

AGRICULTURE SUSTAINABILITY ACT

2010 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jack R. Draxler

Senate Sponsor: _____

LONG TITLE

General Description:

This bill creates the Agriculture Sustainability Act.

Highlighted Provisions:

This bill:

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

easement;



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

45 **Monies Appropriated in this Bill:**

46 None

47 **Other Special Clauses:**

48 None

49 **Utah Code Sections Affected:**

50 AMENDS:

- 51 **11-38-301**, as last amended by Laws of Utah 2009, Chapter 368
- 52 **59-2-505**, as last amended by Laws of Utah 2008, Chapters 231 and 301
- 53 **59-2-506**, as last amended by Laws of Utah 2003, Chapter 208
- 54 **59-2-506.5**, as last amended by Laws of Utah 2003, Chapter 208
- 55 **59-2-924.2**, as last amended by Laws of Utah 2009, Chapter 218

56 ENACTS:

- 57 **17-36-55**, Utah Code Annotated 1953
- 58 **17-41a-101**, Utah Code Annotated 1953

- 59 **17-41a-102**, Utah Code Annotated 1953
- 60 **17-41a-201**, Utah Code Annotated 1953
- 61 **17-41a-202**, Utah Code Annotated 1953
- 62 **17-41a-301**, Utah Code Annotated 1953
- 63 **17-41a-302**, Utah Code Annotated 1953
- 64 **17-41a-303**, Utah Code Annotated 1953
- 65 **17-41a-304**, Utah Code Annotated 1953
- 66 **17-41a-401**, Utah Code Annotated 1953
- 67 **17-41a-402**, Utah Code Annotated 1953
- 68 **17-41a-403**, Utah Code Annotated 1953
- 69 **17-41a-404**, Utah Code Annotated 1953
- 70 **17-41a-405**, Utah Code Annotated 1953
- 71 **17-41a-406**, Utah Code Annotated 1953



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

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

75 **11-38-301. LeRay McAllister Critical Land Conservation Program.**

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

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

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

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

82 (b) The line item described in Subsection (2)(a)(i) shall be nonlapsing.

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

84 **17-36-55. Agriculture sustainability investment fund.**

85 (1) As used in this section:

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

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

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

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

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

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

94 (c) The fund may accrue interest.

95 (3) (a) The county:

96 (i) shall deposit into the fund:

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

98 (B) interest accrued from the fund; and

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

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

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

104 (4) (a) If a committee has not adopted an appropriation plan in accordance with Section
105 17-41a-202:

106 (i) the county shall appropriate money deposited from rollback taxes described in
107 Subsection (3)(a)(i)(A) within 10 years after the end of the county's fiscal year that the rollback
108 tax is collected; and

109 (ii) except as provided in Subsection (4)(c), all rollback tax monies remaining in the
110 fund after the 10-year period described in Subsection (4)(a)(i) shall be transferred to the LeRay
111 McAllister Critical Land Conservation Program created in Section 11-38-301 for the purpose
112 described in Subsection (4)(b).

113 (b) Rollback tax monies transferred to the LeRay McAllister Critical Land
114 Conservation Program under Subsection (4)(a)(ii) shall be used for the conservation of property
115 used for agriculture production.

116 (c) Subsection (4)(a)(ii) does not apply if, within six months after the day on which the
117 10-year period described in Subsection (4)(a)(i) ends, the committee approves an appropriation
118 plan.

119 (5) (a) If a committee has not adopted an appropriation plan in accordance with Section
120 17-41a-202:

121 (i) except as provided in Subsection (5)(c), the fund may not exceed \$1,000,000 at the
122 end of a county's fiscal year; and

123 (ii) the fund balance in excess of \$1,000,000 shall be transferred to the LeRay
124 McAllister Critical Land Conservation Program created in Section 11-38-301 for the purpose
125 described in Subsection (5)(b).

126 (b) Monies transferred to the LeRay McAllister Critical Land Conservation Program
127 under Subsection (5)(a)(ii) shall be used for the conservation of property used for agriculture
128 production.

129 (c) Subsection (5)(a)(ii) does not apply if, within six months after the day on which the
130 county's fiscal year ends, the committee approves an appropriation plan.

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

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

133 **Part 1. General Provisions**

134 **17-41a-101. Title.**

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

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

137 **17-41a-102. Definitions.**

138 As used in this chapter:

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

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

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

146 (i) business manufacturing activities; or

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

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

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

153 (5) "Committee" means the Agricultural Preservation Selection and Funding

154 Committee established in Section 17-41a-201.

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

157 (a) forages and sod crops;

158 (b) grains and feed crops;

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

161 (d) trees and fruits; or

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

163 (7) "Department" means the Department of Agriculture and Food created under Section
164 4-2-1.

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

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

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

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

172 **17-41a-201. Agricultural Preservation Selection and Funding Committee --**

173 **Created -- Compensation.**

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

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

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

182 (c) (i) The county legislative body shall appoint a member of the county legislative

183 body to fill a vacancy in the committee.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

224 (b) county staff;

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

227 (d) a professional consultant.

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

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

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

234 **17-41a-202. Powers and duties -- Appropriation plan -- Land evaluation and site**
235 **assessment criteria.**

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

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

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

243 (ii) the department.

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

- 245 (i) shall identify:
- 246 (A) all new agriculture conservation easements created in accordance with Section
- 247 17-41a-302;
- 248 (B) the purchase price described in Subsection 17-41a-302(5)(b) for each new
- 249 agriculture conservation easement;
- 250 (C) the amount of funds available for the county to appropriate from the fund for each
- 251 agriculture conservation easement described in Subsection (2)(b)(i)(A), including matching
- 252 funds; and
- 253 (D) the use of the funds;
- 254 (ii) shall include a funding schedule time line approved by the committee for the
- 255 appropriation of funds to each owner of property subject to an agriculture conservation
- 256 easement described in Subsection (2)(b)(i)(A);
- 257 (iii) shall set future funding priorities; and
- 258 (iv) may not appropriate more money than is available in the fund.
- 259 (c) A committee shall, before adopting an appropriation plan, hold a public meeting to
- 260 adopt the plan.
- 261 (3) The legislative body of a county shall appropriate money from the fund in
- 262 accordance with the amounts identified by the committee in Subsection (2)(b)(i)(C) and in
- 263 accordance with the funding schedule described in Subsection (2)(b)(ii).
- 264 (4) The committee may set rules, guidelines, and funding priorities for creating
- 265 individual funding schedules described in Subsection (2)(b)(ii).
- 266 (5) (a) The committee shall adopt land evaluation and site assessment criteria described
- 267 in Subsection (5)(d) at a public meeting held within 60 days after the day on which the
- 268 committee is created under Section 17-41a-201.
- 269 (b) The committee may amend the land evaluation and site assessment criteria
- 270 described in Subsection (5)(a) at a public meeting as needed.
- 271 (c) The committee shall use the land evaluation and site assessment criteria described
- 272 in Subsection (5)(a) to evaluate whether an application submitted under Section 17-41a-301
- 273 should be approved for an agriculture conservation easement.
- 274 (d) The land evaluation and site assessment criteria described in Subsection (5)(a) shall
- 275 be based on:

276 (i) whether the property is primarily used for agricultural production;
 277 (ii) the soil quality of the property;
 278 (iii) whether the property is important to the agriculture industry;
 279 (iv) whether the property meets the minimum contiguous acreage eligibility
 280 requirements for an agricultural use assessment in accordance with Section 59-2-503; and
 281 (v) other agricultural priorities or conditions identified by the committee.
 282 (e) The committee shall file a copy of the land evaluation and site assessment criteria
 283 adopted in accordance with this Subsection (5) with the legislative body of the county in which
 284 the committee is located within 30 days after the day on which the committee adopts:
 285 (i) the criteria; or
 286 (ii) any amendment to the criteria.
 287 (6) The county legislative body shall make available to the public in the legislative
 288 body's office and on the county's public website:
 289 (a) the land evaluation and site assessment criteria described in Subsection (5)(e)
 290 within 10 days after the day on which the legislative body receives the criteria from the
 291 committee; and
 292 (b) the committee's appropriation plan described in Subsection (2)(a) or 17-41a-302
 293 (5)(f)(ii) within 10 days after the day on which the legislative body receives the appropriation
 294 plan.
 295 (7) A committee shall meet at least once a year:
 296 (a) in a public hearing or public meeting described in this section or otherwise required
 297 by this chapter;
 298 (b) in a public meeting to conduct other committee business if the meeting is a meeting
 299 subject to Title 52, Chapter 4, Open and Public Meetings Act; or
 300 (c) for training purposes.
 301 Section 7. Section **17-41a-301** is enacted to read:
 302 **Part 3. Approval, Review, and Termination of Agriculture Conservation Easement**
 303 **17-41a-301. Application.**
 304 (1) (a) A property owner may apply for an agriculture conservation easement to be
 305 placed on the owner's property by filing a written application with the committee.
 306 (b) An agriculture conservation easement created in accordance with this section shall

307 be created voluntarily after the committee approves an application submitted by a willing
308 property owner.

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

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

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

316 (a) identify:

317 (i) the boundaries of the property proposed to be placed under the proposed agriculture
318 conservation easement;

319 (ii) the type of agricultural production proposed for the property in order to qualify for
320 an agriculture conservation easement; and

321 (iii) for each parcel of property:

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

323 (B) the number of acres proposed to be included in the agriculture conservation
324 easement; and

325 (b) include:

326 (i) (A) the property owner's estimated value of the proposed agriculture conservation
327 easement based on an appraisal by a state-certified general appraiser; and

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

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

331 (iii) any other information that the committee requests.

332 (4) A committee may establish:

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

334 (b) reasonable fees for processing each application in accordance with Section
335 17-41a-201.

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

337 **17-41a-302. Public hearing -- Review and action on application.**

338 (1) The committee shall hold a public hearing in accordance with Title 52, Chapter 4,
339 Open and Public Meetings Act, to review an application submitted in accordance with Section
340 17-41a-301.

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

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

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

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

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

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

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

352 and

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

356 (4) The committee shall:

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

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

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

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

364 (i) (A) reject an application;

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

366 or

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

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

371 (b) For each application approved or approved with modifications, the committee shall
372 note at the public meeting the purchase price for each property identified in the application.

373 (c) (i) Within 30 days after the day on which the committee approves an application for
374 an agriculture conservation easement at the public meeting described in Subsection (5)(a), the
375 committee shall deliver a list of approved applications to the department that identifies each
376 property and each property address.

377 (ii) The department:

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

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

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

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

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

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

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

398 (i) identify the holder of the easement;

399 (ii) permit the construction and use of structures incidental to agricultural production

400 on property subject to the easement; and
401 (iii) limit the use of the property to:
402 (A) an agricultural production use approved by the committee;
403 (B) other agricultural production; and
404 (C) nonfarm activities that are reasonably related to enhancing the property's economic
405 viability for agriculture production, including agritourism and other activities that do not impair
406 agricultural production.
407 (c) An instrument described in Subsection (6)(a) shall prohibit:
408 (i) a property use that is inconsistent with or prohibitive to agriculture production; and
409 (ii) a structure that is not used for, or incidental to:
410 (A) agriculture production; or
411 (B) a single-family dwelling inhabited by a person who is employed in the agricultural
412 production on the property.
413 (d) If a legal description of the property described in the approved application is
414 available through the county recorder's office, the property owner shall use that legal
415 description in the instrument securing the agriculture conservation easement.
416 (7) (a) Within 30 days after the day on which a property owner submits an instrument
417 described in Subsection (6)(a) to the committee, the committee shall, at a public meeting:
418 (i) approve the instrument; or
419 (ii) subject to Subsection (7)(c), reject the instrument.
420 (b) The committee may not accept an instrument to secure an agriculture conservation
421 easement under Subsection (7)(a) unless the person who submits the instrument holds title to
422 the property described in the instrument.
423 (c) If the committee rejects an instrument to secure an agriculture conservation
424 easement under Subsection (7)(a)(ii), the committee may:
425 (i) recommend modifications to the instrument; and
426 (ii) permit the property owner to resubmit a revised instrument within a period not to
427 exceed 30 days after the day on which the committee initially rejects the instrument under
428 Subsection (7)(a)(ii).
429 (8) (a) Within 45 days after the day on which the committee accepts an instrument to
430 secure an agriculture conservation easement, each property owner named in the instrument

431 shall record with the county recorder the instrument to secure the agriculture conservation
432 easement on the deed of the property described in the instrument.

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

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

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

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

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

438 (c) The department shall hold the agriculture conservation easement recorded in
439 accordance with this section.

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

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

444 (i) the commissioner of the department; and

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

446 (b) include in the notification:

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

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

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

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

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

454 **17-41a-303. Review of agriculture conservation easement.**

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

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

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

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

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

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

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

470 (5) The department may enforce the terms of an agriculture conservation easement in
471 accordance with Section 57-18-6.

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

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

477 (ii) the legislative body of the county where the agriculture conservation easement is
478 located; and

479 (iii) the commission.

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

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

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

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

488 (7) The county shall reimburse the department from the fund an amount equal to or less
489 than 10% of each agriculture conservation easement purchase price described in Subsection
490 17-41a-302(5)(b) for administering the easement.

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

492 **17-41a-304. Termination.**

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

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

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

499 **17-41a-401. Farmland Assessment Act benefits not affected.**

500 (1) Creation of an agriculture conservation easement may not impair the ability of an
501 owner of property within the easement to obtain the benefits of Title 59, Chapter 2, Part 5,
502 Farmland Assessment Act.

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

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

508 **17-41a-402. Limitations on local regulations.**

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

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

519 (a) each owner of property subject to the agriculture conservation easement; and

520 (b) the department.

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

522 **17-41a-403. Nuisances.**

523 (1) Each political subdivision shall ensure that any of its laws or ordinances that define

524 or prohibit a public nuisance exclude from the definition or prohibition any agricultural activity
525 or operation within property subject to an agriculture conservation easement that is conducted
526 using sound agricultural practices unless that activity or operation bears a direct relationship to
527 public health or safety.

528 (2) In a civil action for nuisance or a criminal action for public nuisance under Section
529 76-10-803, it is a complete defense if:

530 (a) the action seeks to declare an agricultural activity as a nuisance; and

531 (b) the agricultural activity:

532 (i) is conducted within property subject to the agriculture conservation easement;

533 (ii) is conducted within the scope of the easement;

534 (iii) is not in violation of any federal, state, or local law or regulation; and

535 (iv) is conducted according to sound agricultural practices.

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

539 "Agriculture Conservation Easement

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

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

547 **17-41a-404. Policy of state agencies.**

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

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

554 (2) modifying existing rules that would impose unreasonable restrictions on farm

555 structures or farm practices on property subject to an agriculture conservation easement unless
556 those laws, ordinances, or regulations bear a direct relationship to public health or safety or are
557 required by federal or state law.

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

559 **17-41a-405. Eminent domain restrictions.**

560 (1) A political subdivision having or exercising eminent domain powers may not
561 condemn for any purpose any land within an agriculture conservation easement that is being
562 used for agricultural production unless it has obtained approval, according to the procedures
563 and requirements of this section, from the applicable legislative body and the committee
564 described in Section 17-41a-201 that approved the agriculture conservation easement.

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

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

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

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

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

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

584 (5) (a) Within 60 days after the day on which the applicable county legislative body
585 receives the notice of condemnation, the applicable county legislative body and the committee

586 shall approve or reject the proposed condemnation.

587 (b) If the applicable legislative body and the advisory board fail to act within the
588 60-day period described in Subsection (5)(a), the condemnation shall be considered rejected.

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

590 **17-41a-406. Restrictions on state development projects.**

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

593 (a) the committee described in Section 17-41a-201 that approved the agriculture
594 conservation easement; and

595 (b) the commissioner of the department.

596 (2) The commissioner and the committee shall:

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

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

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

603 (a) consider:

604 (i) whether the transportation corridor would:

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

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

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

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

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

614 **59-2-505. Indicia of value for agricultural use assessment -- Inclusion of fair**
615 **market value on certain property tax notices.**

616 (1) (a) The county assessor shall consider only those indicia of value that the land has

617 for agricultural use as determined by the commission when assessing land:

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

619 (ii) for which the owner has:

620 (A) made a timely application in accordance with Section 59-2-508 for assessment

621 under this part for the tax year for which the land is being assessed; and

622 (B) obtained approval of the application described in Subsection (1)(a)(ii)(A) from the

623 county assessor.

624 (b) If land that becomes subject to a conservation easement created in accordance with

625 Title 57, Chapter 18, Land Conservation Easement Act, or an agriculture conservation

626 easement created in accordance with Title 17, Chapter 41a, Agriculture Sustainability Act,

627 meets the requirements of Subsection (1)(a) for assessment under this part, the county assessor

628 shall consider only those indicia of value that the land has for agricultural use in accordance

629 with Subsection (1)(a) when assessing the land.

630 (2) In addition to the value determined in accordance with Subsection (1), the fair

631 market value assessment shall be included on the notices described in:

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

633 (b) Section 59-2-1317.

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

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

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

637 **59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien --**

638 **Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**

639 (1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land

640 is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with

641 this section.

642 (2) (a) An owner shall notify the county assessor that land is withdrawn from this part

643 within 120 days after the day on which the land is withdrawn from this part.

644 (b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is

645 withdrawn from this part is subject to a penalty equal to the greater of:

646 (i) \$10; or

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

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

- 650 (i) the tax paid while the land was assessed under this part; and
- 651 (ii) the tax that would have been paid had the property not been assessed under this
652 part.

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

654 (i) begins on the later of:

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

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

658 (ii) ends the day on which the county assessor mails the notice required by Subsection
659 (5).

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

661 (i) collect the rollback tax; and

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

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

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

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

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

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

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

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

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

679 (ii) the land is subject to a rollback tax under this section; and
680 (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within
681 30 days after the day on which the county assessor mails the notice.

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

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

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

689 (i) the rollback tax; and

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

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

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

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

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

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

697 (i) from the date of delinquency until paid; and

698 (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1
699 of the year in which the delinquency occurs.

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

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

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

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

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

715 (i) a decision by a county assessor to withdraw land from assessment under this part; or

716 (ii) the imposition of a rollback tax under this section.

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

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

720 **59-2-506.5. Conservation easement rollback tax -- One-time in lieu fee payment --**
721 **Computation -- Lien -- Interest -- Notice -- Procedure -- Collection -- Distribution.**

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

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

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

728 (ii) the creation of the conservation easement described in Subsection (1)(a)(i)(A) or
729 (B) is considered to be a qualified conservation contribution for federal purposes under Section
730 170(h), Internal Revenue Code;

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

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

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

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

739 (2) (a) Except as provided in Subsection (4), if a conservation easement is terminated
740 in accordance with Section 57-18-5 or an agriculture conservation easement is terminated in

741 accordance with Section 17-41a-304:

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

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

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

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

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

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

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

756 (A) begins on the later of:

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

758 (II) five years preceding the day on which the county assessor mails the notice required
759 by Subsection (3)(a); and

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

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

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

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

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

770 (b) The conservation easement rollback tax is:

771 (i) due and payable on the day the county assessor mails the notice required by

772 Subsection (3)(a);

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

776 (iii) subject to the same:

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

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

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

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

784 (4) (a) Notwithstanding Subsection (2), land described in Subsection (2) is not subject
785 to the conservation easement rollback tax or the one-time in lieu fee payment required by
786 Subsection (2) if after the conservation easement is terminated in accordance with Section
787 57-18-5 or an agriculture conservation easement is terminated in accordance with Section
788 17-41a-304:

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

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

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

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

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

802 (5) Land subject to a conservation easement created in accordance with Title 57,

803 Chapter 18, Land Conservation Easement Act, or land subject to an agriculture conservation
804 easement in accordance with Title 17, Chapter 41a, Agriculture Sustainability Act, is not
805 subject to a conservation easement rollback tax or a one-time in lieu fee payment if the land is
806 assessed under this part in accordance with Section 59-2-505.

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

808 **59-2-924.2. Adjustments to the calculation of a taxing entity's certified tax rate.**

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

811 (2) Beginning January 1, 1997, if a taxing entity receives increased revenues from
812 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
813 59-2-405.2, or 59-2-405.3 as a result of any county imposing a sales and use tax under Chapter
814 12, Part 11, County Option Sales and Use Tax, the taxing entity shall decrease its certified tax
815 rate to offset the increased revenues.

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

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

820 (ii) increased by the amount necessary to offset the county's reduction in revenue from
821 uniform fees on tangible personal property under Section 59-2-404, 59-2-405, 59-2-405.1,
822 59-2-405.2, or 59-2-405.3 as a result of the decrease in the certified tax rate under Subsection
823 (3)(a)(i).

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

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

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

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

834 (ii) levies a property tax on behalf of the special service district under Section
835 17D-1-105.

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

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

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

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

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

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

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

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

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

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

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

854 (Aa) associated with providing law enforcement service:

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

856 (IIii) for a participating municipality, in the municipality; and

857 (Bb) that the police district board designates as the costs to be funded by a property
858 tax; and

859 (B) adding all the amounts calculated under Subsection (6)(a)(iii)(A) for all
860 participating counties and all participating municipalities and then dividing that sum by the
861 aggregate taxable value of the property, as adjusted in accordance with Section 59-2-913:

862 (I) for participating counties, in the unincorporated area of all participating counties;
863 and

864 (II) for participating municipalities, in all the participating municipalities.

865 (iv) "Fire district" means a service area under Title 17B, Chapter 2a, Part 9, Service
866 Area Act:

867 (A) created to provide fire protection, paramedic, and emergency services; and

868 (B) in the creation of which an election was not required under Subsection

869 17B-1-214(3)(c).

870 (v) "Participating county" means a county whose unincorporated area is included
871 within a public safety district at the time of the creation of the public safety district.

872 (vi) "Participating municipality" means a municipality whose area is included within a
873 public safety district at the time of the creation of the public safety district.

874 (vii) "Police district" means a service area under Title 17B, Chapter 2a, Part 9, Service
875 Area Act, within a county of the first class:

876 (A) created to provide law enforcement service; and

877 (B) in the creation of which an election was not required under Subsection

878 17B-1-214(3)(c).

879 (viii) "Public safety district" means a fire district or a police district.

880 (ix) "Public safety service" means:

881 (A) in the case of a public safety district that is a fire district, fire protection,
882 paramedic, and emergency services; and

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

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

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

892 (i) for public safety service; and

893 (ii) in:

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

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

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

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

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

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

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

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

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

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

918 (a) personal property tax revenue:

919 (i) received by a taxing entity;

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

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

922 (b) the taxable value of personal property:

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

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

925 (iii) that is semiconductor manufacturing equipment.

926 (8) (a) The taxable value for the base year under Subsection 17C-1-102(6) shall be

927 reduced for any year to the extent necessary to provide a community development and renewal
928 agency established under Title 17C, Limited Purpose Local Government Entities - Community
929 Development and Renewal Agencies, with approximately the same amount of money the
930 agency would have received without a reduction in the county's certified tax rate, calculated in
931 accordance with Section 59-2-924, if:

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

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

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

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

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

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

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

952 (9) For the calendar year beginning on January 1, 2011, and ending on December 31,
953 2011, the calculation of a taxing entity's certified tax rate, calculated in accordance with
954 Section 59-2-924, shall be increased by an amount equal to the amount of collections that an
955 entity received from rollback taxes collected in accordance with Section 59-2-506 for the
956 calendar year beginning on January 1, 2009, and ending on December 31, 2009.

Legislative Review Note
as of 1-22-10 3:08 PM

Office of Legislative Research and General Counsel

H.B. 102 - Agriculture Sustainability Act

Fiscal Note

2010 General Session

State of Utah

State Impact

Enactment of this bill will not require additional appropriations.

Individual, Business and/or Local Impact

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