

1                                   **ROLLBACK TAX AND ONE-TIME IN LIEU**

2                                   **FEE AMENDMENTS**

3                                   2003 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Peter C. Knudson**

6   **This act modifies the Farmland Assessment Act to allow a county that adopts an**  
7   **ordinance to extend the rollback period for purposes of calculating the rollback tax. The**  
8   **act provides for the distribution of rollback taxes. The act establishes the purposes for**  
9   **which certain rollback taxes may be used and requires a county legislative body to adopt**  
10   **an ordinance containing certain information before expending those rollback taxes. The**  
11   **act addresses the distribution of the conservation easement rollback tax and the**  
12   **calculation of certain one-time in lieu fee payments. The act makes technical changes.**

13   This act affects sections of Utah Code Annotated 1953 as follows:

14   AMENDS:

15           **59-2-506**, as last amended by Chapter 141, Laws of Utah 2002

16           **59-2-506.5**, as enacted by Chapter 141, Laws of Utah 2002

17           **59-2-511**, as last amended by Chapter 141, Laws of Utah 2002

18   ENACTS:

19           **59-2-506.1**, Utah Code Annotated 1953

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

21           Section 1. Section **59-2-506** is amended to read:

22           **59-2-506. Rollback tax -- Penalty -- Lien -- Computation of tax -- Procedure --**  
23   **Collection -- Distribution.**

24           (1) Except as provided in Section 59-2-506.5 or 59-2-511, if land is withdrawn from  
25   this part, the land is subject to a rollback tax imposed in accordance with this section.

26           (2) (a) An owner shall notify the county assessor that land is withdrawn from this part  
27   within 180 days after the day on which the land is withdrawn from this part.



(b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:

(i) \$10; or

(ii) 2% of the rollback tax due for the last year of the rollback period.

(3) The rollback tax is:

(a) a lien on the land assessed under this part until paid; and

(b) due and payable on the day the county assessor mails the notice required by Subsection (6).

(4) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (4)(b) between:

(i) the tax paid while the land was assessed under this part; and

(ii) the tax that would have been paid had the property not been assessed under this part.

(b) For purposes of this section, the rollback period is a time period that:

(i) except as provided in Subsection (4)(c), begins on the later of:

(A) the date the land is first assessed under this part; or

(B) five years preceding the day on which the county assessor mails the notice required by Subsection (6); and

(ii) ends the day on which the county assessor mails the notice required by Subsection (6).

(c) (i) Notwithstanding Subsection (4)(b)(i) and subject to Subsections (4)(c)(ii) and (5), a county legislative body may adopt an ordinance providing that for purposes of this section the rollback period begins on the later of:

(A) the date the land is first assessed under this part; or

(B) ten years preceding the day on which the county assessor mails the notice required by Subsection (6).

(ii) If a county legislative body adopts an ordinance in accordance with Subsection (4)(c)(i), the ordinance shall take effect on the January 1 immediately following the day on which the county legislative body adopts the ordinance.

(5) (a) The county treasurer shall:

(i) collect the rollback tax; and

(ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied.

(b) ~~[The]~~ Except as provided in Subsection (5)(c), the rollback tax collected under this section shall:

(i) be paid into the county treasury; and

(ii) be paid by the county treasurer to the various taxing entities pro rata in accordance with the property tax levies for the current year.

(c) Notwithstanding Subsection (5)(b), if a county adopts an ordinance in accordance with Subsection (4)(c), beginning on the day on which the ordinance takes effect, the rollback tax collected under this section shall be distributed as follows:

(i) 50% of the rollback tax shall:

(A) be paid into the county treasury; and

(B) be paid by the county treasurer to the various taxing entities pro rata in accordance with the property tax levies for the current year; and

(ii) 50% of the rollback tax shall be:

(A) paid into the county treasury; and

(B) expended by the county legislative body in accordance with Section 59-2-506.1.

(6) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:

(i) the land is withdrawn from this part;

(ii) the land is subject to a rollback tax under this section; and

(iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice.

(b) The rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (6)(a).

(7) The following shall be governed by the procedures provided for the assessment and taxation of real property not assessed under this part:

(a) except as provided in this section, the assessment of the rollback tax imposed by Subsection (1);

(b) the attachment of the lien for the rollback tax; and

(c) the right of an owner or other interested party to review any judgment of the county board of equalization affecting the rollback tax.

(8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax.

(b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.

(9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution Article XIII, Section 2, is not subject to the rollback tax.

Section 2. Section **59-2-506.1** is enacted to read:

**59-2-506.1. Definitions -- Use of certain rollback taxes -- County ordinance.**

(1) (a) As used in this section, "open land" means land that is:

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(b) (i) "Open land" does not include land that is predominantly used as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(ii) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(A) enhance the natural, scenic, or aesthetic qualities of the land; or

(B) facilitate the public's access to or use of the land for the enjoyment of its natural, scenic, or aesthetic qualities and for compatible recreational activities.

(2) Subject to Subsections (3) and (4), a county legislative body shall expend rollback taxes described in Subsection 59-2-506(5)(c)(ii):

121 (a) to establish conservation easements in accordance with Title 57, Chapter 18, Land  
122 Conservation Easement Act, to protect land in agricultural use;

123 (b) to preserve or restore open land; or

124 (c) for a combination of the purposes described in Subsections (2)(a) and (b).

125 (3) A county legislative body may not use rollback taxes:

126 (a) for the costs of administering the expenditure of the rollback taxes; or

127 (b) to purchase a fee interest in real property.

128 (4) Before a county legislative body may expend rollback taxes for a purpose described  
129 in Subsection (2), the county legislative body shall adopt an ordinance establishing:

130 (a) eligibility criteria for prioritizing lands with respect to which rollback taxes will be  
131 expended;

132 (b) the terms and conditions for establishing conservation easements;

133 (c) procedures and requirements for a person to apply to the county for rollback taxes  
134 to be expended for a purpose described in Subsection (2); and

135 (d) procedures for monitoring the expenditure of the rollback taxes.

136 Section 3. Section **59-2-506.5** is amended to read:

137 **59-2-506.5. Conservation easement rollback tax -- One-time in lieu fee payment --**  
138 **Computation -- Lien -- Procedure -- Collection -- Distribution.**

139 (1) (a) Notwithstanding Section 59-2-506 and subject to the requirements of this  
140 section, land is not subject to the rollback tax under Section 59-2-506, if:

141 (i) the land becomes subject to a conservation easement created in accordance with  
142 Title 57, Chapter 18, Land Conservation Easement Act;

143 (ii) the creation of the conservation easement described in Subsection (1)(a)(i) is  
144 considered to be a qualified conservation contribution for federal purposes under Section  
145 170(h), Internal Revenue Code;

146 (iii) the land was assessed under this part in the tax year preceding the tax year that the  
147 land does not meet the requirements of Section 59-2-503;

148 (iv) after the creation of the conservation easement described in Subsection (1)(a)(i),  
149 the land does not meet the requirements of Section 59-2-503; and

150 (v) an owner of the land notifies the county assessor as provided in Subsection (1)(b).

151 (b) An owner of land described in Subsection (1)(a) shall notify the county assessor

that the land meets the requirements of Subsection (1)(a) within 30 days after the day on which the land does not meet the requirements of Section 59-2-503.

(2) (a) Except as provided in Subsection (4), if a conservation easement is terminated in accordance with Section 57-18-5:

(i) the land described in Subsection (1) is subject to a conservation easement rollback tax imposed in accordance with this section; or

(ii) if the land described in Subsection (1) is owned by a governmental entity as defined in Section 59-2-511, the land is subject to a one-time in lieu fee payment that is:

(A) in an amount equal to the conservation easement rollback tax imposed in accordance with this section; and

(B) paid, collected, and distributed in the same manner as the conservation easement rollback tax imposed in accordance with this section.

(b) The conservation easement rollback tax is an amount equal to the product of:

(i) the property tax imposed on the land for each year during the time period that is the shorter of:

(A) the time period during which the land is subject to a conservation easement described in Subsection (1); or

(B) five years before the county assessor mails the notice required by Subsection (3)(b); and

(ii) 20.

(c) An owner shall notify the county assessor that a conservation easement on land described in Subsection (1) has been terminated in accordance with Section 57-18-5 within 180 days after the day on which the conservation easement is terminated.

(3) (a) The conservation easement rollback tax under this section is:

(i) a lien on the land described in Subsection (1) until paid; and

(ii) due and payable on the day the county assessor mails the notice required by Subsection (3)(b).

(b) If land is subject to a conservation easement rollback tax under Subsection (2), the county assessor shall mail to an owner of the land a notice that:

(i) the land is subject to a conservation easement rollback tax under this section; and

(ii) the conservation easement rollback tax is delinquent if the owner of the land does

not pay the tax within 30 days after the day on which the county assessor mails the notice.

(c) The conservation easement rollback tax is delinquent if an owner of the land that is subject to the conservation easement rollback tax does not pay the conservation easement rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (3)(b).

(d) ~~[The]~~ (i) Except as provided in Subsection (3)(d)(ii), the conservation easement rollback tax shall be paid, collected, and distributed in a manner consistent with this section and Section 59-2-506.

(ii) Notwithstanding Subsection (3)(d)(i), regardless of whether the county legislative body of the county in which the land is located adopts an ordinance in accordance with Subsection 59-2-506(4)(c), the conservation easement rollback tax:

(A) shall:

(I) be paid into the county treasury; and

(II) be paid by the county treasurer to the various taxing entities pro rata in accordance with the property tax levies for the current year; and

(B) is not subject to the distribution provisions of Subsection 59-2-506(5)(c).

(4) (a) Notwithstanding Subsection (2), land described in Subsection (2) is not subject to the conservation easement rollback tax or the one-time in lieu fee payment required by Subsection (2) if after the conservation easement is terminated in accordance with Section 57-18-5:

(i) an owner of the land applies for assessment of the land as land in agricultural use under this part within 30 days after the day on which the conservation easement is terminated; and

(ii) the application for assessment of the land described in Subsection (4)(a)(i) is approved within two years after the day on which the application was filed.

(b) Notwithstanding Subsection (4)(a), if the land described in Subsection (4)(a)(i) does not receive approval for assessment as land in agricultural use under this part within two years after the day on which the application was filed under Subsection (4)(a), an owner of the land shall:

(i) within 30 days after the day on which the two-year period expires, notify the county assessor that the two-year period expired; and

(ii) pay the conservation easement rollback tax or the one-time in lieu fee payment required by Subsection (2) as provided in this section.

(5) Land subject to a conservation easement created in accordance with Title 57, Chapter 18, Land Conservation Easement Act, is not subject to a conservation easement rollback tax or a one-time in lieu fee payment if the land is assessed under this part in accordance with Section 59-2-505.

Section 4. Section **59-2-511** is amended to read:

**59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment.**

(1) For purposes of this section, "governmental entity" means:

(a) the United States;

(b) the state;

(c) a political subdivision of the state, including:

(i) a county;

(ii) a city;

(iii) a town;

(iv) a school district; or

(v) a special district; or

(d) an entity created by the state or the United States, including:

(i) an agency;

(ii) a board;

(iii) a bureau;

(iv) a commission;

(v) a committee;

(vi) a department;

(vii) a division;

(viii) an institution;

(ix) an instrumentality; or

(x) an office.

(2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:



(i) prior to the governmental entity acquiring the land, the land is assessed under this part; and

(ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503.

(b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:

(i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9-103; or

(ii) in exchange for the dedication, the person dedicating the public right-of-way receives:

(A) money; or

(B) other consideration.

(3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:

(i) the governmental entity acquires the land by eminent domain;

(ii) (A) the land is under the threat or imminence of eminent domain proceedings; and

(B) the governmental entity provides written notice of the proceedings to the owner; or

(iii) the land is donated to the governmental entity.

(b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) in an amount ~~[equal to the amount of rollback tax calculated under Section 59-2-506]~~ calculated under Subsection (3)(c).

(ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:

(A) to the county treasurer of the county in which the land is located; and

(B) (I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the ~~[rollback tax under Section 59-2-506]~~ amount imposed by Subsection (3)(b)(i)(B) on the land acquired by the governmental entity; or

(II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an amount equal to the ~~[rollback tax under Section 59-2-506]~~ amount imposed by Subsection (3)(b)(i)(B) on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.

(iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage described in Subsection 59-2-503(1)(a)(i) that is used in conjunction with the land remaining after the acquisition by the governmental entity.

(c) (i) For purposes of Subsection (3)(b)(i), regardless of whether the county legislative body of the county in which the land is located adopts an ordinance in accordance with Subsection 59-2-506(4)(c), the one-time in lieu fee payment under this section shall be calculated by computing the difference for the rollback period described in Subsection (3)(c)(ii) between:

(A) the tax paid while the land was assessed under this part; and

(B) the tax that would have been paid had the property not been assessed under this part.

(ii) For purposes of this Subsection (3)(c)(i), the rollback period is a time period that:

(A) begins on the later of:

(I) the date the land is first assessed under this part; or

(II) five years preceding the day on which the county assessor mails the notice required by Subsection 59-2-506(6); and

(B) ends the day on which the county assessor mails the notice required by Subsection 59-2-506(6).

~~[(c)]~~ (d) A county receiving an in lieu fee payment under Subsection (3)(b) shall distribute the revenues generated by the payment:

(i) to the taxing entities in which the land is located; and

(ii) in the same proportion as the revenue from real property taxes is distributed.

(4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:

(a) the land is not subject to the rollback tax imposed by this part; and

(b) the governmental entity acquiring the land is not required to make an in lieu fee

307 payment under Subsection (3)(b).

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**Legislative Review Note**  
**as of 2-3-03 11:07 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**

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**Fiscal Note****Rollback Tax and One-Time In Lieu Fee Amendments***11-Feb-03***Bill Number SB0071***10:11 AM*

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**State Impact**

Passage of this bill could increase local contributions to the Minimum School Program requiring less Uniform School Fund over time.

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**Individual and Business Impact**

Rollback taxes would increase the cost either to the seller or purchaser of land subject to the extended rollback period.

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**Office of the Legislative Fiscal Analyst**