

HB0045S01 compared with HB0045

~~{deleted text}~~ shows text that was in HB0045 but was deleted in HB0045S01.

Inserted text shows text that was not in HB0045 but was inserted into HB0045S01.

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Representative Daniel McCay proposes the following substitute bill:

PROPERTY TAX ASSESSMENT CHANGES

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Daniel McCay

Senate Sponsor: Deidre M. Henderson

LONG TITLE

~~{Committee Note:~~

~~— The Revenue and Taxation Interim Committee recommended this bill.~~

~~{General Description:~~

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

Highlighted Provisions:

This bill:

- ▶ requires the centrally assessed benchmark value to be adjusted for taxable value attributable to a change in assessment that occurs due to a decision made by the State Tax Commission regarding equalization of assessment;
- ▶ defines ~~{terms, including}~~ a "bona fide range improvement program~~};~~

~~— provides that land may not be assessed under the Farmland Assessment Act if the land is:~~

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~~land devoted to the production of solar energy; or
a ski area~~"; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides retrospective operation.

Utah Code Sections Affected:

AMENDS:

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

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

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

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

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

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

59-2-502. Definitions.

As used in this part:

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

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

(b) for:

(i) the given type of land; and

(ii) the given county or area.

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

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

(ii) result in increased livestock production.

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

(i) reseeding;

(ii) spraying;

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(iii) burning;

(iv) controlling for weeds or herbs; or

(v) using one of the following mechanical methods:

(A) chaining;

(B) furrowing;

(C) terracing;

(D) trenching;

(E) railing;

(F) ripping; or

(G) pitting.

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

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

(a) identical legal parties; or

(b) identical legal entities.

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

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

- (i) forages and sod crops;
- (ii) grains and feed crops;
- (iii) livestock as defined in Section 59-2-102;
- (iv) trees and fruits; or
- (v) vegetables, nursery, floral, and ornamental stock; or

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

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

(a) five or more contiguous acres;

(b) eligible for assessment under this part; and

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

(ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as

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provided in Section 59-2-512.

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

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

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

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

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

(a) an owner voluntarily requests that the land be withdrawn from this part;

(b) the land is no longer actively devoted to agricultural use;

(c) (i) the land has a change in ownership; and

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) For general property tax purposes, land may be assessed on the basis of the value

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that the land has for agricultural use if the land:

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

(i) if:

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

and

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

(ii) as provided under Subsection (4); and

(b) except as provided in Subsection (5) or (6):

(i) is actively devoted to agricultural use; and

(ii) has been actively devoted to agricultural use for at least two successive years immediately preceding the tax year for which the land is being assessed under this part.

(2) In determining whether land is actively devoted to agricultural use, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

(a) production levels reported in the current publication of the Utah Agricultural Statistics;

(b) current crop budgets developed and published by Utah State University; and

(c) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(3) Land may be assessed on the basis of the land's agricultural value if the land:

(a) is subject to the privilege tax imposed by Section 59-4-101;

(b) is owned by the state or any of the state's political subdivisions; and

(c) meets the requirements of Subsection (1).

(4) Notwithstanding Subsection (1)(a), the commission or a county board of equalization may grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that:

(i) 80% or more of the owner's, purchaser's, or lessee's income is derived from

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agricultural products produced on the property in question; or

(ii) (A) the failure to meet the acreage requirement arose solely as a result of an acquisition by a governmental entity by~~[(+)]~~ eminent domain~~[;]~~ or ~~[(+)]~~ the threat or imminence of an eminent domain proceeding;

(B) the land is actively devoted to agricultural use; and

(C) no change occurs in the ownership of the land.

(5) (a) The commission or a county board of equalization may grant a waiver of the requirement that the land is actively devoted to agricultural use for the tax year for which the land is being assessed under this part upon:

(i) appeal by the owner; and

(ii) submission of proof that:

(A) the land was assessed on the basis of agricultural use for at least two years immediately preceding that tax year; and

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

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

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

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

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

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

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

(7) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the

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value that the land has for agricultural use does not lose that qualification by becoming subject to a forest stewardship plan developed under Section 65A-8a-106 under which the land is subject to a temporary period of limited use or nonuse.

Section 3. Section ~~{59-2-504}~~59-2-924 is amended to read:

~~{~~ ~~59-2-504. Exclusions from designation as agricultural use -- Exception:~~

~~(1) As used in this section:~~

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

~~(b) "Land devoted to the production of solar energy" means land on which solar equipment is placed to produce energy for the purpose of selling the energy to a purchaser.~~

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

~~(i) land is platted; and~~

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

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

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

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

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

~~(i) snowboarding;~~

~~(ii) skiing;~~

~~(iii) nordic skiing or snowboarding;~~

~~(iv) freestyle skiing;~~

~~(v) ski jumping;~~

~~(vi) tubing;~~

~~(vii) sledding;~~

~~(viii) snowshoeing; or~~

~~(ix) any other activity.~~

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

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

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- ~~—— (i) collect solar radiation;~~
- ~~—— (ii) convert solar radiation into energy; or~~
- ~~—— (iii) store solar radiation or energy;~~
- ~~—— (g) "Surface improvement" means:~~
 - ~~—— (i) a curb;~~
 - ~~—— (ii) a gutter; or~~
 - ~~—— (iii) pavement.~~
- ~~—— [(1)] (2) Except as provided in Subsection [(2)] (3), land may not be assessed under this part if the land is:~~
 - ~~—— (a) part of a platted subdivision or planned unit development, with restrictions prohibiting its use for agricultural purposes with surface improvements in place, whether within or without a city; [or]~~
 - ~~—— (b) platted with surface improvements in place that are not an integral part of agricultural use[.];~~
 - ~~—— (c) land devoted to the production of solar energy; or~~
 - ~~—— (d) a ski area.~~
- ~~—— [(2)] (3) (a) If land has been platted with surface improvements in place, the land has been withdrawn from this part, and the owner is not able to transfer title to the platted property, or continue development of the platted property due to economic circumstances, or some other reasonable cause, the owner may petition the county assessor for reinstatement under this part for assessment purposes as land in agricultural use without vacating the subdivision plat.~~
- ~~—— (b) The county assessor may grant the petition for reinstatement described in Subsection [(2)] (3)(a) if the land is actively devoted to agricultural use.~~
- ~~—— [(3) For purposes of this section:]~~
- ~~—— [(a) "platted with surface improvements in place" means that:]~~
 - ~~—— [(i) land is platted; and]~~
 - ~~—— [(ii) all surface improvements necessary for the land to be sold as a lot or a unit are in place:]~~
- ~~—— [(A) regardless of whether or not it is the owner of the land who puts the surface improvements in place; and]~~
- ~~—— [(B) as determined by the:]~~

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

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

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

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

~~— [(i) a curb;]~~

~~— [(ii) a gutter; or]~~

~~— [(iii) pavement.]~~

~~— Section 4. Section 59-2-924 is amended to read:~~

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

(1) As used in this section:

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

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

(A) interest;

(B) penalties;

(C) collections from redemptions; or

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

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

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

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

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

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

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

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

(c) "Centrally assessed benchmark value" means an amount equal to the highest year end taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for a previous calendar year that begins on or after January 1, 2015, adjusted for taxable value attributable to:

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

(ii) an incorrect allocation of taxable value of real or personal property the commission assesses in accordance with Part 2, Assessment of Property~~[-]; or~~

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

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

(A) zero; or

(B) the amount calculated by subtracting the centrally assessed benchmark value adjusted for prior year end incremental value from the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value.

(ii) "Centrally assessed new growth" does not include a change in value as a result of a change in the method of apportioning the value prescribed by the Legislature, a court, or the commission in an administrative rule or administrative order.

(e) "Certified tax rate" means a tax rate that will provide the same ad valorem property tax revenue for a taxing entity as was budgeted by that taxing entity for the prior year.

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

(i) zero; or

(ii) the sum of:

(A) locally assessed new growth;

(B) centrally assessed new growth; and

(C) project area new growth.

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

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

(A) zero; or

(B) the amount calculated by subtracting the year end taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the previous year, adjusted for prior year end incremental value from the taxable value of real property the county assessor assesses in accordance with Part 3, County Assessment, for the current year, adjusted for current year incremental value.

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

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

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

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

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

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

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

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

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

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

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

(c) the certified tax rate; and

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

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

(b) For purposes of Subsection (4)(a), the legislative body of a taxing entity shall

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calculate an amount as follows:

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

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

(B) any adjustments for current year incremental value;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the taxable value of real property:

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

(B) contained on the assessment roll;

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

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

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

(iii) the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property.

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

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

(b) If a taxing entity intends to exceed the certified tax rate, the taxing entity shall notify the county auditor of:

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

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

(c) The county auditor shall notify property owners of any intent to levy a tax rate that exceeds the certified tax rate in accordance with Sections 59-2-919 and 59-2-919.1.

(9) (a) Subject to Subsection (9)(d), the commission shall provide notice, through electronic means on or before July 31, to a taxing entity and the Revenue and Taxation Interim Committee if:

(i) the amount calculated under Subsection (9)(b) is 10% or more of the year end taxable value of the real and personal property the commission assesses in accordance with

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Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value; and

(ii) the amount calculated under Subsection (9)(c) is 50% or more of the total year end taxable value of the real and personal property of a taxpayer the commission assesses in accordance with Part 2, Assessment of Property, for the previous year.

(b) For purposes of Subsection (9)(a)(i), the commission shall calculate an amount by subtracting the taxable value of real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the current year, adjusted for current year incremental value, from the year end taxable value of the real and personal property the commission assesses in accordance with Part 2, Assessment of Property, for the previous year, adjusted for prior year end incremental value.

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

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

Section ~~5~~4. **Retrospective operation.**

This bill has retrospective operation to January 1, 2017.

†

Legislative Review Note

Office of Legislative Research and General Counsel