i) A local school board or charter school governing board may reallocate up to 32
208 instructional hours or 4 school days established under Subsection (4)(c) for teacher preparation
209 time or teacher professional development.

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

213 (A) at which a quorum of the local school board or charter school governing board is

214 present; and

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

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

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

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

- 225 (i) Basic School Program;
- 226 (ii) Related to Basic Programs;
- 227 (iii) Voted and Board Levy Programs; or
- 228 (iv) Minimum School Program.

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

232 Section 3. Section **53A-17a-135** is amended to read:

233 **53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

234 (1) As used in this section, "basic levy increment rate" means:

235 (a) for each calendar year beginning with the calendar year that begins on January 1,
236 2015, and ending with the calendar year that ends on December 31, 2019, a rate equal to the
237 difference between:

- 238 (i) the minimum basic tax rate provided in Subsection (2); and
- 239 (ii) the certified revenue levy for the calendar year beginning on January 1, 2015; and
- 240 (b) for a calendar year beginning on or after January 1, 2020, a rate that will generate
241 an amount of revenue equal to \$75,000,000.

242 ~~[(+)]~~ (2) (a) In order to qualify for receipt of the state contribution toward the basic
243 program and as its contribution toward its costs of the basic program, each school district shall
244 impose a minimum basic tax rate per dollar of taxable value ~~[that generates \$296,709,700 in~~

245 ~~revenues statewide]~~ in accordance with this section.

246 ~~[(b) The preliminary estimate for the 2014-15 minimum basic tax rate is .001477.]~~

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

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

251 (b) For each calendar year beginning with the calendar year that begins on January 1,
252 2015, and ending with the calendar year that ends on December 31, 2019, the minimum basic
253 tax rate is a rate that will generate an amount of revenue equal to the sum of:

254 (i) the amount of revenue that would be generated statewide by imposing the certified
255 revenue levy for that taxable year; and

256 (ii) \$15,000,000.

257 (c) For a calendar year beginning on or after January 1, 2020, the minimum basic tax
258 rate is a rate that will generate an amount of revenue equal to the amount of revenue that would
259 be generated statewide by imposing the certified revenue levy for that taxable year.

260 ~~[(2)]~~ (3) (a) The state shall contribute to each district toward the cost of the basic
261 program in the district that portion [which] that exceeds the proceeds of [the levy authorized
262 under Subsection (1):] the difference between:

263 (i) the minimum basic rate to be imposed under Subsection (2); and

264 (ii) the basic levy increment rate.

265 (b) In accord with the state strategic plan for public education and to fulfill its
266 responsibility for the development and implementation of that plan, the Legislature instructs
267 the State Board of Education, the governor, and the Office of Legislative Fiscal Analyst in each
268 of the coming five years to develop budgets that will fully fund student enrollment growth.

269 ~~[(3)]~~ (4) (a) If the [proceeds of the levy authorized under Subsection (1) equal or
270 exceed] difference described in Subsection (3)(a) equals or exceeds the cost of the basic
271 program in a school district, no state contribution shall be made to the basic program.

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

275 (5) The State Board of Education shall:

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

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

281 Section 4. Section **53A-17a-135.1** is enacted to read:

282 **53A-17a-135.1. Minimum Basic Growth Account.**

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

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

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

289 (4) The account shall earn interest.

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

291 (6) Upon appropriation by the Legislature:

292 (a) 25% of the money from the account shall be used to fund the Capital Outlay
293 Foundation Program as provided in Chapter 21, Part 2, Capital Outlay Foundation Program;
294 and

295 (b) 75% of the money from the account shall be used to fund the Capital Outlay
296 Enrollment Growth Program as provided in Chapter 21, Part 3, Capital Outlay Enrollment
297 Growth Program.

298 Section 5. Section **59-2-102** is amended to read:

299 **59-2-102. Definitions.**

300 As used in this chapter and title:

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

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

307 trip.

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

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

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

313 (i) operates:

314 (A) on an interstate route; and

315 (B) on a scheduled basis; and

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

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

319 (i) air charter service; or

320 (ii) air contract service.

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

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

327 (i) the amount of ad valorem property tax revenue to be generated statewide in the
328 previous year from imposing a school minimum basic tax rate, as specified in [Subsection]
329 Section 53A-17a-135~~(1)(a)~~, or multicounty assessing and collecting levy, as specified in
330 Section 59-2-1602; and

331 (ii) the product of:

332 (A) new growth, as defined in:

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

334 (II) rules of the commission; and

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

337 (b) For purposes of this Subsection (7), "ad valorem property tax revenue" does not

338 include property tax revenue received by a taxing entity from personal property that is:
339 (i) assessed by a county assessor in accordance with Part 3, County Assessment; and
340 (ii) semiconductor manufacturing equipment.
341 (c) For purposes of calculating the certified revenue levy described in this Subsection
342 (7), the commission shall use:
343 (i) the taxable value of real property assessed by a county assessor contained on the
344 assessment roll;
345 (ii) the taxable value of real and personal property assessed by the commission; and
346 (iii) the taxable year end value of personal property assessed by a county assessor
347 contained on the prior year's assessment roll.
348 (8) "County-assessed commercial vehicle" means:
349 (a) any commercial vehicle, trailer, or semitrailer which is not apportioned under
350 Section 41-1a-301 and is not operated interstate to transport the vehicle owner's goods or
351 property in furtherance of the owner's commercial enterprise;
352 (b) any passenger vehicle owned by a business and used by its employees for
353 transportation as a company car or vanpool vehicle; and
354 (c) vehicles that are:
355 (i) especially constructed for towing or wrecking, and that are not otherwise used to
356 transport goods, merchandise, or people for compensation;
357 (ii) used or licensed as taxicabs or limousines;
358 (iii) used as rental passenger cars, travel trailers, or motor homes;
359 (iv) used or licensed in this state for use as ambulances or hearses;
360 (v) especially designed and used for garbage and rubbish collection; or
361 (vi) used exclusively to transport students or their instructors to or from any private,
362 public, or religious school or school activities.
363 (9) (a) Except as provided in Subsection (9)(b), for purposes of Section 59-2-801,
364 "designated tax area" means a tax area created by the overlapping boundaries of only the
365 following taxing entities:
366 (i) a county; and
367 (ii) a school district.
368 (b) Notwithstanding Subsection (9)(a), "designated tax area" includes a tax area created

369 by the overlapping boundaries of:

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

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

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

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

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

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

382 (i) \$5,000; or

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

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

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

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

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

393 (b) Property that is undervalued because of the use of a different valuation
394 methodology or because of a different application of the same valuation methodology is not
395 "escaped property."

396 (12) "Fair market value" means the amount at which property would change hands
397 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell
398 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
399 market value" shall be determined using the current zoning laws applicable to the property in

400 question, except in cases where there is a reasonable probability of a change in the zoning laws
401 affecting that property in the tax year in question and the change would have an appreciable
402 influence upon the value.

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

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

412 (15) "Geothermal resource" means:

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

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

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

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

419 (A) of a taxpayer; and

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

421 (ii) the ability of a business to:

422 (A) generate income:

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

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

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

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

428 (i) superior management skills;

429 (ii) reputation;

430 (iii) customer relationships;

- 431 (iv) patronage; or
- 432 (v) a factor similar to Subsections (16)(b)(i) through (iv).
- 433 (c) "Goodwill" does not include:
- 434 (i) the intangible property described in Subsection (20)(a) or (b);
- 435 (ii) locational attributes of real property, including:
- 436 (A) zoning;
- 437 (B) location;
- 438 (C) view;
- 439 (D) a geographic feature;
- 440 (E) an easement;
- 441 (F) a covenant;
- 442 (G) proximity to raw materials;
- 443 (H) the condition of surrounding property; or
- 444 (I) proximity to markets;
- 445 (iii) value attributable to the identification of an improvement to real property,
- 446 including:
- 447 (A) reputation of the designer, builder, or architect of the improvement;
- 448 (B) a name given to, or associated with, the improvement; or
- 449 (C) the historic significance of an improvement; or
- 450 (iv) the enhancement or assemblage value specifically attributable to the interrelation
- 451 of the existing tangible property in place working together as a unit.
- 452 (17) "Governing body" means:
- 453 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 454 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
- 455 Local Districts, the local district's board of trustees;
- 456 (c) for a school district, the local board of education; or
- 457 (d) for a special service district under Title 17D, Chapter 1, Special Service District
- 458 Act:
- 459 (i) the legislative body of the county or municipality that created the special service
- 460 district, to the extent that the county or municipal legislative body has not delegated authority
- 461 to an administrative control board established under Section [17D-1-301](#); or

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

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

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

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

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

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

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

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

478 (ii) removal of the item would:

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

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

481 (b) "Improvement" includes:

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

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

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

485 and

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

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

488 (B) remains located on the land.

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

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

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

- 493 (A) for stability only; or
- 494 (B) for an obvious temporary purpose;
- 495 (iii) (A) manufacturing equipment and machinery; or
- 496 (B) essential accessories to manufacturing equipment and machinery;
- 497 (iv) an item attached to the land in a manner that facilitates removal without substantial
- 498 damage to:
 - 499 (A) the land; or
 - 500 (B) the item; or
 - 501 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that
 - 502 transportable factory-built housing unit is considered to be personal property under Section
 - 503 59-2-1503.
- 504 (20) "Intangible property" means:
 - 505 (a) property that is capable of private ownership separate from tangible property,
 - 506 including:
 - 507 (i) money;
 - 508 (ii) credits;
 - 509 (iii) bonds;
 - 510 (iv) stocks;
 - 511 (v) representative property;
 - 512 (vi) franchises;
 - 513 (vii) licenses;
 - 514 (viii) trade names;
 - 515 (ix) copyrights; and
 - 516 (x) patents;
 - 517 (b) a low-income housing tax credit;
 - 518 (c) goodwill; or
 - 519 (d) a renewable energy tax credit or incentive, including:
 - 520 (i) a federal renewable energy production tax credit under Section 45, Internal Revenue
 - 521 Code;
 - 522 (ii) a federal energy credit for qualified renewable electricity production facilities under
 - 523 Section 48, Internal Revenue Code;

- 524 (iii) a federal grant for a renewable energy property under American Recovery and
- 525 Reinvestment Act of 2009, Pub. L. No. 111-5, Section 1603; and
- 526 (iv) a tax credit under Subsection 59-7-614(2)(c).
- 527 (21) "Livestock" means:
- 528 (a) a domestic animal;
- 529 (b) a fur-bearing animal;
- 530 (c) a honeybee; or
- 531 (d) poultry.
- 532 (22) "Low-income housing tax credit" means:
- 533 (a) a federal low-income housing tax credit under Section 42, Internal Revenue Code;
- 534 or
- 535 (b) a low-income housing tax credit under:
- 536 (i) Section 59-7-607; or
- 537 (ii) Section 59-10-1010.
- 538 (23) "Metalliferous minerals" includes gold, silver, copper, lead, zinc, and uranium.
- 539 (24) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
- 540 valuable mineral.
- 541 (25) "Mining" means the process of producing, extracting, leaching, evaporating, or
- 542 otherwise removing a mineral from a mine.
- 543 (26) (a) "Mobile flight equipment" means tangible personal property that is:
- 544 (i) owned or operated by an:
- 545 (A) air charter service;
- 546 (B) air contract service; or
- 547 (C) airline; and
- 548 (ii) (A) capable of flight;
- 549 (B) attached to an aircraft that is capable of flight; or
- 550 (C) contained in an aircraft that is capable of flight if the tangible personal property is
- 551 intended to be used:
- 552 (I) during multiple flights;
- 553 (II) during a takeoff, flight, or landing; and
- 554 (III) as a service provided by an air charter service, air contract service, or airline.

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

557 (A) at regular intervals; and

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

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

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

563 (28) "Part-year residential property" means property that is not residential property on
564 January 1 of a calendar year but becomes residential property after January 1 of the calendar
565 year.

566 (29) "Personal property" includes:

567 (a) every class of property as defined in Subsection (30) that is the subject of
568 ownership and not included within the meaning of the terms "real estate" and "improvements";

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

570 (c) bridges and ferries;

571 (d) livestock; and

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

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

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

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

585 (32) (a) Subject to Subsection (32)(b), "qualifying exempt primary residential rental

586 personal property" means household furnishings, furniture, and equipment that:

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

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

590 (iii) after applying the residential exemption described in Section 59-2-103, are exempt
591 from taxation under this chapter in accordance with Subsection 59-2-1115(2).

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

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

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

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

600 (c) improvements.

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

603 (a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term
604 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

629 (d) does not have a relationship with an owner of the land surface rights of the property
630 where the wellhead is located.

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

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

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

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

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

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

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

646 (41) "Tax roll" means a permanent record of the taxes charged on property, as extended
647 on the assessment roll and may be maintained on the same record or records as the assessment

648 roll or may be maintained on a separate record properly indexed to the assessment roll. It
649 includes tax books, tax lists, and other similar materials.

650 Section 6. Section **59-2-926** is amended to read:

651 **59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.**

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

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

661 (i) in a newspaper of general circulation in the state; and

662 (ii) as required in Section 45-1-101.

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

665 (i) shall be no less than 1/4 page in size and the type used shall be no smaller than 18
666 point, and surrounded by a 1/4-inch border:

667 (ii) may not be placed in that portion of the newspaper where legal notices and
668 classified advertisements appear; and

669 (iii) shall be run once.

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

671 "NOTICE OF TAX INCREASE

672 The state has budgeted an increase in its property tax revenue from \$ _____ to
673 \$ _____ or ____%. The increase in property tax revenues will come from the following
674 sources (include all of the following provisions):

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

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

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

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

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

686 Section 7. **Retrospective operation.**

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

Legislative Review Note
as of 9-17-14 2:26 PM

Office of Legislative Research and General Counsel