

HB0296S02 compared with HB0296S01

~~text~~ shows text that was in HB0296S01 but was deleted in HB0296S02.

text shows text that was not in HB0296S01 but was inserted into HB0296S02.

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Representative Joel Ferry proposes the following substitute bill:

SOIL HEALTH AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: _____

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

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- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

ENACTS:

4-18-301, Utah Code Annotated 1953

4-18-302, Utah Code Annotated 1953

4-18-303, Utah Code Annotated 1953

4-18-304, Utah Code Annotated 1953

4-18-305, Utah Code Annotated 1953

4-18-306, Utah Code Annotated 1953

4-18-307, Utah Code Annotated 1953

4-18-308, Utah Code Annotated 1953

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

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

4-18-102. Purpose declaration.

(1) The Legislature finds and declares that:

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

and

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

ensure:

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

(ii) soil and water resources' protection from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.

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

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- (a) the security of the state's food supply; and
- (b) the self-sufficiency of the state's citizens.
- (3) The Legislature finds that sustainable agriculture is critical to:
 - (a) the success of rural communities;
 - (b) the historical culture of the state;
 - (c) maintaining healthy farmland;
 - (d) maintaining high water quality;
 - (e) maintaining abundant wildlife;
 - (f) high-quality recreation for citizens of the state; and
 - (g) helping to stabilize the state economy.
- (4) The Legislature finds that livestock grazing on public lands is important for the proper management, maintenance, and health of public lands in the state.
- (5) The Legislature encourages each agricultural producer in the state to operate in a reasonable and responsible manner to maintain the integrity of soil, water, and air.
- (6) The department shall administer the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107, to encourage each agricultural producer in this state to operate in a reasonable and responsible manner to maintain the integrity of the state's resources.
- (7) The Legislature finds that soil health is essential to protecting the state's soil and water resources, bolstering the state's food supply, and sustaining the state's agricultural industry.

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

Part 3. Utah Soil Health Program

4-18-301. Title.

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

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

4-18-302. Definitions.

As used in this part:

- (1) "Agricultural producer" means a person engaged in the production of a product of agriculture, as defined in Section 4-1-109.
- (2) "Commission" means the Conservation Commission created in Section 4-18-104.

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

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

(5) (a) "Educational project" means a project that promotes knowledge about soil health to eligible entities, consumers, policymakers, and others.

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

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

(a) conservation districts;

(b) producers;

(c) groups of producers;

(d) producer groups;

(e) producer cooperatives;

(f) water conservancy districts;

(g) American Indian Tribes;

(h) nonprofit entities;

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

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

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

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

(a) improved air quality;

(b) surface or ground water quality and quantity;

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

(d) reductions in agricultural inputs;

(e) carbon sequestration or climate resilience;

(f) increased biodiversity; or

(g) improved nutritional quality of agricultural products.

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

- (a) a beginning farmer or rancher, as defined in 7 U.S.C. Sec. 2279;
- (b) a limited resource farmer or rancher, as described in 7 U.S.C. Sec. 9081;
- (c) a socially disadvantaged farmer or rancher, as defined in 7 U.S.C. Sec. 2003; or
- (d) a veteran farmer or rancher, as defined in 7 U.S.C. Sec. 1502.

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

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

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

- (a) a federal land manager;
- (b) a lessee of federal, tribal, state, county, municipal, or private land where agricultural activities occur; or
- (c) others as the department may determine.

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

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

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

- (b) "Research project" includes projects at experiment stations, on:
 - (i) lands owned by the United States or any corporation or agency created or designed by the United States; and
 - (ii) lands owned by the state or any of the state's agencies or political subdivisions; or
 - (iii) private lands.

(15) "Soil health" means the continued capacity of soil to function as a vital living

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ecosystem that sustains plants, animals, and humans.

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

(17) "Soil Health Advisory Committee" means the committee created in Section 4-18-306.

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

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

(a) no-tillage;

(b) conservation tillage;

(c) crop rotations;

(d) intercropping;

(e) cover cropping;

(f) planned grazing;

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

(h) revegetation; or

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

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

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

(a) the condition of agricultural soils;

(b) the implementation of soil health practices; or

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

(22) "Technical assistance organization" means a person, including an eligible entity,

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who has demonstrated technical expertise in implementing soil health practices and soil health principles, as determined by the department.

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

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

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

(2) The program shall:

(a) encourage widespread adoption of soil health practices by producers;

(b) promote environmental benefits;

(c) advance the understanding of the environmental and economic benefits of soil health practices by producers, policymakers, consumers, and the general public; and

(d) support scientific research.

(3) The program may obtain the objectives described in Subsection (2) by:

(a) providing incentives to implement soil health practices;

(b) increasing the understanding of the benefit of soil health practices through education and outreach programs;

(c) advancing scientific understanding of soil health as it relates to:

(i) the existing conditions of Utah's agricultural soils, including current carbon storage and carbon storage potential;

(ii) the on- and off-farm or ranch environmental benefits of soil health practices; and

(iii) the on- and off-farm or ranch economic benefits of soil health practices;

(d) evaluating currently available or developing new consistent soil health sampling and testing protocols appropriate for Utah's agricultural systems; and

(e) facilitating multi-stakeholder collaboration to advance the understanding of the science of soil health and the implementation of soil health practices, including amongst the federal government and the federal government's agencies, agencies and political subdivisions of the state, academic or research institutions, non-governmental organizations, private entities, nonprofits, producers, or other parties.

(4) The department shall provide support to the commission in implementing the program.

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

4-18-304. Program development.

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(1) In consultation with the Soil Health Advisory Committee created in Section 4-18-306 and in accordance with Subsection 4-18-305(1)(e), the commission may establish the following programs:

(a) a grant program for eligible entities to engage in soil health activities including implementation, research, education, or demonstration projects;

(b) a state soil health monitoring and inventory platform; or

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

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

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

(a) require participation by an eligible entity;

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

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

(4) In addition to Section 4-18-307:

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

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

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

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

4-18-305. Powers and duties.

(1) In carrying out the provisions of this part, including for the soil health grant

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program, the commission may:

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

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

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

(iii) any other source;

(b) administer and expend money for the purpose of planning, developing, or putting into operation a program or project in accordance with Section 4-18-304 that is made available to the department:

(i) by the United States government or any of the United States' agencies;

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

(iii) derived from any other source;

(c) provide grants, loans, and other resources to an eligible entity to perform soil health activities;

(d) unless otherwise specified by the grantor or donor, use funds received, including from the state or any of the state's political subdivisions or the United States government or any of the United States' agencies, to serve as matching funds for soil health activities;

(e) place money the commission receives pursuant to Subsection (1)(a) into an escrow account and to administer and expend any money or interest accrued in the trust; and

(f) cooperate and collaborate with:

(i) producers;

(ii) groups of producers;

(iii) producer cooperatives;

(iv) conservation districts;

(v) water conservancy districts;

(vi) academic, land grant, or other research institutions;

(vii) the United States government, the United States' agencies, or any corporation of the United States;

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

(ix) other states;

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(x) American Indian Tribes; or

(xi) other entities as the commission may decide for the purpose of advancing the scientific understanding of soil health, soil health practices, or the environmental or economic outcomes, increasing monetary or nonmonetary resources to support scientific research, or in applying for grants, including applying for grants jointly, or otherwise obtaining resources to support the programs authorized in this part.

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

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

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

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

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

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

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

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

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

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

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

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state soil health testing program.

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

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

(b) disclose information related to the projects, including the locations of the projects, the soil health practices implemented, and the environmental or economic outcomes.

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

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

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

4-18-306. Soil Health Advisory Committee.

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

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

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

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

(a) an irrigated crop producer;

(b) a dryland crop producer;

(c) a dairyman or pasture producer;

(d) a rancher;

(e) a specialty crop or small farm producer;

(f) a crop consultant;

(g) a tribal representative;

(h) a representative with expertise in soil health;

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

(j) a Utah Association of Conservation Districts representative.

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

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

~~{ (7) In appointing members to the Soil Health Advisory Committee, the commissioner shall appoint members who reflect the political diversity of the state to the greatest extent possible.~~

‡ ~~(8)7~~ (a) The commissioner shall appoint members of the Soil Health Advisory Committee for two year terms.

(b) Notwithstanding the requirements of Subsection ~~(8)7~~(a), the commissioner shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of Soil Health Advisory Committee members are staggered so that approximately half of the board is appointed every two years.

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

~~(9)8~~ A Soil Health Advisory Committee member shall hold office until the expiration of the term for which the member is appointed or until a successor has been duly appointed.

~~(10)9~~ The commissioner may remove a member of the Soil Health Advisory Committee for cause.

~~(11)10~~ The Soil Health Advisory Committee may invite a representative of the Utah Association of Conservation Districts, the United States Department of Agriculture Natural Resources Conservation Service, Utah State University faculty member, the Department of Natural Resources, Division of Water Rights, and Division of Water Quality, to provide technical expertise to the Soil Health Advisory Committee on an as needed basis.

~~(12)11~~ The department will provide staff to manage the Soil Advisory Health Committee.

~~(13)12~~ The Soil Health Advisory Committee shall make recommendations to the commission concerning and assist in:

(a) setting program priorities;

(b) developing the development of guidelines for the implementation of the program.

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including guidelines and recommendations for the qualifications of nonprofit entities to receive grant money;

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

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

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

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

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

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

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

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

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

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

~~(14)~~13) The Soil Health Advisory Committee shall meet at least quarterly. Meetings shall be conducted as required by Title 52, Chapter 4, Open and Public Meetings Act.

~~(15)~~14) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

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

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63A-3-107.

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

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

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

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

(3) Summary or aggregated data that does not specifically identify agricultural practices of an individual landowner or producer is not subject to this section.

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

4-18-308. Reporting requirement.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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