

1 **PROPERTY TAX ASSESSMENT CHANGES**

2 2017 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Daniel McCay**

5 Senate Sponsor: Deidre M. Henderson

7 **LONG TITLE**

8 **Committee Note:**

9 The Revenue and Taxation Interim Committee recommended this bill.

10 **General Description:**

11 This bill amends property tax provisions related to the assessment of property.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ requires the centrally assessed benchmark value to be adjusted for taxable value
15 attributable to a change in assessment that occurs due to a decision made by the
16 State Tax Commission;
- 17 ▶ defines terms, including a bona fide range improvement program;
- 18 ▶ provides that land may not be assessed under the Farmland Assessment Act if the
19 land is:
- 20 • land devoted to the production of solar energy; or
 - 21 • a ski area; and
- 22 ▶ makes technical and conforming changes.

23 **Money Appropriated in this Bill:**

24 None

25 **Other Special Clauses:**

26 This bill provides retrospective operation.

27 **Utah Code Sections Affected:**



28 AMENDS:

29 **59-2-502**, as last amended by Laws of Utah 2005, Chapter 254

30 **59-2-503**, as last amended by Laws of Utah 2013, Chapter 322

31 **59-2-504**, as last amended by Laws of Utah 2003, Chapter 208

32 **59-2-924**, as last amended by Laws of Utah 2016, Chapters 350 and 367

33

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

35 Section 1. Section **59-2-502** is amended to read:

36 **59-2-502. Definitions.**

37 As used in this part:

38 (1) "Actively devoted to agricultural use" means that the land in agricultural use
39 produces in excess of 50% of the average agricultural production per acre:

40 (a) as determined under Section **59-2-503**; and

41 (b) for:

42 (i) the given type of land; and

43 (ii) the given county or area.

44 (2) (a) "Bona fide range improvement program" means a rangeland improvement
45 project that is generally recognized by the grazing or livestock industry to:

46 (i) increase the quality of forage for livestock; and

47 (ii) result in increased livestock production.

48 (b) "Bona fide range improvement program" includes:

49 (i) reseeding;

50 (ii) spraying;

51 (iii) burning;

52 (iv) controlling for weeds or herbs; or

53 (v) using one of the following mechanical methods:

54 (A) chaining;

55 (B) furrowing;

56 (C) terracing;

57 (D) trenching;

58 (E) railing;

59 (F) ripping; or

60 (G) pitting.

61 [~~2~~] (3) "Conservation easement rollback tax" means the tax imposed under Section
62 [59-2-506.5](#).

63 [~~3~~] (4) "Identical legal ownership" means legal ownership held by:

64 (a) identical legal parties; or

65 (b) identical legal entities.

66 [~~4~~] (5) "Land in agricultural use" means:

67 (a) land devoted to the raising of useful plants and animals with a reasonable
68 expectation of profit, including:

69 (i) forages and sod crops;

70 (ii) grains and feed crops;

71 (iii) livestock as defined in Section [59-2-102](#);

72 (iv) trees and fruits; or

73 (v) vegetables, nursery, floral, and ornamental stock; or

74 (b) land devoted to and meeting the requirements and qualifications for payments or
75 other compensation under a crop-land retirement program with an agency of the state or federal
76 government.

77 [~~5~~] (6) "Other eligible acreage" means land that is:

78 (a) five or more contiguous acres;

79 (b) eligible for assessment under this part; and

80 (c) (i) located in the same county as land described in Subsection [59-2-503\(1\)\(a\)](#); or

81 (ii) contiguous across county lines with land described in Subsection [59-2-503\(1\)\(a\)](#) as
82 provided in Section [59-2-512](#).

83 [~~6~~] (7) "Platted" means land in which:

84 (a) parcels of ground are laid out and mapped by their boundaries, course, and extent;

85 and

86 (b) the plat has been approved as provided in Section [10-9a-604](#) or [17-27a-604](#).

87 [~~7~~] (8) "Rollback tax" means the tax imposed under Section [59-2-506](#).

88 [~~8~~] (9) "Withdrawn from this part" means that land that has been assessed under this
89 part is no longer assessed under this part or eligible for assessment under this part for any

90 reason including that:

- 91 (a) an owner voluntarily requests that the land be withdrawn from this part;
- 92 (b) the land is no longer actively devoted to agricultural use;
- 93 (c) (i) the land has a change in ownership; and
- 94 (ii) (A) the new owner fails to apply for assessment under this part as required by

95 Section 59-2-509; or

- 96 (B) (I) an owner applies for assessment under this part as required by Section
- 97 59-2-509; and

98 (II) the land does not meet the requirements of this part to be assessed under this part;

99 (d) (i) the legal description of the land changes; and

100 (ii) (A) an owner fails to apply for assessment under this part as required by Section
101 59-2-509; or

102 (B) (I) an owner applies for assessment under this part as required by Section
103 59-2-509; and

104 (II) the land does not meet the requirements of this part to be assessed under this part;

105 (e) if required by the county assessor, the owner of the land:

- 106 (i) fails to file a new application as provided in Subsection 59-2-508(4); or
- 107 (ii) fails to file a signed statement as provided in Subsection 59-2-508(4); or

108 (f) except as provided in Section 59-2-503, the land fails to meet a requirement of
109 Section 59-2-503.

110 Section 2. Section 59-2-503 is amended to read:

111 **59-2-503. Qualifications for agricultural use assessment.**

112 (1) For general property tax purposes, land may be assessed on the basis of the value
113 that the land has for agricultural use if the land:

114 (a) is not less than five contiguous acres in area, except that land may be assessed on
115 the basis of the value that the land has for agricultural use:

116 (i) if:

117 (A) the land is devoted to agricultural use in conjunction with other eligible acreage;
118 and

119 (B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have
120 identical legal ownership; or

- 121 (ii) as provided under Subsection (4); and
122 (b) except as provided in Subsection (5) or (6):
123 (i) is actively devoted to agricultural use; and
124 (ii) has been actively devoted to agricultural use for at least two successive years
125 immediately preceding the tax year for which the land is being assessed under this part.
- 126 (2) In determining whether land is actively devoted to agricultural use, production per
127 acre for a given county or area and a given type of land shall be determined by using the first
128 applicable of the following:
- 129 (a) production levels reported in the current publication of the Utah Agricultural
130 Statistics;
131 (b) current crop budgets developed and published by Utah State University; and
132 (c) other acceptable standards of agricultural production designated by the commission
133 by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
134 Act.
- 135 (3) Land may be assessed on the basis of the land's agricultural value if the land:
136 (a) is subject to the privilege tax imposed by Section 59-4-101;
137 (b) is owned by the state or any of the state's political subdivisions; and
138 (c) meets the requirements of Subsection (1).
- 139 (4) Notwithstanding Subsection (1)(a), the commission or a county board of
140 equalization may grant a waiver of the acreage limitation for land upon:
- 141 (a) appeal by the owner; and
142 (b) submission of proof that:
143 (i) 80% or more of the owner's, purchaser's, or lessee's income is derived from
144 agricultural products produced on the property in question; or
145 (ii) (A) the failure to meet the acreage requirement arose solely as a result of an
146 acquisition by a governmental entity by[:(~~F~~)] eminent domain[:;] or [~~(H)~~] the threat or
147 imminence of an eminent domain proceeding;
148 (B) the land is actively devoted to agricultural use; and
149 (C) no change occurs in the ownership of the land.
- 150 (5) (a) The commission or a county board of equalization may grant a waiver of the
151 requirement that the land is actively devoted to agricultural use for the tax year for which the

152 land is being assessed under this part upon:

153 (i) appeal by the owner; and

154 (ii) submission of proof that:

155 (A) the land was assessed on the basis of agricultural use for at least two years

156 immediately preceding that tax year; and

157 (B) the failure to meet the agricultural production requirements for that tax year was
158 due to no fault or act of the owner, purchaser, or lessee.

159 (b) As used in Subsection (5)(a), "fault" does not include:

160 (i) intentional planting of crops or trees which, because of the maturation period, do
161 not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production
162 levels required for land actively devoted to agricultural use; or

163 (ii) implementation of a bona fide range improvement program[;] or crop rotation
164 program[; ~~or other similar accepted cultural practices which do~~] that does not give the owner,
165 purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land
166 actively devoted to agricultural use.

167 (6) Land that otherwise qualifies for assessment under this part qualifies for assessment
168 under this part in the first year the land resumes being actively devoted to agricultural use if:

169 (a) the land becomes ineligible for assessment under this part only as a result of a split
170 estate mineral rights owner exercising the right to extract a mineral; and

171 (b) the land qualified for assessment under this part in the year immediately preceding
172 the year the land became ineligible for assessment under this part only as a result of a split
173 estate mineral rights owner exercising the right to extract a mineral.

174 (7) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the
175 value that the land has for agricultural use does not lose that qualification by becoming subject
176 to a forest stewardship plan developed under Section 65A-8a-106 under which the land is
177 subject to a temporary period of limited use or nonuse.

178 Section 3. Section 59-2-504 is amended to read:

179 **59-2-504. Exclusions from designation as agricultural use -- Exception.**

180 (1) As used in this section:

181 (a) "Energy" means electrical, mechanical, or thermal energy.

182 (b) "Land devoted to the production of solar energy" means land on which solar

183 equipment is placed to produce energy for the purpose of selling the energy to a purchaser.

184 (c) "Platted with surface improvements in place" means that:

185 (i) land is platted; and

186 (ii) all surface improvements necessary for the land to be sold as a lot or a unit are in
187 place regardless of whether it is the owner of the land that puts the surface improvements in
188 place, as determined by the legislative body of:

189 (A) the county, if the land is located in an unincorporated area of the county;

190 (B) the city, if the land is located in a city; or

191 (C) the town, if the land is located in a town.

192 (d) "Ski area" means any area designated by a ski area operator that an individual pays
193 a fee to access for:

194 (i) snowboarding;

195 (ii) skiing;

196 (iii) nordic skiing or snowboarding;

197 (iv) freestyle skiing;

198 (v) ski jumping;

199 (vi) tubing;

200 (vii) sledding;

201 (viii) snowshoeing; or

202 (ix) any other activity.

203 (e) "Ski area operator" means those persons, and their agents, officers, employees, or
204 representatives that operate a ski area.

205 (f) "Solar equipment" means equipment used to:

206 (i) collect solar radiation;

207 (ii) convert solar radiation into energy; or

208 (iii) store solar radiation or energy.

209 (g) "Surface improvement" means:

210 (i) a curb;

211 (ii) a gutter; or

212 (iii) pavement.

213 [(1)] (2) Except as provided in Subsection [(2)] (3), land may not be assessed under

214 this part if the land is:

215 (a) part of a platted subdivision or planned unit development, with restrictions
216 prohibiting its use for agricultural purposes with surface improvements in place, whether
217 within or without a city; ~~[or]~~

218 (b) platted with surface improvements in place that are not an integral part of
219 agricultural use~~[-];~~

220 (c) land devoted to the production of solar energy; or

221 (d) a ski area.

222 ~~[(2)]~~ (3) (a) If land has been platted with surface improvements in place, the land has
223 been withdrawn from this part, and the owner is not able to transfer title to the platted property,
224 or continue development of the platted property due to economic circumstances, or some other
225 reasonable cause, the owner may petition the county assessor for reinstatement under this part
226 for assessment purposes as land in agricultural use without vacating the subdivision plat.

227 (b) The county assessor may grant the petition for reinstatement described in
228 Subsection ~~[(2)]~~ (3)(a) if the land is actively devoted to agricultural use.

229 ~~[(3) For purposes of this section:]~~

230 ~~[(a) "platted with surface improvements in place" means that:]~~

231 ~~[(i) land is platted; and]~~

232 ~~[(ii) all surface improvements necessary for the land to be sold as a lot or a unit are in~~
233 ~~place:]~~

234 ~~[(A) regardless of whether or not it is the owner of the land who puts the surface~~
235 ~~improvements in place; and]~~

236 ~~[(B) as determined by the:]~~

237 ~~[(I) county legislative body if the land is located in an unincorporated area of the~~
238 ~~county;]~~

239 ~~[(II) city legislative body if the land is located in a city; or]~~

240 ~~[(III) town legislative body if the land is located in a town; and]~~

241 ~~[(b) "surface improvement" means:]~~

242 ~~[(i) a curb;]~~

243 ~~[(ii) a gutter; or]~~

244 ~~[(iii) pavement.]~~

245 Section 4. Section **59-2-924** is amended to read:

246 **59-2-924. Definitions -- Report of valuation of property to county auditor and**
247 **commission -- Transmittal by auditor to governing bodies -- Calculation of certified tax**
248 **rate -- Rulemaking authority -- Adoption of tentative budget -- Notice provided by the**
249 **commission.**

250 (1) As used in this section:

251 (a) (i) "Ad valorem property tax revenue" means revenue collected in accordance with
252 this chapter.

253 (ii) "Ad valorem property tax revenue" does not include:

254 (A) interest;

255 (B) penalties;

256 (C) collections from redemptions; or

257 (D) revenue received by a taxing entity from personal property that is semiconductor
258 manufacturing equipment assessed by a county assessor in accordance with Part 3, County
259 Assessment.

260 (b) (i) "Aggregate taxable value of all property taxed" means:

261 (A) the aggregate taxable value of all real property a county assessor assesses in
262 accordance with Part 3, County Assessment, for the current year;

263 (B) the aggregate taxable value of all real and personal property the commission
264 assesses in accordance with Part 2, Assessment of Property, for the current year; and

265 (C) the aggregate year end taxable value of all personal property a county assessor
266 assesses in accordance with Part 3, County Assessment, contained on the prior year's tax rolls
267 of the taxing entity.

268 (ii) "Aggregate taxable value of all property taxed" does not include the aggregate year
269 end taxable value of personal property that is:

270 (A) semiconductor manufacturing equipment assessed by a county assessor in
271 accordance with Part 3, County Assessment; and

272 (B) contained on the prior year's tax rolls of the taxing entity.

273 (c) "Centrally assessed benchmark value" means an amount equal to the highest year
274 end taxable value of real and personal property the commission assesses in accordance with
275 Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1,

276 2015, adjusted for taxable value attributable to:

277 (i) an annexation to a taxing entity; [or]

278 (ii) an incorrect allocation of taxable value of real or personal property the commission

279 assesses in accordance with Part 2, Assessment of Property[?]; or

280 (iii) a decision made by the commission under Section [59-2-1007](#).

281 (d) (i) "Centrally assessed new growth" means the greater of:

282 (A) zero; or

283 (B) the amount calculated by subtracting the centrally assessed benchmark value

284 adjusted for prior year end incremental value from the taxable value of real and personal

285 property the commission assesses in accordance with Part 2, Assessment of Property, for the

286 current year, adjusted for current year incremental value.

287 (ii) "Centrally assessed new growth" does not include a change in value as a result of a

288 change in the method of apportioning the value prescribed by the Legislature, a court, or the

289 commission in an administrative rule or administrative order.

290 (e) "Certified tax rate" means a tax rate that will provide the same ad valorem property

291 tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

292 (f) "Eligible new growth" means the greater of:

293 (i) zero; or

294 (ii) the sum of:

295 (A) locally assessed new growth;

296 (B) centrally assessed new growth; and

297 (C) project area new growth.

298 (g) "Incremental value" means the same as that term is defined in Section [17C-1-102](#).

299 (h) (i) "Locally assessed new growth" means the greater of:

300 (A) zero; or

301 (B) the amount calculated by subtracting the year end taxable value of real property the

302 county assessor assesses in accordance with Part 3, County Assessment, for the previous year,

303 adjusted for prior year end incremental value from the taxable value of real property the county

304 assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted

305 for current year incremental value.

306 (ii) "Locally assessed new growth" does not include a change in:

307 (A) value as a result of factoring in accordance with Section 59-2-704, reappraisal, or
308 another adjustment; or

309 (B) assessed value based on whether a property is allowed a residential exemption for a
310 primary residence under Section 59-2-103.

311 (i) "Project area" means the same as that term is defined in Section 17C-1-102.

312 (j) "Project area new growth" means an amount equal to the incremental value that is
313 no longer provided to an agency as tax increment.

314 (2) Before June 1 of each year, the county assessor of each county shall deliver to the
315 county auditor and the commission the following statements:

316 (a) a statement containing the aggregate valuation of all taxable real property a county
317 assessor assesses in accordance with Part 3, County Assessment, for each taxing entity; and

318 (b) a statement containing the taxable value of all personal property a county assessor
319 assesses in accordance with Part 3, County Assessment, from the prior year end values.

320 (3) The county auditor shall, on or before June 8, transmit to the governing body of
321 each taxing entity:

322 (a) the statements described in Subsections (2)(a) and (b);

323 (b) an estimate of the revenue from personal property;

324 (c) the certified tax rate; and

325 (d) all forms necessary to submit a tax levy request.

326 (4) (a) Except as otherwise provided in this section, the certified tax rate shall be
327 calculated by dividing the ad valorem property tax revenue that a taxing entity budgeted for the
328 prior year by the amount calculated under Subsection (4)(b).

329 (b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall
330 calculate an amount as follows:

331 (i) calculate for the taxing entity the difference between:

332 (A) the aggregate taxable value of all property taxed; and

333 (B) any adjustments for current year incremental value;

334 (ii) after making the calculation required by Subsection (4)(b)(i), calculate an amount
335 determined by increasing or decreasing the amount calculated under Subsection (4)(b)(i) by the
336 average of the percentage net change in the value of taxable property for the equalization
337 period for the three calendar years immediately preceding the current calendar year;

338 (iii) after making the calculation required by Subsection (4)(b)(ii), calculate the product
339 of:

340 (A) the amount calculated under Subsection (4)(b)(ii); and

341 (B) the percentage of property taxes collected for the five calendar years immediately
342 preceding the current calendar year; and

343 (iv) after making the calculation required by Subsection (4)(b)(iii), calculate an amount
344 determined by subtracting eligible new growth from the amount calculated under Subsection
345 (4)(b)(iii).

346 (5) A certified tax rate for a taxing entity described in this Subsection (5) shall be
347 calculated as follows:

348 (a) except as provided in Subsection (5)(b), for a new taxing entity, the certified tax
349 rate is zero;

350 (b) for a municipality incorporated on or after July 1, 1996, the certified tax rate is:

351 (i) in a county of the first, second, or third class, the levy imposed for municipal-type
352 services under Sections 17-34-1 and 17-36-9; and

353 (ii) in a county of the fourth, fifth, or sixth class, the levy imposed for general county
354 purposes and such other levies imposed solely for the municipal-type services identified in
355 Section 17-34-1 and Subsection 17-36-3(22); and

356 (c) for debt service voted on by the public, the certified tax rate is the actual levy
357 imposed by that section, except that a certified tax rate for the following levies shall be
358 calculated in accordance with Section 59-2-913 and this section:

359 (i) a school levy provided for under Section 53A-16-113, 53A-17a-133, or
360 53A-17a-164; and

361 (ii) a levy to pay for the costs of state legislative mandates or judicial or administrative
362 orders under Section 59-2-1602.

363 (6) (a) A judgment levy imposed under Section 59-2-1328 or 59-2-1330 may be
364 imposed at a rate that is sufficient to generate only the revenue required to satisfy one or more
365 eligible judgments.

366 (b) The ad valorem property tax revenue generated by a judgment levy described in
367 Subsection (6)(a) may not be considered in establishing a taxing entity's aggregate certified tax
368 rate.

369 (7) (a) For the purpose of calculating the certified tax rate, the county auditor shall use:

370 (i) the taxable value of real property:

371 (A) the county assessor assesses in accordance with Part 3, County Assessment; and

372 (B) contained on the assessment roll;

373 (ii) the year end taxable value of personal property:

374 (A) a county assessor assesses in accordance with Part 3, County Assessment; and

375 (B) contained on the prior year's assessment roll; and

376 (iii) the taxable value of real and personal property the commission assesses in

377 accordance with Part 2, Assessment of Property.

378 (b) For purposes of Subsection (7)(a), taxable value does not include eligible new

379 growth.

380 (8) (a) On or before June 22, a taxing entity shall annually adopt a tentative budget.

381 (b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall

382 notify the county auditor of:

383 (i) the taxing entity's intent to exceed the certified tax rate; and

384 (ii) the amount by which the taxing entity proposes to exceed the certified tax rate.

385 (c) The county auditor shall notify property owners of any intent to levy a tax rate that

386 exceeds the certified tax rate in accordance with Sections [59-2-919](#) and [59-2-919.1](#).

387 (9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through

388 electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim

389 Committee if:

390 (i) the amount calculated under Subsection (9)(b) is 10% or more of the year end

391 taxable value of the real and personal property the commission assesses in accordance with

392 Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental

393 value; and

394 (ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end

395 taxable value of the real and personal property of a taxpayer the commission assesses in

396 accordance with Part 2, Assessment of Property, for the previous year.

397 (b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by

398 subtracting the taxable value of real and personal property the commission assesses in

399 accordance with Part 2, Assessment of Property, for the current year, adjusted for current year

400 incremental value, from the year end taxable value of the real and personal property the
401 commission assesses in accordance with Part 2, Assessment of Property, for the previous year,
402 adjusted for prior year end incremental value.

403 (c) For purposes of Subsection (9)(a)(ii), the commission shall calculate an amount by
404 subtracting the total taxable value of real and personal property of a taxpayer the commission
405 assesses in accordance with Part 2, Assessment of Property, for the current year, from the total
406 year end taxable value of the real and personal property of a taxpayer the commission assesses
407 in accordance with Part 2, Assessment of Property, for the previous year.

408 (d) The notification under Subsection (9)(a) shall include a list of taxpayers that meet
409 the requirement under Subsection (9)(a)(ii).

410 **Section 5. Retrospective operation.**

411 This bill has retrospective operation to January 1, 2017.

Legislative Review Note
Office of Legislative Research and General Counsel