

**AGRICULTURE AMENDMENTS**

2011 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Ralph Okerlund**

House Sponsor: Ronda Rudd Menlove

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**LONG TITLE**

**General Description:**

This bill makes changes to programs and duties of the Department of Agriculture and Food.

**Highlighted Provisions:**

This bill:

- ▶ requires the department to participate in an agricultural mediation program;
- ▶ requires the department to promote and support multiple use of public lands, including acting as a mediator concerning public lands issues;
- ▶ allows the commissioner to establish advisory committees, eliminating a provision requiring the commissioner to request the governor to establish the committees;
- ▶ limits the scope of Title 4, Chapter 7, Agricultural Products and Livestock Dealers' Act, to livestock-related concerns and makes related changes to that chapter;
- ▶ eliminates a provision for the department to grant an annual license, instead of a triennial license, to a pesticide dealer;
- ▶ allows the department to use dedicated credits for improving rangeland health;
- ▶ addresses the Conservation Commission's duties, including expanding the use of certain loan funds;
- ▶ allows the department to use certain restricted account money for the purchase of a conservation easement;
- ▶ changes a provision that decreases payment of the Beef Promotion Fee by the



28 amount of a federal beef promotion assessment to require the payment of both fees; and  
29       ▶ makes technical changes.

30 **Money Appropriated in this Bill:**

31       None

32 **Other Special Clauses:**

33       None

34 **Utah Code Sections Affected:**

35 AMENDS:

- 36       **4-2-2**, as last amended by Laws of Utah 2010, Chapter 391
- 37       **4-2-8**, as last amended by Laws of Utah 2010, Chapter 286
- 38       **4-7-1**, as last amended by Laws of Utah 1995, Chapter 41
- 39       **4-7-2**, as enacted by Laws of Utah 1979, Chapter 2
- 40       **4-7-3**, as last amended by Laws of Utah 2003, Chapter 85
- 41       **4-7-5**, as last amended by Laws of Utah 1995, Chapter 41
- 42       **4-7-7**, as last amended by Laws of Utah 1995, Chapter 41
- 43       **4-7-8**, as last amended by Laws of Utah 2010, Chapter 378
- 44       **4-7-9**, as last amended by Laws of Utah 2003, Chapters 84 and 85
- 45       **4-7-10**, as last amended by Laws of Utah 1995, Chapter 41
- 46       **4-7-11**, as last amended by Laws of Utah 2010, Chapter 378
- 47       **4-7-12**, as last amended by Laws of Utah 1990, Chapter 25
- 48       **4-7-13**, as last amended by Laws of Utah 1995, Chapter 41
- 49       **4-7-14**, as last amended by Laws of Utah 1995, Chapter 41
- 50       **4-14-3**, as last amended by Laws of Utah 2010, Chapters 378 and 391
- 51       **4-18-5**, as last amended by Laws of Utah 2008, Chapters 360 and 382
- 52       **4-20-3**, as last amended by Laws of Utah 2010, Chapter 278
- 53       **4-21-3**, as last amended by Laws of Utah 2002, Chapter 256

54 ENACTS:

- 55       **4-20-10**, Utah Code Annotated 1953

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

58       Section 1. Section **4-2-2** is amended to read:

59           **4-2-2. Functions, powers, and duties of department -- Fees for services --**  
60 **Marketing orders -- Procedure.**  
61           (1) The department shall:  
62           (a) inquire into and promote the interests and products of agriculture and its allied  
63 industries;  
64           (b) promote methods for increasing the production and facilitating the distribution of  
65 the agricultural products of the state;  
66           (c) (i) inquire into the cause of contagious, infectious, and communicable diseases  
67 among livestock and the means for their prevention and cure; and  
68           (ii) initiate, implement, and administer plans and programs to prevent the spread of  
69 diseases among livestock;  
70           (d) encourage experiments designed to determine the best means and methods for the  
71 control of diseases among domestic and wild animals;  
72           (e) issue marketing orders for any designated agricultural product to:  
73           (i) promote orderly market conditions for any product;  
74           (ii) give the producer a fair return on the producer's investment at the marketplace; and  
75           (iii) only promote and not restrict or restrain the marketing of Utah agricultural  
76 commodities;  
77           (f) administer and enforce all laws assigned to the department by the Legislature;  
78           (g) establish standards and grades for agricultural products and fix and collect  
79 reasonable fees for services performed by the department in conjunction with the grading of  
80 agricultural products;  
81           (h) establish operational standards for any establishment that manufactures, processes,  
82 produces, distributes, stores, sells, or offers for sale any agricultural product;  
83           (i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
84 rules necessary for the effective administration of the agricultural laws of the state;  
85           (j) when necessary, make investigations, subpoena witnesses and records, conduct  
86 hearings, issue orders, and make recommendations concerning all matters related to  
87 agriculture;  
88           (k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any  
89 private or public place that may become infested or infected with harmful insects, plant

90 diseases, noxious or poisonous weeds, or other agricultural pests;  
91 (ii) establish and enforce quarantines;  
92 (iii) issue and enforce orders and rules for the control and eradication of pests,  
93 wherever they may exist within the state; and  
94 (iv) perform other duties relating to plants and plant products considered advisable and  
95 not contrary to law;  
96 (l) inspect apiaries for diseases inimical to bees and beekeeping;  
97 (m) take charge of any agricultural exhibit within the state, if considered necessary by  
98 the department, and award premiums at that exhibit;  
99 (n) assist the Conservation Commission in the administration of Title 4, Chapter 18,  
100 Conservation Commission Act, and administer and disburse any funds available to assist  
101 conservation districts in the state in the conservation of the state's soil and water resources;  
102 [and]  
103 (o) participate in the United States Department of Agriculture certified agricultural  
104 mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Sec. 785;  
105 (p) promote and support the multiple use of public lands; and  
106 ~~(o)~~ (q) perform any additional functions, powers, and duties provided by law.  
107 (2) The department, by following the procedures and requirements of Section  
108 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.  
109 (3) (a) No marketing order issued under Subsection (1)(e) shall take effect until:  
110 (i) the department gives notice of the proposed order to the producers and handlers of  
111 the affected product;  
112 (ii) the commissioner conducts a hearing on the proposed order; and  
113 (iii) at least 50% of the registered producers and handlers of the affected products vote  
114 in favor of the proposed order.  
115 (b) (i) The department may establish boards of control to administer marketing orders  
116 and the proceeds derived from any order.  
117 (ii) The board of control shall:  
118 (A) ensure that all proceeds are placed in an account in the board of control's name in a  
119 depository institution; and  
120 (B) ensure that the account is annually audited by an accountant approved by the

121 commissioner.

122 (4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be  
123 deposited in the General Fund as dedicated credits for the grain grading program.

124 Section 2. Section **4-2-8** is amended to read:

125 **4-2-8. Temporary advisory committees -- Appointment -- Compensation.**

126 (1) The commissioner may [~~request the governor to~~] appoint other advisory  
127 committees on a temporary basis to offer technical advice to the department.

128 (2) A member of a committee serves at the pleasure of the commissioner.

129 (3) A member may not receive compensation or benefits for the member's service, but  
130 may receive per diem and travel expenses in accordance with:

131 (a) Section 63A-3-106;

132 (b) Section 63A-3-107; and

133 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
134 63A-3-107.

135 Section 3. Section **4-7-1** is amended to read:

136 **CHAPTER 7. LIVESTOCK DEALERS' ACT**

137 **4-7-1. Title.**

138 This chapter is known as the [~~"Agricultural Products and~~] "Livestock Dealers' Act."

139 Section 4. Section **4-7-2** is amended to read:

140 **4-7-2. Purpose declaration.**

141 The Legislature finds and declares that the public interest requires regulation of the sale  
142 of [~~products of agriculture~~] livestock between the producer and persons who purchase [~~such~~  
143 ~~products~~] livestock for resale to protect producers from unwarranted hazard and loss in the sale  
144 of their [~~products and to ensure an adequate and available supply of products to the ultimate~~  
145 ~~consumer within the state~~] livestock.

146 Section 5. Section **4-7-3** is amended to read:

147 **4-7-3. Definitions.**

148 As used in this chapter:

149 (1) "Agent" or "broker" means [~~any~~] a person who, on behalf of a dealer, purchaser, or  
150 livestock market, as defined in Section 4-30-1, solicits or negotiates the consignment or  
151 purchase of [~~any product of agriculture~~] livestock.

152 (2) "Consignor" means [~~any~~] a person who ships or delivers [~~any product of~~  
153 ~~agriculture~~] livestock to a dealer for [~~storage~~] feedlot, handling, or sale.

154 (3) (a) "Dealer" means [~~any~~] a person who:

155 (i) receives [~~any product of agriculture~~] livestock from [~~any~~] a person for sale [~~or~~  
156 ~~storage~~] on commission; and

157 (ii) is entrusted with the possession, management, control, or disposal of [~~any product~~  
158 ~~of agriculture~~] livestock for the account of that person.

159 (b) "Dealer" includes a livestock dealer.

160 (c) "Dealer" includes a person who owns or leases a [~~warehouse~~] feedlot.

161 (4) (a) "Immediate resale" means the resale of livestock within 60 days of purchase.

162 (b) "Immediate resale" does not include the resale of livestock culled within 60 days  
163 that were purchased for feeding or replacement.

164 (5) "Livestock" means cattle, swine, equines, sheep, camelidae, ratites, bison, and  
165 domesticated elk as defined in Section 4-39-102.

166 (6) "Livestock dealer" means a person engaged in the business of purchasing livestock  
167 for immediate resale or interstate shipment for immediate resale.

168 (7) "Producer" means [~~any~~] a person who is primarily engaged in the business of  
169 raising [~~any product of agriculture~~] livestock for profit.

170 [~~(8) "Product of agriculture" means any product useful to the human species which~~  
171 ~~results from the application of the science and art of the production of plants and animals.]~~

172 [~~(9) "Product of Agriculture Receipt" means a formal document issued by a dealer for~~  
173 ~~any product of agriculture in accordance with Section 4-7-9. The receipt is a fungible~~  
174 ~~certificate of title and claim for the product of agriculture and may be used as proof of~~  
175 ~~ownership for collateral.]~~

176 [~~(10) "Warehouse" means every building, structure, yard, or other protected enclosure~~  
177 ~~in which any product of agriculture is or may be stored. It does not include retail stores, except~~  
178 ~~those that buy directly from a producer.]~~

179 Section 6. Section 4-7-5 is amended to read:

180 **4-7-5. Exemptions.**

181 The surety and licensing requirements of this chapter do not apply to:

182 (1) [~~any~~] a livestock market [~~which~~] that is bonded as required by laws of the United

183 States and Title 4, Chapter 30, Livestock Markets; or

184 (2) [~~any~~] a cooperative incorporated under the laws of this state or another state, except  
185 as to the receipt of [~~products of agriculture~~] livestock from a nonmember producer.

186 Section 7. Section ~~4-7-7~~ is amended to read:

187 **4-7-7. Issuance of dealer, broker, and agent licenses -- Fees -- Deposit of bond or**  
188 **trust agreement -- Renewal -- Refusal to issue or renew license.**

189 (1) The commissioner, if satisfied that the convenience and necessity of the industry  
190 and the public will be served, shall issue a license to a dealer within 30 days after:

191 (a) receipt of a proper application and financial statement;

192 (b) payment of a license fee determined by the department pursuant to Subsection  
193 4-2-2(2); and

194 (c) the posting of a corporate surety bond, an irrevocable letter of credit, a trust fund  
195 agreement, or other security required by Section 4-7-8.

196 (2) Upon proper application and payment of the license fee determined by the  
197 department pursuant to Subsection 4-2-2(2), the commissioner shall issue a license to conduct  
198 business as an agent or broker.

199 (3) A license issued under this chapter:

200 (a) entitles the applicant to conduct the business described in the application through  
201 December 31 of the year in which the license is issued, subject to suspension or revocation for  
202 cause; and

203 (b) is renewable for a period of one year upon:

204 (i) receipt of a proper renewal application; and

205 (ii) payment of an annual license renewal fee determined by the department pursuant to  
206 Subsection 4-2-2(2).

207 (4) A license issued under this chapter shall at all times remain the property of the  
208 state, and the licensee is entitled to its possession only for the duration of the license.

209 (5) The department shall refuse to issue or renew a license if the applicant:

210 (a) cannot produce a financial statement with sufficient assets to justify the amount of  
211 business the applicant contemplates, unless the application is for a broker's or agent's license;

212 (b) is in violation of this chapter or rules adopted under this chapter;

213 (c) has made a false or misleading statement as to the health or physical condition of

214 livestock in connection with the buying, receiving, selling, exchanging, soliciting or  
215 negotiating the sale of, or the weighing of livestock;

216 (d) has failed to keep records of purchases and sales or refused to grant inspection of  
217 those records by authorized agents of the department;

218 (e) has failed to comply with a lawful order of the department;

219 (f) has been found by the department to have failed to pay, without reasonable cause,  
220 obligations incurred in connection with the [~~produce or~~] livestock transaction;

221 (g) has been suspended by order of the Secretary of Agriculture of the United States  
222 Department of Agriculture under provisions of the Packers and Stockyards Act, 1921, 7 U.S.C.  
223 Sec. 181 et seq.;

224 (h) employs a person required to be licensed whose license cannot be renewed or  
225 whose license is under suspension or revocation by the department or the United States  
226 Department of Agriculture; or

227 (i) has any unsatisfied civil judgments related to an activity for which licensing is  
228 required by this chapter.

229 (6) An applicant who has been refused a license or license renewal may not apply again  
230 for one year following refusal unless the department determines that the applicant is in  
231 compliance with this chapter.

232 Section 8. Section 4-7-8 is amended to read:

233 **4-7-8. Applicant for dealer's license to post security -- Increase in amount of**  
234 **security posted -- Action on security authorized -- Duties of commissioner -- Option to**  
235 **require posting new security if action filed -- Effect of failure to post new security --**  
236 **Commissioner's authority to call bond if not renewed.**

237 (1) (a) Before a license is issued to a dealer, the applicant shall post a corporate surety  
238 bond, irrevocable letter of credit, trust fund agreement, or any other security agreement  
239 considered reasonable in an amount not less than \$10,000 nor more than \$200,000, as  
240 determined by the commissioner or as required by the Packers and Stockyards Act, 1921, 7  
241 U.S.C. Section 181 et seq.

242 (b) Any bond shall be written by a surety licensed under the laws of Utah and name the  
243 state, as obligee, for the use and benefit of producers.

244 (c) The bond or other security posted shall be conditioned upon:



245 (i) the faithful performance of contracts and the faithful accounting for and handling of  
246 [~~any product of agriculture~~] livestock consigned to the dealer;

247 (ii) the performance of the obligations imposed under this chapter; and

248 (iii) the payment of court costs and attorney's fees to the prevailing party incident to  
249 any suit upon the bond or other security posted.

250 (2) (a) The commissioner may require a dealer who is issued a license to increase the  
251 amount of the bond or other security posted under Subsection (1)(a) if the commissioner  
252 determines the bond or other security posted is inadequate to secure performance of the dealer's  
253 obligations.

254 (b) The commissioner shall notify the Packers and Stockyards Administration of an  
255 increase made under Subsection (2)(a).

256 (c) The commissioner may suspend a dealer's license for failure to comply with  
257 Subsection (2)(a) within 10 days after notice is given to the dealer.

258 (3) A consignor claiming damages, as a result of fraud, deceit, or willful negligence by  
259 a dealer or as a result of the dealer's failure to comply with this chapter, may bring an action  
260 upon the bond or other security posted for damages against both the principal and surety.

261 (4) (a) If it is reported to the department by a consignor that a dealer has failed to pay in  
262 a timely manner for [~~any product of agriculture~~] livestock received for sale, the commissioner  
263 shall:

264 (i) ascertain the name and address of each consignor who is a creditor of the dealer;  
265 and

266 (ii) request a verified written statement setting forth the amount claimed due from the  
267 dealer.

268 (b) Upon receipt of the verified statements, the commissioner shall bring an action  
269 upon the bond or other security posted on behalf of the consignors who claim amounts due  
270 from the dealer.

271 (5) (a) If an action is filed upon the bond or other security posted, the commissioner  
272 may require the filing of new security.

273 (b) Immediately upon recovery in the action, the commissioner shall require the dealer  
274 to file a new bond or other security.

275 (c) Failure, in either case, to file the bond or other security within 10 days after demand

276 is cause for suspension of the license until a new bond or other security is filed.

277 (d) If the bond or other security posted under this section is not renewed within 10 days  
278 of its expiration date, unless the commissioner states in writing that this is unnecessary, the  
279 commissioner may obtain, after a hearing, the full amount of the bond or other security before  
280 it expires.

281 Section 9. Section ~~4-7-9~~ is amended to read:

282 **4-7-9. Dealers -- Records mandated -- Records subject to inspection.**

283 (1) A dealer who receives [~~any product of agriculture~~] livestock for sale[~~, storage,~~] or  
284 consignment shall promptly record:

285 (a) the name and address of the consignor;

286 (b) the date received;

287 (c) the condition and quantity upon arrival;

288 (d) the date of sale for account of the producer-consignor;

289 (e) the sale price;

290 (f) an itemized statement of the charges to be paid by the producer-consignor;

291 (g) the [~~lot number or other means used for identification of the product~~] individual or  
292 group identification of the livestock;

293 (h) the nature and amount of any claims the dealer has against third persons for  
294 overcharges or damages; and

295 (i) if the dealer has a direct or indirect financial interest in the business of the  
296 purchaser, or, if the purchaser has a similar financial interest in the business of the dealer, the  
297 name and address of the purchaser.

298 (2) (a) The dealer shall provide a copy of the [~~Product of Agriculture Receipt~~] livestock  
299 receipt to the producer immediately upon delivery of the product.

300 [~~(b) Dealers who issue product of agriculture receipts to producers shall plainly cancel~~  
301 ~~upon the face of the receipts each receipt returned to the dealer upon:~~]

302 [~~(i) the delivery by the dealer of the product of agriculture for which the receipt was~~  
303 ~~issued; or~~]

304 [~~(ii) payment by the dealer for the receipted product.~~]

305 [~~(c)~~] (b) The records required by this section shall be retained for a period of one year  
306 following the date of consignment and shall be available during business hours for inspection

307 by the department.

308 ~~[(d)]~~ (c) A consignor involved in a consignment subject to inquiry may inspect relevant  
309 records.

310 (3) (a) A dealer shall file an annual report of the records required under Subsection (1)  
311 with the department on a form prescribed and furnished by ~~[it]~~ the department.

312 (b) The dealer shall file the report by April 15 following the end of a calendar year, or  
313 if the records are kept on a fiscal year basis, by 90 days after the close of the fiscal year.

314 (c) The commissioner may, for good cause shown or by the commissioner's own  
315 motion, grant an extension to the filing deadline under Subsection (3)(b).

316 (d) For purposes of this Subsection (3), "dealer" does not include a packer buyer  
317 registered to purchase livestock for slaughter only.

318 (e) The department shall accept reports as required by the Packers and Stockyards  
319 Administration for livestock under the Packers and Stockyards Act, 9 C.F.R. Sec. 201.97.

320 (f) The reports required under this Subsection (3) may be subject to audit and establish  
321 the basis for bond adequacy.

322 Section 10. Section ~~4-7-10~~ is amended to read:

323 **4-7-10. Livestock purchases.**

324 ~~[(1) In addition to the requirements of Section 4-7-9, if requested by the consignor, a  
325 dealer shall transmit or deliver a written statement of sale to the consignor before the close of  
326 the next business day following the sale of the consignor's products. The statement shall  
327 show:]~~

328 ~~[(a) the date of sale;]~~

329 ~~[(b) the quantity sold; and]~~

330 ~~[(c) the sales price.]~~

331 ~~[(2) The dealer, within 10 days after payment for any consigned product of agriculture,  
332 unless otherwise agreed in writing, shall also remit the proceeds of the sale in full to the  
333 consignor less any agreed compensation and other agreed charges together with a settlement  
334 statement, which need not list the names and addresses of purchasers, except as required by  
335 Section 4-7-9.]~~

336 ~~[(3) If no time for payment is specified in the contract of sale or consignment, payment  
337 is due within 30 days after the dealer takes possession or delivery of any product of~~

338 agriculture.]

339 [~~(4) Subsections (1) through (3) do not apply to the sale of livestock.~~]

340 Livestock purchases [~~are to~~ shall] be paid for as provided in the Packers and Stockyards  
341 Act, 1921, 7 U.S.C. Sec. 181, et seq.

342 Section 11. Section **4-7-11** is amended to read:

343 **4-7-11. Department authority -- Examination and investigation of transactions --**  
344 **Notice of agency action upon probable cause -- Settlement of disputes -- Cease and desist**  
345 **order -- Enforcement -- Review.**

346 (1) For the purpose of enforcing this chapter the department may, upon its own motion,  
347 or shall, upon the verified complaint of an interested consignor, investigate, examine, or  
348 inspect any transaction involving:

349 (a) the solicitation, receipt, sale, or attempted sale of [~~any product of agriculture~~]  
350 livestock by a dealer or person assuming to act as a dealer;

351 (b) the failure to make a correct account of sales;

352 (c) the intentional making of a false statement about market conditions or the condition  
353 or quantity of [~~any product of agriculture~~] livestock consigned;

354 (d) the failure to remit payment in a timely manner to the consignor as required by  
355 contract or by this chapter;

356 (e) any other consignment transaction alleged to have resulted in damage to the  
357 consignor; or

358 (f) any dealer or agent with an unsatisfied judgment by a civil court related to an  
359 activity for which licensing is required by this chapter.

360 (2) (a) After investigation upon its own motion, if the department determines that  
361 probable cause exists to believe that a dealer has engaged or is engaging in acts that violate this  
362 chapter, [~~it~~] the department shall issue a notice of agency action.

363 (b) (i) Upon the receipt of a verified complaint, the department shall undertake to effect  
364 a settlement between the consignor and the dealer.

365 (ii) If a settlement cannot be effected, the department shall treat the verified complaint  
366 as a request for agency action.

367 (3) (a) In a hearing upon a verified complaint, if the commissioner, or hearing officer  
368 designated by the commissioner, determines by a preponderance of the evidence that the person

369 complained of has violated this chapter and that the violation has resulted in damage to the  
370 complainant, the commissioner or officer shall:

371 (i) prepare written findings of fact detailing the findings and fixing the amount of  
372 damage suffered; and

373 (ii) order the defendant to pay damages.

374 (b) In a hearing initiated upon the department's own motion, if the commissioner or  
375 hearing officer determines by a preponderance of the evidence that the person complained of by  
376 the department has engaged in, or is engaging in, acts that violate this chapter, the  
377 commissioner or officer shall prepare written findings of fact and an order requiring the person  
378 to cease and desist from the activity.

379 (4) The department may petition any court having jurisdiction in the county where the  
380 action complained of occurred to enforce [its] the department's order.

381 (5) Any dealer aggrieved by an order issued under this section may obtain judicial  
382 review of the order.

383 (6) (a) The department may not act upon a verified complaint submitted to the  
384 department more than six months after the consignor allegedly suffered damage.

385 (b) A livestock claim shall be made in writing within 120 days from the date of the  
386 transaction.

387 Section 12. Section **4-7-12** is amended to read:

388 **4-7-12. Sale of livestock -- Prima facie evidence of fraud.**

389 The following constitutes prima facie evidence of fraud in the sale of [~~any product of~~  
390 ~~agriculture~~] livestock:

391 (1) any sale of [~~a product of agriculture~~] livestock at less than market price by a dealer  
392 to a person with whom the dealer has a financial interest; or

393 (2) any sale out of which the dealer receives part of the sale price other than the agreed  
394 commission or other agreed charges.

395 Section 13. Section **4-7-13** is amended to read:

396 **4-7-13. Suspension or revocation -- Grounds -- Notice to producers.**

397 (1) The department may suspend or revoke the license of and suspend or refuse all  
398 department services to [~~any~~] a person licensed under this chapter if [~~it~~] the department finds  
399 that the licensee has:

- 400 (a) provided false information when making an application for a license;  
401 (b) failed to comply with this chapter or rules adopted under this chapter; or  
402 (c) engaged in any willful conduct [~~which~~ that] is detrimental to a producer.  
403 (2) If a license is revoked pursuant to a hearing and the decision is final, or an  
404 injunction is imposed by a civil court, the department shall, by publication in a newspaper of a  
405 general circulation in the area, notify producers of livestock [~~or farm products~~] in the area in  
406 which the licensee operated that the license has been revoked or a department action has been  
407 taken.

408 Section 14. Section **4-7-14** is amended to read:

409 **4-7-14. Prohibited acts.**

- 410 (1) A person licensed under this chapter may not:
- 411 (a) make false charges incident to the sale [~~, handling, or storage of products of~~  
412 agriculture] of livestock;
- 413 (b) wilfully fail to comply with the requirements of Section 4-7-9 or 4-7-10;
- 414 (c) fail to file a schedule of commissions and charges;
- 415 (d) reassign [~~products of agriculture~~] livestock without the consent of the  
416 producer-consignor for the purpose of charging more than one commission;
- 417 (e) make any false statement to the detriment of the producer regarding current market  
418 conditions for [~~products of agriculture~~] livestock or about the condition or quantity of the  
419 [~~products~~] livestock consigned for the account of the producer;
- 420 (f) engage in fraud or misrepresentation in the procurement or attempted procurement  
421 of a license; or
- 422 (g) act as a dealer or agent and, with intent to defraud, make, draw, utter, or deliver any  
423 check, draft, or order for the payment of money from any bank or other depository to the owner  
424 for the purchase price of [~~any farm products or any part thereof~~] livestock, when at the time of  
425 the making, drawing, uttering, or delivery the maker or drawer does not have sufficient funds in  
426 or credit with the bank or other depository for the payment of the check, draft, or order in full  
427 upon its presentation.
- 428 (2) (a) The making, drawing, uttering, or delivery of a check, draft, or order in the  
429 circumstances specified in this section shall be evidence of an intent to defraud.
- 430 (b) As used in this section, "credit" means an arrangement or understanding with the

431 bank or depository for the payment of the check, draft, or order.

432 Section 15. Section **4-14-3** is amended to read:

433 **4-14-3. Registration required for distribution -- Application -- Fees -- Renewal --**  
434 **Local needs registration -- Distributor or applicator license -- Fees -- Renewal.**

435 (1) (a) No person may distribute a pesticide in this state that is not registered with the  
436 department.

437 (b) Application for registration shall be made to the department upon forms prescribed  
438 and furnished by it accompanied with an annual registration fee determined by the department  
439 pursuant to Subsection 4-2-2(2) for each pesticide registered.

440 (c) Upon receipt by the department of a proper application and payment of the  
441 appropriate fee, the commissioner shall issue a registration to the applicant allowing  
442 distribution of the registered pesticide in this state through June 30 of each year, subject to  
443 suspension or revocation for cause.

444 (d) (i) Each registration is renewable for a period of one year upon the payment of an  
445 annual registration renewal fee in an amount equal to the current applicable original  
446 registration fee.

447 (ii) Each renewal fee shall be paid on or before June 30 of each year.

448 (2) The application shall include the following information:

449 (a) the name and address of the applicant and the name and address of the person  
450 whose name will appear on the label, if other than the applicant's name;

451 (b) the name of the pesticide;

452 (c) a complete copy of the label which will appear on the pesticide; and

453 (d) any information prescribed by rule of the department considered necessary for the  
454 safe and effective use of the pesticide.

455 (3) (a) Forms for the renewal of registration shall be mailed to registrants at least 30  
456 days before their registration expires.

457 (b) A registration in effect on June 30 for which a renewal application has been filed  
458 and the registration fee tendered shall continue in effect until the applicant is notified either  
459 that the registration is renewed or that it is suspended or revoked pursuant to Section 4-14-8.

460 (4) The department may, before approval of any registration, require the applicant to  
461 submit the complete formula of any pesticide including active and inert ingredients and may

462 also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on  
463 which restrictions are being considered, require a complete description of all tests and test  
464 results that support the claims made by the applicant or the manufacturer of the pesticide.

465 (5) A registrant who desires to register a pesticide to meet special local needs  
466 according to 7 U.S.C. Sec. 136v(c) shall, in addition to complying with Subsections (1) and  
467 (2), satisfy the department that:

468 (a) a special local need exists;

469 (b) the pesticide warrants the claims made for it;

470 (c) the pesticide, if used in accordance with commonly accepted practices, will not  
471 cause unreasonable adverse effects on the environment; and

472 (d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).

473 (6) No registration is required for a pesticide distributed in this state pursuant to an  
474 experimental use permit issued by the EPA or under Section 4-14-5.

475 (7) No pesticide dealer may distribute a restricted use pesticide in this state without a  
476 license.

477 (8) A person shall receive a license before applying:

478 (a) a restricted use pesticide; or

479 (b) a general use pesticide for hire or in exchange for compensation.

480 (9) (a) A license to engage in an activity listed in Subsection (7) or (8) may be obtained  
481 by:

482 (i) submitting an application on a form provided by the department;

483 (ii) paying the license fee determined by the department according to Subsection  
484 4-2-2(2); and

485 (iii) complying with the rules adopted as authorized by this chapter.

486 (b) A person may apply for a triennial license that expires on December 31 ~~[-(i)-of the~~  
487 ~~calendar year in which the license is issued; or (ii)]~~ of the second calendar year after the  
488 calendar year in which the license is issued.

489 (c) Notwithstanding Section 63J-1-504, the department shall retain the fees as  
490 dedicated credits and may only use the fees to administer and enforce;

491 (i) this chapter[-]; and

492 (ii) any other chapter of this title for the purpose of improving rangeland health.



493 Section 16. Section **4-18-5** is amended to read:

494 **4-18-5. Conservation commission -- Functions and duties.**

495 (1) The commission shall:

496 (a) facilitate the development and implementation of the strategies and programs  
497 necessary to protect, conserve, utilize, and develop the soil and water resources of the state;

498 (b) disseminate information regarding districts' activities and programs;

499 (c) supervise the formation, reorganization, or dissolution of districts according to the  
500 requirements of Title 17D, Chapter 3, Conservation District Act;

501 (d) prescribe uniform accounting and recordkeeping procedures for districts and  
502 require each district to submit annually an audit of its funds to the commission;

503 (e) approve and make loans for agricultural purposes, from the Agriculture Resource  
504 Development Fund for:

505 (i) [~~nonfederal~~] rangeland improvement and management projects;

506 (ii) watershed protection and flood prevention projects;

507 (iii) agricultural cropland soil and water conservation projects; and

508 (iv) programs designed to promote energy efficient farming practices;

509 (f) administer federal or state funds, including loan funds under this chapter, in  
510 accordance with applicable federal or state guidelines and make loans or grants from those  
511 funds to land occupiers for:

512 (i) the conservation of soil or water resources; and

513 (ii) maintenance of rangeland improvement projects;

514 (g) seek to coordinate soil and water protection, conservation, and development  
515 activities and programs of state agencies, local governmental units, other states, special interest  
516 groups, and federal agencies; and

517 (h) plan watershed and flood control projects in cooperation with appropriate local,  
518 state, and federal authorities and coordinate flood control projects in the state.

519 (2) The commission may:

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

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

523 (c) sue and be sued; and

524 (d) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative  
525 Rulemaking Act, necessary to carry out the powers and duties specified in Subsections (1)(d),  
526 (e), (f), and (2)(b).

527 Section 17. Section **4-20-3** is amended to read:

528 **4-20-3. Rangeland Improvement Account distribution.**

529 (1) The department shall distribute restricted account money as provided in this  
530 section.

531 (a) The department shall:

532 (i) distribute pro rata to each school district the monies received by the state under  
533 Subsection 4-20-2(1)(b)(i) from the sale or lease of public lands based upon the amount of  
534 revenue generated from the sale or lease of public lands within the district; and

535 (ii) ensure that all monies generated from the sale or lease of public lands within a  
536 school district are credited and deposited to the general school fund of that school district.

537 (b) (i) After the commissioner approves a request from a regional board, the  
538 department shall distribute pro rata to each regional board monies received by the state under  
539 Subsection 4-20-2(1)(b)(i) from fees based upon the amount of revenue generated from the  
540 imposition of fees within that grazing district.

541 (ii) The regional board shall expend monies received in accordance with Subsection  
542 (2).

543 (c) (i) The department shall distribute or expend monies received by the state under  
544 Subsections 4-20-2(1)(b)(ii) through (iv) for the purposes outlined in Subsection (2).

545 (ii) The department may require entities seeking funding from sources outlined in  
546 Subsections 4-20-2(1)(b)(ii) through (iv) to provide matching funds.

547 (2) The department shall ensure that restricted account distributions or expenditures  
548 under Subsections (1)(b) and (c) are used for:

549 (a) range improvement and maintenance;

550 (b) the control of predatory and depredating animals;

551 (c) the control, management, or extermination of invading species, range damaging  
552 organisms, and poisonous or noxious weeds;

553 (d) the purchase or lease of lands or a conservation easement for the benefit of a  
554 grazing district;

555 (e) watershed protection, development, distribution, and improvement; and  
556 (f) the general welfare of livestock grazing within a grazing district.

557 Section 18. Section **4-20-10** is enacted to read:

558 **4-20-10. Promotion of multiple use of rangeland resources.**

559 (1) The department shall work cooperatively to promote efficient multiple-use  
560 management of the rangeland resources of the public lands administered by the federal Bureau  
561 of Land Management within the state to benefit the overall public interest.

562 (2) The department may serve as an independent resource for mediating disputes  
563 concerning permit issues within the scope of Subsection (1).

564 Section 19. Section **4-21-3** is amended to read:

565 **4-21-3. Beef promotion fee -- Deposit of revenue -- Fee set by referendum.**

566 (1) (a) The department shall collect a fee established as required by Subsection (2) on  
567 all fee brand inspected cattle upon change of ownership or slaughter in an amount not more  
568 than \$1 or less than 25 cents.

569 (b) The fee is collected by the local brand inspector at the time of inspection of cattle,  
570 or deducted and collected by the marketing agency or the purchaser.

571 (c) All revenue collected under this section shall be paid to the department, which shall  
572 deposit the revenue in an agency fund that is hereby created and [~~shall be~~] is known as the  
573 "Beef Promotion Fund."

574 (2) Before a fee assessed under Subsection (1) becomes effective, the department shall  
575 give notice of the proposed fee to all known beef and dairy cattle producers in the state, invite  
576 all beef and dairy cattle producers to register to vote in a referendum, conduct a hearing on the  
577 proposed fee change, and conduct a referendum where at least 50% of the registered producers  
578 cast a vote with a majority of those voting casting an affirmative vote on the proposed fee level.

579 (3) Any fee currently assessed by the department continues in effect until modified by  
580 the department under Subsections (1) and (2).

581 (4) The fee assessed under this section [~~shall be reduced by~~] is in addition to the  
582 amount of any assessment required to be paid pursuant to the Beef Promotion and Research  
583 Act of 1985, 7 U.S.C. Sec. 2901 et seq.

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**Legislative Review Note**  
**as of 12-28-10 10:47 AM**

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

S.B. 32, 2011 General Session

SHORT TITLE: Agriculture Amendments

SPONSOR: Okerlund, R.

STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill is projected to generate additional \$200,000, which will be collected by the Department of Agriculture and Food and passed-through to the Beef Council.

### STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
<b>Revenue:</b>			
Trust Funds	\$0	\$200,000	\$200,000
Total Revenue	\$0	\$200,000	\$200,000
<b>Expenditure:</b>			
Trust Funds	\$0	\$200,000	\$200,000
Total Expenditure	\$0	\$200,000	\$200,000
Net Impact, All Funds (Rev.-Exp.)	\$0	\$0	\$0
Net Impact, General/Education Funds	\$0	\$0	\$0

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill will require beef producers to increase the fee paid to the State by an amount equal to that paid to the Federal Government (\$.50 per head).