

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 or



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

47 Monies Appropriated in this Bill:

48 None

49 Other Special Clauses:

50 None

51 Utah Code Sections Affected:

52 AMENDS:

53 **11-38-301**, as last amended by Laws of Utah 2009, Chapter 368

54 **59-2-505**, as last amended by Laws of Utah 2008, Chapters 231 and 301

55 **59-2-506**, as last amended by Laws of Utah 2003, Chapter 208

56 **59-2-506.5**, as last amended by Laws of Utah 2003, Chapter 208

57 59-2-924.2, as last amended by Laws of Utah 2009, Chapter 218

58 ENACTS:

- 59 17-36-55, Utah Code Annotated 1953
- 60 17-41a-101, Utah Code Annotated 1953
- 61 17-41a-102, Utah Code Annotated 1953
- 62 17-41a-201, Utah Code Annotated 1953
- 63 17-41a-202, Utah Code Annotated 1953
- 64 17-41a-301, Utah Code Annotated 1953
- 65 17-41a-302, Utah Code Annotated 1953
- 66 17-41a-303, Utah Code Annotated 1953
- 67 17-41a-304, Utah Code Annotated 1953
- 68 17-41a-401, Utah Code Annotated 1953
- 69 17-41a-402, Utah Code Annotated 1953
- 70 17-41a-403, Utah Code Annotated 1953
- 71 17-41a-404, Utah Code Annotated 1953
- 72 17-41a-405, Utah Code Annotated 1953
- 73 17-41a-501, Utah Code Annotated 1953



74
75 *Be it enacted by the Legislature of the state of Utah:*

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

77 **11-38-301. LeRay McAllister Critical Land Conservation Program.**

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

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

81 (i) subject to Subsection (2)(b), a line item in the budget of the Quality Growth

82 Commission[?]; or

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

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

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

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

87 **17-36-55. Agriculture sustainability investment fund.**

88 (1) As used in this section:

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

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

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

92 (d) "Contract" is as defined in Section 17-41a-102.

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

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

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

98 (c) The fund may accrue interest.

99 (3) (a) The county:

100 (i) shall deposit into the fund:

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

102 (B) interest accrued from the fund; and

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

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

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

108 (4) (a) If a committee has not adopted an appropriation plan in accordance with Section
109 17-41a-202:

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

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

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

118 (c) Subsection (4)(a)(ii) does not apply if, within six months after the day on which the

119 county's fiscal year ends, the committee approves an appropriation plan.

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

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

122 **Part 1. General Provisions**

123 **17-41a-101. Title.**

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

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

126 **17-41a-102. Definitions.**

127 As used in this chapter:

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

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

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

135 (i) business manufacturing activities; or

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

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

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

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

144 (6) "Contract" means a covenant, restriction, or condition in a deed, will, or other
145 instrument signed by or on behalf of the record owner of the underlying real property for the
146 purpose of preserving and maintaining land or water areas, subject to termination by time or
147 condition, for agriculture production.

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

- 150 (a) forages and sod crops;
- 151 (b) grains and feed crops;
- 152 (c) livestock, including all domestic animals, honeybees, poultry, fur-bearing animals,
- 153 and fish;
- 154 (d) trees and fruits; or
- 155 (e) vegetables, nursery, floral, aquaculture, or ornamental stock.
- 156 (8) "Department" means the Department of Agriculture and Food created under Section
- 157 4-2-1.

158 (9) "Fund" means the Agriculture Sustainability Investment Fund established in
159 Section 17-36-55.

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

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

164 **Part 2. Agricultural Preservation Selection and Funding Committee**
165 **17-41a-201. Agricultural Preservation Selection and Funding Committee --**
166 **Created -- Compensation.**

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

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

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

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

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

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

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

183 (e) The committee members described in this Subsection (2):

184 (i) shall elect a chair from among their number; and

185 (ii) may elect other officers from among their number as necessary.

186 (3) (a) The members of the committee described in Subsection (2) may appoint and set
187 terms for nonvoting members of the committee.

188 (b) A nonvoting member of the committee shall be a person who has expertise in
189 agriculture, land management, law, or any other area of expertise necessary to assist the
190 committee with its duties.

191 (4) For performing official duties, each member of the committee described in
192 Subsection (2) shall be reimbursed from the fund for per diem and travel expenses at a rate
193 established in accordance with Section 63A-3-106.

194 (5) (a) If a committee member or an immediate family member of the committee
195 member owns or has an interest in property being considered under this chapter for an
196 agriculture conservation easement or contract, the committee member may not participate or in
197 any way be involved with:

198 (i) any preliminary committee discussions or communications on the application or
199 other applications submitted for the same public hearing;

200 (ii) a public hearing, a committee review, a public meeting, or committee action
201 described in Section 17-41a-302 where the committee will consider an application for the
202 property described in Subsection (5)(a);

203 (iii) publication of a notice for a public hearing, a committee review, or a public
204 meeting described in Subsection (5)(a)(ii);

205 (iv) any other application that will be reviewed by the committee in the same public
206 hearing with the application described in Subsection (5)(a); or

207 (v) funding decisions or communications for or related to the application described in
208 this Subsection (5)(a) or any other application described in Subsection (5)(a)(iv).

209 (b) The county legislative body shall appoint a member of the county legislative body
210 to fill a vacancy created by a committee member described in Subsection (5)(a) to serve for the
211 period that the member is prohibited from participating in a matter described in Subsection

212 (5)(a).

213 (6) The committee may withdraw from the fund adequate and reasonable funds for the
214 reimbursement of per diem and travel expenses for the following that the committee reasonably
215 determines to be necessary to assist the committee:

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

217 (b) county staff;

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

220 (d) a professional consultant.

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

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

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

227 **17-41a-202. Powers and duties -- Appropriation plan -- Land evaluation and site**
228 **assessment criteria.**

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

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

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

236 (ii) the department; and

237 (iii) the Department of Transportation.

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

239 (i) shall identify:

240 (A) all new agriculture conservation easements or contracts created in accordance with
241 Section 17-41a-302;

242 (B) the purchase price described in Subsection 17-41a-302(5)(b) for each new

243 agriculture conservation easement or contract;

244 (C) the amount of funds available for the county to appropriate from the fund for each
245 agriculture conservation easement or contract described in Subsection (2)(b)(i)(A), including
246 matching funds; and

247 (D) the use of the funds;

248 (ii) shall include a funding schedule time line approved by the committee for the
249 appropriation of funds to each owner of property subject to an agriculture conservation
250 easement or contract described in Subsection (2)(b)(i)(A);

251 (iii) shall set future funding priorities; and

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

253 (c) A committee shall, before adopting an appropriation plan, hold a public meeting to
254 adopt the plan.

255 (3) The legislative body of a county shall appropriate money from the fund in
256 accordance with the amounts identified by the committee in Subsection (2)(b)(i)(C) and in
257 accordance with the funding schedule described in Subsection (2)(b)(ii).

258 (4) The committee may set rules, guidelines, and funding priorities for creating
259 individual funding schedules described in Subsection (2)(b)(ii).

260 (5) (a) The committee shall adopt land evaluation and site assessment criteria described
261 in Subsection (5)(d) at a public meeting held within one year after the day on which the
262 committee is created under Section 17-41a-201.

263 (b) The committee may amend the land evaluation and site assessment criteria
264 described in Subsection (5)(a) at a public meeting as needed.

265 (c) The committee shall use the land evaluation and site assessment criteria described
266 in Subsection (5)(a) to evaluate whether an application submitted under Section 17-41a-301
267 should be approved for an agriculture conservation easement or contract.

268 (d) The land evaluation and site assessment criteria described in Subsection (5)(a) shall
269 be based on:

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

271 (ii) the soil quality of the property;

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

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

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

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

276 (e) The committee shall file a copy of the land evaluation and site assessment criteria
277 adopted in accordance with this Subsection (5) with the legislative body of the county in which
278 the committee is located within 30 days after the day on which the committee adopts:

279 (i) the criteria; or

280 (ii) any amendment to the criteria.

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

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

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

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

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

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

294 (c) for training purposes.

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

296 **Part 3. Approval, Review, and Termination of Agriculture Conservation Easement or**
297 **Contract**

298 **17-41a-301. Application.**

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

301 (b) An agriculture conservation easement or contract created in accordance with this
302 section shall be created voluntarily after the committee approves an application submitted by a
303 willing property owner.

304 (2) (a) To be accepted for review by the committee, an application submitted under

305 Subsection (1)(a) shall be signed by each owner of the property that will be subject to the
306 proposed agriculture conservation easement or contract.

307 (b) For purposes of Subsection (2)(a), the committee shall determine whether the
308 signatory owner on the application is the legal owner of the property by reviewing the records
309 of the county recorder.

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

311 (a) identify:

312 (i) the boundaries of the property proposed to be placed under the proposed agriculture
313 conservation easement or contract;

314 (ii) the type of agricultural production proposed for the property in order to qualify for
315 an agriculture conservation easement or contract; and

316 (iii) for each parcel of property:

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

318 (B) the number of acres proposed to be included in the agriculture conservation
319 easement or contract; and

320 (b) include:

321 (i) (A) subject to Subsection (5), the property owner's estimated value of the proposed
322 agriculture conservation easement or contract based on an appraisal by a state-certified general
323 appraiser; and

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

325 (ii) an estimate of the property owner's financial contribution, if any, to establish the
326 proposed agriculture conservation easement or contract; and

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

328 (4) A committee may establish:

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

330 (b) reasonable fees for processing each application in accordance with Section
331 17-41a-201.

332 (5) An appraisal under Subsection (3)(b)(i)(A) may not include, if applicable, the value
333 of a property owner's residence or other residential dwelling on the property described in
334 Subsection (3)(a)(i).

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

336 17-41a-302. Public hearing -- Review and action on application.

337 (1) The committee shall hold a public hearing in accordance with Title 52, Chapter 4,
338 Open and Public Meetings Act, to review an application submitted in accordance with Section
339 17-41a-301.

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

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

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

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

347 (ii) the proposed agricultural production use of the property to qualify for the
348 agriculture conservation easement or contract;

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

350 (iv) the estimated funding proposal to purchase the agriculture conservation easement
351 or contract; and

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

355 (4) The committee shall:

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

357 (b) review an application for an agriculture conservation easement or contract
358 submitted in accordance with Section 17-41a-301 based on:

359 (i) the land evaluation and site assessment criteria described in Section 17-41a-202;
360 and

361 (ii) whether the property described in Subsection (3)(a)(i) is property subject to a
362 long-range transportation plan adopted by a local transportation planning committee or the
363 Department of Transportation; and

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

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

367 (i) (A) reject an application;
368 (B) approve an application, subject to department approval under Subsection (5)(c)(ii);
369 or
370 (C) approve an application with modifications, subject to department approval under
371 Subsection (5)(c)(ii); and
372 (ii) if the committee approves any applications, adopt an appropriation plan in
373 accordance with Section 17-41a-202.
374 (b) For each application approved or approved with modifications, the committee shall
375 note at the public meeting the purchase price for each property identified in the application.
376 (c) (i) Within 30 days after the day on which the committee approves an application for
377 an agriculture conservation easement or contract at the public meeting described in Subsection
378 (5)(a), the committee shall deliver a list of approved applications to the department, subject to
379 Subsection (5)(c)(ii), and the county legislative body, subject to Subsection (5)(c)(iii), that
380 identifies each property and each property address.
381 (ii) The department:
382 (A) shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
383 Act, establish rules to evaluate a property identified in an approved application for
384 environmental hazards or other legal liability; and
385 (B) if the property identified in an approved application fails to meet the standards
386 established by the department's rules described in Subsection (5)(c)(ii)(A), may reject the
387 application by notifying the committee within 50 calendar days after the day on which the
388 department receives the list described in Subsection (5)(c)(i).
389 (iii) The county legislative body shall:
390 (A) at a public meeting:
391 (I) review each property identified in an approved application; and
392 (II) by majority vote, decide whether to approve or reject each identified property; and
393 (B) notify the committee of a property that the legislative body rejects within 50
394 calendar days after the day on which the county legislative body receives the list described in
395 Subsection (5)(c)(i).
396 (d) Within 30 days after the day on which the committee receives notification under
397 Subsection (5)(c)(ii)(B) that the department has rejected an application, the committee shall:

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

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

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

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

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

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

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

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

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

423 (6) (a) Within 90 days after the day on which the committee approves or approves with
424 modifications an application in accordance with Subsection (5)(a), each owner of property
425 approved for an agriculture conservation easement or contract shall draft and submit to the
426 committee an instrument securing the agriculture conservation easement or contract on the
427 property described in the approved application.

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

- 429 (i) identify the holder of the easement or contract;
430 (ii) permit the construction and use of structures incidental to agricultural production
431 on property subject to the easement or contract; and
432 (iii) limit the use of the property to:
433 (A) an agricultural production use approved by the committee;
434 (B) other agricultural production; and
435 (C) nonfarm activities that are reasonably related to enhancing the property's economic
436 viability for agriculture production, including agritourism and other activities that do not impair
437 agricultural production.
- 438 (c) An instrument described in Subsection (6)(a) shall prohibit:
439 (i) a property use that is inconsistent with or prohibitive to agriculture production; and
440 (ii) a structure that is not used for, or incidental to agriculture production.
- 441 (d) If a legal description of the property described in the approved application is
442 available through the county recorder's office, the property owner shall use that legal
443 description in the instrument securing the agriculture conservation easement or contract.
- 444 (7) (a) Within 30 days after the day on which a property owner submits an instrument
445 described in Subsection (6)(a) to the committee, the committee shall, at a public meeting:
446 (i) approve the instrument; or
447 (ii) subject to Subsection (7)(c), reject the instrument.
- 448 (b) The committee may not accept an instrument to secure an agriculture conservation
449 easement or contract under Subsection (7)(a) unless the person who submits the instrument
450 holds title to the property described in the instrument.
- 451 (c) If the committee rejects an instrument to secure an agriculture conservation
452 easement or contract under Subsection (7)(a)(ii), the committee may:
453 (i) recommend modifications to the instrument; and
454 (ii) permit the property owner to resubmit a revised instrument within a period not to
455 exceed 30 days after the day on which the committee initially rejects the instrument under
456 Subsection (7)(a)(ii).
- 457 (8) (a) Within 45 days after the day on which the committee accepts an instrument to
458 secure an agriculture conservation easement or contract, the department shall record with the
459 county recorder the instrument to secure the agriculture conservation easement or contract on

460 the deed of the property described in the instrument.

461 (b) An agriculture conservation easement or contract recorded in accordance with this
462 section is:

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

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

466 (iii) enforceable by the holder to the easement or contract and its successors and
467 assigns; and

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

469 (c) The department shall hold the agriculture conservation easement or contract
470 recorded in accordance with this section.

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

473 (a) send written notification that the agriculture conservation easement or contract has
474 been recorded to:

475 (i) the commissioner of the department; and

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

477 (b) include in the notification:

478 (i) the total acreage of the agriculture conservation easement or contract;

479 (ii) the date on which the agriculture conservation easement or contract was recorded;

480 and

481 (iii) the purchase price described in Subsection (5)(b) for each agriculture conservation
482 easement or contract.

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

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

486 **17-41a-303. Review of agriculture conservation easement or contract.**

487 (1) The department shall review before November 1 of each year each property subject
488 to an agriculture conservation easement or contract recorded in accordance with Section
489 17-41a-302 to ensure that the property use is in compliance with this chapter.

490 (2) An owner of property subject to an agriculture conservation easement or contract is

491 not in compliance with the easement or contract if:

492 (a) the property use is inconsistent with the terms of the agriculture conservation
493 easement or contract; or

494 (b) the property is used for additional activities other than those permitted in the
495 agriculture conservation easement or contract.

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

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

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

502 (5) The department may enforce the terms of an agriculture conservation easement or
503 contract in accordance with Section 57-18-6.

504 (6) (a) Subject to Subsection (6)(c), an owner of property subject to a contract who
505 seeks to change the terms of the contract shall submit a written request to and receive approval
506 from:

507 (i) the committee that approved the contract in accordance with Section 17-41a-302;

508 (ii) the legislative body of the county where the contract is located;

509 (iii) the commission; and

510 (iv) the department.

511 (b) Subject to Subsection (6)(c), an entity listed in Subsection (6)(a)(i), (ii), (iii), or (iv)
512 may place conditions, including mitigatory requirements, before granting approval to change
513 the terms of a contract.

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

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

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

519 (7) The county shall reimburse the department from the fund an amount equal to or less
520 than 10% of each contract purchase price described in Subsection 17-41a-302(5)(b) for
521 administering the contract.

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

523 **17-41a-304. Termination of contract.**

524 A contract may be terminated, in whole or in part, by release, abandonment, merger,
525 nonrenewal, conditions set forth in the document described in Section 17-41a-302 creating the
526 contract, or in any other lawful manner in which a contract may be terminated.

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

528 **Part 4. Agriculture Conservation Easement or Contract Protections**

529 **17-41a-401. Farmland Assessment Act benefits not affected.**

530 (1) Creation of an agriculture conservation easement or contract may not impair the
531 ability of an owner of property within the easement or contract to obtain the benefits of Title
532 59, Chapter 2, Part 5, Farmland Assessment Act.

533 (2) The eligibility of an owner of property within an agriculture conservation easement
534 or contract for the benefits of Title 59, Chapter 2, Part 5, Farmland Assessment Act, shall be
535 determined exclusively by the provisions of that act, notwithstanding the property's location
536 within the easement or contract.

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

538 **17-41a-402. Policy of state agencies.**

539 Each state agency shall encourage the continuity, development, and viability of
540 agricultural production within property subject to an agriculture conservation easement or
541 contract by:

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

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

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

551 **17-41a-403. Eminent domain restrictions.**

552 (1) A political subdivision having or exercising eminent domain powers may not

553 condemn for any purpose any land within an agriculture conservation easement or contract that
554 is being used for agricultural production unless it has obtained approval, according to the
555 procedures and requirements of this section, from the applicable local legislative body.

556 (2) Except as provided in Subsection (6), a condemnor wishing to condemn property
557 subject to an agriculture conservation easement or contract shall file a notice of condemnation
558 with the applicable local legislative body at least 30 days before the day on which the
559 condemnor files an eminent domain complaint.

560 (3) The applicable local legislative body shall hold a public hearing in accordance with
561 Title 52, Chapter 4, Open and Public Meetings Act, on the proposed condemnation at a
562 location within the county in which the property subject to the agriculture conservation
563 easement or contract is located.

564 (4) (a) If the condemnation is for highway purposes, except as provided in Subsection
565 (6), or for the disposal of solid or liquid waste materials, the applicable local legislative body
566 may approve the condemnation only if there is no reasonable and prudent alternative to the use
567 of the property subject to the agriculture conservation easement or contract for the project.

568 (b) If the condemnation is for any other purpose, the applicable local legislative body
569 may approve the condemnation only if:

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

573 (ii) there is no reasonable and prudent alternative to the use of the property that is
574 within the agriculture conservation easement or contract for the project.

575 (5) (a) Within 60 days after the day on which the applicable local legislative body
576 receives the notice of condemnation, the applicable local legislative body shall approve or
577 reject the proposed condemnation.

578 (b) If the applicable local legislative body fails to act within the 60-day period
579 described in Subsection (5)(a), the condemnation shall be considered rejected.

580 (6) (a) (i) If a condemnor is a state entity proposing to condemn property subject to an
581 agriculture conservation easement or contract for highway purposes, the state entity may not
582 file an eminent domain complaint unless the property has been approved for condemnation
583 under this Subsection (6).

584 (ii) A state entity proposing to condemn property subject to an agriculture conservation
585 easement or contract for highway purposes shall file a notice of condemnation with the
586 applicable local legislative body.

587 (b) The applicable local legislative body shall hold a public hearing in accordance with
588 Title 52, Chapter 4, Open and Public Meetings Act, on the proposed condemnation at a
589 location within the county in which the property subject to the agriculture conservation
590 easement or contract is located.

591 (c) The applicable local legislative body shall:

592 (i) approve the condemnation only if there is no reasonable and prudent alternative to
593 the use of the property subject to the agriculture conservation easement or contract for the
594 proposed highway purpose; or

595 (ii) subject to Subsection (6)(d), reject the proposed condemnation.

596 (d) (i) If the applicable local legislative body rejects a condemnation of property
597 proposed by a state entity for highway purposes, the proposed condemnation shall be reviewed
598 at a public meeting by:

599 (A) the commissioner of the Department of Agriculture;

600 (B) the executive director of the Department of Transportation; and

601 (C) the state planning coordinator appointed under Section 63J-4-202.

602 (ii) The commissioner, executive director, and state planning coordinator shall, by
603 majority vote:

604 (i) approve the condemnation only if there is no reasonable and prudent alternative to
605 the use of the property subject to the agriculture conservation easement or contract for the
606 proposed highway purpose; or

607 (ii) reject the proposed condemnation.

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

609 **17-41a-404. Restrictions on state development projects.**

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

613 (a) the committee described in Section 17-41a-201 that approved the agriculture
614 conservation easement or contract; and

- 615 (b) the commissioner of the department.
- 616 (2) The commissioner and the committee shall:
- 617 (a) review the state agency's proposed development plan; and
- 618 (b) recommend any modifications to the development project that would protect the
- 619 integrity of agricultural production on the property subject to the agriculture conservation
- 620 easement or contract or that would protect the property from nonfarm encroachment.
- 621 (3) Each state agency and political subdivision of the state that designates or proposes
- 622 to designate a transportation corridor shall:
- 623 (a) consider:
- 624 (i) whether the transportation corridor would:
- 625 (A) be located on property that is included within an agriculture conservation easement
- 626 or contract; or
- 627 (B) interfere with agriculture production on property that is subject to an agriculture
- 628 conservation easement or contract; and
- 629 (ii) other reasonably comparable alternatives to the placement of the corridor on
- 630 property that is subject to an agriculture conservation easement or contract; and
- 631 (b) make reasonable efforts to minimize or eliminate any detrimental impact on
- 632 agricultural production that may result from the designation of a transportation corridor.

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

634 **17-41a-405. Nuisance.**

635 An agriculture conservation easement, contract, or project approved under this chapter

636 is subject to the public nuisance provisions of Subsection 76-10-803(3).

637 Section 16. Section **17-41a-501** is enacted to read:

638 **Part 5. Agriculture Conservation Project -- Counties of the Fourth, Fifth, or Sixth Class**

639 **17-41a-501. Agriculture conservation project in lieu of agriculture conservation**

640 **easement or contract.**

641 (1) As used in this section, "agriculture conservation project" means an undertaking to

642 conserve or enhance agriculture production for a county-wide public benefit, including:

- 643 (a) noxious weed abatement;
- 644 (b) public irrigation improvements; or
- 645 (c) agriculture soil studies.

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

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

649 or

650 (ii) the funding of an agriculture conservation project.

651 (b) A county of the first, second, or third class may not use money from the agriculture
652 sustainability investment fund created in Section 17-36-55 for an agriculture conservation
653 project.

654 (3) If a county described in Subsection (2)(a) decides to fund an agriculture
655 conservation project under Subsection (2)(a)(ii), the committee in the county shall:

656 (a) (i) in addition to adopting the land evaluation and site assessment criteria described
657 in Section 17-41a-202, adopt criteria for an agriculture conservation project;

658 (ii) adopt the agriculture conservation project criteria described in Subsection (3)(a)(i)
659 at a public meeting in accordance with the same public meeting requirements for the adoption
660 of land evaluation and site assessment criteria described in Section 17-41-202; and

661 (iii) file and publish the agriculture conservation project criteria described in
662 Subsection (3)(a)(i) in accordance with the same filing and publication requirements for land
663 evaluation and site assessment criteria under Section 17-41-202;

664 (b) report funds appropriated for an agriculture conservation project in an appropriation
665 plan described in Section 17-41a-202;

666 (c) use the land evaluation and site assessment criteria and agriculture conservation
667 project criteria to evaluate whether an agriculture conservation project should be approved; and

668 (d) comply with the notice, hearing, and meeting requirements for an agriculture
669 conservation easement or contract in Section 17-41a-302 to review and adopt or reject an
670 agriculture conservation project as if it were reviewing an application for an agriculture
671 conservation easement or contract.

672 (4) A proposal for an agriculture conservation project before the committee shall:

673 (a) describe in detail the proposed project;

674 (b) describe the estimated time line to complete the project;

675 (c) include an estimated amount required to fund the project;

676 (d) include an estimate of financial contributions other than those from the fund

677 described in Section 17-36-55, if any, to fund the project;

678 (e) describe the county-wide public benefit created by the project; and

679 (f) include any other relevant information that the committee requests.

680 (5) A committee shall report and file a description, including appropriated funding, of

681 an agriculture conservation project approved under this section with:

682 (a) the commissioner of the department; and

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

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

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

686 Section 17. Section **59-2-505** is amended to read:

687 **59-2-505. Indicia of value for agricultural use assessment -- Inclusion of fair**
688 **market value on certain property tax notices.**

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

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

692 (ii) for which the owner has:

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

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

697 (b) If land that becomes subject to a conservation easement created in accordance with
698 Title 57, Chapter 18, Land Conservation Easement Act, or an agriculture conservation

699 easement or contract created in accordance with Title 17, Chapter 41a, Agriculture

700 Sustainability Act, meets the requirements of Subsection (1)(a) for assessment under this part,

701 the county assessor shall consider only those indicia of value that the land has for agricultural

702 use in accordance with Subsection (1)(a) when assessing the land.

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

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

706 (b) Section 59-2-1317.

707 (3) The county board of equalization shall review the agricultural use value and fair

708 market value assessments each year as provided under Section 59-2-1001.

709 Section 18. Section **59-2-506** is amended to read:

710 **59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**
711 **Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

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

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

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

719 (i) \$10; or

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

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

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

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

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

727 (i) begins on the later of:

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

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

731 (ii) ends the day on which the county assessor mails the notice required by Subsection
732 (5).

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

734 (i) collect the rollback tax; and

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

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

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

741 (b) The rollback tax collected under this section shall~~[:]~~ be deposited into the
742 Agriculture Sustainability Investment Fund created in Section 17-36-55.

743 ~~[(i) be paid into the county treasury; and]~~

744 ~~[(ii) be paid by the county treasurer to the various taxing entities pro rata in accordance~~
745 ~~with the property tax levies for the current year.]~~

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

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

751 (i) the land is withdrawn from this part;

752 (ii) the land is subject to a rollback tax under this section; and

753 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within
754 30 days after the day on which the county assessor mails the notice.

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

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

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

762 (i) the rollback tax; and

763 (ii) interest imposed in accordance with Subsection (7).

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

765 (i) arise upon the imposition of the rollback tax under this section;

766 (ii) end on the day on which the rollback tax and interest imposed in accordance with
767 Subsection (7) are paid in full; and

768 (iii) relate back to the first day of the rollback period described in Subsection (3)(b).

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

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

773 (b) A rollback tax that is delinquent on September 1 of any year shall be included on
774 the notice required by Section 59-2-1317, along with interest calculated on that delinquent
775 amount through November 30 of the year in which the notice under Section 59-2-1317 is
776 mailed.

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

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

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

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

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

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

792 Section 19. Section **59-2-506.5** is amended to read:

793 **59-2-506.5. Conservation easement rollback tax -- One-time in lieu fee payment --**
794 **Computation -- Lien -- Interest -- Notice -- Procedure -- Collection -- Distribution.**

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

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

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

801 (ii) the creation of the conservation easement described in Subsection (1)(a)(i)(A) or
802 (B) is considered to be a qualified conservation contribution for federal purposes under Section
803 170(h), Internal Revenue Code;

804 (iii) the land was assessed under this part in the tax year preceding the tax year that the
805 land does not meet the requirements of Section 59-2-503;

806 (iv) after the creation of the conservation easement described in Subsection (1)(a)(i),
807 the land does not meet the requirements of Section 59-2-503; and

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

809 (b) An owner of land described in Subsection (1)(a) shall notify the county assessor
810 that the land meets the requirements of Subsection (1)(a) within 30 days after the day on which
811 the land does not meet the requirements of Section 59-2-503.

812 (2) (a) Except as provided in Subsection (4), if a conservation easement is terminated
813 in accordance with Section 57-18-5 or a contract, as defined in Section 17-41a-102, is
814 terminated in accordance with Section 17-41a-304:

815 (i) the land described in Subsection (1) is subject to a conservation easement rollback
816 tax imposed in accordance with this section; or

817 (ii) if the land described in Subsection (1) is owned by a governmental entity as defined
818 in Section 59-2-511, the land is subject to a one-time in lieu fee payment that is:

819 (A) in an amount equal to the conservation easement rollback tax imposed in
820 accordance with this section; and

821 (B) except as provided in Subsection (2)(b), paid, collected, and distributed in the same
822 manner as the conservation easement rollback tax imposed in accordance with this section.

823 (b) Notwithstanding Subsection (2)(a)(ii)(B), a one-time in lieu fee payment under
824 Subsection (2)(a)(ii) is not a lien on the land described in Subsection (2)(a)(ii).

825 (c) (i) The conservation easement rollback tax is an amount equal to 20 times the
826 property tax imposed on the land for each year for the rollback period described in Subsection
827 (2)(c)(ii).

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

829 (A) begins on the later of:

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

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

832 by Subsection (3)(a); and

833 (B) ends the day on which the county assessor mails the notice required by Subsection
834 (3)(a).

835 (d) An owner shall notify the county assessor that a conservation easement on land
836 described in Subsection (1) has been terminated in accordance with Section 57-18-5 within 180
837 days after the day on which the conservation easement is terminated.

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

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

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

843 (b) The conservation easement rollback tax is:

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

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

849 (iii) subject to the same:

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

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

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

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

857 (4) (a) Notwithstanding Subsection (2), land described in Subsection (2) is not subject
858 to the conservation easement rollback tax or the one-time in lieu fee payment required by
859 Subsection (2) if after the conservation easement is terminated in accordance with Section
860 57-18-5 or a contract, as defined in Section 17-41a-102, is terminated in accordance with
861 Section 17-41a-304:

862 (i) an owner of the land applies for assessment of the land as land in agricultural use

863 under this part within 30 days after the day on which the conservation easement or contract is
864 terminated; and

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

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

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

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

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

880 Section 20. Section **59-2-924.2** is amended to read:

881 **59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.**

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

884 (2) Beginning January 1, 1997, if a taxing entity receives increased revenues from
885 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
886 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter
887 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax
888 rate to offset the increased revenues.

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

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

893 (ii) increased by the amount necessary to offset the county's reduction in revenue from

894 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
895 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection
896 (3)(a)(i).

897 (b) The commission shall determine estimates of sales and use tax distributions for
898 purposes of Subsection (3)(a).

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

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

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

907 (ii) levies a property tax on behalf of the special service district under Section
908 17D-1-105.

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

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

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

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

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

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

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

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

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

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

956 (B) in the case of a public safety district that is a police district, law enforcement
957 service.

958 (b) In the first year following creation of a public safety district, the certified tax rate of
959 each participating county and each participating municipality shall be decreased by the amount
960 of the equalized public safety tax rate.

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

965 (i) for public safety service; and

966 (ii) in:

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

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

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

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

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

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

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

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

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

986 (7) For the calendar year beginning on January 1, 2007, the calculation of a taxing

987 entity's certified tax rate, calculated in accordance with Section 59-2-924, shall be adjusted by
988 the amount necessary to offset any change in the certified tax rate that may result from
989 excluding the following from the certified tax rate under Subsection 59-2-924(3) enacted by the
990 Legislature during the 2007 General Session:

991 (a) personal property tax revenue:

992 (i) received by a taxing entity;

993 (ii) assessed by a county assessor in accordance with Part 3, County Assessment; and

994 (iii) for personal property that is semiconductor manufacturing equipment; or

995 (b) the taxable value of personal property:

996 (i) contained on the tax rolls of a taxing entity;

997 (ii) assessed by a county assessor in accordance with Part 3, County Assessment; and

998 (iii) that is semiconductor manufacturing equipment.

999 (8) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be
1000 reduced for any year to the extent necessary to provide a community development and renewal
1001 agency established under Title 17C, Limited Purpose Local Government Entities - Community
1002 Development and Renewal Agencies, with approximately the same amount of money the
1003 agency would have received without a reduction in the county's certified tax rate, calculated in
1004 accordance with Section 59-2-924, if:

1005 (i) in that year there is a decrease in the certified tax rate under Subsection (2) or (3)(a);

1006 (ii) the amount of the decrease is more than 20% of the county's certified tax rate of the
1007 previous year; and

1008 (iii) the decrease results in a reduction of the amount to be paid to the agency under
1009 Section 17C-1-403 or 17C-1-404.

1010 (b) The base taxable value under Subsection 17C-1-102(6) shall be increased in any
1011 year to the extent necessary to provide a community development and renewal agency with
1012 approximately the same amount of money as the agency would have received without an
1013 increase in the certified tax rate that year if:

1014 (i) in that year the base taxable value under Subsection 17C-1-102(6) is reduced due to
1015 a decrease in the certified tax rate under Subsection (2) or (3)(a); and

1016 (ii) the certified tax rate of a city, school district, local district, or special service
1017 district increases independent of the adjustment to the taxable value of the base year.

1018 (c) Notwithstanding a decrease in the certified tax rate under Subsection (2) or (3)(a),
1019 the amount of money allocated and, when collected, paid each year to a community
1020 development and renewal agency established under Title 17C, Limited Purpose Local
1021 Government Entities - Community Development and Renewal Agencies, for the payment of
1022 bonds or other contract indebtedness, but not for administrative costs, may not be less than that
1023 amount would have been without a decrease in the certified tax rate under Subsection (2) or
1024 (3)(a).

1025 (9) For the calendar year beginning on January 1, 2011, and ending on December 31,
1026 2011, the calculation of a taxing entity's certified tax rate, calculated in accordance with
1027 Section 59-2-924, shall be increased by an amount equal to the amount of collections that an
1028 entity received from rollback taxes collected in accordance with Section 59-2-506 for the
1029 calendar year beginning on January 1, 2009, and ending on December 31, 2009.

H.B. 102 2nd Sub. (Gray) - Agriculture Sustainability Act

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

Enactment of this bill could increase the property tax paid by individuals and businesses. There will be a corresponding increase in revenue to the Agricultural Sustainability Investment Fund created by the counties.
