

Representative Joel Ferry proposes the following substitute bill:

SOIL HEALTH AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: Jerry W. Stevenson

LONG TITLE

General Description:

This bill address programs related to health of soil.

Highlighted Provisions:

This bill:

- ▶ modifies the purposes of the Conservation Commission Act;
- ▶ defines terms;
- ▶ creates the Utah Soil Health Program and provides for its scope;
- ▶ addresses powers and duties under the program;
- ▶ establishes the Soil Health Advisory Committee;
- ▶ addresses confidentiality of information;
- ▶ imposes reporting requirements;
- ▶ provides a sunset date; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:



26 AMENDS:

27 **4-18-102**, as last amended by Laws of Utah 2018, Chapter 115

28 **63I-1-204**, as last amended by Laws of Utah 2020, Chapters 154 and 232

29 ENACTS:

30 **4-18-301**, Utah Code Annotated 1953

31 **4-18-302**, Utah Code Annotated 1953

32 **4-18-303**, Utah Code Annotated 1953

33 **4-18-304**, Utah Code Annotated 1953

34 **4-18-305**, Utah Code Annotated 1953

35 **4-18-306**, Utah Code Annotated 1953

36 **4-18-307**, Utah Code Annotated 1953

37 **4-18-308**, Utah Code Annotated 1953

38

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

40 Section 1. Section **4-18-102** is amended to read:

41 **4-18-102. Purpose declaration.**

42 (1) The Legislature finds and declares that:

43 (a) the soil and water resources of this state constitute one of the state's basic assets;

44 and

45 (b) the preservation of soil and water resources requires planning and programs to

46 ensure:

47 (i) the development and utilization of soil and water resources; and

48 (ii) soil and water resources' protection from the adverse effects of wind and water

49 erosion, sediment, and sediment related pollutants.

50 (2) The Legislature finds that local production of food is essential for:

51 (a) the security of the state's food supply; and

52 (b) the self-sufficiency of the state's citizens.

53 (3) The Legislature finds that sustainable agriculture is critical to:

54 (a) the success of rural communities;

55 (b) the historical culture of the state;

56 (c) maintaining healthy farmland;

- 57 (d) maintaining high water quality;
- 58 (e) maintaining abundant wildlife;
- 59 (f) high-quality recreation for citizens of the state; and
- 60 (g) helping to stabilize the state economy.

61 (4) The Legislature finds that livestock grazing on public lands is important for the
 62 proper management, maintenance, and health of public lands in the state.

63 (5) The Legislature encourages each agricultural producer in the state to operate in a
 64 reasonable and responsible manner to maintain the integrity of soil, water, and air.

65 (6) The department shall administer the Utah Agriculture Certificate of Environmental
 66 Stewardship Program, created in Section 4-18-107, to encourage each agricultural producer in
 67 this state to operate in a reasonable and responsible manner to maintain the integrity of the
 68 state's resources.

69 (7) The Legislature finds that soil health is essential to protecting the state's soil and
 70 water resources, bolstering the state's food supply, and sustaining the state's agricultural
 71 industry.

72 Section 2. Section 4-18-301 is enacted to read:

73 **Part 3. Utah Soil Health Program**

74 **4-18-301. Title.**

75 This part is known as the "Utah Soil Health Program."

76 Section 3. Section 4-18-302 is enacted to read:

77 **4-18-302. Definitions.**

78 As used in this part:

79 (1) "Agricultural producer" means a person engaged in the production of a product of
 80 agriculture, as defined in Section 4-1-109.

81 (2) "Commission" means the Conservation Commission created in Section 4-18-104.

82 (3) "Commissioner" means the commissioner of agriculture and food or the
 83 commissioner's designee.

84 (4) "Demonstration project" means an on- or off-farm or ranch project that incorporates
 85 soil health practices and principles into soil management for the purposes of demonstrating soil
 86 health practices and the resulting impacts to agricultural producers and others.

87 (5) (a) "Educational project" means a project that promotes knowledge about soil

88 health to eligible entities, consumers, policymakers, and others.

89 (b) "Educational project" includes the development of written or video-based materials
90 or in-person events, such as workshops, field days, or conferences.

91 (6) "Eligible entities" means public, governmental, and private entities, including:

92 (a) conservation districts;

93 (b) producers;

94 (c) groups of producers;

95 (d) producer groups;

96 (e) producer cooperatives;

97 (f) water conservancy districts;

98 (g) American Indian Tribes;

99 (h) nonprofit entities;

100 (i) academic or research institutions and subdivisions of these institutions;

101 (j) the United States or any corporation or agency created or designed by the United
102 States; or

103 (k) the state or any of the state's agencies or political subdivisions.

104 (7) "Environmental benefits" means benefits to natural and agricultural resources and
105 human health, including:

106 (a) improved air quality;

107 (b) surface or ground water quality and quantity;

108 (c) improved soil health, including nutrient cycling, soil fertility, or drought resilience;

109 (d) reductions in agricultural inputs;

110 (e) carbon sequestration or climate resilience;

111 (f) increased biodiversity; or

112 (g) improved nutritional quality of agricultural products.

113 (8) "Historically underserved producer" means a producer who qualifies as one of the
114 following:

115 (a) a beginning farmer or rancher, as defined in 7 U.S.C. Sec. 2279;

116 (b) a limited resource farmer or rancher, as described in 7 U.S.C. Sec. 9081;

117 (c) a socially disadvantaged farmer or rancher, as defined in 7 U.S.C. Sec. 2003; or

118 (d) a veteran farmer or rancher, as defined in 7 U.S.C. Sec. 1502.

119 (9) "Implementation project" means a project that provides incentives directly to
120 producers to implement on-farm or on-ranch soil health practices.

121 (10) "Incentives" means monetary incentives, including grants and loans, or
122 non-monetary incentives, including equipment, technical assistance, educational materials,
123 outreach, and market development assistance for market premiums or ecosystem services
124 markets.

125 (11) "Land manager" means a manager of land where agricultural activities occur,
126 including:

127 (a) a federal land manager;

128 (b) a lessee of federal, tribal, state, county, municipal, or private land where
129 agricultural activities occur; or

130 (c) others as the department may determine.

131 (12) "Landowner" means an owner of record of federal, tribal, state, county, municipal,
132 or private land where agricultural activities occur.

133 (13) "Program" means the Utah Soil Health Program created in Section [4-18-303](#).

134 (14) (a) "Research project" means a project that advances the scientific understanding
135 of how agricultural practices improve soil health, and related impacts, such as environmental
136 benefits, benefits to human health, including the nutritive composition of foods, or economic
137 impacts.

138 (b) "Research project" includes projects at experiment stations, on:

139 (i) lands owned by the United States or any corporation or agency created or designed
140 by the United States; and

141 (ii) lands owned by the state or any of the state's agencies or political subdivisions; or

142 (iii) private lands.

143 (15) "Soil health" means the continued capacity of soil to function as a vital living
144 ecosystem that sustains plants, animals, and humans.

145 (16) "Soil health activities" means implementation of soil health practices, research
146 projects, demonstration projects, or educational projects, or other activities the department
147 finds necessary or appropriate to promote soil health.

148 (17) "Soil Health Advisory Committee" means the committee created in Section
149 [4-18-306](#).

150 (18) "Soil health grant program" means the grant program authorized in Section
151 4-18-304.

152 (19) "Soil health practices" means those practices that may contribute to soil health,
153 including:

154 (a) no-tillage;

155 (b) conservation tillage;

156 (c) crop rotations;

157 (d) intercropping;

158 (e) cover cropping;

159 (f) planned grazing;

160 (g) the application of soil amendments that add carbon or organic matter, including
161 biosolids, manure, compost, or biochar;

162 (h) revegetation; or

163 (i) other practices the department determines contribute or have the potential to
164 contribute to soil health.

165 (20) "Soil health principle" means a principle that promotes soil health and includes
166 maximizing soil cover, minimizing soil disturbance, maximizing biodiversity, maintaining a
167 continual live plant or root in the soil, or integrating livestock.

168 (21) "State soil health inventory and platform" means a tool, including a geospatial
169 inventory, documenting:

170 (a) the condition of agricultural soils;

171 (b) the implementation of soil health practices; or

172 (c) the environmental and economic impacts, including current and potential future
173 carbon holding capacity of soils, or other information the department considers appropriate.

174 (22) "Technical assistance organization" means a person, including an eligible entity,
175 who has demonstrated technical expertise in implementing soil health practices and soil health
176 principles, as determined by the department.

177 Section 4. Section **4-18-303** is enacted to read:

178 **4-18-303. Creates Utah Soil Health Program -- Program and purposes.**

179 (1) Under the commission there is created the Utah Soil Health Program.

180 (2) The program shall:

- 181 (a) encourage widespread adoption of soil health practices by producers;
- 182 (b) promote environmental benefits;
- 183 (c) advance the understanding of the environmental and economic benefits of soil
- 184 health practices by producers, policymakers, consumers, and the general public; and
- 185 (d) support scientific research.
- 186 (3) The program may obtain the objectives described in Subsection (2) by:
- 187 (a) providing incentives to implement soil health practices;
- 188 (b) increasing the understanding of the benefit of soil health practices through
- 189 education and outreach programs;
- 190 (c) advancing scientific understanding of soil health as it relates to:
- 191 (i) the existing conditions of Utah's agricultural soils, including current carbon storage
- 192 and carbon storage potential;
- 193 (ii) the on- and off-farm or ranch environmental benefits of soil health practices; and
- 194 (iii) the on- and off-farm or ranch economic benefits of soil health practices;
- 195 (d) evaluating currently available or developing new consistent soil health sampling
- 196 and testing protocols appropriate for Utah's agricultural systems; and
- 197 (e) facilitating multi-stakeholder collaboration to advance the understanding of the
- 198 science of soil health and the implementation of soil health practices, including amongst the
- 199 federal government and the federal government's agencies, agencies and political subdivisions
- 200 of the state, academic or research institutions, non-governmental organizations, private entities,
- 201 nonprofits, producers, or other parties.
- 202 (4) The department shall provide support to the commission in implementing the
- 203 program.

204 Section 5. Section **4-18-304** is enacted to read:

205 **4-18-304. Program development.**

- 206 (1) In consultation with the Soil Health Advisory Committee created in Section
- 207 4-18-306 and in accordance with Subsection 4-18-305(1)(e), the commission may establish the
- 208 following programs:
- 209 (a) a grant program for eligible entities to engage in soil health activities including
- 210 implementation, research, education, or demonstration projects;
- 211 (b) a state soil health monitoring and inventory platform; or

212 (c) other programs the commission considers appropriate or necessary.

213 (2) In establishing a program in accordance with Subsection (1), the commission may
214 prioritize the establishment of programs based on the needs of historically underserved
215 producers, the availability of funds and staffing, emerging areas of scientific inquiry and
216 research, environmental benefits, or other considerations.

217 (3) A program established pursuant to this section shall be voluntary and
218 incentive-based and may not:

219 (a) require participation by an eligible entity;

220 (b) mandate the implementation of soil health practices by non-participating entities; or

221 (c) bind participants to execute specific practice standards in adverse climate
222 conditions or circumstances with limited or no chance of success or that would cause
223 irreparable physical or economic harm to the producer's operation physically or economically.

224 (4) In addition to Section [4-18-307](#):

225 (a) the commission, grantees, partners, or other program participants may not disclose,
226 sell, or otherwise provide information that could be used to identify the agricultural operations
227 or practices of program participants without express permission provided in writing; and

228 (b) in determining whether information may be released, the private interests of a
229 participant are presumed to outweigh the public interest in disclosure.

230 (5) The commission shall act as the policy board to set guidelines by rule, made in
231 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the
232 administration of programs developed under Section [4-18-305](#). The Soil Health Advisory
233 Committee serves as an advisory committee to the commission.

234 Section 6. Section **4-18-305** is enacted to read:

235 **4-18-305. Powers and duties.**

236 (1) In carrying out the provisions of this part, including for the soil health grant
237 program, the commission may:

238 (a) subject to Subsection (2), accept grants, gifts, services, donations, or other
239 resources from:

240 (i) the United States government or a corporation or agency created or designed by the
241 United States to lend or grant money;

242 (ii) the state or any of the state's political subdivisions; or

243 (iii) any other source;
244 (b) administer and expend money for the purpose of planning, developing, or putting
245 into operation a program or project in accordance with Section 4-18-304 that is made available
246 to the department:
247 (i) by the United States government or any of the United States' agencies;
248 (ii) by the state or any of the state's political subdivisions; or
249 (iii) derived from any other source;
250 (c) provide grants, loans, and other resources to an eligible entity to perform soil health
251 activities;
252 (d) unless otherwise specified by the grantor or donor, use funds received, including
253 from the state or any of the state's political subdivisions or the United States government or any
254 of the United States' agencies, to serve as matching funds for soil health activities;
255 (e) place money the commission receives pursuant to Subsection (1)(a) into an escrow
256 account and to administer and expend any money or interest accrued in the trust; and
257 (f) cooperate and collaborate with:
258 (i) producers;
259 (ii) groups of producers;
260 (iii) producer cooperatives;
261 (iv) conservation districts;
262 (v) water conservancy districts;
263 (vi) academic, land grant, or other research institutions;
264 (vii) the United States government, the United States' agencies, or any corporation of
265 the United States;
266 (viii) the state or any of the state's political subdivisions;
267 (ix) other states;
268 (x) American Indian Tribes; or
269 (xi) other entities as the commission may decide for the purpose of advancing the
270 scientific understanding of soil health, soil health practices, or the environmental or economic
271 outcomes, increasing monetary or nonmonetary resources to support scientific research, or in
272 applying for grants, including applying for grants jointly, or otherwise obtaining resources to
273 support the programs authorized in this part.

274 (2) (a) The department may not pledge the faith or credit of the state or any county or
275 other political subdivision.

276 (b) In connection with grants, gifts, donations, or other resources, the commission:

277 (i) may enter into agreements or contracts as may be required; and

278 (ii) shall comply with Title 67, Chapter 16, Utah Public Officers' and Employees'
279 Ethics Act, and executive orders establishing ethics policy for executive branch agencies and
280 employees.

281 (3) In establishing a soil health grant program, the commission shall issue guidelines,
282 by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
283 to:

284 (a) make money available for demonstration, educational, implementation, or research
285 grants to eligible entities;

286 (b) if a grant recipient of an implementation, demonstration, or research project grant
287 does not have sufficient expertise in implementing soil health practices or principles or
288 interpreting project outcomes, require the recipient to work with a technical assistance
289 organization;

290 (c) ensure that the most accurate and current scientific evidence related to soil health,
291 soil health practices, and economic and environmental benefits of soil health practices is
292 considered in awarding a grant;

293 (d) minimize the use of money by grant recipients for costs not directly related to grant
294 outcomes, such as administrative expenses or other expenses related to overhead;

295 (e) establish a monitoring and oversight procedure to ensure that money is spent in
296 accordance with the state law; and

297 (f) establish protocols to ensure the confidentiality of producer, landowner, and land
298 information, including with respect to a state soil health monitoring and inventory platform and
299 state soil health testing program.

300 (4) Notwithstanding Subsection [4-18-304\(3\)](#) and Section [4-18-307](#), the commission
301 shall require a recipient of a grant for research, educational, or demonstration projects to:

302 (a) conduct outreach and educational activities regarding the projects, including field
303 day visits; and

304 (b) disclose information related to the projects, including the locations of the projects,

305 the soil health practices implemented, and the environmental or economic outcomes.

306 (5) Upon receiving money to implement a soil health grant program, the commission
307 shall make money available to eligible entities by July 1 of the following year.

308 (6) The commission may adopt rules, in accordance with Title 63G, Chapter 3, Utah
309 Administrative Rulemaking Act, necessary to carry out this part.

310 Section 7. Section **4-18-306** is enacted to read:

311 **4-18-306. Soil Health Advisory Committee.**

312 (1) The Soil Health Advisory Committee is created under the commission.

313 (2) The Soil Health Advisory Committee shall assist the commission in administering
314 the program.

315 (3) The Soil Health Advisory Committee shall maintain no less than seven members
316 appointed by the commissioner.

317 (4) Soil Health Advisory Committee members shall include farmers, ranchers, or other
318 agricultural producers of diverse production systems, including diversity in size, product,
319 irrigated and dryland systems, and other production methods. Members may include:

320 (a) an irrigated crop producer;

321 (b) a dryland crop producer;

322 (c) a dairyman or pasture producer;

323 (d) a rancher;

324 (e) a specialty crop or small farm producer;

325 (f) a crop consultant;

326 (g) a tribal representative;

327 (h) a representative with expertise in soil health;

328 (i) a board member representative of the Commission; or

329 (j) a Utah Association of Conservation Districts representative.

330 (5) At least two members of the Soil Health Advisory Committee shall be water users
331 who own, lease, or represent owners of adjudicated water rights used for agricultural purposes.

332 (6) Representation on the Soil Health Advisory Committee shall reflect the different
333 geographic areas and demographic diversity of the state, to the greatest extent possible.

334 (7) (a) The commissioner shall appoint members of the Soil Health Advisory
335 Committee for two year terms.

336 (b) Notwithstanding the requirements of Subsection (7)(a), the commissioner shall, at
337 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
338 Soil Health Advisory Committee members are staggered so that approximately half of the
339 board is appointed every two years.

340 (c) An appointee to the Soil Health Advisory Committee may not serve more than two
341 full terms.

342 (8) A Soil Health Advisory Committee member shall hold office until the expiration of
343 the term for which the member is appointed or until a successor has been duly appointed.

344 (9) The commissioner may remove a member of the Soil Health Advisory Committee
345 for cause.

346 (10) The Soil Health Advisory Committee may invite a representative of the Utah
347 Association of Conservation Districts, the United States Department of Agriculture Natural
348 Resources Conservation Service, Utah State University faculty member, the Department of
349 Natural Resources, Division of Water Rights, and Division of Water Quality, to provide
350 technical expertise to the Soil Health Advisory Committee on an as needed basis.

351 (11) The department will provide staff to manage the Soil Advisory Health Committee.

352 (12) The Soil Health Advisory Committee shall make recommendations to the
353 commission concerning and assist in:

354 (a) setting program priorities;

355 (b) developing the development of guidelines for the implementation of the program,
356 including guidelines and recommendations for the qualifications of nonprofit entities to receive
357 grant money;

358 (c) soliciting input from similar stakeholders within each member's area of expertise
359 and region of the state and communicate the Soil Health Advisory Committee's
360 recommendations to the region and stakeholders represented by each member;

361 (d) soliciting input, in collaboration with the department, from underserved agricultural
362 producers;

363 (e) soliciting input from producers that reflect the different geographic areas and
364 demographic diversity of the state to the greatest extent possible;

365 (f) identifying key questions and areas of need to recommend for future research and
366 demonstration efforts;

367 (g) reviewing soil health grant proposals, including proposed budgets, proposed grant
368 outcomes, and the qualifications of any nonprofits applying for grants;

369 (h) creating a screening and ranking system for proposals and proposing funding
370 recommendations to the commission;

371 (i) reviewing agreements for cooperation or collaboration entered into by the
372 department pursuant to Subsection 4-18-305(1)(f) and making recommendations to the
373 commission for approval;

374 (j) reviewing and recommending soil health practices to ensure they support soil
375 health;

376 (k) evaluating the results and effectiveness of soil health activities and the program in
377 improving soil health; and

378 (l) recommending to the commission, ways to enhance statewide efforts to support
379 healthy soils throughout the state.

380 (13) The Soil Health Advisory Committee shall meet at least quarterly. Meetings shall
381 be conducted as required by Title 52, Chapter 4, Open and Public Meetings Act.

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

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

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

386 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
387 63A-3-107.

388 Section 8. Section 4-18-307 is enacted to read:

389 **4-18-307. Producer and landowner information - confidentiality.**

390 (1) With regard to information that constitutes a record under Title 63G, Chapter 2,
391 Government Records Access and Management Act, notwithstanding that act, the department
392 may not disclose a record, including analyses or a map, compiled or maintained pursuant to this
393 part that is related to private lands and identify, or allow to be identified, the agricultural
394 practices of a specific Utah landowner or producer.

395 (2) In determining whether a record may be released, private interests are presumed to
396 outweigh the public interest in disclosure.

397 (3) Summary or aggregated data that does not specifically identify agricultural

398 practices of an individual landowner or producer is not subject to this section.

399 Section 9. Section **4-18-308** is enacted to read:

400 **4-18-308. Reporting requirement.**

401 (1) Each year, by no later than June 30, the department shall prepare and make
402 available to the public a report on the department's official website that contains the following
403 information:

404 (a) an accounting of money received and spent for the program;

405 (b) a description of activities undertaken, including the number and type of
406 grant-funded projects and the educational and stakeholder engagement activities; and

407 (c) a summary of the activities and recommendations of the Soil Health Advisory
408 Committee.

409 (2) The commissioner shall annually report to the Natural Resources, Agriculture, and
410 Environment Interim Committee by no later than the November interim meeting of that
411 committee. The report shall include the information described in Subsection (1).

412 Section 10. Section **63I-1-204** is amended to read:

413 **63I-1-204. Repeal dates, Title 4.**

414 (1) Section **4-2-108**, which creates the Agricultural Advisory Board, is repealed July 1,
415 2023.

416 (2) Section **4-17-104**, which creates the State Weed Committee, is repealed July 1,
417 2021.

418 (3) Title 4, Chapter 18, Part 3, Utah Soil Health Program, is repealed July 1, 2026.

419 ~~[(3)]~~ (4) Section 4-20-103, which creates the State Grazing Advisory Board, is repealed
420 July 1, 2022.

421 ~~[(4)]~~ (5) Sections 4-23-104 and 4-23-105, which create the Agricultural and Wildlife
422 Damage Prevention Board, are repealed July 1, 2024.

423 ~~[(5)]~~ (6) Section 4-24-104, which creates the Livestock Brand Board, is repealed July
424 1, 2025.

425 ~~[(6)]~~ (7) Section 4-35-103, which creates the Decision and Action Committee, is
426 repealed July 1, 2026.

427 ~~[(7)]~~ (8) Section 4-39-104, which creates the Domesticated Elk Act Advisory Council,
428 is repealed July 1, 2027.