

SOIL HEALTH AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: _____

LONG TITLE

General Description:

This bill address programs related to health of soil.

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

ENACTS:

4-18-301, Utah Code Annotated 1953

4-18-302, Utah Code Annotated 1953



- 29 4-18-303, Utah Code Annotated 1953
- 30 4-18-304, Utah Code Annotated 1953
- 31 4-18-305, Utah Code Annotated 1953
- 32 4-18-306, Utah Code Annotated 1953
- 33 4-18-307, Utah Code Annotated 1953
- 34 4-18-308, Utah Code Annotated 1953

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

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

38 **4-18-102. Purpose declaration.**

39 (1) The Legislature finds and declares that:

- 40 (a) the soil and water resources of this state constitute one of the state's basic assets; and
- 41 (b) the preservation of soil and water resources requires planning and programs to

42 ensure:

- 43 (i) the development and utilization of soil and water resources; and
- 44 (ii) soil and water resources' protection from the adverse effects of wind and water
- 45 erosion, sediment, and sediment related pollutants.

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

- 47 (a) the security of the state's food supply; and
- 48 (b) the self-sufficiency of the state's citizens.
- 49 (3) The Legislature finds that sustainable agriculture is critical to:
 - 50 (a) the success of rural communities;
 - 51 (b) the historical culture of the state;
 - 52 (c) maintaining healthy farmland;
 - 53 (d) maintaining high water quality;
 - 54 (e) maintaining abundant wildlife;
 - 55 (f) high-quality recreation for citizens of the state; and
 - 56 (g) helping to stabilize the state economy.

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

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

61 (6) The department shall administer the Utah Agriculture Certificate of Environmental
62 Stewardship Program, created in Section [4-18-107](#), to encourage each agricultural producer in
63 this state to operate in a reasonable and responsible manner to maintain the integrity of the state's
64 resources.

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

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

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

70 **4-18-301. Title.**

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

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

73 **4-18-302. Definitions.**

74 As used in this part:

75 (1) "Agricultural producer" means a person engaged in the production of a product of
76 agriculture, as defined in Section [4-1-109](#).

77 (2) "Commission" means the Conservation Commission created in Section [4-18-104](#).

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

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

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

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

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

88 (a) conservation districts;

89 (b) producers;

90 (c) groups of producers;

91 (d) producer groups;

92 (e) producer cooperatives;

- 93 (f) water conservancy districts;
- 94 (g) American Indian Tribes;
- 95 (h) nonprofit entities;
- 96 (i) academic or research institutions and subdivisions of these institutions;
- 97 (j) the United States or any corporation or agency created or designed by the United
- 98 States; or
- 99 (k) the state or any of the state's agencies or political subdivisions.
- 100 (7) "Environmental benefits" means benefits to natural and agricultural resources and
- 101 human health, including:
- 102 (a) improved air quality;
- 103 (b) surface or ground water quality and quantity;
- 104 (c) improved soil health, including nutrient cycling, soil fertility, or drought resilience;
- 105 (d) reductions in agricultural inputs;
- 106 (e) carbon sequestration or climate resilience;
- 107 (f) increased biodiversity; or
- 108 (g) improved nutritional quality of agricultural products.
- 109 (8) "Historically underserved producer" means a producer who qualifies as one of the
- 110 following:
- 111 (a) a beginning farmer or rancher, as defined in 7 U.S.C. Sec. 2279;
- 112 (b) a limited resource farmer or rancher, as described in 7 U.S.C. Sec. 9081;
- 113 (c) a socially disadvantaged farmer or rancher, as defined in 7 U.S.C. Sec. 2003; or
- 114 (d) a veteran farmer or rancher, as defined in 7 U.S.C. Sec. 1502.
- 115 (9) "Implementation project" means a project that provides incentives directly to
- 116 producers to implement on-farm or on-ranch soil health practices.
- 117 (10) "Incentives" means monetary incentives, including grants and loans, or
- 118 non-monetary incentives, including equipment, technical assistance, educational materials,
- 119 outreach, and market development assistance for market premiums or ecosystem services
- 120 markets.
- 121 (11) "Land manager" means a manager of land where agricultural activities occur,
- 122 including:
- 123 (a) a federal land manager;
- 124 (b) a lessee of federal, tribal, state, county, municipal, or private land where agricultural

125 activities occur; or

126 (c) others as the department may determine.

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

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

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

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

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

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

138 (iii) private lands.

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

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

144 (17) "Soil Health Advisory Committee" means the committee created in Section
145 [4-18-306](#).

146 (18) "Soil health grant program" means the grant program authorized in Section
147 [4-18-304](#).

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

150 (a) no-tillage;

151 (b) conservation tillage;

152 (c) crop rotations;

153 (d) intercropping;

154 (e) cover cropping;

155 (f) planned grazing;

156 (g) the application of soil amendments that add carbon or organic matter, including

157 biosolids, manure, compost, or biochar;

158 (h) revegetation; or

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

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

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

166 (a) the condition of agricultural soils;

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

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

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

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

174 **4-18-303. Creates Utah Soil Health Program -- Program and purposes.**

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

176 (2) The program shall:

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

178 (b) promote environmental benefits;

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

181 (d) support scientific research.

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

183 (a) providing incentives to implement soil health practices;

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

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

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

- 189 (ii) the on- and off-farm or ranch environmental benefits of soil health practices; and
190 (iii) the on- and off-farm or ranch economic benefits of soil health practices;
191 (d) evaluating currently available or developing new consistent soil health sampling and
192 testing protocols appropriate for Utah's agricultural systems; and
193 (e) facilitating multi-stakeholder collaboration to advance the understanding of the
194 science of soil health and the implementation of soil health practices, including amongst the
195 federal government and the federal government's agencies, agencies and political subdivisions of
196 the state, academic or research institutions, non-governmental organizations, private entities,
197 nonprofits, producers, or other parties.
- 198 (4) The department shall provide support to the commission in implementing the
199 program.

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

201 **4-18-304. Program development.**

202 (1) In consultation with the Soil Health Advisory Committee created in Section
203 4-18-306 and in accordance with Subsection 4-18-305(1)(e), the commission may establish the
204 following programs:

- 205 (a) a grant program for eligible entities to engage in soil health activities including
206 implementation, research, education, or demonstration projects;
207 (b) a state soil health monitoring and inventory platform; or
208 (c) other programs the commission considers appropriate or necessary.

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

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

- 215 (a) require participation by an eligible entity;
216 (b) mandate the implementation of soil health practices by non-participating entities; or
217 (c) bind participants to execute specific practice standards in adverse climate conditions
218 or circumstances with limited or no chance of success or that would cause irreparable physical
219 or economic harm to the producer's operation physically or economically.

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

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

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

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

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

231 **4-18-305. Powers and duties.**

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

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

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

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

239 (iii) any other source;

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

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

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

245 (iii) derived from any other source;

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

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

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

- 253 (f) cooperate and collaborate with:
254 (i) producers;
255 (ii) groups of producers;
256 (iii) producer cooperatives;
257 (iv) conservation districts;
258 (v) water conservancy districts;
259 (vi) academic, land grant, or other research institutions;
260 (vii) the United States government, the United States' agencies, or any corporation of the
261 United States;
262 (viii) the state or any of the state's political subdivisions;
263 (ix) other states;
264 (x) American Indian Tribes; or
265 (xi) other entities as the commission may decide for the purpose of advancing the
266 scientific understanding of soil health, soil health practices, or the environmental or economic
267 outcomes, increasing monetary or nonmonetary resources to support scientific research, or in
268 applying for grants, including applying for grants jointly, or otherwise obtaining resources to
269 support the programs authorized in this part.
- 270 (2) (a) The department may not pledge the faith or credit of the state or any county or
271 other political subdivision.
- 272 (b) In connection with grants, gifts, donations, or other resources, the commission:
273 (i) may enter into agreements or contracts as may be required; and
274 (ii) shall comply with Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics
275 Act, and executive orders establishing ethics policy for executive branch agencies and
276 employees.
- 277 (3) In establishing a soil health grant program, the commission shall issue guidelines, by
278 rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:
279 (a) make money available for demonstration, educational, implementation, or research
280 grants to eligible entities;
281 (b) if a grant recipient of an implementation, demonstration, or research project grant
282 does not have sufficient expertise in implementing soil health practices or principles or
283 interpreting project outcomes, require the recipient to work with a technical assistance
284 organization;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

315 (a) an irrigated crop producer;

316 (b) a dryland crop producer;

317 (c) a dairyman or pasture producer;

318 (d) a rancher;

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

320 (f) a crop consultant;

321 (g) a tribal representative;

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

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

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

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

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

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

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

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

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

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

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

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

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

350 (13) The Soil Health Advisory Committee shall make recommendations to the

351 commission concerning and assist in:

352 (a) setting program priorities;

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

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

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

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

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

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

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

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

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

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

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

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

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

- 381 (a) Section 63A-3-106;
382 (b) Section 63A-3-107; and
383 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
384 63A-3-107.

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

386 **4-18-307. Producer and landowner information - confidentiality.**

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

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

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

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

397 **4-18-308. Reporting requirement.**

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

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

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

403 (3) a summary of the activities and recommendations of the Soil Health Advisory
404 Committee.