

1                                   **AGRICULTURE STRUCTURE AMENDMENTS**

2   2015 GENERAL SESSION

3   STATE OF UTAH

4                                   **Chief Sponsor: Mike K. McKell**

5                                   Senate Sponsor: Karen Mayne

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7 **LONG TITLE**

8 **General Description:**

9           This bill addresses the regulation and taxation of certain structures used in agriculture.

10 **Highlighted Provisions:**

11           This bill:

- 12           ▶ defines the term "high tunnel";
- 13           ▶ states that a municipality building code does not apply to a high tunnel;
- 14           ▶ states that a high tunnel is exempt from assessment for taxation purposes; and
- 15           ▶ makes technical changes.

16 **Money Appropriated in this Bill:**

17           None

18 **Other Special Clauses:**

19           None

20 **Utah Code Sections Affected:**

21 AMENDS:

22           **59-2-507**, as last amended by Laws of Utah 2001, Chapter 9

23           **59-2-1101**, as last amended by Laws of Utah 2013, Chapter 248

24           **59-2-1102**, as last amended by Laws of Utah 2012, Chapter 369

25 ENACTS:

26           **10-9a-525**, Utah Code Annotated 1953

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

29           Section 1. Section **10-9a-525** is enacted to read:

30 **10-9a-525. High tunnels -- Exemption from municipal regulation.**

31 (1) As used in this section, "high tunnel" means a structure that:

32 (a) is not a permanent structure;

33 (b) is used for the keeping, storing, sale, or shelter of an agricultural commodity; and

34 (c) has a:

35 (i) metal, wood, or plastic frame;

36 (ii) plastic, woven textile, or other flexible covering; and

37 (iii) floor made of soil, crushed stone, matting, pavers, or a floating concrete slab.

38 (2) A municipal building code does not apply to a high tunnel.

39 (3) No building permit shall be required for the construction of a high tunnel.

40 Section 2. Section **59-2-507** is amended to read:

41 **59-2-507. Land included as agricultural -- Site of farmhouse excluded -- Taxation**  
42 **of structures and site of farmhouse.**

43 (1) (a) Land under barns, sheds, silos, cribs, greenhouses and like structures, lakes,  
44 dams, ponds, streams, and irrigation ditches and like facilities is included in determining the  
45 total area of land actively devoted to agricultural use.

46 (b) Land ~~[which]~~ that is under ~~[the]~~ a farmhouse and land used in connection with ~~[the]~~  
47 a farmhouse is excluded from ~~[that]~~ the determination described in Subsection (1)(a).

48 (2) ~~[All structures which are located on land in agricultural use, the farmhouse and the~~  
49 ~~land on which the farmhouse is located, and land used in connection with the farmhouse,]~~ The  
50 following shall be valued, assessed, and taxed using the same standards, methods, and  
51 procedures that apply to other taxable structures and other land in the county~~[-]~~:

52 (a) a structure, except as provided in Subsection (3), that is located on land in  
53 agricultural use;

54 (b) a farmhouse and the land on which the farmhouse is located; and

55 (c) land used in connection with a farmhouse.

56 (3) A high tunnel, as defined in Section [10-9a-525](#), is exempt from assessment for  
57 taxation purposes.

58 Section 3. Section **59-2-1101** is amended to read:

59 **59-2-1101. Definitions -- Exemption of certain property -- Proportional payments**  
60 **for certain property -- County legislative body authority to adopt rules or ordinances.**

61 (1) As used in this section:

62 (a) "Educational purposes" includes:

63 (i) the physical or mental teaching, training, or conditioning of competitive athletes by  
64 a national governing body of sport recognized by the United States Olympic Committee that  
65 qualifies as being tax exempt under Section 501(c)(3) of the Internal Revenue Code; and

66 (ii) an activity in support of or incidental to the teaching, training, or conditioning  
67 described in Subsection (1)(a)(i).

68 (b) "Exclusive use exemption" means a property tax exemption under Subsection  
69 (3)(a)(iv), for property owned by a nonprofit entity used exclusively for religious, charitable, or  
70 educational purposes.

71 (c) "Government exemption" means a property tax exemption provided under  
72 Subsection (3)(a)(i), (ii), or (iii).

73 (d) "Nonprofit entity" includes an entity if the:

74 (i) entity is treated as a disregarded entity for federal income tax purposes;

75 (ii) entity is wholly owned by, and controlled under the direction of, a nonprofit entity;

76 and

77 (iii) net earnings and profits of the entity irrevocably inure to the benefit of a nonprofit  
78 entity.

79 (e) "Tax relief" means an exemption, deferral, or abatement that is authorized by this  
80 part.

81 (2) (a) Except as provided in Subsection (2)(b) or (c), tax relief may be allowed only if  
82 the claimant is the owner of the property as of January 1 of the year the exemption is claimed.

83 (b) Notwithstanding Subsection (2)(a), a claimant shall collect and pay a proportional  
84 tax based upon the length of time that the property was not owned by the claimant if:

85 (i) the claimant is a federal, state, or political subdivision entity described in

86 Subsection (3)(a)(i), (ii), or (iii); or  
87 (ii) pursuant to Subsection (3)(a)(iv):  
88 (A) the claimant is a nonprofit entity; and  
89 (B) the property is used exclusively for religious, charitable, or educational purposes.  
90 (c) Notwithstanding Subsection (2)(a), a claimant may be allowed a veteran's  
91 exemption in accordance with Sections 59-2-1104 and 59-2-1105 regardless of whether the  
92 claimant is the owner of the property as of January 1 of the year the exemption is claimed if the  
93 claimant is:  
94 (i) the unmarried surviving spouse of:  
95 (A) a deceased veteran with a disability as defined in Section 59-2-1104; or  
96 (B) a veteran who was killed in action or died in the line of duty as defined in Section  
97 59-2-1104; or  
98 (ii) a minor orphan of:  
99 (A) a deceased veteran with a disability as defined in Section 59-2-1104; or  
100 (B) a veteran who was killed in action or died in the line of duty as defined in Section  
101 59-2-1104.  
102 (3) (a) The following property is exempt from taxation:  
103 (i) property exempt under the laws of the United States;  
104 (ii) property of:  
105 (A) the state;  
106 (B) school districts; and  
107 (C) public libraries;  
108 (iii) except as provided in Title 11, Chapter 13, Interlocal Cooperation Act, property of:  
109 (A) counties;  
110 (B) cities;  
111 (C) towns;  
112 (D) local districts;  
113 (E) special service districts; and

114 (F) all other political subdivisions of the state;  
115 (iv) property owned by a nonprofit entity used exclusively for religious, charitable, or  
116 educational purposes;

117 (v) places of burial not held or used for private or corporate benefit;

118 (vi) farm equipment and machinery;

119 (vii) a high tunnel, as defined in Section 10-9a-525;

120 [~~vii~~] (viii) intangible property; and

121 [~~viii~~] (ix) the ownership interest of an out-of-state public agency, as defined in  
122 Section 11-13-103:

123 (A) if that ownership interest is in property providing additional project capacity, as  
124 defined in Section 11-13-103; and

125 (B) on which a fee in lieu of ad valorem property tax is payable under Section  
126 11-13-302.

127 (b) For purposes of a property tax exemption for property of school districts under  
128 Subsection (3)(a)(ii)(B), a charter school under Title 53A, Chapter 1a, Part 5, The Utah Charter  
129 Schools Act, is considered to be a school district.

130 (4) Subject to Subsection (5), if property that is allowed an exclusive use exemption or  
131 a government exemption ceases to qualify for the exemption because of a change in the  
132 ownership of the property:

133 (a) the new owner of the property shall pay a proportional tax based upon the period of  
134 time:

135 (i) beginning on the day that the new owner acquired the property; and

136 (ii) ending on the last day of the calendar year during which the new owner acquired  
137 the property; and

138 (b) the new owner of the property and the person from whom the new owner acquires  
139 the property shall notify the county assessor, in writing, of the change in ownership of the  
140 property within 30 days from the day that the new owner acquires the property.

141 (5) Notwithstanding Subsection (4)(a), the proportional tax described in Subsection

142 (4)(a):

143 (a) is subject to any exclusive use exemption or government exemption that the  
144 property is entitled to under the new ownership of the property; and

145 (b) applies only to property that is acquired after December 31, 2005.

146 (6) A county legislative body may adopt rules or ordinances to:

147 (a) effectuate the exemptions, deferrals, abatements, or other relief from taxation  
148 provided in this part; and

149 (b) designate one or more persons to perform the functions given the county under this  
150 part.

151 Section 4. Section **59-2-1102** is amended to read:

152 **59-2-1102. Determination of exemptions by board of equalization -- Appeal --**  
153 **Application for exemption -- Annual statement -- Exceptions.**

154 (1) (a) For property assessed under Part 3, County Assessment, the county board of  
155 equalization may, after giving notice in a manner prescribed by rule, determine whether certain  
156 property within the county is exempt from taxation.

157 (b) The decision of the county board of equalization described in Subsection (1)(a)  
158 shall:

159 (i) be in writing; and

160 (ii) include:

161 (A) a statement of facts; and

162 (B) the statutory basis for its decision.

163 (c) Except as provided in Subsection (11)(a), a copy of the decision described in  
164 Subsection (1)(a) shall be sent on or before May 15 to the person applying for the exemption.

165 (2) The county board of equalization shall notify an owner of exempt property that has  
166 previously received an exemption but failed to file an annual statement in accordance with  
167 Subsection (9)(c), of the county board of equalization's intent to revoke the exemption on or  
168 before April 1.

169 (3) (a) Except as provided in Subsection (8) and subject to Subsection (9), a reduction

170 may not be made under this part in the value of property and an exemption may not be granted  
171 under this part unless the party affected or the party's agent:

172 (i) makes and files with the county board of equalization a written application for the  
173 reduction or exemption, verified by signed statement; and

174 (ii) appears before the county board of equalization and shows facts upon which it is  
175 claimed the reduction should be made, or exemption granted.

176 (b) Notwithstanding Subsection (9), the county board of equalization may waive:

177 (i) the application or personal appearance requirements of Subsection (3)(a), (4)(b), or  
178 (9)(a); or

179 (ii) the annual statement requirements of Subsection (9)(c).

180 (4) (a) Before the county board of equalization grants any application for exemption or  
181 reduction, the county board of equalization may examine under oath the person or agent  
182 making the application.

183 (b) Except as provided in Subsection (3)(b), a reduction may not be made or exemption  
184 granted unless the person or the agent making the application attends and answers all questions  
185 pertinent to the inquiry.

186 (5) For the hearing on the application, the county board of equalization may subpoena  
187 any witnesses, and hear and take any evidence in relation to the pending application.

188 (6) Except as provided in Subsection (11)(b), the county board of equalization shall  
189 hold hearings and render a written decision to determine any exemption on or before May 1 in  
190 each year.

191 (7) Any property owner dissatisfied with the decision of the county board of  
192 equalization regarding any reduction or exemption may appeal to the commission under  
193 Section [59-2-1006](#).

194 (8) Notwithstanding Subsection (3)(a), a county board of equalization may not require  
195 an owner of property to file an application in accordance with this section in order to claim an  
196 exemption for the property under the following:

197 (a) Subsections [59-2-1101](#)(3)(a)(i) through (iii);

198 (b) Subsection 59-2-1101(3)(a)(vi) or [~~vii~~] viii;

199 (c) Section 59-2-1110;

200 (d) Section 59-2-1111;

201 (e) Section 59-2-1112;

202 (f) Section 59-2-1113; or

203 (g) Section 59-2-1114.

204 (9) (a) Except as provided in Subsections (3)(b) and (9)(b), for property described in  
205 Subsection 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall, consistent with  
206 Subsection (10), require an owner of that property to file an application in accordance with this  
207 section in order to claim an exemption for that property.

208 (b) Notwithstanding Subsection (9)(a), a county board of equalization may not require  
209 an owner of property described in Subsection 59-2-1101(3)(a)(iv) or (v) to file an application  
210 under Subsection (9)(a) if:

211 (i) (A) the owner filed an application under Subsection (9)(a); or

212 (B) the county board of equalization waived the application requirements in accordance  
213 with Subsection (3)(b);

214 (ii) the county board of equalization determines that the owner may claim an  
215 exemption for that property; and

216 (iii) the exemption described in Subsection (9)(b)(ii) is in effect.

217 (c) (i) Except as provided in Subsection (3)(b), for the time period that an owner is  
218 granted an exemption in accordance with this section for property described in Subsection  
219 59-2-1101(3)(a)(iv) or (v), a county board of equalization shall require the owner to file an  
220 annual statement on a form prescribed by the commission establishing that the property  
221 continues to be eligible for the exemption.

222 (ii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
223 commission shall make rules providing:

224 (A) the form for the annual statement required by Subsection (9)(c)(i);

225 (B) the contents of the form for the annual statement required by Subsection (9)(c)(i);



226 and

227 (C) procedures and requirements for making the annual statement required by  
228 Subsection (9)(c)(i).

229 (iii) The commission shall make the form described in Subsection (9)(c)(ii)(A)  
230 available to counties.

231 (10) (a) For purposes of this Subsection (10), "exclusive use exemption" is as defined  
232 in Section [59-2-1101](#).

233 (b) (i) For purposes of Subsection (1)(a), and except as provided in Subsections  
234 (10)(b)(ii) and (iii), when a person acquires property on or after January 1 that qualifies for an  
235 exclusive use exemption, that person may apply for the exclusive use exemption on or before  
236 the later of:

237 (A) the day set by rule as the deadline for filing a property tax exemption application;  
238 or

239 (B) 30 days after the day on which the property is acquired.

240 (ii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after  
241 January 1, 2004, and before January 1, 2005, that qualifies for an exclusive use exemption, may  
242 apply for the exclusive use exemption for the 2004 calendar year on or before September 30,  
243 2005.

244 (iii) Notwithstanding Subsection (10)(b)(i), a person who acquires property on or after  
245 January 1, 2005, and before January 1, 2006, that qualifies for an exclusive use exemption, may  
246 apply for the exclusive use exemption for the 2005 calendar year on or before the later of:

247 (A) September 30, 2005; or

248 (B) 30 days after the day on which the property is acquired.

249 (11) (a) Notwithstanding Subsection (1)(c), if an application for an exemption is filed  
250 under Subsection (10), a county board of equalization shall send a copy of the decision  
251 described in Subsection (1)(c) to the person applying for the exemption on or before the later  
252 of:

253 (i) May 15; or

- 254           (ii) 45 days after the day on which the application for the exemption is filed.
- 255           (b) Notwithstanding Subsection (6), if an application for an exemption is filed under
- 256 Subsection (10), a county board of equalization shall hold the hearing and render the decision
- 257 described in Subsection (6) on or before the later of:
- 258           (i) May 1; or
- 259           (ii) 30 days after the day on which the application for the exemption is filed.