

1 **TRUTH IN TAXATION REVISIONS**

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Robert M. Spendlove**

5 Senate Sponsor: Kirk A. Cullimore

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to truth in taxation and approval of a budget by a
10 taxing entity.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ amends the date by which certain taxing entities are required to make a final
14 budgeting decision related to additional ad valorem tax revenue after a truth in
15 taxation hearing;
- 16 ▶ amends the date by which certain taxing entities are required to conduct certain
17 budgeting activities;
- 18 ▶ amends provisions related to the submission of a resolution to the State Tax
19 Commission;
- 20 ▶ provides a deadline for a certain public meeting that is part of the truth in taxation
21 process; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 None

27 **Utah Code Sections Affected:**

28 AMENDS:

29 **10-5-109**, as last amended by Laws of Utah 2018, Chapter 101

- 30 **10-5-112**, as last amended by Laws of Utah 1989, Chapter 118
- 31 **10-6-118**, as last amended by Laws of Utah 2018, Chapter 101
- 32 **10-6-133**, as last amended by Laws of Utah 2014, Chapter 176
- 33 **10-6-135**, as last amended by Laws of Utah 2017, Chapter 71
- 34 **59-2-919**, as last amended by Laws of Utah 2018, Chapters 68 and 415
- 35 **59-2-920**, as last amended by Laws of Utah 1988, Chapter 3



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

38 Section 1. Section **10-5-109** is amended to read:

39 **10-5-109. Adoption of budgets -- Filing.**

40 (1) Before June 30 of each year, or [~~August 17~~] September 1 in the case of a property
41 tax increase under Sections **59-2-919** through **59-2-923**, the council shall by resolution or
42 ordinance adopt a budget for the ensuing fiscal year for each fund for which a budget is
43 required under this chapter.

44 (2) The council shall file a copy of the final budget for each fund with the state auditor
45 within 30 days after adoption.

46 Section 2. Section **10-5-112** is amended to read:

47 **10-5-112. Property tax levy set by ordinance -- Maximum -- Certification.**

48 (1) Not later than June 22 of each year, or [~~August 17~~] September 1 in the case of a
49 property tax increase under Sections **59-2-919** through **59-2-923**, the council, at a regular
50 meeting or special meeting called for that purpose, shall by ordinance or resolution set the real
51 and personal property tax levy for town purposes, but the levy may be set at an appropriate later
52 date with the approval of the State Tax Commission.

53 (2) The combined levies for each town, for all purposes in any year, excluding the
54 retirement of general obligation bonds and the payment of any interest, and taxes expressly
55 authorized by law to be levied in addition, may not exceed .007 per dollar of taxable value of
56 taxable property.

57 (3) The town clerk shall certify the ordinance or resolution setting the levy to the

58 county auditor, or auditors, if the town is located in more than one county, not later than June
59 22 of each year.

60 Section 3. Section **10-6-118** is amended to read:

61 **10-6-118. Adoption of final budget -- Certification and filing.**

62 (1) Before June 30 of each fiscal period, or, in the case of a property tax increase under
63 Sections **59-2-919** through **59-2-923**, before [~~August 17~~] September 1 of the year for which a
64 property tax increase is proposed, the governing body shall by resolution or ordinance adopt a
65 budget for the ensuing fiscal period for each fund for which a budget is required under this
66 chapter.

67 (2) The budget officer of the governing body shall certify a copy of the final budget and
68 file the copy with the state auditor within 30 days after adoption.

69 Section 4. Section **10-6-133** is amended to read:

70 **10-6-133. Property tax levy -- Time for setting -- Computation of total levy --**
71 **Apportionment of proceeds -- Maximum levy.**

72 (1) (a) Before June 22 of each year, or [~~August 17~~] September 1 in the case of a
73 property tax rate increase under Sections **59-2-919** through **59-2-923**, the governing body of
74 each city, including charter cities, at a regular meeting or special meeting called for that
75 purpose, shall by ordinance or resolution set the real and personal property tax levy for various
76 municipal purposes.

77 (b) Notwithstanding Subsection (1)(a), the governing body may set the levy at an
78 appropriate later date with the approval of the State Tax Commission.

79 (2) In its computation of the total levy, the governing body shall determine the
80 requirements of each fund for which property taxes are to be levied and shall specify in its
81 ordinance or resolution adopting the levy the amount apportioned to each fund.

82 (3) The proceeds of the levy apportioned for city general fund purposes shall be
83 credited as revenue in the city general fund.

84 (4) The proceeds of the levy apportioned for special fund purposes shall be credited to
85 the appropriate accounts in the applicable special funds.

86 (5) The combined levies for each city, including charter cities, for all purposes in any
87 year, excluding the retirement of general obligation bonds and the payment of any interest, and
88 taxes expressly authorized by law to be levied in addition, may not exceed .007 per dollar of
89 taxable value of taxable property.

90 Section 5. Section **10-6-135** is amended to read:

91 **10-6-135. Operating and capital budgets.**

92 (1) (a) As used in this section, "operating and capital budget" means a plan of financial
93 operation for an enterprise fund or other required special fund that includes estimates of
94 operating resources, expenses, and other outlays for a fiscal period.

95 (b) Except as otherwise expressly provided, any reference to "budget" or "budgets" and
96 the procedures and controls relating to a budget or budgets in other sections of this chapter do
97 not apply or refer to the operating and capital budgets described in this section.

98 (2) At or before the time the governing body adopts budgets for the funds described in
99 Section **10-6-109**, the governing body shall adopt:

100 (a) an operating and capital budget for each enterprise fund for the ensuing fiscal
101 period; and

102 (b) the type of budget for other special funds as required by the Uniform Accounting
103 Manual for Utah Cities.

104 (3) (a) The governing body shall adopt and administer an operating and capital budget
105 in accordance with this Subsection (3).

106 (b) At or before the first regularly scheduled meeting of the governing body in the last
107 May of the current fiscal period, the budget officer shall:

108 (i) prepare for the ensuing fiscal period and file with the governing body a tentative
109 operating and capital budget for:

110 (A) each enterprise fund; and

111 (B) other required special funds;

112 (ii) include with the tentative operating and capital budget described in Subsection

113 (3)(c) specific work programs as submitted by each department head; and

114 (iii) include any other supporting data required by the governing body.

115 (c) Each city of the first or second class shall, and each city of the third, fourth, or fifth
116 class may, submit a supplementary estimate of all capital projects which a department head
117 believes should be undertaken within the three next succeeding fiscal periods.

118 (d) (i) Subject to Subsection (3)(d)(ii), the budget officer shall prepare all estimates
119 after review and consultation with each department head described in Subsection (3)(c).

120 (ii) After complying with Subsection (3)(d)(i), the budget officer may revise any
121 departmental estimate before it is filed with the governing body.

122 (4) (a) Each tentative budget, amendment to a budget, or budget shall be reviewed and
123 considered by the governing body at any regular meeting or special meeting called for that
124 purpose.

125 (b) The governing body may make changes in the tentative budgets.

126 (5) Budgets for enterprise or other required special funds shall comply with the public
127 hearing requirements established in Sections 10-6-113 and 10-6-114.

128 (6) (a) Before the last June 30 of each fiscal period, or, in the case of a property tax
129 increase under Sections 59-2-919 through 59-2-923, before ~~August 17~~ September 1 of the
130 year for which a property tax increase is proposed, the governing body shall adopt an operating
131 and capital budget for each applicable fund for the ensuing fiscal period.

132 (b) A copy of the budget as finally adopted for each fund shall be:

133 (i) certified by the budget officer;

134 (ii) filed by the budget officer in the office of the city auditor or city recorder;

135 (iii) available to the public during regular business hours; and

136 (iv) filed with the state auditor within 30 days after the day on which the budget is
137 adopted.

138 (7) (a) Upon final adoption, the operating and capital budget is in effect for the budget
139 period, subject to later amendment.

140 (b) During the budget period the governing body may, in any regular meeting or special
141 meeting called for that purpose, review any one or more of the operating and capital budgets

142 for the purpose of determining if the total of any of them should be increased.

143 (c) If the governing body decides that the budget total of one or more of the funds
144 should be increased under Subsection (7)(b), the governing body shall follow the procedures
145 set forth in Section 10-6-136.

146 (8) Expenditures from operating and capital budgets shall conform to the requirements
147 relating to budgets specified in Sections 10-6-121 through 10-6-126.

148 Section 6. Section 59-2-919 is amended to read:

149 **59-2-919. Notice and public hearing requirements for certain tax increases --**

150 **Exceptions.**

151 (1) As used in this section:

152 (a) "Additional ad valorem tax revenue" means ad valorem property tax revenue
153 generated by the portion of the tax rate that exceeds the taxing entity's certified tax rate.

154 (b) "Ad valorem tax revenue" means ad valorem property tax revenue not including
155 revenue from:

156 (i) eligible new growth as defined in Section 59-2-924; or

157 (ii) personal property that is:

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

159 (B) semiconductor manufacturing equipment.

160 (c) "Calendar year taxing entity" means a taxing entity that operates under a fiscal year
161 that begins on January 1 and ends on December 31.

162 (d) "County executive calendar year taxing entity" means a calendar year taxing entity
163 that operates under the county executive-council form of government described in Section
164 17-52a-203.

165 (e) "Current calendar year" means the calendar year immediately preceding the
166 calendar year for which a calendar year taxing entity seeks to levy a tax rate that exceeds the
167 calendar year taxing entity's certified tax rate.

168 (f) "Fiscal year taxing entity" means a taxing entity that operates under a fiscal year that
169 begins on July 1 and ends on June 30.

170 (g) "Last year's property tax budgeted revenue" does not include revenue received by a
171 taxing entity from a debt service levy voted on by the public.

172 (2) A taxing entity may not levy a tax rate that exceeds the taxing entity's certified tax
173 rate unless the taxing entity meets:

174 (a) the requirements of this section that apply to the taxing entity; and

175 (b) all other requirements as may be required by law.

176 (3) (a) Subject to Subsection (3)(b) and except as provided in Subsection (5), a calendar
177 year taxing entity may levy a tax rate that exceeds the calendar year taxing entity's certified tax
178 rate if the calendar year taxing entity:

179 (i) 14 or more days before the date of the regular general election or municipal general
180 election held in the current calendar year, states at a public meeting:

181 (A) that the calendar year taxing entity intends to levy a tax rate that exceeds the
182 calendar year taxing entity's certified tax rate;

183 (B) the dollar amount of and purpose for additional ad valorem tax revenue that would
184 be generated by the proposed increase in the certified tax rate; and

185 (C) the approximate percentage increase in ad valorem tax revenue for the taxing entity
186 based on the proposed increase described in Subsection (3)(a)(i)(B);

187 (ii) provides notice for the public meeting described in Subsection (3)(a)(i) in
188 accordance with Title 52, Chapter 4, Open and Public Meetings Act, including providing a
189 separate item on the meeting agenda that notifies the public that the calendar year taxing entity
190 intends to make the statement described in Subsection (3)(a)(i);

191 (iii) meets the advertisement requirements of Subsections (6) and (7) before the
192 calendar year taxing entity conducts the public hearing required by Subsection (3)(a)(v);

193 (iv) provides notice by mail:

194 (A) seven or more days before the regular general election or municipal general
195 election held in the current calendar year; and

196 (B) as provided in Subsection (3)(c); and

197 (v) conducts a public hearing that is held:

198 (A) in accordance with Subsections (8) and (9); and
199 (B) in conjunction with the public hearing required by Section [17-36-13](#) or [17B-1-610](#).
200 (b) (i) For a county executive calendar year taxing entity, the statement described in
201 Subsection (3)(a)(i) shall be made by the:
202 (A) county council;
203 (B) county executive; or
204 (C) both the county council and county executive.
205 (ii) If the county council makes the statement described in Subsection (3)(a)(i) or the
206 county council states a dollar amount of additional ad valorem tax revenue that is greater than
207 the amount of additional ad valorem tax revenue previously stated by the county executive in
208 accordance with Subsection (3)(a)(i), the county executive calendar year taxing entity shall:
209 (A) make the statement described in Subsection (3)(a)(i) 14 or more days before the
210 county executive calendar year taxing entity conducts the public hearing under Subsection
211 (3)(a)(v); and
212 (B) provide the notice required by Subsection (3)(a)(iv) 14 or more days before the
213 county executive calendar year taxing entity conducts the public hearing required by
214 Subsection (3)(a)(v).
215 (c) The notice described in Subsection (3)(a)(iv):
216 (i) shall be mailed to each owner of property:
217 (A) within the calendar year taxing entity; and
218 (B) listed on the assessment roll;
219 (ii) shall be printed on a separate form that:
220 (A) is developed by the commission;
221 (B) states at the top of the form, in bold upper-case type no smaller than 18 point
222 "NOTICE OF PROPOSED TAX INCREASE"; and
223 (C) may be mailed with the notice required by Section [59-2-1317](#);
224 (iii) shall contain for each property described in Subsection (3)(c)(i):
225 (A) the value of the property for the current calendar year;

226 (B) the tax on the property for the current calendar year; and
227 (C) subject to Subsection (3)(d), for the calendar year for which the calendar year
228 taxing entity seeks to levy a tax rate that exceeds the calendar year taxing entity's certified tax
229 rate, the estimated tax on the property;

230 (iv) shall contain the following statement:

231 "[Insert name of taxing entity] is proposing a tax increase for [insert applicable calendar
232 year]. This notice contains estimates of the tax on your property and the proposed tax increase
233 on your property as a result of this tax increase. These estimates are calculated on the basis of
234 [insert previous applicable calendar year] data. The actual tax on your property and proposed
235 tax increase on your property may vary from this estimate.";

236 (v) shall state the date, time, and place of the public hearing described in Subsection
237 (3)(a)(v); and

238 (vi) may contain other property tax information approved by the commission.

239 (d) For purposes of Subsection (3)(c)(iii)(C), a calendar year taxing entity shall
240 calculate the estimated tax on property on the basis of:

241 (i) data for the current calendar year; and

242 (ii) the amount of additional ad valorem tax revenue stated in accordance with this
243 section.

244 (4) Except as provided in Subsection (5), a fiscal year taxing entity may levy a tax rate
245 that exceeds the fiscal year taxing entity's certified tax rate if the fiscal year taxing entity:

246 (a) provides notice by meeting the advertisement requirements of Subsections (6) and
247 (7) before the fiscal year taxing entity conducts the public meeting at which the fiscal year
248 taxing entity's annual budget is adopted; and

249 (b) conducts a public hearing in accordance with Subsections (8) and (9) before the
250 fiscal year taxing entity's annual budget is adopted.

251 (5) (a) A taxing entity is not required to meet the notice or public hearing requirements
252 of Subsection (3) or (4) if the taxing entity is expressly exempted by law from complying with
253 the requirements of this section.

254 (b) A taxing entity is not required to meet the notice requirements of Subsection (3) or
255 (4) if:

256 (i) Section 53F-8-301 allows the taxing entity to levy a tax rate that exceeds that
257 certified tax rate without having to comply with the notice provisions of this section; or

258 (ii) the taxing entity:

259 (A) budgeted less than \$20,000 in ad valorem tax revenues for the previous fiscal year;
260 and

261 (B) sets a budget during the current fiscal year of less than \$20,000 of ad valorem tax
262 revenues.

263 (6) (a) Subject to Subsections (6)(d) and (7)(b), the advertisement described in this
264 section shall be published:

265 (i) subject to Section 45-1-101, in a newspaper or combination of newspapers of
266 general circulation in the taxing entity;

267 (ii) electronically in accordance with Section 45-1-101; and

268 (iii) on the Utah Public Notice Website created in Section 63F-1-701.

269 (b) The advertisement described in Subsection (6)(a)(i) shall:

270 (i) be no less than 1/4 page in size;

271 (ii) use type no smaller than 18 point; and

272 (iii) be surrounded by a 1/4-inch border.

273 (c) The advertisement described in Subsection (6)(a)(i) may not be placed in that
274 portion of the newspaper where legal notices and classified advertisements appear.

275 (d) It is the intent of the Legislature that:

276 (i) whenever possible, the advertisement described in Subsection (6)(a)(i) appear in a
277 newspaper that is published at least one day per week; and

278 (ii) the newspaper or combination of newspapers selected:

279 (A) be of general interest and readership in the taxing entity; and

280 (B) not be of limited subject matter.

281 (e) (i) The advertisement described in Subsection (6)(a)(i) shall:

282 (A) except as provided in Subsection (6)(f), be run once each week for the two weeks
283 before a taxing entity conducts a public hearing described under Subsection (3)(a)(v) or (4)(b);
284 and

285 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
286 advertisement, which shall be seven or more days after the day the first advertisement is
287 published, for the purpose of hearing comments regarding any proposed increase and to explain
288 the reasons for the proposed increase.

289 (ii) The advertisement described in Subsection (6)(a)(ii) shall:

290 (A) be published two weeks before a taxing entity conducts a public hearing described
291 in Subsection (3)(a)(v) or (4)(b); and

292 (B) state that the taxing entity will meet on a certain day, time, and place fixed in the
293 advertisement, which shall be seven or more days after the day the first advertisement is
294 published, for the purpose of hearing comments regarding any proposed increase and to explain
295 the reasons for the proposed increase.

296 (f) If a fiscal year taxing entity's public hearing information is published by the county
297 auditor in accordance with Section 59-2-919.2, the fiscal year taxing entity is not subject to the
298 requirement to run the advertisement twice, as required by Subsection (6)(e)(i), but shall run
299 the advertisement once during the week before the fiscal year taxing entity conducts a public
300 hearing at which the taxing entity's annual budget is discussed.

301 (g) For purposes of Subsection (3)(a)(iii) or (4)(a), the form and content of an
302 advertisement shall be substantially as follows:

303 "NOTICE OF PROPOSED TAX INCREASE

304 (NAME OF TAXING ENTITY)

305 The (name of the taxing entity) is proposing to increase its property tax revenue.

306 ● The (name of the taxing entity) tax on a (insert the average value of a residence
307 in the taxing entity rounded to the nearest thousand dollars) residence would
308 increase from \$_____ to \$_____, which is \$_____ per year.

309 ● The (name of the taxing entity) tax on a (insert the value of a business having

310 the same value as the average value of a residence in the taxing entity) business would increase
311 from \$_____ to \$_____, which is \$_____ per year.

312 • If the proposed budget is approved, (name of the taxing entity) would increase
313 its property tax budgeted revenue by ___% above last year's property tax
314 budgeted revenue excluding eligible new growth.

315 All concerned citizens are invited to a public hearing on the tax increase.

316 PUBLIC HEARING

317 Date/Time: (date) (time)

318 Location: (name of meeting place and address of meeting place)

319 To obtain more information regarding the tax increase, citizens may contact the (name
320 of the taxing entity) at (phone number of taxing entity)."

321 (7) The commission:

322 (a) shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative
323 Rulemaking Act, governing the joint use of one advertisement described in Subsection (6) by
324 two or more taxing entities; and

325 (b) subject to Section 45-1-101, may authorize:

326 (i) the use of a weekly newspaper:

327 (A) in a county having both daily and weekly newspapers if the weekly newspaper
328 would provide equal or greater notice to the taxpayer; and

329 (B) if the county petitions the commission for the use of the weekly newspaper; or

330 (ii) the use by a taxing entity of a commission approved direct notice to each taxpayer
331 if:

332 (A) the cost of the advertisement would cause undue hardship;

333 (B) the direct notice is different and separate from that provided for in Section
334 59-2-919.1; and

335 (C) the taxing entity petitions the commission for the use of a commission approved
336 direct notice.

337 (8) (a) (i) (A) A fiscal year taxing entity shall, on or before March 1, notify the county

338 legislative body in which the fiscal year taxing entity is located of the date, time, and place of
339 the first public hearing at which the fiscal year taxing entity's annual budget will be discussed.

340 (B) A county that receives notice from a fiscal year taxing entity under Subsection
341 (8)(a)(i)(A) shall include on the notice required by Section 59-2-919.1 the date, time, and place
342 of the public hearing described in Subsection (8)(a)(i)(A).

343 (ii) A calendar year taxing entity shall, on or before October 1 of the current calendar
344 year, notify the county legislative body in which the calendar year taxing entity is located of the
345 date, time, and place of the first public hearing at which the calendar year taxing entity's annual
346 budget will be discussed.

347 (b) (i) A public hearing described in Subsection (3)(a)(v) or (4)(b) shall be open to the
348 public.

349 (ii) The governing body of a taxing entity conducting a public hearing described in
350 Subsection (3)(a)(v) or (4)(b) shall provide an interested party desiring to be heard an
351 opportunity to present oral testimony within reasonable time limits.

352 (c) (i) Except as provided in Subsection (8)(c)(ii), a taxing entity may not schedule a
353 public hearing described in Subsection (3)(a)(v) or (4)(b) at the same time as the public hearing
354 of another overlapping taxing entity in the same county.

355 (ii) The taxing entities in which the power to set tax levies is vested in the same
356 governing board or authority may consolidate the public hearings described in Subsection
357 (3)(a)(v) or (4)(b) into one public hearing.

358 (d) A county legislative body shall resolve any conflict in public hearing dates and
359 times after consultation with each affected taxing entity.

360 (e) A taxing entity shall hold a public hearing described in Subsection (3)(a)(v) or
361 (4)(b) beginning at or after 6 p.m.

362 (9) (a) If a taxing entity does not make a final decision on budgeting additional ad
363 valorem tax revenue at a public hearing described in Subsection (3)(a)(v) or (4)(b), the taxing
364 entity shall:

365 (i) announce at that public hearing the scheduled time and place of the next public

366 meeting at which the taxing entity will consider budgeting the additional ad valorem tax
367 revenue[-]; and

368 (ii) if the taxing entity is a fiscal year taxing entity, hold the public meeting described
369 in Subsection (9)(a)(i) before September 1.

370 (b) A calendar year taxing entity may not adopt a final budget that budgets an amount
371 of additional ad valorem tax revenue that exceeds the largest amount of additional ad valorem
372 tax revenue stated at a public meeting under Subsection (3)(a)(i).

373 (c) A public hearing on levying a tax rate that exceeds a fiscal year taxing entity's
374 certified tax rate may coincide with a public hearing on the fiscal year taxing entity's proposed
375 annual budget.

376 Section 7. Section **59-2-920** is amended to read:

377 **59-2-920. Resolution and levy to be forwarded to commission.**

378 [~~The resolution approved in the manner provided under Section 59-2-919 shall be~~
379 ~~included]~~

380 (1) If a taxing entity, after fulfilling the requirements of Section 59-2-919, adopts a
381 resolution to levy a tax rate that exceeds the taxing entity's certified tax rate, the taxing entity
382 shall forward the resolution to the tax commission along with the statement of the amount and
383 purpose of the levy required under Sections 59-2-912 and 59-2-913 [~~and forwarded to the~~
384 ~~commission under Section 59-2-913].~~

385 (2) No tax rate in excess of the certified tax rate may be certified by the commission or
386 implemented by the taxing entity until the resolution [~~required under Section 59-2-919]~~
387 described in Subsection (1) is adopted by the governing authority of the taxing entity and
388 submitted to the commission. [~~If the resolution is not forwarded to the county auditor by~~
389 ~~August 17, the auditor shall forward the certified tax rate to the commission.]~~