

1 **FENCING RESPONSIBILITIES WITH**
2 **GREENBELT OR CONSERVATION EASEMENT**

3 2004 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: David Ure**

7 **LONG TITLE**

8 **General Description:**

9 This bill modifies agricultural fencing provisions to require an adjoining landowner to
10 pay 1/2 the cost of constructing and maintaining a fence under certain situations.

11 **Highlighted Provisions:**

12 This bill:

13 ▶ requires adjoining landowners to pay 1/2 the cost of a partition fence for land used
14 for grazing livestock that qualifies under Section 59-2-502 as land in agricultural
15 use or land qualifying as conservation easement land;

16 ▶ requires that fencing costs be reasonable and of the type commonly found in that
17 area; and

18 ▶ allows the owner to bring a civil action against the adjoining landowner for
19 noncompliance.

20 **Monies Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 ENACTS:

26 **4-26-5.1**, Utah Code Annotated 1953



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

29 Section 1. Section **4-26-5.1** is enacted to read:

30 **4-26-5.1. Adjoining landowners -- Partition fences -- Contribution.**

31 (1) The owner of any lawful fence may require the adjoining landowner to pay for 1/2
32 of the cost of the fence if:

33 (a) the adjoining landowner's land is used for grazing livestock and is land:

34 (i) which qualifies under the definition of "conservation easement" as defined in
35 Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or

36 (ii) is "land in agricultural use" that meets the requirements of Section 59-2-502;

37 (b) the fence is or becomes a partition fence separating the owner's land from that
38 belonging to the adjoining landowner;

39 (c) the cost is reasonable for that type of fence; and

40 (d) that type of fence is commonly found in that particular area.

41 (2) If the adjoining landowner refuses, the owner may maintain a civil action against
42 the adjoining landowner for 1/2 of the cost of that portion of the fence.

43 (3) The cost of maintenance of the fence shall also be apportioned between each party
44 based upon the amount of land enclosed. A person who fails to maintain his part of the fence is
45 also liable in a civil action for any damage sustained by another party as a result of the failure
46 to maintain the fence.

47 (4) When one party ceases to improve or cultivate his land, or opens his enclosure, he
48 may not take away any part of the partition fence without the permission of the owner of the
49 adjoining enclosure.

Legislative Review Note
as of 1-28-04 10:14 AM

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

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0119

Fencing Responsibilities with Greenbelt or Conservation Easement 02-Feb-04
10:28 AM

State Impact

No fiscal impact.

Individual and Business Impact

Adjoining landowners will be required to pay half the cost of partition fences on lands that meet the specified criteria.

Office of the Legislative Fiscal Analyst