

Representative David Ure proposes the following substitute bill:

**FENCING RESPONSIBILITIES WITH
GREENBELT OR CONSERVATION EASEMENT**

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: David Ure

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines qualified landowner and qualified adjoining landowner as owners of land used for certain purposes that qualifies under Section 59-2-502 as land in agricultural use or land qualifying as conservation easement land for purposes of this section;
- ▶ requires qualified adjoining landowners to pay 1/2 the cost of a partition fence in certain situations;
- ▶ requires that fencing costs be reasonable, of the type commonly found in that area, and no more expensive than certain specified materials; and
- ▶ allows the qualified landowner to bring a civil action against the qualified adjoining landowner for noncompliance.

Monies Appropriated in this Bill:

None



26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 ENACTS:

30 **4-26-5.1**, Utah Code Annotated 1953



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

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

33 **4-26-5.1. Definitions -- Qualified landowners and qualified adjoining landowners**
34 **partition fences -- Contribution -- Civil action for damages.**

35 (1) As used in this section:

36 (a) "qualified landowner" means a private landowner whose land is used for grazing
37 livestock and:

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

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

41 (b) "qualified adjoining landowner" means a private landowner whose land adjoins the
42 land of a qualified landowner and is used for grazing livestock or as habitat for big game
43 wildlife and:

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

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

47 (2) A qualified landowner may require the qualified adjoining landowner to pay for 1/2
48 of the cost of the fence if:

49 (a) the fence is or becomes a partition fence separating the qualified landowner's land
50 from that belonging to the qualified adjoining landowner;

51 (b) the cost is reasonable for that type of fence;

52 (c) that type of fence is commonly found in that particular area; and

53 (d) the construction of the fence is no more expensive than the cost for posts, wire, and
54 connectors.

55 (3) If the qualified adjoining landowner refuses, the qualified landowner may maintain
56

57 a civil action against the qualified adjoining landowner for 1/2 of the cost of that portion of the
58 fence.

59 (4) The cost of the maintenance of the fence shall also be apportioned between each
60 party based upon the amount of land enclosed. A party who fails to maintain his part of the
61 fence is also liable in a civil action for any damage sustained by the other party as a result of
62 the failure to maintain the fence.