

# HB0520S01 compared with HB0520

~~{deleted text}~~ shows text that was in HB0520 but was deleted in HB0520S01.

inserted text shows text that was not in HB0520 but was inserted into HB0520S01.

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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: {}\_\_\_\_\_

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### LONG TITLE

#### General Description:

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

#### Highlighted Provisions:

This bill:

- ▶ ~~{clarifies that land allowed to lay fallow or uncultivated for agricultural purposes qualifies}~~defines terms;
- ▶ allows for certain fallow land to qualify for agricultural and urban farming assessment;
- ▶ ~~{allows a}~~requires owners of fallow land to provide written notice to the county assessor;
- ▶ allows county assessors to require the owner of fallow land to ~~{prepare and}~~ submit

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a land management plan ~~{ with certain information and limitations; and~~

~~disqualifies fallow land from agricultural and};~~

- ▶ requires county assessors to notify landowners upon determining that fallow land is ineligible for agricultural or urban farming assessment ~~{ if the owner fails to comply with any land management plan requirements};~~ and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

59-2-502, as last amended by Laws of Utah 2017, Chapter 319

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

59-2-1702, as last amended by Laws of Utah 2021, Chapter 384

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

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

Section 1. Section 59-2-502 is amended to read:

#### **59-2-502. Definitions.**

As used in this part:

(1) "Actively devoted to agricultural use" means that the land in agricultural use produces in excess of 50% of the average agricultural production per acre:

(a) as determined under Section 59-2-503; and

(b) for:

(i) the given type of land; and

(ii) the given county or area.

(2) "Conservation easement rollback tax" means the tax imposed under Section 59-2-506.5.

(3) "Fallow land" means land in agricultural use that is allowed to lay fallow or uncultivated during one or more growing seasons.

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~~[(3)]~~[(4)] "Identical legal ownership" means legal ownership held by:

- (a) identical legal parties; or
- (b) identical legal entities.

~~[(4)]~~[(5)] "Land in agricultural use" means:

- (a) land devoted to the raising of useful plants and animals with a reasonable expectation of profit, including:
  - (i) forages and sod crops;
  - (ii) grains and feed crops;
  - (iii) livestock as defined in Section 59-2-102;
  - (iv) trees and fruits; or
  - (v) vegetables, nursery, floral, and ornamental stock; or
- (b) land devoted to and meeting the requirements and qualifications for payments or other compensation under a crop-land retirement program with an agency of the state or federal government.

~~[(5)]~~[(6)] "Other eligible acreage" means land that is:

- (a) five or more contiguous acres;
- (b) eligible for assessment under this part; and
- (c) (i) located in the same county as land described in Subsection 59-2-503(1)(a); or  
(ii) contiguous across county lines with land described in Subsection 59-2-503(1)(a) as provided in Section 59-2-512.

~~[(6)]~~[(7)] "Platted" means land in which:

- (a) parcels of ground are laid out and mapped by their boundaries, course, and extent;
- and
- (b) the plat has been approved as provided in Section 10-9a-604 or 17-27a-604.

~~[(7)]~~[(8)] "Rollback tax" means the tax imposed under Section 59-2-506.

~~[(8)]~~[(9)] "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

- (a) an owner voluntarily requests that the land be withdrawn from this part;
- (b) the land is no longer actively devoted to agricultural use;
- (c) (i) the land has a change in ownership; and

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(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-509; or

(B) (I) an owner applies for assessment under this part as required by Section 59-2-509; and

(II) the land does not meet the requirements of this part to be assessed under this part;

(d) (i) the legal description of the land changes; and

(ii) (A) an owner fails to apply for assessment under this part as required by Section 59-2-509; or

(B) (I) an owner applies for assessment under this part as required by Section 59-2-509; and

(II) the land does not meet the requirements of this part to be assessed under this part;

(e) if required by the county assessor, the owner of the land:

(i) fails to file a new application as provided in Subsection 59-2-508(5); or

(ii) fails to file a signed statement as provided in Subsection 59-2-508(5); or

(f) except as provided in Section 59-2-503, the land fails to meet a requirement of Section 59-2-503.

Section ~~59-2-503~~<sup>2</sup>. Section **59-2-503** is amended to read:

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

(1) 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:

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

(i) if:

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

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

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

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

(i) is actively devoted to agricultural use; and

(ii) has been actively devoted to agricultural use for at least two successive years

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immediately preceding the tax year for which the land is being assessed under this part.

(2) In determining whether land is actively devoted to agricultural use, 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:

- (a) production levels reported in the current publication of the Utah Agricultural Statistics;
- (b) current crop budgets developed and published by Utah State University; and
- (c) other acceptable standards of agricultural production designated by the commission by rule adopted in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

- (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:

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(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)(a) ~~and except as provided in Subsection (9)(c),~~ fallow land qualifies for assessment under this part if the ~~land does not meet the requirements of this section only as a result of the owner allowing the land to lay fallow or uncultivated for one or more growing periods in order to facilitate land recovery and extend the use of the land for agricultural production.~~

~~(b) (i) A~~ fallowing is conducted:

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(i) during periods of limited water supply;

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

(iii) to facilitate voluntary participation in an agricultural water optimization program.

(b) (i) Before an owner begins to fallow land as provided in Subsection (9)(a), the owner shall provide to the county assessor written notice of the owner's intent to fallow the land.

(ii) The written notice shall:

(A) identify the land intended for fallowing, including the number of acres;

(B) describe how the land qualifies under Subsection (9)(a); and

(C) identify the length of the fallowing period.

(c) (i) Within 45 days of receiving written notice from an owner under Subsection (9)(b), the county assessor may require ~~an~~the owner ~~of land described in Subsection (9)(a)~~ to ~~prepare and~~ submit to the county assessor a land management plan that:

(A) identifies the owner's objectives in ~~allowing~~fallowing the land ~~to lay fallow or uncultivated~~;

(B) provides adequate assurances to the county assessor that the fallow land will become actively devoted to agricultural use in a later growing ~~period~~season; and

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

(ii) If ~~a~~the county assessor requires a land management plan ~~under this~~and the owner submits a land management plan meeting the requirements of Subsection (9)(b)(i), the county assessor may not require the owner to submit a new or additional land management plan for the same land within ~~the three-year period following~~three years from the day on which the ~~owner submits a~~land management plan ~~meeting the requirements of Subsection (9)(b)(i).~~

~~(c) Land described in Subsection (9)(a) becomes~~was submitted.

(d) (i) Fallow land is ineligible for assessment under this part ~~upon the owner's failure~~if:

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

(B) the owner fails to comply with ~~any requirements~~the requirements of Subsection

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(9)(b) or (c); or

(C) the owner fails to return the land to active agricultural use after the following period ends, as identified in the written notice under Subsection (9)(b).

(ii) If the county assessor determines that fallow land is ineligible for assessment under this part, the county assessor shall notify the owner of the land within 30 days from the day on which the county assessor makes the ineligibility determination.

(e) A county assessor may prescribe and make available suitable forms and instructions for owners to comply with the requirements of this Subsection (9).

Section 3. Section 59-2-1702 is amended to read:

### **59-2-1702. Definitions.**

As used in this part:

(1) "Actively devoted to urban farming" means that:

(a) land is devoted to active urban farming activities; and

(b) the land produces greater than 50% of the average agricultural production per acre:

(i) as determined under Section 59-2-1703; and

(ii) for the given type of land and the given county or area.

(2) "Fallow land" means land for urban farming that is allowed to lay fallow or uncultivated during one or more growing seasons.

~~[(2)]~~ (3) "Rollback tax" means the tax imposed under Section 59-2-1705.

~~[(3)]~~ (4) "Urban farming" means:

(a) cultivating food or other marketable crop or engaging in livestock production, including grazing; and

(b) performing the activity described in Subsection ~~[(3)(a)]~~ (4)(a) with a reasonable expectation of profit and from irrigated land located in a county that has adopted an ordinance governing urban farming in accordance with Section 59-2-1714.

~~[(4)]~~ (5) "Withdrawn from this part" means that land that has been assessed under this part is no longer assessed under this part or eligible for assessment under this part for any reason including that:

(a) an owner voluntarily requests that the land be withdrawn from this part;

(b) the land is no longer actively devoted to urban farming;

(c) (i) the land has a change in ownership; and



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(ii) (A) the new owner fails to apply for assessment under this part as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(d) (i) the legal description of the land changes; and

(ii) (A) an owner fails to apply for assessment under this part, as required by Section 59-2-1707; or

(B) an owner applies for assessment under this part, as required by Section 59-2-1707, but the land does not meet the requirements of this part to be assessed under this part;

(e) the owner of the land fails to file an application as provided in Section 59-2-1707;

or

(f) except as provided in Section 59-2-1703, the land fails to meet a requirement of Section 59-2-1703.

Section ~~2~~4. 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

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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)(a) and except as provided in Subsection (4)(c),~~ fallow land qualifies for assessment under this part if the ~~land does not meet the requirements of this section only as a result of the owner allowing the land to lay fallow or uncultivated for one or more growing periods in order to facilitate land recovery and extend the use of the land for urban farming.~~

~~(b) (i) A~~ fallowing is conducted:

(i) during periods of limited water supply;

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

(iii) to facilitate voluntary participation in an agricultural water optimization program.

(b) (i) Before an owner begins to fallow land as provided in Subsection (4)(a), the

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owners shall provide to the county assessor written notice of the owner's intent to fallow the land.

(ii) The written notice shall:

(A) identify the land intended for fallowing, including the number of acres;

(B) describe how the land qualifies under Subsection (4)(a); and

(C) identify the length of the fallowing period.

(c) (i) Within 45 days of receiving written notice from an owner under Subsection (4)(b), the county assessor may require ~~an~~the owner ~~of land described in Subsection (4)(a)~~ to ~~prepare and~~ submit to the county assessor a land management plan that:

(A) identifies the owner's objectives in ~~fallowing~~fallowing the land ~~to lay fallow or uncultivated~~;

(B) provides adequate assurances to the county assessor that the fallow land will become actively devoted to urban farming in a later growing ~~period~~season; and

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

(ii) If ~~a~~the county assessor requires a land management plan ~~under this~~and the owner submits a land management plan meeting the requirements of Subsection (4)(~~b~~c)(i), the county assessor may not require the owner to submit a new or additional land management plan for the same land within ~~the three-year period following~~three years from the day on which the ~~owner submits a~~land management plan ~~meeting the requirements of Subsection (4)(b)(i)~~:

~~(c) Land described in Subsection (4)(a) becomes~~was submitted.

(d) (i) Fallow land is ineligible for assessment under this part ~~upon the owner's failure~~if:

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

(B) the owner fails to comply with ~~any requirements~~the requirements of Subsection (4)(b) or (c); or

(C) the owner fails to return the land to active urban farming after the fallowing period ends, as identified in the written notice under Subsection (4)(b).

(ii) If the county assessor determines that fallow land is ineligible for assessment under this part, the county assessor shall notify the owner of the land within 30 days from the day on

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which the county assessor makes the ineligibility determination.

(e) A county assessor may prescribe and make available suitable forms and instructions for owners to comply with the requirements of this Subsection (4).

Section ~~3~~5. **Effective date.**

This bill takes effect on May 1, 2024.