

Senator Ralph Okerlund proposes the following substitute bill:

AGRICULTURAL ENVIRONMENTAL AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: John G. Mathis

LONG TITLE

General Description:

This bill modifies the Utah Agriculture Certificate of Environmental Stewardship Program.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ amends legislative findings;
- ▶ amends definitions;
- ▶ creates an advisory board for making loans and grants from the Agriculture Resource Development Fund;
- ▶ states that the Water Quality Board may not require a holder of an Agriculture Certificate of Environmental Stewardship to implement additional or different practices during the life of the certification, except in certain conditions;
- ▶ states that the Division of Water Quality shall consider an agriculture operation's compliance with a certification under an approved agriculture environmental stewardship program as a mitigating factor for any penalty purposes;
- ▶ states that certain records related to the certification of a farm or ranch under the Agriculture Certificate of Environmental Stewardship Program are protected under



26 the Government Records Access and Management Act; and
27 ▶ makes technical changes.

28 **Money Appropriated in this Bill:**

29 This bill appropriates, for fiscal year 2014-15 only:

- 30 ▶ to the Agriculture Environment Account:
- 31 • from the General Fund, \$10,000.

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36 **4-18-102**, as renumbered and amended by Laws of Utah 2013, Chapter 227
- 37 **4-18-103**, as renumbered and amended by Laws of Utah 2013, Chapter 227
- 38 **4-18-105**, as renumbered and amended by Laws of Utah 2013, Chapter 227
- 39 **4-18-106**, as renumbered and amended by Laws of Utah 2013, Chapter 227
- 40 **4-18-107**, as enacted by Laws of Utah 2013, Chapter 227
- 41 **63G-2-305**, as last amended by Laws of Utah 2013, Chapters 12, 445, and 447

42 ENACTS:

- 43 **19-5-105.6**, Utah Code Annotated 1953

44 RENUMBERS AND AMENDS:

- 45 **4-18-108**, (Renumbered from 4-18-6.5, as last amended by Laws of Utah 2008, Chapter
- 46 382)



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

49 Section 1. Section **4-18-102** is amended to read:

50 **4-18-102. Purpose declaration.**

- 51 (1) The Legislature finds and declares that:
- 52 (a) the soil and water resources of this state constitute one of its basic assets; and ~~[that]~~
- 53 (b) the preservation of these resources requires planning and programs to ensure:
 - 54 (i) the development and utilization of these resources; and ~~[to protect them]~~
 - 55 (ii) their protection from the adverse effects of wind and water erosion, sediment, and
 - 56 sediment related pollutants.

57 (2) The Legislature finds that local production of food is essential for:

58 (a) the security of the state's food supply; and

59 (b) the self-sufficiency of the state's citizens.

60 (3) The Legislature finds that sustainable agriculture is critical to:

61 (a) the success of rural communities;

62 (b) the historical culture of the state;

63 (c) maintaining healthy farmland;

64 (d) maintaining high water quality;

65 (e) maintaining abundant wildlife; [~~and~~]

66 (f) high-quality recreation for citizens of the state[-]; and

67 (g) helping to stabilize the state economy.

68 (4) The Legislature finds that livestock grazing on public lands is important for the

69 proper management, maintenance, and health of public lands in the state.

70 (5) The Legislature encourages each agricultural producer in the state to operate in a

71 reasonable and responsible manner to maintain the integrity of land, soil, water, and air.

72 (6) To encourage each agricultural producer in this state to operate in a reasonable and

73 responsible manner to maintain the integrity of the state's resources, the state shall administer

74 the Utah Agriculture Certificate of Environmental Stewardship [~~Certification~~] Program, created

75 in Section 4-18-107.

76 Section 2. Section **4-18-103** is amended to read:

77 **4-18-103. Definitions.**

78 As used in this chapter:

79 (1) (a) "Agricultural discharge" means the release of agriculture water from the

80 property of a farm, ranch, or feedlot that:

81 (i) pollutes a surface body of water, including a stream, lake, pond, marshland,

82 watercourse, waterway, river, ditch, or other water conveyance system;

83 (ii) pollutes ground water; or

84 (iii) constitutes a significant nuisance to urban land.

85 (b) "Agricultural discharge" does not include:

86 (i) runoff from a farm, ranch, or feedlot, or the return flow of water from an irrigated

87 field onto land that is not part of a body of water; or

88 (ii) a release of water from a farm, ranch, or feedlot into a normally dry water
89 conveyance leading to an active body of water, if the release does not reach the water of a lake,
90 pond, stream, marshland, river, or other active body of water.

91 (2) "Agricultural operation" means a farm, ranch, or animal feeding operation.

92 (3) "Agriculture water" means:

93 (a) water used by a farm, ranch, or feedlot for the production of food, fiber, or fuel;

94 (b) the return flow of water from irrigated agriculture; or

95 (c) agricultural storm water runoff.

96 (4) "Alternate" means a substitute for a district supervisor if the district supervisor
97 cannot attend a meeting.

98 (5) (a) "Animal feeding operation" means a facility where animals, other than aquatic
99 animals, are stabled or confined and fed or maintained for a total of 45 days or more in any
100 12-month period.

101 (b) "Animal feeding operation" does not include an operation where animals are in
102 areas such as pastures or rangeland that sustain crops or forage growth during the [~~entire time~~
103 ~~the animals are present~~] normal growing season.

104 (6) "Best management practices" means practices, including management policies and
105 the use of technology, used by each sector of agriculture in the production of food and fiber
106 that are commonly accepted practices, or that are at least as effective as commonly accepted
107 practices, and that:

108 (a) protect the environment;

109 (b) protect human health;

110 (c) ensure the humane treatment of animals; and

111 (d) promote the financial viability of agricultural production.

112 (7) "Certified agricultural operation" means an agricultural operation that is certified
113 under the Utah Agriculture Certificate of Environmental Stewardship [~~Certification~~] Program
114 in accordance with Section [4-18-107](#).

115 (8) "Certified conservation planner" means a planner of a state conservation district, or
116 other qualified planner, that is approved by the commission to certify an agricultural operation
117 under the Utah Agriculture Certificate of Environmental Stewardship [~~Certification~~] Program,
118 created in Section [4-18-107](#).

119 (9) "Commission" means the Conservation Commission created in Section 4-18-104.

120 (10) "Comprehensive nutrient management plan" or "nutrient management plan"

121 means a plan to properly store, handle, and spread manure and other agricultural byproducts to:

122 (a) protect the environment; and

123 (b) provide nutrients for the production of crops.

124 (11) "Coordinated resource management plan" means a plan of action created at a local

125 level with broad participation of land owners, natural resource agencies, and interested

126 stakeholders to protect or enhance the environment, human health, humane treatment of

127 animals, and financial viability in the community.

128 [~~(11)~~] (12) "District" or "conservation district" has the same meaning as "conservation
129 district" as defined in Section 17D-3-102.

130 [~~(12)~~] (13) "Pollution" means a harmful human-made or human-induced alteration to
131 the water of the state, including an alteration to the chemical, physical, biological, or
132 radiological integrity of water that harms the water of the state.

133 [~~(13)~~] (14) "State technical standards" means a collection of best management practices
134 that will protect the environment in a reasonable and economical manner for each sector of
135 agriculture as required by this chapter.

136 [~~(14)~~] (15) "Sustainable agriculture" means agriculture production and practices that
137 promote:

138 (a) the environmental responsibility of owners and operators of farms, ranches, and
139 feedlots; and

140 (b) the profitability of owners and operators of farms, ranches, and feedlots.

141 Section 3. Section 4-18-105 is amended to read:

142 **4-18-105. Conservation Commission -- Functions and duties.**

143 (1) The commission shall:

144 (a) facilitate the development and implementation of the strategies and programs

145 necessary to:

146 (i) protect, conserve, utilize, and develop the soil, air, and water resources of the state;

147 and

148 (ii) promote the protection, integrity, and restoration of land for agricultural and other

149 beneficial purposes;

- 150 (b) disseminate information regarding districts' activities and programs;
- 151 (c) supervise the formation, reorganization, or dissolution of districts according to the
152 requirements of Title 17D, Chapter 3, Conservation District Act;
- 153 (d) prescribe uniform accounting and recordkeeping procedures for districts and
154 require each district to submit annually an audit of its funds to the commission;
- 155 (e) approve and make loans and grants for agricultural purposes, through the advisory
156 board described in Section 4-18-106, from the Agriculture Resource Development Fund, for:
- 157 (i) rangeland improvement and management projects;
- 158 (ii) watershed protection and flood prevention projects;
- 159 (iii) agricultural cropland soil and water conservation projects; [~~and~~]
- 160 (iv) programs designed to promote energy efficient farming practices;
- 161 (v) development and implementation of coordinated resource management plans, as
162 defined in Section 4-18-103, with conservation districts, as defined in Section 17D-3-102; and
- 163 (vi) programs or improvements for agriculture product storage or protections of a crop
164 or animal resource;
- 165 (f) administer federal or state funds, including loan funds under this chapter, in
166 accordance with applicable federal or state guidelines and make loans or grants from those
167 funds to land occupiers for:
- 168 (i) the conservation of soil or water resources;
- 169 (ii) maintenance of rangeland improvement projects; and
- 170 (iii) the control or eradication of noxious weeds and invasive plant species:
- 171 (A) in cooperation and coordination with local weed boards; and
- 172 (B) in accordance with Section 4-2-8.7;
- 173 (g) seek to coordinate soil and water protection, conservation, and development
174 activities and programs of state agencies, local governmental units, other states, special interest
175 groups, and federal agencies;
- 176 (h) plan watershed and flood control projects in cooperation with appropriate local,
177 state, and federal authorities, and coordinate flood control projects in the state;
- 178 (i) assist other state agencies with conservation standards for agriculture when
179 requested; and
- 180 (j) when assigned by the governor, when required by contract with the Department of

181 Environmental Quality, or when required by contract with the United States Environmental
182 Protection Agency:

183 (i) develop programs for the prevention, control, or abatement of new or existing
184 pollution to the soil, water, or air of the state;

185 (ii) advise, consult, and cooperate with affected parties to further the purpose of this
186 chapter;

187 (iii) conduct studies, investigations, research, and demonstrations relating to
188 agricultural pollution issues;

189 (iv) give reasonable consideration in the exercise of its powers and duties to the
190 economic impact on sustainable agriculture;

191 (v) meet the requirements of federal law related to water and air pollution in the
192 exercise of its powers and duties; and

193 (vi) establish administrative penalties relating to agricultural discharges as defined in
194 Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm.

195 (2) The commission may:

196 (a) employ, with the approval of the department, an administrator and necessary
197 technical experts and employees;

198 (b) execute contracts or other instruments necessary to exercise its powers;

199 (c) take necessary action to promote and enforce the purpose and findings of Section
200 4-18-102;

201 (d) sue and be sued; and

202 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
203 Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and
204 Subsections (2)(b) and (c).

205 Section 4. Section 4-18-106 is amended to read:

206 **4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund**
207 **money -- Authority board.**

208 (1) There is created a revolving loan fund known as the Agriculture Resource
209 Development Fund.

210 (2) The Agriculture Resource Development Fund shall consist of:

211 (a) money appropriated to it by the Legislature;

212 (b) sales and use tax receipts transferred to the fund in accordance with Section
213 ~~59-12-103~~;

214 (c) money received for the repayment of loans made from the fund;

215 (d) money made available to the state for agriculture resource development from any
216 source; and

217 (e) interest earned on the fund.

218 (3) (a) The commission shall make:

219 (i) loans from the Agriculture Resource Development Fund as provided by [~~Section~~
220 ~~4-18-105~~]; Subsections ~~4-18-105~~(1)(e)(i) through (iii); and

221 (ii) grants from the Agriculture Resource Development Fund as provided by
222 Subsections ~~4-18-105~~(1)(e)(iv) and (v).

223 (b) Total grants awarded under Subsection (3)(a)(ii) may not exceed the amount
224 described in Subsection (2)(b) for a fiscal year.

225 (4) The commission may appoint an advisory board that shall:

226 (a) oversee the award process for loans and grants, as described in this section;

227 (b) make recommendations to the commission regarding loans and grants; and

228 (c) recommend the policies and procedures for the Agriculture Resource Development
229 Fund, consistent with statute.

230 Section 5. Section ~~4-18-107~~ is amended to read:

231 **4-18-107. Utah Agriculture Certificate of Environmental Stewardship Program.**

232 (1) There is created the Utah Agriculture Certificate of Environmental Stewardship
233 [~~Certification~~] Program.

234 (2) The commission, with the assistance of the department and with the advice of the
235 Water Quality Board, created in Section ~~19-1-106~~, shall make rules in accordance with Title
236 63G, Chapter 3, Utah Administrative Rulemaking Act that establish:

237 (a) (i) best management practices;

238 (ii) state technical standards; and

239 (iii) guidelines for nutrient management plans;

240 (b) requirements for qualification under the Utah Agriculture Certificate of
241 Environmental Stewardship [~~Certification~~] Program that:

242 (i) are consistent with sustainable agriculture;

- 243 (ii) help prevent harm to the environment, including prevention of an agricultural
244 discharge; and
- 245 (iii) encourage agricultural operations in the state to follow:
- 246 (A) best management practices; and
- 247 (B) nutrient management plans that meet the state technical standards appropriate for
248 each type of agricultural operation;
- 249 (c) the procedure for qualification under the Utah Agriculture Certificate of
250 Environmental Stewardship [~~Certification~~] Program;
- 251 (d) the requirements and certification process for an individual to become a certified
252 conservation planner; and
- 253 (e) standards and procedures for administering the Utah Agriculture Certificate of
254 Environmental Stewardship [~~Certification~~] Program, including:
- 255 (i) renewal of a certification under Subsection (4)(b);
- 256 (ii) investigation and revocation of a certification under Subsection (6); and
- 257 (iii) revocation of a certification under Subsection (7)(b).
- 258 (3) An owner or operator of an agricultural operation may apply to certify the
259 agricultural operation under the Utah Agriculture Certificate of Environmental Stewardship
260 [~~Certification~~] Program in accordance with this section.
- 261 (4) (a) Except as provided in Subsection (6) or (7), a certified agricultural operation
262 remains certified for a period of five years after the day on which the agricultural operation
263 becomes certified.
- 264 (b) A certified agricultural operation may, in accordance with commission rule, renew
265 the certification for an additional five years to keep the certification for a total period of 10
266 years after the day on which the agricultural operation becomes certified.
- 267 (5) Subject to review by the commissioner or the commissioner's designee, a certified
268 conservation planner shall certify each qualifying agricultural operation that applies to the Utah
269 Agriculture Certificate of Environmental Stewardship [~~Certification~~] Program.
- 270 (6) (a) Upon request of the Department of Environmental Quality or upon receipt by
271 the department of a citizen environmental complaint, the department shall, with the assistance
272 of certified conservation planners as necessary, investigate a certified agricultural operation to
273 determine whether the agricultural operation has committed a significant violation of the

274 requirements of the Utah Agriculture Certificate of Environmental Stewardship [Certification]
275 Program.

276 (b) If, after completing an investigation described in Subsection (6)(a), the department
277 determines that a certified agricultural operation has committed a significant violation of the
278 requirements for the Utah Agriculture Certificate of Environmental Stewardship [Certification]
279 Program, the department shall report the violation to the commission.

280 (c) Upon receipt of a report described in Subsection (6)(b), the commission shall
281 review the report and:

- 282 (i) revoke the agricultural operation's certification; or
- 283 (ii) set terms and conditions for the agricultural operation to maintain its certification.

284 (7) (a) If, for a certification renewal under Subsection (4)(b), or an investigation under
285 Subsection (6)(a), the department requests access to a certified agricultural operation, the
286 certified agricultural operation shall, at a reasonable time, allow access for the department to:

- 287 (i) inspect the agricultural operation; or
- 288 (ii) review the records of the agricultural operation.

289 (b) If a certified agricultural operation denies the department access as described in
290 Subsection (7)(a), the commission may revoke the agricultural operation's certification.

291 (8) If the commission changes a requirement of the Utah Agriculture Certificate of
292 Environmental Stewardship [Certification] Program after an agricultural operation is certified
293 in accordance with former requirements, during the certification and renewal periods described
294 in Subsections (4)(a) and (b) the agricultural operation may choose whether to abide by a new
295 requirement, but the agricultural operation is not subject to the new requirement until the
296 agricultural operation reapplies for certification.

297 (9) Nothing in this section exempts an agricultural discharge made by a certified
298 agricultural operation from the provisions of Subsection [19-5-105.5\(3\)\(b\)](#).

299 (10) (a) Except as provided in Subsections [19-5-105.6\(2\)](#) and (3), a certified agriculture
300 operation may not be required to implement additional projects or best management practices
301 to address nonpoint source discharges.

302 (b) The Division of Water Quality shall consider an agriculture operation's compliance
303 with certification under an approved agriculture environmental stewardship program a
304 mitigating factor for penalty purposes, as provided in Section [19-5-105.6](#).

305 (c) (i) As provided in Section 63G-2-305, the workbook of a farm or ranch certified
 306 under this section in the possession of the department, and any other records kept by the
 307 department to demonstrate compliance with certification requirements, are protected records.

308 (ii) Section 63G-2-305 does not apply to records that contain only contact information,
 309 verification signature, or date of certification.

310 Section 6. Section 4-18-108, which is renumbered from Section 4-18-6.5 is
 311 renumbered and amended to read:

312 **[4-18-6.5]. 4-18-108. Agriculture Environment Account -- Contents -- Use of**
 313 **fund money.**

314 (1) There is created a restricted account within the General Fund known as the
 315 Agriculture Environment Account.

316 (2) The Agriculture Environment Account shall consist of:

317 (a) funds appropriated by the Legislature; and

318 (b) grants received from other state or federal agencies, or private sources.

319 ~~[(1)(a) The]~~ (3) (a) Subject to appropriation, the commission, as described in
 320 Subsection (6), may make [grants to owners or operators of animal feeding operations] a grant
 321 to an owner or operator of a farm or ranch to pay for costs of plans or projects to improve
 322 manure management, [or] control surface water runoff or other environmental issues on the
 323 farm or ranch operation, including costs of preparing or implementing [comprehensive] a
 324 nutrient management [plans] plan.

325 (b) The commission shall make [the grants] a grant described in Subsection [(1)(a)
 326 from funds appropriated by the Legislature for that purpose] (3)(a) from the Agriculture
 327 Environment Account.

328 ~~[(2)(a)]~~ (4) (a) In awarding [grants] a grant, the commission shall consider the
 329 following criteria:

330 (i) the ability of the grantee to pay for costs of plans or projects to improve manure
 331 management or control surface water runoff;

332 (ii) the availability of:

333 (A) matching funds provided by the grantee or another source; or

334 (B) material, labor, or other items of value provided in lieu of money by the grantee or
 335 another source; and

336 (iii) the benefits that accrue to the general public by the awarding of a grant.
337 (b) The commission may establish by rule additional criteria for the awarding of
338 ~~[grants]~~ a grant.

339 ~~[(3)]~~ (5) The commission shall make rules in accordance with Title 63G, Chapter 3,
340 Utah Administrative Rulemaking Act, to implement this section.

341 (6) The commission:

342 (a) shall be responsible for awarding a grant or loan for water quality or other
343 environmental issues; and

344 (b) may appoint an advisory board to:

345 (i) assist with the award process; and

346 (ii) make recommendations to the commission regarding awards.

347 Section 7. Section **19-5-105.6** is enacted to read:

348 **19-5-105.6. Agriculture Certificate of Environmental Stewardship.**

349 (1) As used in this section:

350 (a) "Agriculture operation" means a farm, ranch, or animal feeding operation.

351 (b) "Approved agriculture environmental stewardship program" means a program:

352 (i) created under Section [4-18-107](#);

353 (ii) that is approved by the board; and

354 (iii) that includes practices and other requirements sufficient to prevent violations of
355 the Utah Pollutant Discharge Elimination System program, statute, or rules.

356 (c) "Certified agriculture operation" means an agriculture operation that has current
357 certification under an approved agriculture environmental stewardship program and that is in
358 compliance with the requirements of that certification.

359 (2) (a) The division may not require a certified agriculture operation to implement
360 additional or different practices to control nonpoint source discharges for the purpose of
361 meeting total maximum daily load requirements.

362 (b) If the division implements additional or different rules to control nonpoint source
363 discharges, those rules shall be effective on a certified agriculture operation upon the expiration
364 of the operation's certificate, as described in Subsection [4-18-107](#)(4).

365 (3) Notwithstanding Subsection (2), a certified agriculture operation may be required to
366 undertake projects or additional best management practices for the purpose of meeting the total

367 maximum daily load requirements under the following conditions:

368 (a) the certified agriculture operation has nonpoint source discharges to surface waters
369 in an impaired watershed that is covered by an approved total maximum daily load;

370 (b) the board, in consultation with the Conservation Commission, has determined that
371 the best management practice or project is necessary to restore water quality in the affected
372 watershed; and

373 (c) the project or best management practice is funded:

374 (i) at least 75% by the state, federal government sources, or private sources other than
375 the certified agriculture operation; or

376 (ii) at least 90% by the state, federal government sources, or private sources other than
377 the certified agriculture operation if the director, commissioner of the Department of
378 Agriculture and Food, and director of the Utah State University Extension service, or their
379 designees, determine by majority vote that the requirements of Subsection (3)(b) pose a serious
380 financial hardship to the certified agriculture operation.

381 (4) The division shall consider an agriculture operation's compliance with certification
382 under an approved agriculture environmental stewardship program as a mitigating factor for
383 any penalty purposes.

384 Section 8. Section **63G-2-305** is amended to read:

385 **63G-2-305. Protected records.**

386 The following records are protected if properly classified by a governmental entity:

387 (1) trade secrets as defined in Section [13-24-2](#) if the person submitting the trade secret
388 has provided the governmental entity with the information specified in Section [63G-2-309](#);

389 (2) commercial information or nonindividual financial information obtained from a
390 person if:

391 (a) disclosure of the information could reasonably be expected to result in unfair
392 competitive injury to the person submitting the information or would impair the ability of the
393 governmental entity to obtain necessary information in the future;

394 (b) the person submitting the information has a greater interest in prohibiting access
395 than the public in obtaining access; and

396 (c) the person submitting the information has provided the governmental entity with
397 the information specified in Section [63G-2-309](#);

398 (3) commercial or financial information acquired or prepared by a governmental entity
399 to the extent that disclosure would lead to financial speculations in currencies, securities, or
400 commodities that will interfere with a planned transaction by the governmental entity or cause
401 substantial financial injury to the governmental entity or state economy;

402 (4) records, the disclosure of which could cause commercial injury to, or confer a
403 competitive advantage upon a potential or actual competitor of, a commercial project entity as
404 defined in Subsection 11-13-103(4);

405 (5) test questions and answers to be used in future license, certification, registration,
406 employment, or academic examinations;

407 (6) records, the disclosure of which would impair governmental procurement
408 proceedings or give an unfair advantage to any person proposing to enter into a contract or
409 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
410 Subsection (6) does not restrict the right of a person to have access to, after the contract or
411 grant has been awarded and signed by all parties, a bid, proposal, application, or other
412 information submitted to or by a governmental entity in response to:

413 (a) an invitation for bids;

414 (b) a request for proposals;

415 (c) a request for quotes;

416 (d) a grant; or

417 (e) other similar document;

418 (7) information submitted to or by a governmental entity in response to a request for
419 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict
420 the right of a person to have access to the information, after:

421 (a) a contract directly relating to the subject of the request for information has been
422 awarded and signed by all parties; or

423 (b) (i) a final determination is made not to enter into a contract that relates to the
424 subject of the request for information; and

425 (ii) at least two years have passed after the day on which the request for information is
426 issued;

427 (8) records that would identify real property or the appraisal or estimated value of real
428 or personal property, including intellectual property, under consideration for public acquisition

429 before any rights to the property are acquired unless:

430 (a) public interest in obtaining access to the information is greater than or equal to the
431 governmental entity's need to acquire the property on the best terms possible;

432 (b) the information has already been disclosed to persons not employed by or under a
433 duty of confidentiality to the entity;

434 (c) in the case of records that would identify property, potential sellers of the described
435 property have already learned of the governmental entity's plans to acquire the property;

436 (d) in the case of records that would identify the appraisal or estimated value of
437 property, the potential sellers have already learned of the governmental entity's estimated value
438 of the property; or

439 (e) the property under consideration for public acquisition is a single family residence
440 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
441 the property as required under Section [78B-6-505](#);

442 (9) records prepared in contemplation of sale, exchange, lease, rental, or other
443 compensated transaction of real or personal property including intellectual property, which, if
444 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
445 of the subject property, unless:

446 (a) the public interest in access is greater than or equal to the interests in restricting
447 access, including the governmental entity's interest in maximizing the financial benefit of the
448 transaction; or

449 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
450 the value of the subject property have already been disclosed to persons not employed by or
451 under a duty of confidentiality to the entity;

452 (10) records created or maintained for civil, criminal, or administrative enforcement
453 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
454 release of the records:

455 (a) reasonably could be expected to interfere with investigations undertaken for
456 enforcement, discipline, licensing, certification, or registration purposes;

457 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
458 proceedings;

459 (c) would create a danger of depriving a person of a right to a fair trial or impartial

460 hearing;

461 (d) reasonably could be expected to disclose the identity of a source who is not
462 generally known outside of government and, in the case of a record compiled in the course of
463 an investigation, disclose information furnished by a source not generally known outside of
464 government if disclosure would compromise the source; or

465 (e) reasonably could be expected to disclose investigative or audit techniques,
466 procedures, policies, or orders not generally known outside of government if disclosure would
467 interfere with enforcement or audit efforts;

468 (11) records the disclosure of which would jeopardize the life or safety of an
469 individual;

470 (12) records the disclosure of which would jeopardize the security of governmental
471 property, governmental programs, or governmental recordkeeping systems from damage, theft,
472 or other appropriation or use contrary to law or public policy;

473 (13) records that, if disclosed, would jeopardize the security or safety of a correctional
474 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
475 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

476 (14) records that, if disclosed, would reveal recommendations made to the Board of
477 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
478 Board of Pardons and Parole, or the Department of Human Services that are based on the
479 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
480 jurisdiction;

481 (15) records and audit workpapers that identify audit, collection, and operational
482 procedures and methods used by the State Tax Commission, if disclosure would interfere with
483 audits or collections;

484 (16) records of a governmental audit agency relating to an ongoing or planned audit
485 until the final audit is released;

486 (17) records that are subject to the attorney client privilege;

487 (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer,
488 employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial,
489 quasi-judicial, or administrative proceeding;

490 (19) (a) (i) personal files of a state legislator, including personal correspondence to or

491 from a member of the Legislature; and

492 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of
493 legislative action or policy may not be classified as protected under this section; and

494 (b) (i) an internal communication that is part of the deliberative process in connection
495 with the preparation of legislation between:

496 (A) members of a legislative body;

497 (B) a member of a legislative body and a member of the legislative body's staff; or

498 (C) members of a legislative body's staff; and

499 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of
500 legislative action or policy may not be classified as protected under this section;

501 (20) (a) records in the custody or control of the Office of Legislative Research and
502 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated
503 legislation or contemplated course of action before the legislator has elected to support the
504 legislation or course of action, or made the legislation or course of action public; and

505 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
506 Office of Legislative Research and General Counsel is a public document unless a legislator
507 asks that the records requesting the legislation be maintained as protected records until such
508 time as the legislator elects to make the legislation or course of action public;

509 (21) research requests from legislators to the Office of Legislative Research and
510 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared
511 in response to these requests;

512 (22) drafts, unless otherwise classified as public;

513 (23) records concerning a governmental entity's strategy about:

514 (a) collective bargaining; or

515 (b) imminent or pending litigation;

516 (24) records of investigations of loss occurrences and analyses of loss occurrences that
517 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
518 Uninsured Employers' Fund, or similar divisions in other governmental entities;

519 (25) records, other than personnel evaluations, that contain a personal recommendation
520 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
521 personal privacy, or disclosure is not in the public interest;

522 (26) records that reveal the location of historic, prehistoric, paleontological, or
523 biological resources that if known would jeopardize the security of those resources or of
524 valuable historic, scientific, educational, or cultural information;

525 (27) records of independent state agencies if the disclosure of the records would
526 conflict with the fiduciary obligations of the agency;

527 (28) records of an institution within the state system of higher education defined in
528 Section [53B-1-102](#) regarding tenure evaluations, appointments, applications for admissions,
529 retention decisions, and promotions, which could be properly discussed in a meeting closed in
530 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
531 the final decisions about tenure, appointments, retention, promotions, or those students
532 admitted, may not be classified as protected under this section;

533 (29) records of the governor's office, including budget recommendations, legislative
534 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
535 policies or contemplated courses of action before the governor has implemented or rejected
536 those policies or courses of action or made them public;

537 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,
538 revenue estimates, and fiscal notes of proposed legislation before issuance of the final
539 recommendations in these areas;

540 (31) records provided by the United States or by a government entity outside the state
541 that are given to the governmental entity with a requirement that they be managed as protected
542 records if the providing entity certifies that the record would not be subject to public disclosure
543 if retained by it;

544 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
545 except as provided in Section [52-4-206](#);

546 (33) records that would reveal the contents of settlement negotiations but not including
547 final settlements or empirical data to the extent that they are not otherwise exempt from
548 disclosure;

549 (34) memoranda prepared by staff and used in the decision-making process by an
550 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
551 other body charged by law with performing a quasi-judicial function;

552 (35) records that would reveal negotiations regarding assistance or incentives offered

553 by or requested from a governmental entity for the purpose of encouraging a person to expand
554 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
555 person or place the governmental entity at a competitive disadvantage, but this section may not
556 be used to restrict access to a record evidencing a final contract;

557 (36) materials to which access must be limited for purposes of securing or maintaining
558 the governmental entity's proprietary protection of intellectual property rights including patents,
559 copyrights, and trade secrets;

560 (37) the name of a donor or a prospective donor to a governmental entity, including an
561 institution within the state system of higher education defined in Section 53B-1-102, and other
562 information concerning the donation that could reasonably be expected to reveal the identity of
563 the donor, provided that:

564 (a) the donor requests anonymity in writing;

565 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
566 classified protected by the governmental entity under this Subsection (37); and

567 (c) except for an institution within the state system of higher education defined in
568 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
569 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
570 over the donor, a member of the donor's immediate family, or any entity owned or controlled
571 by the donor or the donor's immediate family;

572 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
573 73-18-13;

574 (39) a notification of workers' compensation insurance coverage described in Section
575 34A-2-205;

576 (40) (a) the following records of an institution within the state system of higher
577 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
578 or received by or on behalf of faculty, staff, employees, or students of the institution:

579 (i) unpublished lecture notes;

580 (ii) unpublished notes, data, and information:

581 (A) relating to research; and

582 (B) of:

583 (I) the institution within the state system of higher education defined in Section

584 53B-1-102; or
585 (II) a sponsor of sponsored research;
586 (iii) unpublished manuscripts;
587 (iv) creative works in process;
588 (v) scholarly correspondence; and
589 (vi) confidential information contained in research proposals;
590 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
591 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
592 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
593 (41) (a) records in the custody or control of the Office of Legislative Auditor General
594 that would reveal the name of a particular legislator who requests a legislative audit prior to the
595 date that audit is completed and made public; and
596 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
597 Office of the Legislative Auditor General is a public document unless the legislator asks that
598 the records in the custody or control of the Office of Legislative Auditor General that would
599 reveal the name of a particular legislator who requests a legislative audit be maintained as
600 protected records until the audit is completed and made public;
601 (42) records that provide detail as to the location of an explosive, including a map or
602 other document that indicates the location of:
603 (a) a production facility; or
604 (b) a magazine;
605 (43) information:
606 (a) contained in the statewide database of the Division of Aging and Adult Services
607 created by Section 62A-3-311.1; or
608 (b) received or maintained in relation to the Identity Theft Reporting Information
609 System (IRIS) established under Section 67-5-22;
610 (44) information contained in the Management Information System and Licensing
611 Information System described in Title 62A, Chapter 4a, Child and Family Services;
612 (45) information regarding National Guard operations or activities in support of the
613 National Guard's federal mission;
614 (46) records provided by any pawn or secondhand business to a law enforcement

615 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
616 Secondhand Merchandise Transaction Information Act;

617 (47) information regarding food security, risk, and vulnerability assessments performed
618 by the Department of Agriculture and Food;

619 (48) except to the extent that the record is exempt from this chapter pursuant to Section
620 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or
621 prepared or maintained by the Division of Emergency Management, and the disclosure of
622 which would jeopardize:

623 (a) the safety of the general public; or
624 (b) the security of:

625 (i) governmental property;
626 (ii) governmental programs; or
627 (iii) the property of a private person who provides the Division of Emergency
628 Management information;

629 (49) records of the Department of Agriculture and Food that provides for the
630 identification, tracing, or control of livestock diseases, including any program established under
631 Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act or Title 4, Chapter 31, Control
632 of Animal Disease;

633 (50) as provided in Section 26-39-501:

634 (a) information or records held by the Department of Health related to a complaint
635 regarding a child care program or residential child care which the department is unable to
636 substantiate; and
637 (b) information or records related to a complaint received by the Department of Health
638 from an anonymous complainant regarding a child care program or residential child care;

639 (51) unless otherwise classified as public under Section 63G-2-301 and except as
640 provided under Section 41-1a-116, an individual's home address, home telephone number, or
641 personal mobile phone number, if:

642 (a) the individual is required to provide the information in order to comply with a law,
643 ordinance, rule, or order of a government entity; and
644 (b) the subject of the record has a reasonable expectation that this information will be
645 kept confidential due to:

- 646 (i) the nature of the law, ordinance, rule, or order; and
647 (ii) the individual complying with the law, ordinance, rule, or order;
- 648 (52) the name, home address, work addresses, and telephone numbers of an individual
649 that is engaged in, or that provides goods or services for, medical or scientific research that is:
650 (a) conducted within the state system of higher education, as defined in Section
651 [53B-1-102](#); and
652 (b) conducted using animals;
- 653 (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement
654 Private Proposal Program, to the extent not made public by rules made under that chapter;
- 655 (54) in accordance with Section [78A-12-203](#), any record of the Judicial Performance
656 Evaluation Commission concerning an individual commissioner's vote on whether or not to
657 recommend that the voters retain a judge;
- 658 (55) information collected and a report prepared by the Judicial Performance
659 Evaluation Commission concerning a judge, unless Section [20A-7-702](#) or Title 78A, Chapter
660 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
661 the information or report;
- 662 (56) records contained in the Management Information System created in Section
663 [62A-4a-1003](#);
- 664 (57) records provided or received by the Public Lands Policy Coordinating Office in
665 furtherance of any contract or other agreement made in accordance with Section [63J-4-603](#);
- 666 (58) information requested by and provided to the Utah State 911 Committee under
667 Section [53-10-602](#);
- 668 (59) recorded Children's Justice Center investigative interviews, both video and audio,
669 the release of which are governed by Section [77-37-4](#);
- 670 (60) in accordance with Section [73-10-33](#):
- 671 (a) a management plan for a water conveyance facility in the possession of the Division
672 of Water Resources or the Board of Water Resources; or
673 (b) an outline of an emergency response plan in possession of the state or a county or
674 municipality;
- 675 (61) the following records in the custody or control of the Office of Inspector General
676 of Medicaid Services, created in Section [63A-13-201](#):

677 (a) records that would disclose information relating to allegations of personal
678 misconduct, gross mismanagement, or illegal activity of a person if the information or
679 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
680 through other documents or evidence, and the records relating to the allegation are not relied
681 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
682 report or final audit report;

683 (b) records and audit workpapers to the extent they would disclose the identity of a
684 person who, during the course of an investigation or audit, communicated the existence of any
685 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
686 regulation adopted under the laws of this state, a political subdivision of the state, or any
687 recognized entity of the United States, if the information was disclosed on the condition that
688 the identity of the person be protected;

689 (c) before the time that an investigation or audit is completed and the final
690 investigation or final audit report is released, records or drafts circulated to a person who is not
691 an employee or head of a governmental entity for the person's response or information;

692 (d) records that would disclose an outline or part of any investigation, audit survey
693 plan, or audit program; or

694 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
695 investigation or audit;

696 (62) records that reveal methods used by the Office of Inspector General of Medicaid
697 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
698 abuse;

699 (63) information provided to the Department of Health or the Division of Occupational
700 and Professional Licensing under Subsection 58-68-304(3) or (4);

701 (64) a record described in Section 63G-12-210; ~~and~~

702 (65) captured plate data that is obtained through an automatic license plate reader
703 system used by a governmental entity as authorized in Section 41-6a-2003[-]; and

704 (66) the workbook of a farm or ranch and any other records maintained or retained by
705 the department to demonstrate the farm's or ranch's certification, or compliance with
706 certification requirements, under Section 4-18-107, not including the:

707 (a) contact information of the holder of a certificate;

708 (b) verification signature of the holder of a certificate; or
709 (c) date of certification.

710 Section 9. **Appropriation.**

711 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
712 following sums of money are appropriated for the fiscal year beginning July 2, 2014 and ending
713 June 30, 2015 from resources not otherwise appropriated out of funds or accounts indicated.
714 These sums of money are in addition to amounts previously appropriated for fiscal year 2015.

715 Item 1 To Department of Agriculture and Food

716 From General Fund, One-time \$10,000

717 Schedule of Programs:

718 Agriculture Environment Account \$10,000

719 Item 2 To Agriculture Environment Account

720 From Department of Agriculture and Food, One-time \$10,000

721 Schedule of Programs:

722 Administration \$10,000

723 The Legislature intends that the appropriation under this section be used by the
724 Conservation Commission within the Department of Agriculture and Food to provide grants as
725 described in Section [4-18-108](#).