

1 **EDUCATION FUNDING EQUALIZATION**

2 2014 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Aaron Osmond**

5 House Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ defines terms;
- 13 ▶ creates the Minimum Basic Growth Account within the Uniform School Fund to
- 14 fund the School LAND Trust Program;
- 15 ▶ amends the calculation of the school minimum basic tax rate;
- 16 ▶ requires specified revenue to be deposited into the Minimum Basic Growth
- 17 Account;
- 18 ▶ repeals certain public notice requirements related to the school minimum basic tax
- 19 rate; and
- 20 ▶ makes technical and conforming changes.

21 **Money Appropriated in this Bill:**

22 None

23 **Other Special Clauses:**

24 This bill has retrospective operation to January 1, 2014.

25 **Utah Code Sections Affected:**

26 AMENDS:

27 **11-13-302**, as last amended by Laws of Utah 2011, Chapter 371



- 28 **53A-16-101**, as last amended by Laws of Utah 2013, Chapter 235
- 29 **53A-16-101.5**, as last amended by Laws of Utah 2013, Chapter 296
- 30 **53A-17a-103**, as last amended by Laws of Utah 2011, Chapter 371
- 31 **53A-17a-135**, as last amended by Laws of Utah 2013, Chapter 7
- 32 **59-2-102**, as last amended by Laws of Utah 2013, Chapters 19 and 322
- 33 **59-2-926**, as last amended by Laws of Utah 2009, Chapter 388

34 REPEALS:

- 35 **53A-17a-131.17**, as last amended by Laws of Utah 2010, Chapter 3



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

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

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

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

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

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

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

57 (ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in
 58 Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the

59 project commences, or, in the case of facilities providing additional project capacity, with the
60 fiscal year of the taxing jurisdiction in which construction of those facilities commences.

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

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

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

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

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

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

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

76 (A) an annual fee; or

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

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

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

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

90 in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

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

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

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

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

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

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

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

104 (A) the project entity; and

105 (B) any county that:

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

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

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

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

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

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

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

- 121 (I) for that year; and
- 122 (II) using the same measure of value as is used for taxable property in the state.
- 123 (B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax
124 Commission in accordance with rules made by the State Tax Commission.
- 125 (c) Payments of the annual fees shall be made from:
- 126 (i) the proceeds of bonds issued for the project; and
- 127 (ii) revenues derived by the project entity from the project.
- 128 (d) (i) The contracts of the project entity with the purchasers of the capacity, service, or
129 other benefits of the project whose tangible property is not exempted by Utah Constitution
130 Article XIII, Section 3, from the payment of ad valorem property tax shall require each
131 purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for,
132 its share, determined in accordance with the terms of the contract, of these fees.
- 133 (ii) It is the responsibility of the project entity to enforce the obligations of the
134 purchasers.
- 135 (5) (a) The responsibility of the project entity to make payment of the annual fees is
136 limited to the extent that there is legally available to the project entity, from bond proceeds or
137 revenues, money to make these payments, and the obligation to make payments of the annual
138 fees is not otherwise a general obligation or liability of the project entity.
- 139 (b) No tax lien may attach upon any property or money of the project entity by virtue of
140 any failure to pay all or any part of an annual fee.
- 141 (c) The project entity or any purchaser may contest the validity of an annual fee to the
142 same extent as if the payment was a payment of the ad valorem property tax itself.
- 143 (d) The payments of an annual fee shall be reduced to the extent that any contest is
144 successful.
- 145 (6) (a) The annual fee described in Subsection (1):
- 146 (i) shall be paid by a public agency that:
- 147 (A) is not a project entity; and
- 148 (B) owns an interest in a facility providing additional project capacity if the interest is
149 otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and
- 150 (ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in
151 accordance with Subsection (6)(b).

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

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

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

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

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

164 Section 2. Section **53A-16-101** is amended to read:

165 **53A-16-101. Uniform School Fund -- Contents -- Interest and Dividends Account**
166 **-- Invest More for Education Account.**

167 (1) The Uniform School Fund, a special revenue fund within the Education Fund,
168 established by Utah Constitution, Article X, Section 5, consists of:

169 (a) interest and dividends derived from the investment of money in the permanent State
170 School Fund established by Utah Constitution, Article X, Section 5;

171 (b) money transferred to the fund pursuant to Title 67, Chapter 4a, Unclaimed Property
172 Act; and

173 (c) all other constitutional or legislative allocations to the fund, including revenues
174 received by donation.

175 (2) (a) There is created within the Uniform School Fund a restricted account known as
176 the "Interest and Dividends Account."

177 (b) The Interest and Dividends Account consists of:

178 (i) interest and dividends derived from the investment of money in the permanent State
179 School Fund referred to in Subsection (1)(a); and

180 (ii) interest on account money.

181 (3) (a) Upon appropriation by the Legislature, money from the Interest and Dividends
182 Account shall be used for:

183 (i) the administration of the School LAND Trust Program as provided in Section
184 [53A-16-101.5](#); and

185 (ii) the performance of duties described in Section [53A-16-101.6](#).

186 (b) The Legislature may appropriate any remaining balance for the support of the
187 public education system.

188 (4) (a) There is created within the Uniform School Fund a restricted account known as
189 the "Invest More for Education Account."

190 (b) The account shall be funded by contributions deposited into the restricted account
191 in accordance with Section [59-10-1318](#).

192 (c) The account shall earn interest.

193 (d) Interest earned on the account shall be deposited into the account.

194 (e) The Legislature may appropriate money from the account for the support of the
195 public education system.

196 (5) (a) There is created within the Uniform School Fund a restricted account known as
197 the "Minimum Basic Growth Account."

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

200 (c) The account shall earn interest.

201 (d) Interest earned on the account shall be deposited into the account.

202 (e) Upon appropriation by the Legislature, money from the account shall be used to
203 fund the School LAND Trust Program as provided in Section [53A-16-101.5](#).

204 (f) The Legislature may not appropriate money from the account for the performance of
205 duties described in Section [53A-16-101.6](#).

206 Section 3. Section **53A-16-101.5** is amended to read:

207 **53A-16-101.5. School LAND Trust Program -- Purpose -- Distribution of funds --**
208 **School plans for use of funds.**

209 (1) There is established the School LAND (Learning And Nurturing Development)
210 Trust Program to:

211 (a) provide financial resources to public schools to enhance or improve student
212 academic achievement and implement a component of the school improvement plan; and

213 (b) involve parents and guardians of a school's students in decision making regarding

214 the expenditure of School LAND Trust Program money allocated to the school.

215 (2) (a) The program shall be funded each fiscal year from:

216 (i) [~~from~~] the Interest and Dividends Account created in Section [53A-16-101](#) [~~;~~ and (ii)]
217 in the amount of the sum of the following:

218 (A) the interest and dividends from the investment of money in the permanent State
219 School Fund deposited to the Interest and Dividends Account in the immediately preceding
220 year; and

221 (B) interest accrued on money in the Interest and Dividends Account in the
222 immediately preceding fiscal year [~~;~~]; and

223 (ii) the Minimum Basic Growth Account created in Section [53A-16-101](#).

224 (b) On and after July 1, 2003, the program shall be funded as provided in Subsection
225 (2)(a)(i) up to an amount equal to 2% of the funds provided for the Minimum School Program,
226 pursuant to Title 53A, Chapter 17a, Minimum School Program Act, each fiscal year.

227 (c) (i) The Legislature shall annually allocate, through an appropriation to the State
228 Board of Education, a portion of the Interest and Dividends Account created in Section
229 [53A-16-101](#) to be used for:

230 (A) the administration of the School LAND Trust Program; and

231 (B) the performance of duties described in Section [53A-16-101.6](#).

232 (ii) Any unused balance remaining from an amount appropriated under Subsection
233 (2)(c)(i) shall be deposited in the Interest and Dividends Account for distribution to schools in
234 the School LAND Trust Program.

235 (3) (a) The State Board of Education shall allocate the money referred to in Subsection
236 (2) annually for the fiscal year beginning July 1, 2013, and for each fiscal year thereafter as
237 follows:

238 (i) the Utah Schools for the Deaf and the Blind and the charter schools combined shall
239 receive funding equal to the product of:

240 (A) enrollment on October 1 in the prior year at the Utah Schools for the Deaf and the
241 Blind, or in the charter schools combined, divided by enrollment on October 1 in the prior year
242 in public schools statewide; and

243 (B) the total amount available for distribution under Subsection (2);

244 (ii) the amount allocated to the charter schools combined under Subsection (3)(a)(i)

245 shall be distributed among charter schools in accordance with a formula specified in rules
246 adopted by the State Board of Education in consultation with the State Charter School Board;
247 and

248 (iii) of the funds available for distribution under Subsection (2) after the allocation of
249 funds for the Utah Schools for the Deaf and the Blind and charter schools:

250 (A) school districts shall receive 10% of the funds on an equal basis; and

251 (B) the remaining 90% of the funds shall be distributed on a per student basis.

252 (b) A school district shall distribute its allocation under Subsection (3)(a)(iii) to each
253 school within the district on an equal per student basis.

254 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
255 State Board of Education may make rules regarding the time and manner in which the student
256 count shall be made for allocation of the money under Subsection (3)(a)(iii).

257 (4) To receive its allocation under Subsection (3):

258 (a) a school shall have established a school community council in accordance with
259 Section [53A-1a-108](#); and

260 (b) the school's principal shall provide a signed, written assurance in accordance with
261 rules of the State Board of Education that the membership of the school community council is
262 consistent with the membership requirements specified in Section [53A-1a-108](#).

263 (5) (a) The school community council or its subcommittee shall create a program to use
264 its allocation under Subsection (3) to implement a component of the school's improvement
265 plan, including:

266 (i) the school's identified most critical academic needs;

267 (ii) a recommended course of action to meet the identified academic needs;

268 (iii) a specific listing of any programs, practices, materials, or equipment which the
269 school will need to implement a component of its school improvement plan to have a direct
270 impact on the instruction of students and result in measurable increased student performance;
271 and

272 (iv) how the school intends to spend its allocation of funds under this section to
273 enhance or improve academic excellence at the school.

274 (b) (i) A school community council shall create and vote to adopt a plan for the use of
275 School LAND Trust Program money in a meeting of the school community council at which a

276 quorum is present.

277 (ii) If a majority of the quorum votes to adopt a plan for the use of School LAND Trust
278 Program money, the plan is adopted.

279 (c) A school community council shall:

280 (i) post a plan for the use of School LAND Trust Program money that is adopted in
281 accordance with Subsection (5)(b) on the School LAND Trust Program website; and

282 (ii) include with the plan a report noting the number of school community council
283 members who voted for or against the approval of the plan and the number of members who
284 were absent for the vote.

285 (d) (i) A school's local school board shall approve or disapprove a plan for the use of
286 School LAND Trust Program money.

287 (ii) If a local school board disapproves a plan for the use of School LAND Trust
288 Program money, the local school board shall provide a written explanation of why the plan was
289 disapproved and request the school community council who submitted the plan to revise the
290 plan.

291 (iii) The school community council shall submit a revised plan to the local school
292 board for approval.

293 (6) (a) Each school shall:

294 (i) implement the program as approved;

295 (ii) provide ongoing support for the council's program; and

296 (iii) meet State Board of Education reporting requirements regarding financial and
297 performance accountability of the program.

298 (b) (i) Each school, through its school community council, shall prepare and post an
299 annual report of the program on the School LAND Trust Program website each fall.

300 (ii) The report shall detail the use of program funds received by the school under this
301 section and an assessment of the results obtained from the use of the funds.

302 (iii) A summary of the report shall be provided to parents or guardians of students
303 attending the school.

304 (7) (a) The governing board of a charter school shall establish a council, which shall
305 prepare a plan for the use of School LAND Trust Program money that includes the elements
306 listed in Subsection (5).

307 (b) (i) The membership of the council shall include parents or guardians of students
308 enrolled at the school and may include other members.

309 (ii) The number of council members who are parents or guardians of students enrolled
310 at the school shall exceed all other members combined by at least two.

311 (c) A charter school governing board may serve as the council that prepares a plan for
312 the use of School LAND Trust Program money if the membership of the charter school
313 governing board meets the requirements of Subsection (7)(b)(ii).

314 (d) (i) Except as provided in Subsection (7)(d)(ii), council members who are parents or
315 guardians of students enrolled at the school shall be elected in accordance with procedures
316 established by the charter school governing board.

317 (ii) Subsection (7)(d)(i) does not apply to a charter school governing board that serves
318 as the council that prepares a plan for the use of School LAND Trust Program money.

319 (e) A parent or guardian of a student enrolled at the school shall serve as chair or
320 cochair of a council that prepares a plan for the use of School LAND Trust Program money.

321 (f) A plan for the use of School LAND Trust Program money shall be subject to
322 approval by the charter school governing board and the entity that authorized the establishment
323 of the charter school.

324 Section 4. Section **53A-17a-103** is amended to read:

325 **53A-17a-103. Definitions.**

326 As used in this chapter:

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

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

334 (i) the amount of ad valorem property tax revenue to be generated statewide in the
335 previous year from imposing a minimum basic tax rate, as specified in [~~Subsection~~] Section
336 53A-17a-135~~[(1)(a)]~~; and

337 (ii) the product of:

338 (A) new growth, as defined in:
339 (I) Section 59-2-924; and
340 (II) rules of the State Tax Commission; and
341 (B) the minimum basic tax rate certified by the State Tax Commission for the previous
342 year.

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

- 345 (i) assessed by a county assessor in accordance with Title 59, Chapter 2, Part 3, County
346 Assessment; and
- 347 (ii) semiconductor manufacturing equipment.

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

- 350 (i) the taxable value of real property assessed by a county assessor contained on the
351 assessment roll;
- 352 (ii) the taxable value of real and personal property assessed by the State Tax
353 Commission; and
- 354 (iii) the taxable year end value of personal property assessed by a county assessor
355 contained on the prior year's assessment roll.

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

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

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

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

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

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

- 371 (i) Basic School Program;
372 (ii) Related to Basic Programs;
373 (iii) Voted and Board Levy Programs; or
374 (iv) Minimum School Program.

375 (5) "Weighted pupil unit or units or WPU or WPU's" means the unit of measure of
376 factors that is computed in accordance with this chapter for the purpose of determining the
377 costs of a program on a uniform basis for each district.

378 Section 5. Section **53A-17a-135** is amended to read:

379 **53A-17a-135. Minimum basic tax rate -- Certified revenue levy.**

380 (1) As used in this section, "basic levy increment rate" means a rate equal to the
381 difference between:

382 (a) the minimum basic tax rate provided in Subsection (2); and

383 (b) the certified revenue levy.

384 ~~[(+)]~~ (2) (a) In order to qualify for receipt of the state contribution toward the basic
385 program and as its contribution toward its costs of the basic program, each school district shall
386 impose a minimum basic tax rate per dollar of taxable value [that generates \$294,092,000 in
387 revenues statewide] in accordance with this section.

388 ~~[(b) The preliminary estimate for the 2013-14 minimum basic tax rate is .001691.]~~

389 ~~[(c) The State Tax Commission shall certify on or before June 22 the rate that~~
390 ~~generates \$294,092,000 in revenues statewide.]~~

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

393 (b) Beginning on January 1, 2014, the minimum basic tax rate is the greater of:

394 (i) the certified revenue levy; or

395 (ii) a tax rate of .001691.

396 (3) (a) On or before June 8, the State Tax Commission shall provide the State Board of
397 Education and each school district with an initial estimate of:

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

399 (ii) the basic levy increment rate.

400 (b) On or before June 22, the State Tax Commission shall certify:

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

402 (ii) the basic levy increment rate.

403 ~~[(2)]~~ (4) (a) The state shall contribute to each district toward the cost of the basic
 404 program in the district that portion which exceeds the proceeds of [the levy authorized under
 405 Subsection (1)]. the difference between:

406 (i) the minimum basic tax rate imposed under Subsection (2); and

407 (ii) the basic levy increment rate.

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

412 ~~[(3)]~~ (5) (a) If the [proceeds of the levy authorized under Subsection (1) equal or
 413 exceed] difference described in Subsection (4)(a) equals or exceeds the cost of the basic
 414 program in a school district, no state contribution shall be made to the basic program.

415 (b) The proceeds of ~~[the levy authorized under Subsection (1) which]~~ the difference
 416 described in Subsection (4)(a) that exceed the cost of the basic program shall be paid into the
 417 Uniform School Fund as provided by law.

418 (6) The State Board of Education shall:

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

422 (b) deposit the money described in Subsection (6)(a) into the Minimum Basic Growth
 423 Account created in Section [53A-16-101](#).

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

425 **59-2-102. Definitions.**

426 As used in this chapter and title:

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

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

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

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

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

439 (i) operates:

440 (A) on an interstate route; and

441 (B) on a scheduled basis; and

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

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

445 (i) air charter service; or

446 (ii) air contract service.

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

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

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

457 (ii) the product of:

458 (A) new growth, as defined in:

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

460 (II) rules of the commission; and

461 (B) the school minimum basic tax rate or multicounty assessing and collecting levy

462 certified by the commission for the previous year.

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

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

466 (ii) semiconductor manufacturing equipment.

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

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

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

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

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

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

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

480 (c) vehicles that are:

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

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

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

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

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

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

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

492 (i) a county; and

493 (ii) a school district.

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

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

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

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

501 (10) "Eligible judgment" means a final and unappealable judgment or order under
502 Section [59-2-1330](#):

503 (a) that became a final and unappealable judgment or order no more than 14 months
504 prior to the day on which the notice required by Section [59-2-919.1](#) is required to be mailed;
505 and

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

508 (i) \$5,000; or

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

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

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

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

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

519 (b) Property that is undervalued because of the use of a different valuation
520 methodology or because of a different application of the same valuation methodology is not
521 "escaped property."

522 (12) "Fair market value" means the amount at which property would change hands
523 between a willing buyer and a willing seller, neither being under any compulsion to buy or sell

524 and both having reasonable knowledge of the relevant facts. For purposes of taxation, "fair
525 market value" shall be determined using the current zoning laws applicable to the property in
526 question, except in cases where there is a reasonable probability of a change in the zoning laws
527 affecting that property in the tax year in question and the change would have an appreciable
528 influence upon the value.

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

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

538 (15) "Geothermal resource" means:

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

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

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

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

545 (A) of a taxpayer; and

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

547 (ii) the ability of a business to:

548 (A) generate income:

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

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

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

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

554 (i) superior management skills;

- 555 (ii) reputation;
- 556 (iii) customer relationships;
- 557 (iv) patronage; or
- 558 (v) a factor similar to Subsections (16)(b)(i) through (iv).
- 559 (c) "Goodwill" does not include:
- 560 (i) the intangible property described in Subsection (20)(a) or (b);
- 561 (ii) locational attributes of real property, including:
- 562 (A) zoning;
- 563 (B) location;
- 564 (C) view;
- 565 (D) a geographic feature;
- 566 (E) an easement;
- 567 (F) a covenant;
- 568 (G) proximity to raw materials;
- 569 (H) the condition of surrounding property; or
- 570 (I) proximity to markets;
- 571 (iii) value attributable to the identification of an improvement to real property,
- 572 including:
- 573 (A) reputation of the designer, builder, or architect of the improvement;
- 574 (B) a name given to, or associated with, the improvement; or
- 575 (C) the historic significance of an improvement; or
- 576 (iv) the enhancement or assemblage value specifically attributable to the interrelation
- 577 of the existing tangible property in place working together as a unit.
- 578 (17) "Governing body" means:
- 579 (a) for a county, city, or town, the legislative body of the county, city, or town;
- 580 (b) for a local district under Title 17B, Limited Purpose Local Government Entities -
- 581 Local Districts, the local district's board of trustees;
- 582 (c) for a school district, the local board of education; or
- 583 (d) for a special service district under Title 17D, Chapter 1, Special Service District
- 584 Act:
- 585 (i) the legislative body of the county or municipality that created the special service

586 district, to the extent that the county or municipal legislative body has not delegated authority
587 to an administrative control board established under Section 17D-1-301; or

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

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

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

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

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

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

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

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

604 (ii) removal of the item would:

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

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

607 (b) "Improvement" includes:

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

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

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

611 and

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

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

614 (B) remains located on the land.

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

616 (i) an item considered to be personal property pursuant to rules made in accordance

617 with Section 59-2-107;

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

619 (A) for stability only; or

620 (B) for an obvious temporary purpose;

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

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

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

624 damage to:

625 (A) the land; or

626 (B) the item; or

627 (v) a transportable factory-built housing unit as defined in Section 59-2-1502 if that

628 transportable factory-built housing unit is considered to be personal property under Section

629 59-2-1503.

630 (20) "Intangible property" means:

631 (a) property that is capable of private ownership separate from tangible property,

632 including:

633 (i) money;

634 (ii) credits;

635 (iii) bonds;

636 (iv) stocks;

637 (v) representative property;

638 (vi) franchises;

639 (vii) licenses;

640 (viii) trade names;

641 (ix) copyrights; and

642 (x) patents;

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

644 (c) goodwill; or

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

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

647 Code;

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

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

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

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

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

655 or

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

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

658 (ii) Section 59-10-1010.

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

660 (23) "Mine" means a natural deposit of either metalliferous or nonmetalliferous
661 valuable mineral.

662 (24) "Mining" means the process of producing, extracting, leaching, evaporating, or
663 otherwise removing a mineral from a mine.

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

665 (i) owned or operated by an:

666 (A) air charter service;

667 (B) air contract service; or

668 (C) airline; and

669 (ii) (A) capable of flight;

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

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

673 (I) during multiple flights;

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

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

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

678 (A) at regular intervals; and

- 679 (B) with an engine that is attached to the aircraft.
- 680 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
681 commission may make rules defining the term "regular intervals."
- 682 (26) "Nonmetalliferous minerals" includes, but is not limited to, oil, gas, coal, salts,
683 sand, rock, gravel, and all carboniferous materials.
- 684 (27) "Personal property" includes:
- 685 (a) every class of property as defined in Subsection (28) that is the subject of
686 ownership and not included within the meaning of the terms "real estate" and "improvements";
- 687 (b) gas and water mains and pipes laid in roads, streets, or alleys;
- 688 (c) bridges and ferries;
- 689 (d) livestock, which, for the purposes of the exemption provided under Section
690 59-2-1112, means all domestic animals, honeybees, poultry, fur-bearing animals, and fish; and
- 691 (e) outdoor advertising structures as defined in Section 72-7-502.
- 692 (28) (a) "Property" means property that is subject to assessment and taxation according
693 to its value.
- 694 (b) "Property" does not include intangible property as defined in this section.
- 695 (29) "Public utility," for purposes of this chapter, means the operating property of a
696 railroad, gas corporation, oil or gas transportation or pipeline company, coal slurry pipeline
697 company, electrical corporation, telephone corporation, sewerage corporation, or heat
698 corporation where the company performs the service for, or delivers the commodity to, the
699 public generally or companies serving the public generally, or in the case of a gas corporation
700 or an electrical corporation, where the gas or electricity is sold or furnished to any member or
701 consumers within the state for domestic, commercial, or industrial use. Public utility also
702 means the operating property of any entity or person defined under Section 54-2-1 except water
703 corporations.
- 704 (30) (a) Subject to Subsection (30)(b), "qualifying exempt primary residential rental
705 personal property" means household furnishings, furniture, and equipment that:
- 706 (i) are used exclusively within a dwelling unit that is the primary residence of a tenant;
- 707 (ii) are owned by the owner of the dwelling unit that is the primary residence of a
708 tenant; and
- 709 (iii) after applying the residential exemption described in Section 59-2-103, are exempt

710 from taxation under this chapter in accordance with Subsection 59-2-1115(2).

711 (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
712 commission may by rule define the term "dwelling unit" for purposes of this Subsection (30)
713 and Subsection (33).

714 (31) "Real estate" or "real property" includes:

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

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

719 (c) improvements.

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

722 (a) except that notwithstanding Subsection 267(b), Internal Revenue Code, the term
723 25% shall be substituted for the term 50% in Subsection 267(b), Internal Revenue Code; and

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

726 (33) (a) Subject to Subsection (33)(b), "residential property," for the purposes of the
727 reductions and adjustments under this chapter, means any property used for residential
728 purposes as a primary residence.

729 (b) Subject to Subsection (33)(c), "residential property":

730 (i) except as provided in Subsection (33)(b)(ii), includes household furnishings,
731 furniture, and equipment if the household furnishings, furniture, and equipment are:

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

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

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

737 (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
738 commission may by rule define the term "dwelling unit" for purposes of Subsection (30) and
739 this Subsection (33).

740 (34) "Split estate mineral rights owner" means a person who:

- 741 (a) has a legal right to extract a mineral from property;
- 742 (b) does not hold more than a 25% interest in:
- 743 (i) the land surface rights of the property where the wellhead is located; or
- 744 (ii) an entity with an ownership interest in the land surface rights of the property where
- 745 the wellhead is located;
- 746 (c) is not an entity in which the owner of the land surface rights of the property where
- 747 the wellhead is located holds more than a 25% interest; and
- 748 (d) does not have a relationship with an owner of the land surface rights of the property
- 749 where the wellhead is located.
- 750 (35) (a) "State-assessed commercial vehicle" means:
- 751 (i) any commercial vehicle, trailer, or semitrailer which operates interstate or intrastate
- 752 to transport passengers, freight, merchandise, or other property for hire; or
- 753 (ii) any commercial vehicle, trailer, or semitrailer which operates interstate and
- 754 transports the vehicle owner's goods or property in furtherance of the owner's commercial
- 755 enterprise.
- 756 (b) "State-assessed commercial vehicle" does not include vehicles used for hire which
- 757 are specified in Subsection (8)(c) as county-assessed commercial vehicles.
- 758 (36) "Taxable value" means fair market value less any applicable reduction allowed for
- 759 residential property under Section [59-2-103](#).
- 760 (37) "Tax area" means a geographic area created by the overlapping boundaries of one
- 761 or more taxing entities.
- 762 (38) "Taxing entity" means any county, city, town, school district, special taxing
- 763 district, local district under Title 17B, Limited Purpose Local Government Entities - Local
- 764 Districts, or other political subdivision of the state with the authority to levy a tax on property.
- 765 (39) "Tax roll" means a permanent record of the taxes charged on property, as extended
- 766 on the assessment roll and may be maintained on the same record or records as the assessment
- 767 roll or may be maintained on a separate record properly indexed to the assessment roll. It
- 768 includes tax books, tax lists, and other similar materials.
- 769 Section 7. Section **59-2-926** is amended to read:
- 770 **59-2-926. Proposed tax increase by state -- Notice -- Contents -- Dates.**
- 771 If the state authorizes a levy pursuant to [~~Section [53A-17a-135](#) that exceeds the~~

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

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

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

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

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

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

788 (iii) shall be run once.

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

790 "NOTICE OF TAX INCREASE

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

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

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

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

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

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

805 Section 8. **Repealer.**

806 This bill repeals:

807 Section **53A-17a-131.17, State contribution for School LAND Trust Program.**

808 Section 9. **Retrospective operation.**

809 This bill has retrospective operation to January 1, 2014.

Legislative Review Note
as of 12-9-13 3:07 PM

Office of Legislative Research and General Counsel