

Representative Jack R. Draxler proposes the following substitute bill:

AGRICULTURE SUSTAINABILITY ACT

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jack R. Draxler

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Agriculture Sustainability Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires a county to establish an Agriculture Sustainability Investment Fund (fund);
- ▶ requires a county to deposit a rollback tax collected by the county into the fund;
- ▶ authorizes the county to appropriate money in the fund as directed by an appropriation plan;
- ▶ in certain circumstances, directs the county to transfer money from the fund to the Leray McAllister Critical Land Conservation Program;
- ▶ creates the Agricultural Preservation Selection and Funding Committee (committee);
- ▶ authorizes the committee to:
 - appoint nonvoting members;
 - adopt an appropriation plan;
 - adopt land evaluation and site assessment criteria;
 - approve or reject an application for an agriculture conservation easement; and

1st Sub. H.B. 102



- 26 • approve an instrument to be recorded to secure an agriculture conservation
- 27 easement;
- 28 ▶ in a county of the fourth, fifth, or sixth class:
- 29 • authorizes the committee to approve an agriculture conservation project; and
- 30 • directs the county to appropriate money from the fund to finance an agriculture
- 31 conservation project;
- 32 ▶ authorizes the Department of Agriculture and Food to hold an agriculture
- 33 conservation easement approved by the committee;
- 34 ▶ authorizes the department to annually review a property subject to an agriculture
- 35 conservation easement;
- 36 ▶ prohibits an owner of property subject to an agriculture conservation easement from
- 37 using the property for nonagriculture production;
- 38 ▶ establishes certain protections for an agriculture conservation easement, including:
- 39 • prohibiting a political subdivision from enacting a law, ordinance, or regulation
- 40 that would unreasonably restrict agricultural production;
- 41 • requiring that a political subdivision prohibit, in certain circumstances, activities
- 42 on property subject to an agriculture conservation easement; and
- 43 • prohibiting a political subdivision from condemning property subject to an
- 44 agriculture conservation easement without complying with certain requirements;
- 45 ▶ authorizes a one-time increase in the calculation of a taxing entity's certified tax
- 46 rate;
- 47 ▶ amends related tax provisions; and
- 48 ▶ makes technical corrections.

49 **Monies Appropriated in this Bill:**

50 None

51 **Other Special Clauses:**

52 None

53 **Utah Code Sections Affected:**

54 AMENDS:

55 **11-38-301**, as last amended by Laws of Utah 2009, Chapter 368

56 **59-2-505**, as last amended by Laws of Utah 2008, Chapters 231 and 301

57 **59-2-506**, as last amended by Laws of Utah 2003, Chapter 208
 58 **59-2-506.5**, as last amended by Laws of Utah 2003, Chapter 208
 59 **59-2-924.2**, as last amended by Laws of Utah 2009, Chapter 218

60 ENACTS:

- 61 **17-36-55**, Utah Code Annotated 1953
- 62 **17-41a-101**, Utah Code Annotated 1953
- 63 **17-41a-102**, Utah Code Annotated 1953
- 64 **17-41a-201**, Utah Code Annotated 1953
- 65 **17-41a-202**, Utah Code Annotated 1953
- 66 **17-41a-301**, Utah Code Annotated 1953
- 67 **17-41a-302**, Utah Code Annotated 1953
- 68 **17-41a-303**, Utah Code Annotated 1953
- 69 **17-41a-304**, Utah Code Annotated 1953
- 70 **17-41a-401**, Utah Code Annotated 1953
- 71 **17-41a-402**, Utah Code Annotated 1953
- 72 **17-41a-403**, Utah Code Annotated 1953
- 73 **17-41a-404**, Utah Code Annotated 1953
- 74 **17-41a-405**, Utah Code Annotated 1953
- 75 **17-41a-406**, Utah Code Annotated 1953
- 76 **17-41a-501**, Utah Code Annotated 1953



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

79 Section 1. Section **11-38-301** is amended to read:

80 **11-38-301. LeRay McAllister Critical Land Conservation Program.**

81 (1) There is created a program entitled the "LeRay McAllister Critical Land
82 Conservation Program."

83 (2) (a) Funding for the program shall be:

84 (i) subject to Subsection (2)(b), a line item in the budget of the Quality Growth
85 Commission[-]; or

86 (ii) funds received in accordance with Section 17-36-55.

87 (b) The line item described in Subsection (2)(a)(i) and funds described in Subsection

88 (2)(a)(ii) shall be nonlapsing.

89 Section 2. Section **17-36-55** is enacted to read:

90 **17-36-55. Agriculture sustainability investment fund.**

91 (1) As used in this section:

92 (a) "Agriculture conservation easement" is as defined in Section 17-41a-102.

93 (b) "Agriculture production" is as defined in Section 17-41a-102.

94 (c) "Appropriation plan" is as defined in Section 17-41a-102.

95 (d) "Rollback tax" means a tax imposed in accordance with Section 59-2-506.

96 (2) (a) A county shall establish and administer a fund known as the "Agriculture
97 Sustainability Investment Fund."

98 (b) Monies in the fund shall be used to purchase and administer an agriculture
99 conservation easement approved under Section 17-41a-302.

100 (c) The fund may accrue interest.

101 (3) (a) The county:

102 (i) shall deposit into the fund:

103 (A) all rollback taxes collected in the county in accordance with Section 59-2-506;

104 (B) interest accrued from the fund; and

105 (C) a fee authorized in accordance with Section 17-41a-201; and

106 (ii) may deposit into the fund any other lawfully available source of revenue, including
107 monies from another county fund, a grant, a donation, an endowment, or a gift.

108 (b) The county shall administer the fund in accordance with an appropriation plan
109 described in Section 17-41a-202.

110 (4) (a) If a committee has not adopted an appropriation plan in accordance with Section
111 17-41a-202:

112 (i) except as provided in Subsection (4)(c), the fund may not exceed \$1,000,000 at the
113 end of a county's fiscal year; and

114 (ii) the fund balance in excess of \$1,000,000 shall be transferred to the LeRay
115 McAllister Critical Land Conservation Program created in Section 11-38-301 for the purpose
116 described in Subsection (4)(b).

117 (b) Monies transferred to the LeRay McAllister Critical Land Conservation Program
118 under Subsection (4)(a)(ii) shall be used for the conservation of property used for agriculture

119 production.

120 (c) Subsection (4)(a)(ii) does not apply if, within six months after the day on which the
121 county's fiscal year ends, the committee approves an appropriation plan.

122 Section 3. Section **17-41a-101** is enacted to read:

123 **CHAPTER 41a. AGRICULTURE SUSTAINABILITY ACT**

124 **Part 1. General Provisions**

125 **17-41a-101. Title.**

126 This chapter is known as "Agriculture Sustainability Act."

127 Section 4. Section **17-41a-102** is enacted to read:

128 **17-41a-102. Definitions.**

129 As used in this chapter:

130 (1) "Agriculture conservation easement" means an easement, covenant, restriction, or
131 condition in a deed, will, or other instrument signed by or on behalf of the record owner of the
132 underlying real property for the purpose of preserving and maintaining land or water areas for
133 agriculture production.

134 (2) (a) "Agricultural production" means the production for commercial or retail
135 marketing or private use of crops, livestock, or livestock products.

136 (b) "Agricultural production" does not include:

137 (i) business manufacturing activities; or

138 (ii) production on property dedicated to and meeting the requirements for payment or
139 other compensation under a crop-land retirement program with an agency of the state or federal
140 government.

141 (3) "Appropriation plan" means a plan created by the committee to appropriate monies
142 from the fund to purchase and administer an agriculture conservation easement.

143 (4) "Commission" means the Conservation Commission created in Section 4-18-4.

144 (5) "Committee" means the Agricultural Preservation Selection and Funding
145 Committee established in Section 17-41a-201.

146 (6) "Crops, livestock, and livestock products" include plants grown and animals kept
147 for private use or for the purpose of realizing a profit, including:

148 (a) forages and sod crops;

149 (b) grains and feed crops;

150 (c) livestock, including all domestic animals, honeybees, poultry, fur-bearing animals,
151 and fish;

152 (d) trees and fruits; or

153 (e) vegetables, nursery, floral, aquaculture, or ornamental stock.

154 (7) "Department" means the Department of Agriculture and Food created under Section
155 4-2-1.

156 (8) "Fund" means the Agriculture Sustainability Investment Fund established in
157 Section 17-36-55.

158 (9) "Land evaluation and site assessment criteria" means the criteria established by the
159 committee in accordance with Section 17-41a-202 to evaluate whether or not an application for
160 an agriculture conservation easement should be approved.

161 Section 5. Section **17-41a-201** is enacted to read:

162 **Part 2. Agricultural Preservation Selection and Funding Committee**

163 **17-41a-201. Agricultural Preservation Selection and Funding Committee --**

164 **Created -- Compensation.**

165 (1) A fund established in Section 17-36-55 shall be administered by the Agricultural
166 Preservation Selection and Funding Committee.

167 (2) (a) The county legislative body shall appoint five members from the county's
168 conservation district board of supervisors described in Section 17D-3-301 to serve as voting
169 members of the committee.

170 (b) A committee member described in Subsection (2)(a) shall serve on the committee
171 for the same term as the member's term on the board of supervisors in accordance with
172 Subsection 17D-3-301(3).

173 (c) (i) The county legislative body shall appoint a member of the county legislative
174 body to fill a vacancy in the committee.

175 (ii) A person appointed under Subsection (2)(c)(i) shall serve the remainder of the
176 unexpired term.

177 (d) (i) A majority of the committee members described in this Subsection (2)
178 constitutes a quorum for the transaction of committee business.

179 (ii) Action by a majority of a quorum present at a meeting of the committee constitutes
180 action of the committee.

- 181 (e) The committee members described in this Subsection (2):
182 (i) shall elect a chair from among their number; and
183 (ii) may elect other officers from among their number as necessary.
184 (3) (a) The members of the committee described in Subsection (2) may appoint and set
185 terms for nonvoting members of the committee.
186 (b) A nonvoting member of the committee shall be a person who has expertise in
187 agriculture, land management, law, or any other area of expertise necessary to assist the
188 committee with its duties.
189 (4) For performing official duties, each member of the committee described in
190 Subsection (2) shall be reimbursed from the fund for per diem and travel expenses at a rate
191 established in accordance with Section 63A-3-106.
192 (5) (a) If a committee member or an immediate family member of the committee
193 member owns or has an interest in property being considered under this chapter for an
194 agriculture conservation easement, the committee member may not participate or in any way be
195 involved with:
196 (i) any preliminary committee discussions or communications on the application or
197 other applications submitted for the same public hearing;
198 (ii) a public hearing, a committee review, a public meeting, or committee action
199 described in Section 17-41a-302 where the committee will consider an application for the
200 property described in Subsection (5)(a);
201 (iii) publication of a notice for a public hearing, a committee review, or a public
202 meeting described in Subsection (5)(a)(ii);
203 (iv) any other application that will be reviewed by the committee in the same public
204 hearing with the application described in Subsection (5)(a); or
205 (v) funding decisions or communications for or related to the application described in
206 this Subsection (5)(a) or any other application described in Subsection (5)(a)(iv).
207 (b) The county legislative body shall appoint a member of the county legislative body
208 to fill a vacancy created by a committee member described in Subsection (5)(a) to serve for the
209 period that the member is prohibited from participating in a matter described in Subsection
210 (5)(a).
211 (6) The committee may withdraw from the fund adequate and reasonable funds for the

212 reimbursement of per diem and travel expenses for the following that the committee reasonably
213 determines to be necessary to assist the committee:

214 (a) a nonvoting member described in Subsection (3)(a);

215 (b) county staff;

216 (c) conservation district staff described in Title 17D, Chapter 3, Conservation District
217 Act, including staff provided by the Utah Association of Conservation Districts; and

218 (d) a professional consultant.

219 (7) (a) Subject to Subsection (7)(b), the committee may establish and collect
220 reasonable fees to process an application, record an instrument, publish notification, or for any
221 other service that the committee is required to provide in accordance with this chapter.

222 (b) The committee may not charge a fee described in Subsection (7)(a), unless the fee
223 has been approved by the county legislative body in accordance with Section 17-53-211.

224 Section 6. Section **17-41a-202** is enacted to read:

225 **17-41a-202. Powers and duties -- Appropriation plan -- Land evaluation and site**
226 **assessment criteria.**

227 (1) The committee created in Section 17-41a-201 shall hold a public hearing described
228 in Section 17-41a-302 at least once each year that the committee receives an application
229 submitted in accordance with Section 17-41a-301.

230 (2) (a) In accordance with Subsection (2)(b), when the committee adopts an
231 appropriation plan, the committee shall, within 30 days after adopting the plan, submit the plan
232 to:

233 (i) the legislative body of the county in which the committee is located; and

234 (ii) the department.

235 (b) An appropriation plan described in Subsection (2)(a):

236 (i) shall identify:

237 (A) all new agriculture conservation easements created in accordance with Section
238 17-41a-302;

239 (B) the purchase price described in Subsection 17-41a-302(5)(b) for each new
240 agriculture conservation easement;

241 (C) the amount of funds available for the county to appropriate from the fund for each
242 agriculture conservation easement described in Subsection (2)(b)(i)(A), including matching

243 funds; and

244 (D) the use of the funds;

245 (ii) shall include a funding schedule time line approved by the committee for the

246 appropriation of funds to each owner of property subject to an agriculture conservation

247 easement described in Subsection (2)(b)(i)(A);

248 (iii) shall set future funding priorities; and

249 (iv) may not appropriate more money than is available in the fund.

250 (c) A committee shall, before adopting an appropriation plan, hold a public meeting to

251 adopt the plan.

252 (3) The legislative body of a county shall appropriate money from the fund in

253 accordance with the amounts identified by the committee in Subsection (2)(b)(i)(C) and in

254 accordance with the funding schedule described in Subsection (2)(b)(ii).

255 (4) The committee may set rules, guidelines, and funding priorities for creating

256 individual funding schedules described in Subsection (2)(b)(ii).

257 (5) (a) The committee shall adopt land evaluation and site assessment criteria described

258 in Subsection (5)(d) at a public meeting held within one year after the day on which the

259 committee is created under Section 17-41a-201.

260 (b) The committee may amend the land evaluation and site assessment criteria

261 described in Subsection (5)(a) at a public meeting as needed.

262 (c) The committee shall use the land evaluation and site assessment criteria described

263 in Subsection (5)(a) to evaluate whether an application submitted under Section 17-41a-301

264 should be approved for an agriculture conservation easement.

265 (d) The land evaluation and site assessment criteria described in Subsection (5)(a) shall

266 be based on:

267 (i) whether the property is primarily used for agricultural production;

268 (ii) the soil quality of the property;

269 (iii) whether the property is important to the agriculture industry;

270 (iv) whether the property meets the minimum contiguous acreage eligibility

271 requirements for an agricultural use assessment in accordance with Section 59-2-503; and

272 (v) other agricultural priorities or conditions identified by the committee.

273 (e) The committee shall file a copy of the land evaluation and site assessment criteria

274 adopted in accordance with this Subsection (5) with the legislative body of the county in which
275 the committee is located within 30 days after the day on which the committee adopts:

276 (i) the criteria; or

277 (ii) any amendment to the criteria.

278 (6) The county legislative body shall make available to the public in the legislative
279 body's office and on the county's public website:

280 (a) the land evaluation and site assessment criteria described in Subsection (5)(e)
281 within 10 days after the day on which the legislative body receives the criteria from the
282 committee; and

283 (b) the committee's appropriation plan described in Subsection (2)(a) or 17-41a-302
284 (5)(f)(ii) within 10 days after the day on which the legislative body receives the appropriation
285 plan.

286 (7) A committee shall meet at least once a year:

287 (a) in a public hearing or public meeting described in this section or otherwise required
288 by this chapter;

289 (b) in a public meeting to conduct other committee business if the meeting is a meeting
290 subject to Title 52, Chapter 4, Open and Public Meetings Act; or

291 (c) for training purposes.

292 Section 7. Section **17-41a-301** is enacted to read:

293 **Part 3. Approval, Review, and Termination of Agriculture Conservation Easement**

294 **17-41a-301. Application.**

295 (1) (a) A property owner may apply for an agriculture conservation easement to be
296 placed on the owner's property by filing a written application with the committee.

297 (b) An agriculture conservation easement created in accordance with this section shall
298 be created voluntarily after the committee approves an application submitted by a willing
299 property owner.

300 (2) (a) To be accepted for review by the committee, an application submitted under
301 Subsection (1)(a) shall be signed by each owner of the property that will be subject to the
302 proposed agriculture conservation easement.

303 (b) For purposes of Subsection (2)(a), the committee shall determine whether the
304 signatory owner on the application is the legal owner of the property by reviewing the records

305 of the county recorder.

306 (3) An application filed under Subsection (1)(a) shall:

307 (a) identify:

308 (i) the boundaries of the property proposed to be placed under the proposed agriculture

309 conservation easement;

310 (ii) the type of agricultural production proposed for the property in order to qualify for

311 an agriculture conservation easement; and

312 (iii) for each parcel of property:

313 (A) the tax parcel number or account number identifying each parcel; and

314 (B) the number of acres proposed to be included in the agriculture conservation

315 easement; and

316 (b) include:

317 (i) (A) subject to Subsection (5), the property owner's estimated value of the proposed

318 agriculture conservation easement based on an appraisal by a state-certified general appraiser;

319 and

320 (B) a copy of the appraisal described in Subsection (3)(b)(i)(A);

321 (ii) an estimate of the property owner's financial contribution, if any, to establish the

322 proposed agriculture conservation easement; and

323 (iii) any other relevant information that the committee requests.

324 (4) A committee may establish:

325 (a) the manner and form for submission of an application; and

326 (b) reasonable fees for processing each application in accordance with Section

327 17-41a-201.

328 (5) An appraisal under Subsection (3)(b)(i)(A) may not include, if applicable, the value

329 of a property owner's residence or other residential dwelling on the property described in

330 Subsection (3)(a)(i).

331 Section 8. Section **17-41a-302** is enacted to read:

332 **17-41a-302. Public hearing -- Review and action on application.**

333 (1) The committee shall hold a public hearing in accordance with Title 52, Chapter 4,

334 Open and Public Meetings Act, to review an application submitted in accordance with Section

335 17-41a-301.

336 (2) In addition to giving the notice required in Title 52, Chapter 4, Open and Public
337 Meetings Act, the committee shall give notice to each holder of a lien or other encumbrance
338 recorded with the county recorder on a property identified in an application described in
339 Subsection (1).

340 (3) A notice required in Subsection (1) or (2) shall include:

341 (a) for each application that the committee will consider at the public hearing:

342 (i) the address of the property described in the application;

343 (ii) the proposed agricultural production use of the property to qualify for the

344 agriculture conservation easement;

345 (iii) the total acreage of the property described in the application; and

346 (iv) the estimated funding proposal to purchase the agriculture conservation easement;

347 and

348 (b) the address of the county legislative body's office and public website where a copy
349 of the committee's current appropriation plan and land evaluation and site assessment criteria
350 are published in accordance with Section 17-41a-202.

351 (4) The committee shall:

352 (a) convene the public hearing at the time, date, and location specified in the notice;

353 (b) review an application for an agriculture conservation easement submitted in
354 accordance with Section 17-41a-301 based on the land evaluation and site assessment criteria
355 described in Section 17-41a-202; and

356 (c) take verbal or written testimony from interested persons.

357 (5) (a) Subject to Subsection (5)(b), within 30 days after the day on which the public
358 hearing described in Subsection (4)(a) is held, the committee shall hold a public meeting to:

359 (i) (A) reject an application;

360 (B) approve an application, subject to department approval under Subsection (5)(c)(ii);

361 or

362 (C) approve an application with modifications, subject to department approval under
363 Subsection (5)(c)(ii); and

364 (ii) if the committee approves any applications, adopt an appropriation plan in
365 accordance with Section 17-41a-202.

366 (b) For each application approved or approved with modifications, the committee shall

367 note at the public meeting the purchase price for each property identified in the application.

368 (c) (i) Within 30 days after the day on which the committee approves an application for
369 an agriculture conservation easement at the public meeting described in Subsection (5)(a), the
370 committee shall deliver a list of approved applications to the department, subject to Subsection
371 (5)(c)(ii), and the county legislative body, subject to Subsection (5)(c)(iii), that identifies each
372 property and each property address.

373 (ii) The department:

374 (A) shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
375 Act, establish rules to evaluate a property identified in an approved application for
376 environmental hazards or other legal liability; and

377 (B) if the property identified in an approved application fails to meet the standards
378 established by the department's rules described in Subsection (5)(c)(ii)(A), may reject the
379 application by notifying the committee within 50 calendar days after the day on which the
380 department receives the list described in Subsection (5)(c)(i).

381 (iii) The county legislative body shall:

382 (A) at a public meeting:

383 (I) review each property identified in an approved application; and

384 (II) by majority vote, decide whether to approve or reject each identified property; and

385 (B) notify the committee of a property that the legislative body rejects within 50
386 calendar days after the day on which the county legislative body receives the list described in
387 Subsection (5)(c)(i).

388 (d) Within 30 days after the day on which the committee receives notification under
389 Subsection (5)(c)(ii)(B) that the department has rejected an application, the committee shall:

390 (i) notify a property owner identified in the application that the application has been
391 rejected by the department; and

392 (ii) submit to the department and the county legislative body an amended appropriation
393 plan with a funding schedule described in Subsection 17-41a-202(2)(b)(ii) adjusted to exclude
394 the property identified in the rejected application.

395 (e) (i) Subject to Subsection (5)(e)(ii), within 30 days after the day on which the
396 committee receives notification under Subsection (5)(c)(iii)(B), at a public meeting the
397 committee shall:

398 (A) further review a property rejected by the county legislative body under Subsection
399 (5)(c)(iii)(A)(II); and

400 (B) (I) (Aa) amend an approved application for the property described in Subsection
401 (5)(c)(iii)(A)(II) as necessary; and

402 (Bb) subject to Subsection (5)(e)(iii), amend the appropriation plan and funding
403 schedule described in Subsection 17-41a-202(2)(b)(ii) to reflect an application amended under
404 Subsection (5)(e)(i)(B)(I)(Aa); or

405 (II) subject to Subsection (5)(e)(iii), amend the appropriation plan and funding
406 schedule described in Subsection 17-41a-202(2)(b)(ii) to exclude a property described in
407 (5)(c)(iii)(A)(II) as necessary.

408 (ii) In addition to notice required in Title 52, Chapter 4, Open and Public Meetings
409 Act, the committee shall give written notice of the public meeting described in Subsection
410 (5)(e)(i) to the owner of a property described in Subsection (5)(e)(i)(A) at least 10 days before
411 the day on which the public meeting is held.

412 (iii) Within 30 days after the day on which the public meeting described in Subsection
413 (5)(e)(i) is held, the committee shall submit to the department and the county legislative body
414 an appropriation plan amended under Subsection (5)(e)(i)(B)(I)(Bb) or (5)(e)(i)(B)(II) .

415 (6) (a) Within 90 days after the day on which the committee approves or approves with
416 modifications an application in accordance with Subsection (5)(a), each owner of property
417 approved for an agriculture conservation easement shall draft and submit to the committee an
418 instrument securing the agriculture conservation easement on the property described in the
419 approved application.

420 (b) An instrument described in Subsection (6)(a) shall:

421 (i) identify the holder of the easement;

422 (ii) permit the construction and use of structures incidental to agricultural production
423 on property subject to the easement; and

424 (iii) limit the use of the property to:

425 (A) an agricultural production use approved by the committee;

426 (B) other agricultural production; and

427 (C) nonfarm activities that are reasonably related to enhancing the property's economic
428 viability for agriculture production, including agritourism and other activities that do not impair

429 agricultural production.

430 (c) An instrument described in Subsection (6)(a) shall prohibit:

431 (i) a property use that is inconsistent with or prohibitive to agriculture production; and

432 (ii) a structure that is not used for, or incidental to agriculture production.

433 (d) If a legal description of the property described in the approved application is

434 available through the county recorder's office, the property owner shall use that legal

435 description in the instrument securing the agriculture conservation easement.

436 (7) (a) Within 30 days after the day on which a property owner submits an instrument

437 described in Subsection (6)(a) to the committee, the committee shall, at a public meeting:

438 (i) approve the instrument; or

439 (ii) subject to Subsection (7)(c), reject the instrument.

440 (b) The committee may not accept an instrument to secure an agriculture conservation

441 easement under Subsection (7)(a) unless the person who submits the instrument holds title to

442 the property described in the instrument.

443 (c) If the committee rejects an instrument to secure an agriculture conservation

444 easement under Subsection (7)(a)(ii), the committee may:

445 (i) recommend modifications to the instrument; and

446 (ii) permit the property owner to resubmit a revised instrument within a period not to

447 exceed 30 days after the day on which the committee initially rejects the instrument under

448 Subsection (7)(a)(ii).

449 (8) (a) Within 45 days after the day on which the committee accepts an instrument to

450 secure an agriculture conservation easement, the department shall record with the county

451 recorder the instrument to secure the agriculture conservation easement on the deed of the

452 property described in the instrument.

453 (b) An agriculture conservation easement recorded in accordance with this section is:

454 (i) an interest in land and runs with the land benefitted or burdened by the easement;

455 (ii) valid whether it is appurtenant or in gross;

456 (iii) enforceable by the holder to the easement and its successors and assigns; and

457 (iv) enforceable against the grantor and its successors and assigns.

458 (c) The department shall hold the agriculture conservation easement recorded in

459 accordance with this section.

460 (9) Within 30 days after the day on which a property owner records an agriculture
461 conservation easement in accordance with Subsection (8)(a), the committee shall:

462 (a) send written notification that the agriculture conservation easement has been
463 recorded to:

464 (i) the commissioner of the department; and

465 (ii) the county executive and county legislative body; and

466 (b) include in the notification:

467 (i) the total acreage of the agriculture conservation easement;

468 (ii) the date on which the agriculture conservation easement was recorded; and

469 (iii) the purchase price described in Subsection (5)(b) for each agriculture conservation
470 easement.

471 (10) The committee's failure to send the written notification under Subsection (9) does
472 not invalidate the creation of the agriculture conservation easement.

473 Section 9. Section **17-41a-303** is enacted to read:

474 **17-41a-303. Review of agriculture conservation easement.**

475 (1) The department shall review before November 1 of each year each property subject
476 to an agriculture conservation easement recorded in accordance with Section 17-41a-302 to
477 ensure that the property use is in compliance with this chapter.

478 (2) An owner of property subject to an agriculture conservation easement is not in
479 compliance with the easement if:

480 (a) the property use is inconsistent with the terms of the agriculture conservation
481 easement; or

482 (b) the property is used for additional activities other than those permitted in the
483 agriculture conservation easement.

484 (3) (a) The department shall conduct the review required in Subsection (1) in
485 accordance with the USDA Farm Service Agency crop reporting criteria.

486 (b) The property owner of property subject to an agriculture conservation easement
487 shall record crop production records with the USDA Farm Service Agency.

488 (4) The department shall report its review of property described in Subsection (1) and
489 report any recommendations to the commission by December 1 of each year.

490 (5) The department may enforce the terms of an agriculture conservation easement in

491 accordance with Section 57-18-6.

492 (6) (a) Subject to Subsection (6)(c), an owner of property subject to an agriculture
493 conservation easement who seeks to change the terms of the easement shall submit a written
494 request to and receive approval from:

495 (i) the committee that approved the agriculture conservation easement in accordance
496 with Section 17-41a-302;

497 (ii) the legislative body of the county where the agriculture conservation easement is
498 located;

499 (iii) the commission; and

500 (iv) the department.

501 (b) Subject to Subsection (6)(c), an entity listed in Subsection (6)(a)(i), (ii), (iii), or (iv)
502 may place conditions, including mitigatory requirements, before granting approval to change
503 the terms of an agriculture conservation easement.

504 (c) An entity listed in Subsection (6)(a)(i), (ii), (iii), or (iv) may not approve a change
505 requested under Subsection (6)(a) or place a condition described in Subsection (6)(b) that:

506 (i) would be prohibited under the committee's land evaluation and site assessment
507 criteria described in Section 17-41a-202; or

508 (ii) permits the property to be used for a purpose other than agriculture production.

509 (7) The county shall reimburse the department from the fund an amount equal to or less
510 than 10% of each agriculture conservation easement purchase price described in Subsection
511 17-41a-302(5)(b) for administering the easement.

512 Section 10. Section **17-41a-304** is enacted to read:

513 **17-41a-304. Termination.**

514 An agriculture conservation easement may be terminated, in whole or in part, by
515 release, abandonment, merger, nonrenewal, conditions set forth in the document described in
516 Section 17-41a-302 creating the agriculture conservation easement, or in any other lawful
517 manner in which easements may be terminated.

518 Section 11. Section **17-41a-401** is enacted to read:

519 **Part 4. Agriculture Conservation Easement Protections**

520 **17-41a-401. Farmland Assessment Act benefits not affected.**

521 (1) Creation of an agriculture conservation easement may not impair the ability of an

522 owner of property within the easement to obtain the benefits of Title 59, Chapter 2, Part 5,
523 Farmland Assessment Act.

524 (2) The eligibility of an owner of property within an agriculture conservation easement
525 for the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment Act, shall be determined
526 exclusively by the provisions of that act, notwithstanding the property's location within the
527 easement.

528 Section 12. Section **17-41a-402** is enacted to read:

529 **17-41a-402. Limitations on local regulations.**

530 (1) A political subdivision with authority over property subject to an agriculture
531 conservation easement shall encourage the continuity, development, and viability of
532 agricultural production within the easement by not enacting a local law, ordinance, or
533 regulation that would unreasonably restrict agricultural production unless the law, ordinance, or
534 regulation bears a direct relationship to public health or safety.

535 (2) Unless an agriculture conservation easement is terminated in accordance with
536 Section 17-41a-304, a political subdivision may not change the zoning designation of, or a
537 zoning regulation affecting, property subject to an agriculture conservation easement that
538 conflicts with the easement unless the political subdivision receives written approval for the
539 change from:

- 540 (a) each owner of property subject to the agriculture conservation easement; and
- 541 (b) the department.

542 Section 13. Section **17-41a-403** is enacted to read:

543 **17-41a-403. Nuisances.**

544 (1) Each political subdivision shall ensure that any of its laws or ordinances that define
545 or prohibit a public nuisance exclude from the definition or prohibition any agricultural activity
546 or operation within property subject to an agriculture conservation easement that is conducted
547 using sound agricultural practices unless that activity or operation bears a direct relationship to
548 public health or safety.

549 (2) In a civil action for nuisance or a criminal action for public nuisance under Section
550 76-10-803, it is a complete defense if:

- 551 (a) the action seeks to declare an agricultural activity as a nuisance; and
- 552 (b) the agricultural activity:

- 553 (i) is conducted within property subject to the agriculture conservation easement;
- 554 (ii) is conducted within the scope of the easement;
- 555 (iii) is not in violation of any federal, state, or local law or regulation; and
- 556 (iv) is conducted according to sound agricultural practices.

557 (3) For any new subdivision development located in whole or in part within 300 feet of
558 the boundary of property subject to an agriculture conservation easement, the owner of the
559 development shall provide the following notice on any plat filed with the county recorder:

560 "Agriculture Conservation Easement

561 This property is located in the vicinity of property subject to an agriculture conservation
562 easement in which normal agricultural uses and activities have been afforded the highest
563 priority use status. It can be anticipated that such agricultural uses and activities may now or in
564 the future be conducted on property included in the agriculture conservation easement. The use
565 and enjoyment of this property is expressly conditioned on acceptance of any annoyance or
566 inconvenience which may result from such normal agricultural uses and activities."

567 Section 14. Section **17-41a-404** is enacted to read:

568 **17-41a-404. Policy of state agencies.**

569 Each state agency shall encourage the continuity, development, and viability of
570 agricultural production within property subject to an agriculture conservation easement by:

571 (1) not enacting rules that would impose unreasonable restrictions on farm structures or
572 farm practices on property subject to an agriculture conservation easement unless those laws,
573 ordinances, or regulations bear a direct relationship to public health or safety or are required by
574 federal or state law; and

575 (2) modifying existing rules that would impose unreasonable restrictions on farm
576 structures or farm practices on property subject to an agriculture conservation easement unless
577 those laws, ordinances, or regulations bear a direct relationship to public health or safety or are
578 required by federal or state law.

579 Section 15. Section **17-41a-405** is enacted to read:

580 **17-41a-405. Eminent domain restrictions.**

581 (1) A political subdivision having or exercising eminent domain powers may not
582 condemn for any purpose any land within an agriculture conservation easement that is being
583 used for agricultural production unless it has obtained approval, according to the procedures

584 and requirements of this section, from the applicable legislative body and the committee
585 described in Section 17-41a-201 that approved the agriculture conservation easement.

586 (2) Any condemnor wishing to condemn property subject to an agriculture
587 conservation easement shall file a notice of condemnation with the applicable county
588 legislative body and the committee at least 30 days before the day on which the condemnor
589 files an eminent domain complaint.

590 (3) The applicable county legislative body and the committee shall hold a joint public
591 hearing in accordance with Title 52, Chapter 4, Open and Public Meetings Act, on the
592 proposed condemnation at a location within the county in which the property subject to the
593 agriculture conservation easement is located.

594 (4) (a) If the condemnation is for highway purposes or for the disposal of solid or
595 liquid waste materials, the applicable county legislative body and the committee may approve
596 the condemnation only if there is no reasonable and prudent alternative to the use of the
597 property subject to the agriculture conservation easement for the project.

598 (b) If the condemnation is for any other purpose, the applicable legislative body and the
599 committee may approve the condemnation only if:

600 (i) the proposed condemnation would not have an unreasonably adverse effect upon the
601 preservation and enhancement of agricultural production on the property subject to the
602 agriculture conservation easement; or

603 (ii) there is no reasonable and prudent alternative to the use of the property that is
604 within the agriculture conservation easement for the project.

605 (5) (a) Within 60 days after the day on which the applicable county legislative body
606 receives the notice of condemnation, the applicable county legislative body and the committee
607 shall approve or reject the proposed condemnation.

608 (b) If the applicable legislative body and the advisory board fail to act within the
609 60-day period described in Subsection (5)(a), the condemnation shall be considered rejected.

610 Section 16. Section **17-41a-406** is enacted to read:

611 **17-41a-406. Restrictions on state development projects.**

612 (1) Each state agency that plans any development project that might affect property
613 subject to an agriculture conservation easement shall submit the agency's development plan to:

614 (a) the committee described in Section 17-41a-201 that approved the agriculture

615 conservation easement; and

616 (b) the commissioner of the department.

617 (2) The commissioner and the committee shall:

618 (a) review the state agency's proposed development plan; and

619 (b) recommend any modifications to the development project that would protect the
620 integrity of agricultural production on the property subject to the agriculture conservation
621 easement or that would protect the property from nonfarm encroachment.

622 (3) Each state agency and political subdivision of the state that designates or proposes
623 to designate a transportation corridor shall:

624 (a) consider:

625 (i) whether the transportation corridor would:

626 (A) be located on property that is included within an agriculture conservation
627 easement; or

628 (B) interfere with agriculture production on property that is subject to an agriculture
629 conservation easement; and

630 (ii) other reasonably comparable alternatives to the placement of the corridor on
631 property that is subject to an agriculture conservation easement; and

632 (b) make reasonable efforts to minimize or eliminate any detrimental impact on
633 agricultural production that may result from the designation of a transportation corridor.

634 Section 17. Section **17-41a-501** is enacted to read:

635 **Part 5. Agriculture Conservation Project -- Counties of the Fourth, Fifth, or Sixth Class**
636 **17-41a-501. Agriculture conservation project in lieu of agriculture conservation**
637 **easement.**

638 (1) As used in this section, "agriculture conservation project" means an undertaking to
639 conserve or enhance agriculture production for a county-wide public benefit, including:

640 (a) noxious weed abatement;

641 (b) public irrigation improvements; or

642 (c) agriculture soil studies.

643 (2) (a) A county of the fourth, fifth, or sixth class may use money from the agriculture
644 sustainability investment fund created in Section 17-36-55 for:

645 (i) the creation of an agriculture conservation easement under this chapter; or

- 646 (ii) the funding of an agriculture conservation project.
647 (b) A county of the first, second, or third class may not use money from the agriculture
648 sustainability investment fund created in Section 17-36-55 for an agriculture conservation
649 project.
650 (3) If a county described in Subsection (2)(a) decides to fund an agriculture
651 conservation project under Subsection (2)(a)(ii), the committee in the county shall:
652 (a) (i) in addition to adopting the land evaluation and site assessment criteria described
653 in Section 17-41a-202, adopt criteria for an agriculture conservation project;
654 (ii) adopt the agriculture conservation project criteria described in Subsection (3)(a)(i)
655 at a public meeting in accordance with the same public meeting requirements for the adoption
656 of land evaluation and site assessment criteria described in Section 17-41-202; and
657 (iii) file and publish the agriculture conservation project criteria described in
658 Subsection (3)(a)(i) in accordance with the same filing and publication requirements for land
659 evaluation and site assessment criteria under Section 17-41-202;
660 (b) report funds appropriated for an agriculture conservation project in an appropriation
661 plan described in Section 17-41a-202;
662 (c) use the land evaluation and site assessment criteria and agriculture conservation
663 project criteria to evaluate whether an agriculture conservation project should be approved; and
664 (d) comply with the notice, hearing, and meeting requirements for an agriculture
665 conservation easement in Section 17-41a-302 to review and adopt or reject an agriculture
666 conservation project as if it were reviewing an application for an agriculture conservation
667 easement.
668 (4) A proposal for an agriculture conservation project before the committee shall:
669 (a) describe in detail the proposed project;
670 (b) describe the estimated time line to complete the project;
671 (c) include an estimated amount required to fund the project;
672 (d) include an estimate of financial contributions other than those from the fund
673 described in Section 17-36-55, if any, to fund the project;
674 (e) describe the county-wide public benefit created by the project; and
675 (f) include any other relevant information that the committee requests.
676 (5) A committee shall report and file a description, including appropriated funding, of

677 an agriculture conservation project approved under this section with:

678 (a) the commissioner of the department; and

679 (b) the county executive and county legislative body.

680 (6) A county legislative body shall appropriate funds for an agriculture conservation

681 project as directed by the committee in the appropriation plan.

682 Section 18. Section **59-2-505** is amended to read:

683 **59-2-505. Indicia of value for agricultural use assessment -- Inclusion of fair**
684 **market value on certain property tax notices.**

685 (1) (a) The county assessor shall consider only those indicia of value that the land has
686 for agricultural use as determined by the commission when assessing land:

687 (i) that meets the requirements of Section 59-2-503 to be assessed under this part; and

688 (ii) for which the owner has:

689 (A) made a timely application in accordance with Section 59-2-508 for assessment
690 under this part for the tax year for which the land is being assessed; and

691 (B) obtained approval of the application described in Subsection (1)(a)(ii)(A) from the
692 county assessor.

693 (b) If land that becomes subject to a conservation easement created in accordance with
694 Title 57, Chapter 18, Land Conservation Easement Act, or an agriculture conservation
695 easement created in accordance with Title 17, Chapter 41a, Agriculture Sustainability Act,
696 meets the requirements of Subsection (1)(a) for assessment under this part, the county assessor
697 shall consider only those indicia of value that the land has for agricultural use in accordance
698 with Subsection (1)(a) when assessing the land.

699 (2) In addition to the value determined in accordance with Subsection (1), the fair
700 market value assessment shall be included on the notices described in:

701 (a) Section 59-2-919.1; and

702 (b) Section 59-2-1317.

703 (3) The county board of equalization shall review the agricultural use value and fair
704 market value assessments each year as provided under Section 59-2-1001.

705 Section 19. Section **59-2-506** is amended to read:

706 **59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**
707 **Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

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

711 (2) (a) An owner shall notify the county assessor that land is withdrawn from this part
712 within 120 days after the day on which the land is withdrawn from this part.

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

715 (i) \$10; or

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

717 (3) (a) The county assessor shall determine the amount of the rollback tax by
718 computing the difference for the rollback period described in Subsection (3)(b) between:

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

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

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

723 (i) begins on the later of:

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

725 (B) five years preceding the day on which the county assessor mails the notice required
726 by Subsection (5); and

727 (ii) ends the day on which the county assessor mails the notice required by Subsection
728 (5).

729 (4) (a) The county treasurer shall:

730 (i) collect the rollback tax; and

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

733 (A) preparing a document that certifies that the rollback tax lien on the property has
734 been satisfied; and

735 (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder
736 for recordation.

737 (b) The rollback tax collected under this section shall^[*] be deposited into the
738 Agriculture Sustainability Investment Fund created in Section 17-36-55.

739 ~~[(i) be paid into the county treasury; and]~~
740 ~~[(ii) be paid by the county treasurer to the various taxing entities pro rata in accordance~~
741 ~~with the property tax levies for the current year.]~~

742 (c) The county treasurer shall report to the State Tax Commission the total revenues
743 collected under this section for the calendar year beginning on January 1, 2009, and ending on
744 December 31, 2009.

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

- 747 (i) the land is withdrawn from this part;
- 748 (ii) the land is subject to a rollback tax under this section; and
- 749 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within
750 30 days after the day on which the county assessor mails the notice.

751 (b) (i) The rollback tax is due and payable on the day the county assessor mails the
752 notice required by Subsection (5)(a).

753 (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that
754 is withdrawn from this part does not pay the rollback tax within 30 days after the day on which
755 the county assessor mails the notice required by Subsection (5)(a).

756 (6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under
757 this part:

- 758 (i) the rollback tax; and
- 759 (ii) interest imposed in accordance with Subsection (7).

760 (b) The lien described in Subsection (6)(a) shall:

- 761 (i) arise upon the imposition of the rollback tax under this section;
- 762 (ii) end on the day on which the rollback tax and interest imposed in accordance with
763 Subsection (7) are paid in full; and
- 764 (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

765 (7) (a) A delinquent rollback tax under this section shall accrue interest:

- 766 (i) from the date of delinquency until paid; and
- 767 (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1
768 of the year in which the delinquency occurs.

769 (b) A rollback tax that is delinquent on September 1 of any year shall be included on

770 the notice required by Section 59-2-1317, along with interest calculated on that delinquent
771 amount through November 30 of the year in which the notice under Section 59-2-1317 is
772 mailed.

773 (8) (a) Land that becomes ineligible for assessment under this part only as a result of an
774 amendment to this part is not subject to the rollback tax if the owner of the land notifies the
775 county assessor that the land is withdrawn from this part in accordance with Subsection (2).

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

779 (9) Except as provided in Section 59-2-511, land that becomes exempt from taxation
780 under Utah Constitution Article XIII, Section 3, is not subject to the rollback tax if the land
781 meets the requirements of Section 59-2-503 to be assessed under this part.

782 (10) (a) Subject to Subsection (10)(b), an owner of land may appeal to the county
783 board of equalization:

784 (i) a decision by a county assessor to withdraw land from assessment under this part; or
785 (ii) the imposition of a rollback tax under this section.

786 (b) An owner shall file an appeal under Subsection (10)(a) no later than 45 days after
787 the day on which the county assessor mails the notice required by Subsection (5).

788 Section 20. Section **59-2-506.5** is amended to read:

789 **59-2-506.5. Conservation easement rollback tax -- One-time in lieu fee payment --**
790 **Computation -- Lien -- Interest -- Notice -- Procedure -- Collection -- Distribution.**

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

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

795 (B) the land becomes subject to an agriculture conservation easement in accordance
796 with Title 17, Chapter 41a, Agriculture Sustainability Act;

797 (ii) the creation of the conservation easement described in Subsection (1)(a)(i)(A) or
798 (B) is considered to be a qualified conservation contribution for federal purposes under Section
799 170(h), Internal Revenue Code;

800 (iii) the land was assessed under this part in the tax year preceding the tax year that the

801 land does not meet the requirements of Section 59-2-503;

802 (iv) after the creation of the conservation easement described in Subsection (1)(a)(i),

803 the land does not meet the requirements of Section 59-2-503; and

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

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

806 that the land meets the requirements of Subsection (1)(a) within 30 days after the day on which

807 the land does not meet the requirements of Section 59-2-503.

808 (2) (a) Except as provided in Subsection (4), if a conservation easement is terminated

809 in accordance with Section 57-18-5 or an agriculture conservation easement is terminated in

810 accordance with Section 17-41a-304:

811 (i) the land described in Subsection (1) is subject to a conservation easement rollback

812 tax imposed in accordance with this section; or

813 (ii) if the land described in Subsection (1) is owned by a governmental entity as defined

814 in Section 59-2-511, the land is subject to a one-time in lieu fee payment that is:

815 (A) in an amount equal to the conservation easement rollback tax imposed in

816 accordance with this section; and

817 (B) except as provided in Subsection (2)(b), paid, collected, and distributed in the same

818 manner as the conservation easement rollback tax imposed in accordance with this section.

819 (b) Notwithstanding Subsection (2)(a)(ii)(B), a one-time in lieu fee payment under

820 Subsection (2)(a)(ii) is not a lien on the land described in Subsection (2)(a)(ii).

821 (c) (i) The conservation easement rollback tax is an amount equal to 20 times the

822 property tax imposed on the land for each year for the rollback period described in Subsection

823 (2)(c)(ii).

824 (ii) For purposes of Subsection (2)(c)(i), the rollback period is a time period that:

825 (A) begins on the later of:

826 (I) the date the land became subject to a conservation easement; or

827 (II) five years preceding the day on which the county assessor mails the notice required

828 by Subsection (3)(a); and

829 (B) ends the day on which the county assessor mails the notice required by Subsection

830 (3)(a).

831 (d) An owner shall notify the county assessor that a conservation easement on land

832 described in Subsection (1) has been terminated in accordance with Section 57-18-5 within 180
833 days after the day on which the conservation easement is terminated.

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

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

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

839 (b) The conservation easement rollback tax is:

840 (i) due and payable on the day the county assessor mails the notice required by
841 Subsection (3)(a);

842 (ii) delinquent if an owner of the land that is subject to the conservation easement
843 rollback tax does not pay the conservation easement rollback tax within 30 days after the day
844 on which the county assessor mails the notice required by Subsection (3)(a); and

845 (iii) subject to the same:

846 (A) interest provisions of Subsection 59-2-506(7) that apply to the rollback tax; and

847 (B) notice requirements of Subsection 59-2-506(7) that apply to the rollback tax.

848 (c) (i) Except as provided in Subsection (3)(c)(ii), the conservation easement rollback
849 tax shall be paid, collected, subject to a lien, and distributed in a manner consistent with this
850 section and Section 59-2-506.

851 (ii) Notwithstanding Subsection (3)(c)(i), a lien under Subsection (3)(c)(i) relates back
852 to the day on which the conservation easement was terminated.

853 (4) (a) Notwithstanding Subsection (2), land described in Subsection (2) is not subject
854 to the conservation easement rollback tax or the one-time in lieu fee payment required by
855 Subsection (2) if after the conservation easement is terminated in accordance with Section
856 57-18-5 or an agriculture conservation easement is terminated in accordance with Section
857 17-41a-304:

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

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

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

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

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

871 (5) Land subject to a conservation easement created in accordance with Title 57,
872 Chapter 18, Land Conservation Easement Act, or land subject to an agriculture conservation
873 easement in accordance with Title 17, Chapter 41a, Agriculture Sustainability Act, is not
874 subject to a conservation easement rollback tax or a one-time in lieu fee payment if the land is
875 assessed under this part in accordance with Section 59-2-505.

876 Section 21. Section **59-2-924.2** is amended to read:

877 **59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.**

878 (1) For purposes of this section, "certified tax rate" means a certified tax rate calculated
879 in accordance with Section 59-2-924.

880 (2) Beginning January 1, 1997, if a taxing entity receives increased revenues from
881 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
882 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter
883 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax
884 rate to offset the increased revenues.

885 (3) (a) Beginning July 1, 1997, if a county has imposed a sales and use tax under
886 Chapter 12, Part 11, County Option Sales and Use Tax, the county's certified tax rate shall be:

887 (i) decreased on a one-time basis by the amount of the estimated sales and use tax
888 revenue to be distributed to the county under Subsection 59-12-1102(3); and

889 (ii) increased by the amount necessary to offset the county's reduction in revenue from
890 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
891 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection
892 (3)(a)(i).

893 (b) The commission shall determine estimates of sales and use tax distributions for

894 purposes of Subsection (3)(a).

895 (4) Beginning January 1, 1998, if a municipality has imposed an additional resort
896 communities sales and use tax under Section 59-12-402, the municipality's certified tax rate
897 shall be decreased on a one-time basis by the amount necessary to offset the first 12 months of
898 estimated revenue from the additional resort communities sales and use tax imposed under
899 Section 59-12-402.

900 (5) (a) This Subsection (5) applies to each county that:

901 (i) establishes a countywide special service district under Title 17D, Chapter 1, Special
902 Service District Act, to provide jail service, as provided in Subsection 17D-1-201(10); and

903 (ii) levies a property tax on behalf of the special service district under Section
904 17D-1-105.

905 (b) (i) The certified tax rate of each county to which this Subsection (5) applies shall be
906 decreased by the amount necessary to reduce county revenues by the same amount of revenues
907 that will be generated by the property tax imposed on behalf of the special service district.

908 (ii) Each decrease under Subsection (5)(b)(i) shall occur contemporaneously with the
909 levy on behalf of the special service district under Section 17D-1-105.

910 (6) (a) As used in this Subsection (6):

911 (i) "Annexing county" means a county whose unincorporated area is included within a
912 public safety district by annexation.

913 (ii) "Annexing municipality" means a municipality whose area is included within a
914 public safety district by annexation.

915 (iii) "Equalized public safety protection tax rate" means the tax rate that results from:

916 (A) calculating, for each participating county and each participating municipality, the
917 property tax revenue necessary:

918 (I) in the case of a fire district, to cover all of the costs associated with providing fire
919 protection, paramedic, and emergency services:

920 (Aa) for a participating county, in the unincorporated area of the county; and

921 (Bb) for a participating municipality, in the municipality; or

922 (II) in the case of a police district, to cover all the costs:

923 (Aa) associated with providing law enforcement service:

924 (Ii) for a participating county, in the unincorporated area of the county; and

925 (Iii) for a participating municipality, in the municipality; and
926 (Bb) that the police district board designates as the costs to be funded by a property
927 tax; and
928 (B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all
929 participating counties and all participating municipalities and then dividing that sum by the
930 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:
931 (I) for participating counties, in the unincorporated area of all participating counties;
932 and
933 (II) for participating municipalities, in all the participating municipalities.
934 (iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service
935 Area Act:
936 (A) created to provide fire protection, paramedic, and emergency services; and
937 (B) in the creation of which an election was not required under Subsection
938 17B-1-214(3)(c).
939 (v) "Participating county" means a county whose unincorporated area is included
940 within a public safety district at the time of the creation of the public safety district.
941 (vi) "Participating municipality" means a municipality whose area is included within a
942 public safety district at the time of the creation of the public safety district.
943 (vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service
944 Area Act, within a county of the first class:
945 (A) created to provide law enforcement service; and
946 (B) in the creation of which an election was not required under Subsection
947 17B-1-214(3)(c).
948 (viii) "Public safety district" means a fire district or a police district.
949 (ix) "Public safety service" means:
950 (A) in the case of a public safety district that is a fire district, fire protection,
951 paramedic, and emergency services; and
952 (B) in the case of a public safety district that is a police district, law enforcement
953 service.
954 (b) In the first year following creation of a public safety district, the certified tax rate of
955 each participating county and each participating municipality shall be decreased by the amount

956 of the equalized public safety tax rate.

957 (c) In the first budget year following annexation to a public safety district, the certified
958 tax rate of each annexing county and each annexing municipality shall be decreased by an
959 amount equal to the amount of revenue budgeted by the annexing county or annexing
960 municipality:

961 (i) for public safety service; and

962 (ii) in:

963 (A) for a taxing entity operating under a January 1 through December 31 fiscal year,
964 the prior calendar year; or

965 (B) for a taxing entity operating under a July 1 through June 30 fiscal year, the prior
966 fiscal year.

967 (d) Each tax levied under this section by a public safety district shall be considered to
968 be levied by:

969 (i) each participating county and each annexing county for purposes of the county's tax
970 limitation under Section 59-2-908; and

971 (ii) each participating municipality and each annexing municipality for purposes of the
972 municipality's tax limitation under Section 10-5-112, for a town, or Section 10-6-133, for a
973 city.

974 (e) The calculation of a public safety district's certified tax rate for the year of
975 annexation shall be adjusted to include an amount of revenue equal to one half of the amount
976 of revenue budgeted by the annexing entity for public safety service in the annexing entity's
977 prior fiscal year if:

978 (i) the public safety district operates on a January 1 through December 31 fiscal year;

979 (ii) the public safety district approves an annexation of an entity operating on a July 1
980 through June 30 fiscal year; and

981 (iii) the annexation described in Subsection (6)(e)(ii) takes effect on July 1.

982 (7) For the calendar year beginning on January 1, 2007, the calculation of a taxing
983 entity's certified tax rate, calculated in accordance with Section 59-2-924, shall be adjusted by
984 the amount necessary to offset any change in the certified tax rate that may result from
985 excluding the following from the certified tax rate under Subsection 59-2-924(3) enacted by the
986 Legislature during the 2007 General Session:

- 987 (a) personal property tax revenue:
- 988 (i) received by a taxing entity;
- 989 (ii) assessed by a county assessor in accordance with Part 3, County Assessment; and
- 990 (iii) for personal property that is semiconductor manufacturing equipment; or
- 991 (b) the taxable value of personal property:
- 992 (i) contained on the tax rolls of a taxing entity;
- 993 (ii) assessed by a county assessor in accordance with Part 3, County Assessment; and
- 994 (iii) that is semiconductor manufacturing equipment.

995 (8) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be
996 reduced for any year to the extent necessary to provide a community development and renewal
997 agency established under Title 17C, Limited Purpose Local Government Entities - Community
998 Development and Renewal Agencies, with approximately the same amount of money the
999 agency would have received without a reduction in the county's certified tax rate, calculated in
1000 accordance with Section 59-2-924, if:

- 1001 (i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);
- 1002 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the
1003 previous year; and
- 1004 (iii) the decrease results in a reduction of the amount to be paid to the agency under
1005 Section 17C-1-403 or 17C-1-404.

1006 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any
1007 year to the extent necessary to provide a community development and renewal agency with
1008 approximately the same amount of money as the agency would have received without an
1009 increase in the certified tax rate that year if:

- 1010 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to
1011 a decrease in the certified tax rate under Subsection (2) or (3)(a); and
- 1012 (ii) the certified tax rate of a city, school district, local district, or special service
1013 district increases independent of the adjustment to the taxable value of the base year.

1014 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a),
1015 the amount of money allocated and, when collected, paid each year to a community
1016 development and renewal agency established under Title 17C, Limited Purpose Local
1017 Government Entities - Community Development and Renewal Agencies, for the payment of

1018 bonds or other contract indebtedness, but not for administrative costs, may not be less than that
1019 amount would have been without a decrease in the certified tax rate under Subsection (2) or
1020 (3)(a).

1021 (9) For the calendar year beginning on January 1, 2011, and ending on December 31,
1022 2011, the calculation of a taxing entity's certified tax rate, calculated in accordance with
1023 Section 59-2-924, shall be increased by an amount equal to the amount of collections that an
1024 entity received from rollback taxes collected in accordance with Section 59-2-506 for the
1025 calendar year beginning on January 1, 2009, and ending on December 31, 2009.