

Representative Jason B. Kyle proposes the following substitute bill:

FALLOW LAND AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jason B. Kyle

Senate Sponsor: Daniel McCay

LONG TITLE

General Description:

This bill addresses the applicability of fallow land to agricultural and urban farming property tax assessment.

Highlighted Provisions:

This bill:

- defines terms;
- allows for fallow land to qualify for agricultural and urban farming assessment;
- requires landowners to provide written notice to the county assessor in each year that land is fallowed;
- allows a county assessor to require landowners to submit a land management plan if a landowner intends to fallow land for more than one year; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



26 **59-2-503**, as last amended by Laws of Utah 2023, Chapter 72

27 **59-2-1703**, as last amended by Laws of Utah 2023, Chapter 189

28

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

30 Section 1. Section **59-2-503** is amended to read:

31 **59-2-503. Qualifications for agricultural use assessment.**

32 (1) For general property tax purposes, land may be assessed on the basis of the value
33 that the land has for agricultural use if the land:

34 (a) is not less than five contiguous acres in area, except that land may be assessed on
35 the basis of the value that the land has for agricultural use:

36 (i) if:

37 (A) the land is devoted to agricultural use in conjunction with other eligible acreage;

38 and

39 (B) the land and the other eligible acreage described in Subsection (1)(a)(i)(A) have
40 identical legal ownership; or

41 (ii) as provided under Subsections (4) and (5); and

42 (b) except as provided in Subsection (6) or (7):

43 (i) is actively devoted to agricultural use; and

44 (ii) has been actively devoted to agricultural use for at least two successive years
45 immediately preceding the tax year for which the land is being assessed under this part.

46 (2) In determining whether land is actively devoted to agricultural use, production per
47 acre for a given county or area and a given type of land shall be determined by using the first
48 applicable of the following:

49 (a) production levels reported in the current publication of the Utah Agricultural
50 Statistics;

51 (b) current crop budgets developed and published by Utah State University; and

52 (c) other acceptable standards of agricultural production designated by the commission
53 by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
54 Act.

55 (3) Land may be assessed on the basis of the land's agricultural value if the land:

56 (a) is subject to the privilege tax imposed by Section **59-4-101**;

(b) is owned by the state or any of the state's political subdivisions; and

(c) meets the requirements of Subsection (1).

(4) Notwithstanding Subsection (1)(a), the commission or a county board of equalization may grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that 80% or more of the owner's, purchaser's, or lessee's income is derived from agricultural products produced on the property in question.

(5) Notwithstanding Subsection (1)(a), the commission or a county board of equalization shall grant a waiver of the acreage limitation for land upon:

(a) appeal by the owner; and

(b) submission of proof that:

(i) the failure to meet the acreage requirement arose solely as a result of an acquisition by a public utility or a governmental entity by:

(A) eminent domain; or

(B) the threat or imminence of an eminent domain proceeding; and

(ii) the land is actively devoted to agricultural use.

(6) (a) The commission or a county board of equalization may grant a waiver of the requirement that the land is actively devoted to agricultural use for the tax year for which the land is being assessed under this part upon:

(i) appeal by the owner; and

(ii) submission of proof that:

(A) the land was assessed on the basis of agricultural use for at least two years immediately preceding that tax year; and

(B) the failure to meet the agricultural production requirements for that tax year was due to no fault or act of the owner, purchaser, or lessee.

(b) As used in Subsection (6)(a), "fault" does not include:

(i) intentional planting of crops or trees which, because of the maturation period, do not give the owner, purchaser, or lessee a reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use; or

(ii) implementation of a bona fide range improvement program, crop rotation program, or other similar accepted cultural practices which do not give the owner, purchaser, or lessee a

reasonable opportunity to satisfy the production levels required for land actively devoted to agricultural use.

(7) Land that otherwise qualifies for assessment under this part qualifies for assessment under this part in the first year the land resumes being actively devoted to agricultural use if:

(a) the land becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral; and

(b) the land qualified for assessment under this part in the year immediately preceding the year the land became ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral.

(8) Land that otherwise qualifies under Subsection (1) to be assessed on the basis of the value that the land has for agricultural use does not lose that qualification by becoming subject to a forest stewardship plan developed under Section 65A-8a-106 under which the land is subject to a temporary period of limited use or nonuse.

(9) (a) Notwithstanding Subsection (1) and except as provided in Subsection (9)(d), land in agricultural use that is intentionally allowed to lay fallow for one or more growing seasons qualifies for assessment under this part if the fallowing is conducted:

(i) during periods of limited water supply;

(ii) as part of a prudent farm management practice, including crop rotation, rotational grazing, or soil water management; or

(iii) to facilitate voluntary participation in a water management or agricultural water optimization program.

(b) If the owner of land assessed under this part fallows the land during any period in a calendar year, the owner shall, on or before December 31 of the year in which the land is fallowed, provide to the county assessor written notice that:

(i) identifies the land that was fallowed during any period of the year in which the notice is provided, including the acreage of the fallowed land;

(ii) demonstrates how the land qualifies under Subsection (9)(a); and

(iii) specifies whether the owner intends to fallow the land during any period in the following calendar year, and, if so, the intended duration of the fallowing period.

(c) (i) If the written notice under Subsection (9)(b) indicates that the owner intends to fallow the land during any period in the following calendar year, the county assessor may,

within 45 days of receiving the written notice, require the owner to submit to the county assessor a land management plan in a form prescribed by the county assessor that:

(A) identifies the owner's objectives in fallowing the land for the intended duration of the fallowing period;

(B) provides adequate assurances to the county assessor that the fallowed land will become actively devoted to agricultural use upon the expiration of the intended fallowing period; and

(C) includes any other information required by the county assessor.

(ii) If the owner submits to the county assessor a land management plan for fallowed land that meets the requirements of Subsection (9)(c)(i), the county assessor may not require the owner to submit a new or additional land management plan for the same land within three years from the day on which the owner submitted the plan.

(d) Fallowed land is withdrawn from this part if:

(i) the county assessor determines that the land does not qualify under Subsection (9)(a);

(ii) the owner fails to comply with the written notice requirements of Subsection (9)(b), including, if applicable, failing to return the fallowed land to active agricultural use upon the expiration of the intended fallowing period as specified in the written notice; or

(iii) the owner fails to comply with the requirements of Subsection (9)(c), if a land management plan is required.

Section 2. Section **59-2-1703** is amended to read:

59-2-1703. Qualifications for urban farming assessment.

(1) (a) For general property tax purposes, land may be assessed on the basis of the value that the land has for agricultural use if the land:

(i) is actively devoted to urban farming;

(ii) is at least one contiguous acre, but less than five acres, in size; and

(iii) (A) has been actively devoted to urban farming for at least two successive years immediately preceding the tax year for which the land is assessed under this part; or

(B) was assessed under Part 5, Farmland Assessment Act, for the preceding tax year.

(b) Land that is not actively devoted to urban farming may not be assessed as provided in Subsection (1)(a), even if the land is part of a parcel that includes land actively devoted to

urban farming.

(2) (a) In determining whether land is actively devoted to urban farming, production per acre for a given county or area and a given type of land shall be determined by using the first applicable of the following:

- (i) production levels reported in the current publication of Utah Agricultural Statistics;
- (ii) current crop budgets developed and published by Utah State University; or
- (iii) the highest per acre value used for land assessed under the Farmland Assessment Act for the county in which the property is located.

(b) A county assessor may not assess land actively devoted to urban farming on the basis of the value that the land has for agricultural use under this part unless an owner annually files documentation with the county assessor:

- (i) on a form provided by the county assessor;
- (ii) demonstrating to the satisfaction of the county assessor that the land meets the production levels required under this part; and
- (iii) except as provided in Subsection 59-2-1707(2)(c)(i), no later than January 30 for each tax year in which the owner applies for assessment under this part.

(3) Notwithstanding Subsection (1)(a)(ii), a county board of equalization may grant a waiver of the acreage requirements of Subsection (1)(a)(ii):

- (a) on appeal by an owner; and
- (b) if the owner submits documentation to the county assessor demonstrating to the satisfaction of the county assessor that:
 - (i) the failure to meet the acreage requirements of Subsection (1)(a)(ii) arose solely as a result of an acquisition by a governmental entity by:
 - (A) eminent domain; or
 - (B) the threat or imminence of an eminent domain proceeding;
 - (ii) the land is actively devoted to urban farming; and
 - (iii) no change occurs in the ownership of the land.

(4) (a) Notwithstanding Subsection (1) and except as provided in Subsection (4)(d), land for urban farming that is intentionally allowed to lay fallow for one or more growing seasons qualifies for assessment under this part if the fallowing is conducted:

- (i) during periods of limited water supply;

181 (ii) as part of a prudent farm management practice, including crop rotation, rotational
182 grazing, or soil water management; or

183 (iii) to facilitate voluntary participation in a water management or agricultural water
184 optimization program.

185 (b) If the owner of land assessed under this part fallows the land during any period in a
186 calendar year, the owner shall, on or before December 31 of the year in which the land is
187 fallowed, provide to the county assessor written notice that:

188 (i) identifies the land that was fallowed during any period of the calendar year in which
189 the notice is provided, including the acreage of the fallowed land;

190 (ii) demonstrates how the fallowed land qualifies under Subsection (4)(a); and

191 (iii) specifies whether the owner intends to fallow the land during any period in the
192 following calendar year, and, if so, the intended duration of the fallowing period.

193 (c) (i) If a written notice under Subsection (4)(b) indicates that the owner intends to
194 fallow the land during any period in the following calendar year, the county assessor may,
195 within 45 days of receiving the written notice, require the owner to submit to the county
196 assessor a land management plan in a form prescribed by the county assessor that:

197 (A) identifies the owner's objectives in fallowing the land for the intended duration of
198 the fallowing period;

199 (B) provides adequate assurances to the county assessor that the fallowed land will
200 become actively devoted to urban farming upon the expiration of the intended fallowing
201 period; and

202 (C) includes any other information required by the county assessor.

203 (ii) If the owner submits to the county assessor a land management plan for fallowed
204 land that meets the requirements of Subsection (4)(c)(i), the county assessor may not require
205 the owner to submit a new or additional land management plan for the same land within three
206 years from the day on which the owner submitted the plan.

207 (d) Fallowed land is withdrawn from this part if:

208 (i) the county assessor determines that the land does not qualify under Subsection
209 (4)(a);

210 (ii) the owner fails to comply with the notice requirements of Subsection (4)(b),
211 including, if applicable, failing to return the fallowed land to active urban farming upon the

212 expiration of the intended fallowing period as specified in the written notice; or
213 (iii) the owner fails to comply with the requirements of Subsection (4)(c), if a land
214 management plan is required.
215 Section 3. **Effective date.**
216 This bill takes effect on May 1, 2024.