

1                                   **CONSOLIDATION OF THE DEPARTMENT OF**  
2                                   **ENVIRONMENTAL QUALITY WITH THE DEPARTMENT OF**  
3                                   **NATURAL RESOURCES**

4                                   2011 GENERAL SESSION

5                                   STATE OF UTAH

6                                   **Chief Sponsor: Wayne A. Harper**

7                                   Senate Sponsor: \_\_\_\_\_

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9   **LONG TITLE**

10 **General Description:**

11           This bill eliminates the Department of Environmental Quality effective July 1, 2012,  
12 moving its powers and duties to the Department of Natural Resources, renamed the  
13 Department of Natural Resources and Environment.

14 **Highlighted Provisions:**

15           This bill:

- 16           ▶ effective July 1, 2012, eliminates the Department of Environmental Quality;
- 17           ▶ effective July 1, 2012:

- 18           • moves divisions, programs, and functions of the Department of Environmental  
19 Quality to the Department of Natural Resources and Environment;

- 20           • consolidates various divisions and adjusts responsibilities for various programs  
21 within both departments;

- 22           • eliminates references to the Department of Environmental Quality throughout  
23 the Utah Code;

- 24           • eliminates the executive director of the Department of Environmental Quality as  
25 a member of various entities and adjusts the membership of those entities  
26 accordingly;

- 27           • addresses the provision of legal advice to the Department of Natural Resources



- 28 and Environment;
- 29       ▶ effective July 1, 2012, creates the Division of Energy in the Department of Natural
- 30 Resources and Environment;
- 31       ▶ effective July 1, 2011, creates the Office of Energy within the Department of
- 32 Natural Resources;
- 33       ▶ provides a transition process for consolidating the Department of Environmental
- 34 Quality with the Department of Natural Resources and Environment; and
- 35       ▶ makes technical and conforming changes.

**36 Money Appropriated in this Bill:**

37       None

**38 Other Special Clauses:**

39       This bill provides an effective date.

40       This bill provides revisor instructions.

**41 Utah Code Sections Affected:**

42 AMENDS:

- 43       **4-2-8.5**, as last amended by Laws of Utah 2008, Chapter 382
- 44       **4-2-8.6**, as last amended by Laws of Utah 2010, Chapter 278
- 45       **4-2-8.7**, as last amended by Laws of Utah 2010, Chapters 278 and 378
- 46       **4-14-10**, as last amended by Laws of Utah 2010, Chapter 286
- 47       **4-18-4**, as last amended by Laws of Utah 2010, Chapter 286
- 48       **4-20-1.5**, as last amended by Laws of Utah 2010, Chapters 278 and 286
- 49       **4-37-503**, as last amended by Laws of Utah 2010, Chapters 286 and 378
- 50       **4-39-104**, as last amended by Laws of Utah 2010, Chapter 286
- 51       **9-9-104.6**, as last amended by Laws of Utah 2010, Chapter 286
- 52       **11-8-2**, as last amended by Laws of Utah 2005, Chapter 105
- 53       **11-8-3**, as last amended by Laws of Utah 2000, Chapter 222
- 54       **11-38-102**, as last amended by Laws of Utah 2009, Chapter 368
- 55       **11-38-201**, as last amended by Laws of Utah 2010, Chapter 286
- 56       **11-38-302**, as last amended by Laws of Utah 2009, Chapters 344 and 368
- 57       **17-27a-401**, as renumbered and amended by Laws of Utah 2005, Chapter 254
- 58       **17-27a-404**, as last amended by Laws of Utah 2010, Chapter 90

- 59           **17-41-101**, as last amended by Laws of Utah 2009, Chapter 376
- 60           **17B-2a-818.5**, as last amended by Laws of Utah 2010, Chapter 229
- 61           **19-1-102**, as enacted by Laws of Utah 1991, Chapter 112
- 62           **19-1-103**, as enacted by Laws of Utah 1991, Chapter 112
- 63           **19-1-201**, as last amended by Laws of Utah 2010, Chapter 17
- 64           **19-1-202**, as last amended by Laws of Utah 2009, Chapter 377
- 65           **19-1-301**, as last amended by Laws of Utah 2009, Chapter 377
- 66           **19-1-306**, as last amended by Laws of Utah 2008, Chapter 382
- 67           **19-1-307**, as last amended by Laws of Utah 2010, Chapter 278
- 68           **19-1-406**, as enacted by Laws of Utah 2010, Chapter 236
- 69           **19-3-102**, as last amended by Laws of Utah 2001, Chapter 314
- 70           **19-3-103**, as last amended by Laws of Utah 2010, Chapter 286
- 71           **19-3-301**, as last amended by Laws of Utah 2008, Chapter 360
- 72           **19-3-304**, as enacted by Laws of Utah 1998, Chapter 348
- 73           **19-3-308**, as last amended by Laws of Utah 2009, Chapter 183
- 74           **19-3-315**, as last amended by Laws of Utah 2009, Chapter 183
- 75           **19-3-320**, as enacted by Laws of Utah 2001, Chapter 269
- 76           **19-4-103**, as last amended by Laws of Utah 2010, Chapter 286
- 77           **19-5-102**, as last amended by Laws of Utah 2001, Chapter 274
- 78           **19-5-122**, as last amended by Laws of Utah 2009, Chapter 183
- 79           **19-6-102**, as last amended by Laws of Utah 2007, Chapter 72
- 80           **19-6-102.6**, as last amended by Laws of Utah 2008, Chapter 382
- 81           **19-6-103**, as last amended by Laws of Utah 2010, Chapter 286
- 82           **19-6-202**, as renumbered and amended by Laws of Utah 1991, Chapter 112
- 83           **19-6-402**, as last amended by Laws of Utah 2010, Chapter 324
- 84           **19-6-409**, as last amended by Laws of Utah 2010, Chapter 186
- 85           **19-6-703**, as last amended by Laws of Utah 2010, Chapter 324
- 86           **19-6-803**, as last amended by Laws of Utah 2008, Chapter 382
- 87           **19-6-807**, as last amended by Laws of Utah 2005, Chapter 148
- 88           **19-6-902**, as last amended by Laws of Utah 2008, Chapter 38
- 89           **19-6-906**, as last amended by Laws of Utah 2008, Chapter 382

- 90           **19-6-1102**, as enacted by Laws of Utah 2009, Chapter 340  
91           **19-8-102**, as enacted by Laws of Utah 1997, Chapter 247  
92           **19-8-104**, as enacted by Laws of Utah 1997, Chapter 247  
93           **19-9-102**, as renumbered and amended by Laws of Utah 2003, Chapter 184  
94           **19-9-104**, as last amended by Laws of Utah 2010, Chapter 286  
95           **19-10-102**, as enacted by Laws of Utah 2003, Chapter 44  
96           **23-13-2**, as last amended by Laws of Utah 2010, Chapter 256  
97           **23-14-1**, as last amended by Laws of Utah 1995, Chapter 211  
98           **23-14-2**, as last amended by Laws of Utah 2010, Chapter 286  
99           **23-14-2.6**, as last amended by Laws of Utah 2010, Chapters 286 and 324  
100          **23-14-3**, as last amended by Laws of Utah 1995, Chapter 211  
101          **23-14-8**, as last amended by Laws of Utah 1995, Chapter 211  
102          **23-21-2**, as last amended by Laws of Utah 1993, Chapter 227  
103          **23-22-1**, as last amended by Laws of Utah 1998, Chapter 140  
104          **23-27-102**, as enacted by Laws of Utah 2008, Chapter 284  
105          **26-1-30**, as last amended by Laws of Utah 2008, Chapter 339  
106          **26A-1-106**, as last amended by Laws of Utah 2002, Chapter 249  
107          **26A-1-108**, as last amended by Laws of Utah 2002, Chapter 249  
108          **26A-1-114**, as last amended by Laws of Utah 2009, Chapters 304 and 339  
109          **34-38-3**, as last amended by Laws of Utah 2010, Chapter 284  
110          **34A-6-107**, as renumbered and amended by Laws of Utah 1997, Chapter 375  
111          **40-2-203**, as last amended by Laws of Utah 2010, Chapter 286  
112          **40-6-4**, as last amended by Laws of Utah 2010, Chapter 286  
113          **40-6-10**, as last amended by Laws of Utah 2009, First Special Session, Chapter 5  
114          **40-6-15**, as last amended by Laws of Utah 2009, Chapter 344  
115          **40-6-16**, as last amended by Laws of Utah 1993, Chapter 227  
116          **40-6-17**, as last amended by Laws of Utah 2009, Chapter 344  
117          **40-6-19**, as last amended by Laws of Utah 2009, Chapter 344  
118          **40-8-4**, as last amended by Laws of Utah 2009, Chapter 344  
119          **40-8-5**, as last amended by Laws of Utah 1995, Chapter 299  
120          **40-8-6**, as last amended by Laws of Utah 2009, Chapter 344

- 121           **40-8-11**, as last amended by Laws of Utah 1983, Chapter 201
- 122           **40-10-2**, as last amended by Laws of Utah 1994, Chapter 219
- 123           **40-10-3**, as last amended by Laws of Utah 2010, Chapter 324
- 124           **41-6a-1644**, as last amended by Laws of Utah 2009, Chapter 333
- 125           **46-4-503**, as last amended by Laws of Utah 2008, Chapter 382
- 126           **53-2-110**, as last amended by Laws of Utah 2008, Chapter 382
- 127           **53-13-103**, as last amended by Laws of Utah 2009, Chapter 344
- 128           **53-13-105**, as last amended by Laws of Utah 2002, Fifth Special Session, Chapter 8
- 129           **53C-1-203**, as last amended by Laws of Utah 2010, Chapter 286
- 130           **57-25-102**, as enacted by Laws of Utah 2006, Chapter 51
- 131           **57-25-110**, as enacted by Laws of Utah 2006, Chapter 51
- 132           **59-5-101**, as last amended by Laws of Utah 2009, Chapter 344
- 133           **59-12-103**, as last amended by Laws of Utah 2010, Chapter 412
- 134           **59-23-4**, as last amended by Laws of Utah 2010, Chapter 105
- 135           **63A-5-204**, as last amended by Laws of Utah 2009, Chapters 183 and 344
- 136           **63A-5-205**, as last amended by Laws of Utah 2010, Chapter 229
- 137           **63A-5-222**, as last amended by Laws of Utah 2009, Chapters 53 and 344
- 138           **63A-9-301**, as last amended by Laws of Utah 2010, Chapter 286
- 139           **63B-3-301**, as last amended by Laws of Utah 2008, Chapter 382
- 140           **63B-4-102**, as last amended by Laws of Utah 2008, Chapter 382
- 141           **63B-6-102**, as last amended by Laws of Utah 2008, Chapter 382
- 142           **63B-10-401**, as last amended by Laws of Utah 2010, Chapter 278
- 143           **63B-13-401**, as enacted by Laws of Utah 2004, Chapter 364
- 144           **63B-14-401**, as enacted by Laws of Utah 2005, Chapter 180
- 145           **63B-17-401**, as enacted by Laws of Utah 2008, Chapter 128
- 146           **63B-18-301**, as enacted by Laws of Utah 2009, Chapter 134
- 147           **63C-4-101**, as last amended by Laws of Utah 2010, Chapter 286
- 148           **63C-6-101**, as last amended by Laws of Utah 2007, Chapter 66
- 149           **63C-9-403**, as last amended by Laws of Utah 2010, Chapter 229
- 150           **63C-12-107**, as enacted by Laws of Utah 2009, Chapter 262
- 151           **63F-1-801**, as enacted by Laws of Utah 2009, Chapter 195

- 152           **63G-2-206**, as last amended by Laws of Utah 2009, Chapter 344
- 153           **63G-2-301**, as last amended by Laws of Utah 2009, Chapter 344
- 154           **63I-1-219**, as last amended by Laws of Utah 2010, Chapter 319
- 155           **63I-1-273**, as last amended by Laws of Utah 2008, Chapters 148, 311 and renumbered
- 156 and amended by Laws of Utah 2008, Chapter 382
- 157           **63J-4-401**, as last amended by Laws of Utah 2009, Chapter 121
- 158           **63J-4-502**, as last amended by Laws of Utah 2010, Chapter 286
- 159           **63K-1-102**, as last amended by Laws of Utah 2010, Chapter 334
- 160           **63K-3-201**, as last amended by Laws of Utah 2010, Chapter 286
- 161           **63K-3-301**, as last amended by Laws of Utah 2010, Chapter 286
- 162           **63K-5-102**, as enacted by Laws of Utah 2010, Chapter 22
- 163           **63M-1-604**, as last amended by Laws of Utah 2010, Chapter 286
- 164           **65A-1-2**, as last amended by Laws of Utah 2009, Chapter 344
- 165           **65A-1-4**, as last amended by Laws of Utah 2009, Chapter 344
- 166           **65A-4-2**, as enacted by Laws of Utah 1988, Chapter 121
- 167           **65A-10-2**, as last amended by Laws of Utah 1994, Chapter 294
- 168           **65A-10-8**, as enacted by Laws of Utah 1988, Chapter 121
- 169           **67-19-6.7**, as last amended by Laws of Utah 2010, Chapter 249
- 170           **67-19-27**, as last amended by Laws of Utah 2009, Chapter 344
- 171           **67-19c-101**, as last amended by Laws of Utah 2006, Chapter 139
- 172           **67-22-2**, as last amended by Laws of Utah 2009, Chapter 369
- 173           **72-6-107.5**, as last amended by Laws of Utah 2010, Chapter 229
- 174           **72-6-115**, as last amended by Laws of Utah 2010, Chapter 286
- 175           **73-1-4.5**, as enacted by Laws of Utah 2002, Chapter 19
- 176           **73-2-1**, as last amended by Laws of Utah 2008, Chapters 360 and 382
- 177           **73-2-1.5**, as last amended by Laws of Utah 2008, Chapter 382
- 178           **73-2-14**, as last amended by Laws of Utah 2009, Chapter 183
- 179           **73-2-26**, as enacted by Laws of Utah 2005, Chapter 33
- 180           **73-2-29**, as enacted by Laws of Utah 2008, Chapter 67
- 181           **73-3-25**, as last amended by Laws of Utah 2010, Chapter 124
- 182           **73-3-29**, as last amended by Laws of Utah 2008, Chapter 382

- 183            **73-3b-102**, as last amended by Laws of Utah 2010, Chapter 107
- 184            **73-4-1**, as last amended by Laws of Utah 2001, Chapter 107
- 185            **73-10-1.5**, as enacted by Laws of Utah 1967, Chapter 176
- 186            **73-10-18**, as last amended by Laws of Utah 1969, Chapter 198
- 187            **73-10c-3**, as last amended by Laws of Utah 2010, Chapter 286
- 188            **73-10c-6**, as last amended by Laws of Utah 2001, Chapter 175
- 189            **73-15-4**, as last amended by Laws of Utah 1979, Chapter 260
- 190            **73-18a-5**, as last amended by Laws of Utah 2008, Chapter 382
- 191            **73-18a-12**, as last amended by Laws of Utah 2008, Chapter 382
- 192            **73-22-3**, as enacted by Laws of Utah 1981, Chapter 188
- 193            **73-22-5**, as last amended by Laws of Utah 2008, Chapter 382
- 194            **73-27-102**, as last amended by Laws of Utah 2009, Chapter 254
- 195            **73-30-201**, as enacted by Laws of Utah 2010, Chapter 141
- 196            **73-30-202**, as enacted by Laws of Utah 2010, Chapter 141
- 197            **78A-3-102**, as last amended by Laws of Utah 2009, Chapter 344
- 198            **78A-4-103**, as last amended by Laws of Utah 2009, Chapter 344
- 199            **78B-6-909**, as renumbered and amended by Laws of Utah 2008, Chapter 3
- 200            **79-1-102**, as enacted by Laws of Utah 2009, Chapter 344
- 201            **79-2-101**, as enacted by Laws of Utah 2009, Chapter 344
- 202            **79-2-201**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 203            **79-2-204**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 204            **79-2-404**, as last amended by Laws of Utah 2010, Chapter 229
- 205            **79-3-102**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 206            **79-3-204**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 207            **79-3-303**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 208            **79-3-402**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 209            **79-3-501**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 210            **79-3-502**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 211            **79-3-508**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 212            **79-3-509**, as renumbered and amended by Laws of Utah 2009, Chapter 344
- 213            **79-4-501**, as renumbered and amended by Laws of Utah 2009, Chapter 344

214 ENACTS:

215 **63I-1-279**, Utah Code Annotated 1953

216 **79-2-201.5**, Utah Code Annotated 1953

217 **79-2-206**, Utah Code Annotated 1953

218 RENUMBERS AND AMENDS:

219 **79-6-101**, (Renumbered from 63M-4-101, as renumbered and amended by Laws of  
220 Utah 2008, Chapter 382)

221 **79-6-102**, (Renumbered from 63M-4-102, as renumbered and amended by Laws of  
222 Utah 2008, Chapter 382)

223 **79-6-201**, (Renumbered from 63M-4-201, as renumbered and amended by Laws of  
224 Utah 2008, Chapter 382)

225 **79-6-202**, (Renumbered from 63M-4-202, as renumbered and amended by Laws of  
226 Utah 2008, Chapter 382)

227 **79-6-203**, (Renumbered from 63M-4-203, as renumbered and amended by Laws of  
228 Utah 2008, Chapter 382)

229 **79-6-301**, (Renumbered from 63M-4-301, as renumbered and amended by Laws of  
230 Utah 2008, Chapter 382)

231 **79-6-302**, (Renumbered from 63M-4-302, as renumbered and amended by Laws of  
232 Utah 2008, Chapter 382)

233 **Uncodified Material Affected:**

234 ENACTS UNCODIFIED MATERIAL



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

237 Section 1. Section **4-2-8.5** is amended to read:

238 **4-2-8.5. Salinity Offset Fund.**

239 (1) As used in this section, "Colorado River Salinity Offset Program" means a  
240 program, administered by the Division of Water [~~Quality~~] Resources, allowing oil, gas, or  
241 mining companies and other entities to provide funds to finance salinity reduction projects in  
242 the Colorado River Basin by purchasing salinity credits as offsets against discharges made by  
243 the company under permits issued by the Division of Water [~~Quality~~] Resources.

244 (2) (a) There is created a restricted special revenue fund known as the "Salinity Offset



245 Fund."

246 (b) The fund shall consist of:

247 (i) monies received from the Division of Water [~~Quality~~] Resources that have been  
248 collected as part of the Colorado River Salinity Offset Program;

249 (ii) grants from local governments, the state, or the federal government;

250 (iii) grants from private entities; and

251 (iv) interest on fund monies.

252 (3) Any unallocated balance in the fund at the end of a fiscal year is nonlapsing.

253 (4) (a) The department shall:

254 (i) subject to the rules established under Subsection (4)(a)(ii), distribute fund monies to  
255 farmers, ranchers, mutual irrigation companies, and other entities in the state to assist in  
256 financing irrigation, rangeland, and watershed improvement projects that will, in accordance  
257 with the Colorado River Salinity Offset Program, reduce salinity in the Colorado River; and

258 (ii) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
259 make rules establishing:

260 (A) a project funding application process;

261 (B) project funding requirements;

262 (C) project approval criteria; and

263 (D) standards for evaluating the effectiveness of funded projects in reducing salinity in  
264 the Colorado River.

265 (b) The department may require entities seeking fund monies to provide matching  
266 funds.

267 (c) The department shall submit to the Water Quality [~~Board's executive secretary~~]  
268 Board proposed funding projects for the [~~executive secretary's~~] board's review and approval.

269 (5) The department may use fund monies for the administration of the fund, but this  
270 amount may not exceed 10% of the annual receipts to the fund.

271 Section 2. Section **4-2-8.6** is amended to read:

272 **4-2-8.6. Cooperative agreements and grants to prevent wildland fire.**

273 After consulting with the Department of Natural Resources and Environment and the  
274 Conservation Commission, the department may:

275 (1) enter into a cooperative agreement with a state agency, a federal agency, or a

276 federal, state, tribal, or private landowner to prevent catastrophic wildland fire through land  
277 restoration in a watershed that:

- 278 (a) is impacted by cheatgrass or other invasive species; or
- 279 (b) has a fuel load that may contribute to a catastrophic wildland fire;
- 280 (2) expend money from the Invasive Species Mitigation Account created in Section  
281 4-2-8.7; and
- 282 (3) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
283 make rules to:

- 284 (a) administer this section; and
- 285 (b) give grants from the Invasive Species Mitigation Account.

286 Section 3. Section **4-2-8.7** is amended to read:

287 **4-2-8.7. Invasive Species Mitigation Account created.**

288 (1) As used in this section, "project" means an undertaking that prevents catastrophic  
289 wildland fire through land restoration in a watershed that:

- 290 (a) is impacted by cheatgrass or other invasive species; or
- 291 (b) has a fuel load that may contribute to a catastrophic wildland fire.

292 (2) (a) There is created a restricted account within the General Fund known as the  
293 "Invasive Species Mitigation Account."

294 (b) The restricted account shall consist of:

- 295 (i) money appropriated by the Legislature;
- 296 (ii) grants from the federal government; and
- 297 (iii) grants or donations from a person.

298 (3) Any unallocated balance in the restricted account at the end of the year is  
299 nonlapsing.

300 (4) (a) After consulting with the Department of Natural Resources and Environment  
301 and the Conservation Commission, the department may expend money in the restricted  
302 account:

- 303 (i) on a project implemented by:
  - 304 (A) the department; or
  - 305 (B) the Conservation Commission; or
- 306 (ii) by giving a grant for a project to:

- 307 (A) a state agency;
- 308 (B) a federal agency; or
- 309 (C) a federal, state, tribal, or private landowner.
- 310 (b) A grant to a federal landowner shall be matched with at least an equal amount of
- 311 money by the federal landowner.
- 312 (c) In expending the money authorized by Subsection (4)(a)(i), the department shall use
- 313 existing infrastructure and employees to plan and implement the project.
- 314 (5) In giving a grant, the department shall consider the effectiveness of a project in
- 315 preventing:
  - 316 (a) first, the risk to public safety and health from:
    - 317 (i) air pollution;
    - 318 (ii) flooding; and
    - 319 (iii) reduced visibility on a highway;
  - 320 (b) second, damage to the environment, including:
    - 321 (i) soil erosion;
    - 322 (ii) degraded water quality; and
    - 323 (iii) release of carbon; and
  - 324 (c) third, damage to:
    - 325 (i) a local economy; and
    - 326 (ii) habitat for wildlife or livestock.

Section 4. Section **4-14-10** is amended to read:

**4-14-10. Pesticide Committee created -- Composition -- Terms -- Compensation --**

**Duties.**

- 330 (1) There is created a Pesticide Committee comprising [~~nine~~] eight persons appointed
- 331 by the governor to four-year terms of office, one member from each of the following state
- 332 agencies and organizations:
  - 333 (a) Utah State Agricultural Extension Service;
  - 334 (b) Department of Agriculture and Food;
  - 335 (c) Department of Health;
  - 336 (d) Division of Wildlife Resources;
  - 337 [~~(e) Department of Environmental Quality;~~]

338            [~~(f)~~] (e) Utah Pest Control Association;  
 339            [~~(g)~~] (f) agricultural chemical industry;  
 340            [~~(h)~~] (g) Utah Farmers Union; and  
 341            [~~(i)~~] (h) Utah Farm Bureau Federation.

342            (2) Notwithstanding the requirements of Subsection (1), the governor shall, at the time  
 343 of appointment or reappointment, adjust the length of terms to ensure that the terms of  
 344 committee members are staggered so that approximately half of the committee is appointed  
 345 every two years.

346            (3) When a vacancy occurs in the membership for any reason, the replacement shall be  
 347 appointed for the unexpired term.

348            (4) The committee shall elect one of its members to serve as chair. The chair is  
 349 responsible for the call and conduct of meetings of the Pesticide Committee.

350            (5) Attendance of a simple majority of the members constitutes a quorum for the  
 351 transaction of official business.

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

- 354            (a) Section 63A-3-106;
- 355            (b) Section 63A-3-107; and
- 356            (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
 357 63A-3-107.

358            (7) The Pesticide Committee shall make recommendations to the commissioner  
 359 regarding making rules pertaining to the sale, distribution, use, and disposal of pesticides.

360            Section 5. Section ~~4-18-4~~ is amended to read:

361            **4-18-4. Conservation Commission created -- Composition -- Appointment --**  
 362 **Terms -- Compensation -- Attorney general to provide legal assistance.**

363            (1) There is created within the department the Conservation Commission to perform  
 364 the functions specified in this chapter.

365            (2) The Conservation Commission shall be comprised of [~~16~~] 15 members, including:

- 366            (a) the director of the Extension Service at Utah State University or the director's  
 367 designee;
- 368            (b) the president of the Utah Association of Conservation Districts or the president's

369 designee;

370 (c) the commissioner or the commissioner's designee;

371 (d) the executive director of the Department of Natural Resources and Environment or  
372 the executive director's designee;

373 [~~(e) the executive director of the Department of Environmental Quality or the executive~~  
374 ~~director's designee;~~]

375 [~~(f)~~ (e) the chair and the vice chair of the State Grazing Advisory Board created in  
376 Section 4-20-1.5;

377 [~~(g)~~ (f) the president of the County Weed Supervisors Association;

378 [~~(h)~~ (g) seven district supervisors who provide district representation on the  
379 commission on a multicounty basis; and

380 [~~(i)~~ (h) the director of the School and Institutional Trust Lands Administration or the  
381 director's designee.

382 (3) If a district supervisor is unable to attend a meeting, an alternate may serve in the  
383 place of the district supervisor for that meeting.

384 (4) The members of the commission specified in Subsection (2)[~~(h)~~](g) shall:

385 (a) be recommended by the commission to the governor; and

386 (b) be appointed by the governor with the consent of the Senate.

387 (5) (a) Except as required by Subsection (5)(b), as terms of current commission  
388 members expire, the governor shall appoint each new member or reappointed member to a  
389 four-year term.

390 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the  
391 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
392 commission members are staggered so that approximately half of the commission is appointed  
393 every two years.

394 (6) When a vacancy occurs in the membership for any reason, the replacement shall be  
395 appointed for the unexpired term.

396 (7) The commissioner is chair of the commission.

397 (8) Attendance of a majority of the commission members at a meeting constitutes a  
398 quorum.

399 (9) A member may not receive compensation or benefits for the member's service, but

400 may receive per diem and travel expenses in accordance with:

401 (a) Section 63A-3-106;

402 (b) Section 63A-3-107; and

403 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

404 63A-3-107.

405 (10) The commission shall keep a record of its actions.

406 (11) The attorney general shall provide legal services to the commission upon request.

407 Section 6. Section **4-20-1.5** is amended to read:

408 **4-20-1.5. State Grazing Advisory Board -- Duties.**

409 (1) (a) There is created within the department the State Grazing Advisory Board.

410 (b) The commissioner shall appoint the following members:

411 (i) one member from each regional board;

412 (ii) one member from the Conservation Commission created in Section 4-18-4;

413 (iii) one representative of the Department of Natural Resources and Environment;

414 (iv) two livestock producers at-large; and

415 (v) one representative of the oil, gas, or mining industry.

416 (2) The term of office for a state board member is four years.

417 (3) Members of the state board shall elect a chair, who shall serve for two years.

418 (4) A member may not receive compensation or benefits for the member's service, but

419 may receive per diem and travel expenses in accordance with:

420 (a) Section 63A-3-106;

421 (b) Section 63A-3-107; and

422 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

423 63A-3-107.

424 (5) The state board shall:

425 (a) receive:

426 (i) advice and recommendations from a regional board concerning:

427 (A) management plans for public lands, state lands, and school and institutional trust

428 lands as defined in Section 53C-1-103, within the regional board's region; and

429 (B) any issue that impacts grazing on private lands, public lands, state lands, or school

430 and institutional trust lands as defined in Section 53C-1-103, in its region; and

- 431 (ii) requests for restricted account money from the entities described in Subsections
- 432 (5)(c)(i) through (iv);
- 433 (b) recommend state policy positions and cooperative agency participation in federal
- 434 and state land management plans to the department and to the Public Lands Policy
- 435 Coordinating Office created under Section 63J-4-602; and
- 436 (c) advise the department on the requests and recommendations of:
- 437 (i) regional boards;
- 438 (ii) county weed control boards created under Section 4-17-4;
- 439 (iii) cooperative weed management associations; and
- 440 (iv) conservation districts created under the authority of Title 17D, Chapter 3,
- 441 Conservation District Act.

442 Section 7. Section **4-37-503** is amended to read:

443 **4-37-503. Fish Health Policy Board.**

- 444 (1) There is created within the department the Fish Health Policy Board which shall
- 445 establish policies designed to prevent the outbreak of, control the spread of, and eradicate
- 446 pathogens that cause disease in aquatic animals.
- 447 (2) The Fish Health Policy Board shall:
- 448 (a) in accordance with Subsection (6)(b), determine procedures and requirements for
- 449 certifying a source of aquatic animals as health approved, including:
- 450 (i) the pathogens for which inspection is required to receive health approval;
- 451 (ii) the pathogens that may not be present to receive health approval; and
- 452 (iii) standards and procedures required for the inspection of aquatic animals;
- 453 (b) establish procedures for the timely reporting of the presence of a pathogen and
- 454 disease threat;
- 455 (c) create policies and procedures for, and appoint, an emergency response team to:
- 456 (i) investigate a serious disease threat;
- 457 (ii) develop and monitor a plan of action; and
- 458 (iii) report to:
- 459 (A) the commissioner of agriculture and food;
- 460 (B) the director of the Division of Wildlife Resources; and
- 461 (C) the chair of the Fish Health Policy Board; and

462 (d) develop a unified statewide aquaculture disease control plan.

463 (3) The Fish Health Policy Board shall advise the commissioner of agriculture and  
464 food and the executive director of the Department of Natural Resources and Environment  
465 regarding:

466 (a) educational programs and information systems to educate and inform the public  
467 about practices that the public may employ to prevent the spread of disease; and

468 (b) communication and interaction between the department and the Division of  
469 Wildlife Resources regarding fish health policies and procedures.

470 (4) (a) (i) The governor shall appoint the following seven members to the Fish Health  
471 Policy Board:

472 (A) one member from names submitted by the Department of Natural Resources and  
473 Environment;

474 (B) one member from names submitted by the Department of Agriculture and Food;

475 (C) one member from names submitted by a nonprofit corporation that promotes sport  
476 fishing;

477 (D) one member from names submitted by a nonprofit corporation that promotes the  
478 aquaculture industry;

479 (E) one member from names submitted by the Department of Natural Resources and  
480 Environment and the Department of Agriculture and Food;

481 (F) one member from names submitted by a nonprofit corporation that promotes sport  
482 fishing; and

483 (G) one member from names submitted by a nonprofit corporation that promotes the  
484 aquaculture industry.

485 (ii) The members appointed under Subsections (4)(a)(i)(E) through (G) shall be:

486 (A) (I) faculty members of an institution of higher education; or

487 (II) qualified professionals; and

488 (B) have education and knowledge in:

489 (I) fish pathology;

490 (II) business;

491 (III) ecology; or

492 (IV) parasitology.



493 (iii) At least one member appointed under Subsections (4)(a)(i)(E) through (G) shall  
494 have education and knowledge about fish pathology.

495 (iv) (A) A nominating person shall submit at least three names to the governor.

496 (B) If the governor rejects all the names submitted for a member, the recommending  
497 person shall submit additional names.

498 (b) Except as required by Subsection (4)(c), the term of office of board members shall  
499 be four years.

500 (c) Notwithstanding the requirements of Subsection (4)(b), the governor shall, at the  
501 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
502 board members are staggered so that approximately half of the board is appointed every two  
503 years.

504 (d) When a vacancy occurs in the membership for any reason, the replacement shall be  
505 appointed for the unexpired term.

506 (e) The board members shall elect a chair of the board from the board's membership.

507 (f) The board shall meet upon the call of the chair or a majority of the board members.

508 (g) An action of the board shall be adopted upon approval of the majority of voting  
509 members.

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

512 (a) Section 63A-3-106;

513 (b) Section 63A-3-107; and

514 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
515 63A-3-107.

516 (6) (a) The board shall make rules consistent with its responsibilities and duties  
517 specified in this section.

518 (b) Except as provided by this chapter, all rules adopted by the Fish Health Policy  
519 Board shall be consistent with the suggested procedures for the detection and identification of  
520 pathogens published by the American Fisheries Society's Fish Health Section.

521 (c) (i) Rules of the department and Fish Health Policy Board pertaining to the control  
522 of disease shall remain in effect until the Fish Health Policy Board enacts rules to replace those  
523 provisions.

524 (ii) The Fish Health Policy Board shall promptly amend rules that are inconsistent with  
525 the current suggested procedures published by the American Fisheries Society.

526 (d) The Fish Health Policy Board may waive a requirement established by the Fish  
527 Health Policy Board's rules if:

528 (i) the rule specifies the waiver criteria and procedures; and

529 (ii) the waiver will not threaten other aquaculture facilities or wild aquatic animal  
530 populations.

531 Section 8. Section **4-39-104** is amended to read:

532 **4-39-104. Advisory council.**

533 (1) The department shall establish an advisory council to give advice and make  
534 recommendations on policies and rules adopted pursuant to this chapter.

535 (2) The advisory council shall consist of eight members appointed by the commissioner  
536 of agriculture to four-year terms as follows:

537 (a) two members, recommended by the executive director of the Department of Natural  
538 Resources and Environment, shall represent the Department of Natural Resources and  
539 Environment;

540 (b) two members shall represent the Department of Agriculture, one of whom shall be  
541 the state veterinarian;

542 (c) two members shall represent the livestock industry, one of whom shall represent the  
543 domesticated elk industry; and

544 (d) two members, recommended by the executive director of the Department of Natural  
545 Resources and Environment from a list of candidates submitted by the Division of Wildlife  
546 Resources, shall represent wildlife interests.

547 (3) Notwithstanding the requirements of Subsection (2), the commissioner shall, at the  
548 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
549 council members are staggered so that approximately half of the council is appointed every two  
550 years.

551 (4) When a vacancy occurs in the membership for any reason, the replacement shall be  
552 appointed for the unexpired term.

553 (5) A majority of the advisory council constitutes a quorum. A quorum is necessary for  
554 the council to act.

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

557 (a) Section 63A-3-106;

558 (b) Section 63A-3-107; and

559 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
560 63A-3-107.

561 Section 9. Section **9-9-104.6** is amended to read:

562 **9-9-104.6. Participation of state agencies in meetings with tribal leaders --**

563 **Contact information.**

564 (1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the  
565 division shall coordinate with representatives of tribal governments and the entities listed in  
566 Subsection (2) to provide for the broadest participation possible in the joint meetings.

567 (2) The following may participate in all meetings described in Subsection (1):

568 (a) the chairs of the Native American Legislative Liaison Committee created in Section  
569 36-22-1;

570 (b) the governor or the governor's designee; and

571 (c) a representative appointed by the chief administrative officer of the following:

572 (i) the Department of Health;

573 (ii) the Department of Human Services;

574 (iii) the Department of Natural Resources and Environment;

575 (iv) the Department of Workforce Services;

576 (v) the Governor's Office of Economic Development;

577 (vi) the State Office of Education; and

578 (vii) the State Board of Regents.

579 (3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

580 (i) designate the name of a contact person for that agency that can assist in coordinating  
581 the efforts of state and tribal governments in meeting the needs of the Native Americans  
582 residing in the state; and

583 (ii) notify the division:

584 (A) who is the designated contact person described in Subsection (3)(a)(i); and

585 (B) of any change in who is the designated contact person described in Subsection

586 (3)(a)(i).

587 (b) This Subsection (3) applies to:

588 (i) the Department of Agriculture and Food;

589 (ii) the Department of Community and Culture;

590 (iii) the Department of Corrections;

591 [~~(iv) the Department of Environmental Quality;~~]

592 [~~(v)~~] (iv) the Department of Public Safety;

593 [~~(vi)~~] (v) the Department of Transportation;

594 [~~(vii)~~] (vi) the Office of the Attorney General;

595 [~~(viii)~~] (vii) the State Tax Commission; and

596 [~~(ix)~~] (viii) any agency described in Subsection (2)(c).

597 (c) At the request of the division, a contact person listed in Subsection (3)(b) may  
598 participate in a meeting described in Subsection (1).

599 (4) A participant under this section who is not a legislator may not receive  
600 compensation or benefits for the participant's service, but may receive per diem and travel  
601 expenses in accordance with:

602 (a) Section 63A-3-106;

603 (b) Section 63A-3-107; and

604 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
605 63A-3-107.

606 Section 10. Section 11-8-2 is amended to read:

607 **11-8-2. State loans for sewage treatment facilities -- Rules of Water Quality**  
608 **Board.**

609 (1) The Department of [~~Environmental Quality is authorized to~~] Natural Resources and  
610 Environment may negotiate loans to political subdivisions and municipal authorities for the  
611 construction, reconstruction, and improvement of municipal sewage treatment facilities.

612 (2) All loans shall be made pursuant to rules made by the Water Quality Board and not  
613 exceed 25% of the total cost of the facility.

614 (3) The loans shall be authorized by the political subdivision involved pursuant to Title  
615 11, Chapter 14, Local Government Bonding Act, or other applicable law of this state pertaining  
616 to indebtedness of political subdivisions.

617 Section 11. Section **11-8-3** is amended to read:

618 **11-8-3. Department of Natural Resources and Environment to negotiate loans for**  
619 **sewage facilities.**

620 (1) The Department of [~~Environmental Quality~~] Natural Resources and Environment  
621 may negotiate loans from the Retirement Systems Fund, State Land Principal Fund, Workers'  
622 Compensation Fund, or any state trust and agency fund which has sums available for loaning,  
623 as these funds are defined in Title 51, Chapter 5, Funds Consolidation Act, not to exceed  
624 \$1,000,000 in any fiscal year for the purposes of providing the funding for the loans provided  
625 for in Section 11-8-2.

626 (2) The terms of any borrowing and repayment shall be negotiated between the  
627 borrower and the lender consistent with the legal duties of the lender.

628 Section 12. Section **11-38-102** is amended to read:

629 **11-38-102. Definitions.**

630 As used in this chapter:

631 (1) "Affordable housing" means housing occupied or reserved for occupancy by  
632 households with a gross household income equal to or less than 80% of the median gross  
633 income of the applicable municipal or county statistical area for households of the same size.

634 (2) "Agricultural land" has the same meaning as "land in agricultural use" under  
635 Section 59-2-502.

636 (3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial  
637 land where expansion or redevelopment is complicated by real or perceived environmental  
638 contamination.

639 (4) "Commission" means the Quality Growth Commission established in Section  
640 11-38-201.

641 (5) "Infill development" means residential, commercial, or industrial development on  
642 unused or underused land, excluding open land and agricultural land, within existing, otherwise  
643 developed urban areas.

644 (6) "Local entity" means a county, city, or town.

645 (7) "OPB" means the Governor's Office of Planning and Budget established under  
646 Section 63J-4-201.

647 (8) (a) "Open land" means land that is:

648 (i) preserved in or restored to a predominantly natural, open, and undeveloped  
649 condition; and  
650 (ii) used for:  
651 (A) wildlife habitat;  
652 (B) cultural or recreational use;  
653 (C) watershed protection; or  
654 (D) another use consistent with the preservation of the land in or restoration of the land  
655 to a predominantly natural, open, and undeveloped condition.

656 (b) (i) "Open land" does not include land whose predominant use is as a developed  
657 facility for active recreational activities, including baseball, tennis, soccer, golf, or other  
658 sporting or similar activity.

659 (ii) The condition of land does not change from a natural, open, and undeveloped  
660 condition because of the development or presence on the land of facilities, including trails,  
661 waterways, and grassy areas, that:

662 (A) enhance the natural, scenic, or aesthetic qualities of the land; or  
663 (B) facilitate the public's access to or use of the land for the enjoyment of its natural,  
664 scenic, or aesthetic qualities and for compatible recreational activities.

665 (9) "Program" means the LeRay McAllister Critical Land Conservation Program  
666 established in Section 11-38-301.

667 (10) "Surplus land" means real property owned by the Department of Administrative  
668 Services, the Department of Agriculture and Food, the Department of Natural Resources and  
669 Environment, or the Department of Transportation that the individual department determines  
670 not to be necessary for carrying out the mission of the department.

671 Section 13. Section **11-38-201** is amended to read:

672 **11-38-201. Quality Growth Commission -- Term of office -- Vacancy --**  
673 **Organization -- Expenses -- Staff.**

674 (1) (a) There is created a Quality Growth Commission consisting of:  
675 (i) the director of the Department of Natural Resources and Environment;  
676 (ii) the commissioner of the Department of Agriculture and Food;  
677 (iii) six elected officials at the local government level, three of whom may not be  
678 residents of a county of the first or second class; and

679 (iv) five persons from the profit and nonprofit private sector, two of whom may not be  
680 residents of a county of the first or second class and no more than three of whom may be from  
681 the same political party and one of whom shall be from the residential construction industry,  
682 nominated by the Utah Home Builders Association, and one of whom shall be from the real  
683 estate industry, nominated by the Utah Association of Realtors.

684 (b) (i) The director of the Department of Natural Resources and Environment and the  
685 commissioner of the Department of Agriculture and Food may not assume their positions on  
686 the commission until:

687 (A) after May 1, 2005; and

688 (B) the term of the respective predecessor in office, who is a state government level  
689 appointee, expires.

690 (ii) The term of a commission member serving on May 1, 2005, as one of the six  
691 elected local officials or five private sector appointees may not be shortened because of  
692 application of the restriction under Subsections (1)(a)(iii) and (iv) on the number of appointees  
693 from counties of the first or second class.

694 (2) (a) Each commission member appointed under Subsection (1)(a)(iii) or (iv) shall be  
695 appointed by the governor with the consent of the Senate.

696 (b) The governor shall select three of the six members under Subsection (1)(a)(iii) from  
697 a list of names provided by the Utah League of Cities and Towns, and shall select the  
698 remaining three from a list of names provided by the Utah Association of Counties.

699 (c) Two of the persons appointed under Subsection (1) shall be from the agricultural  
700 community from a list of names provided by Utah farm organizations.

701 (3) (a) The term of office of each member is four years, except that the governor shall  
702 appoint one of the persons at the state government level, three of the persons at the local  
703 government level, and two of the persons under Subsection (1)(a)(iv) to an initial two-year  
704 term.

705 (b) No member of the commission may serve more than two consecutive four-year  
706 terms.

707 (4) Each mid-term vacancy shall be filled for the unexpired term in the same manner as  
708 an appointment under Subsection (2).

709 (5) Commission members shall elect a chair from their number and establish rules for

710 the organization and operation of the commission.

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

713 (a) Section 63A-3-106;

714 (b) Section 63A-3-107; and

715 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
716 63A-3-107.

717 (7) A member is not required to give bond for the performance of official duties.

718 (8) Staff services to the commission:

719 (a) shall be provided by OPB; and

720 (b) may be provided by local entities through the Utah Association of Counties and the  
721 Utah League of Cities and Towns, with funds approved by the commission from those  
722 identified as available to local entities under Subsection 11-38-203(1)(a).

723 Section 14. Section **11-38-302** is amended to read:

724 **11-38-302. Use of money in program -- Criteria -- Administration.**

725 (1) Subject to Subsection (2), the commission may authorize the use of money in the  
726 program, by grant, to:

727 (a) a local entity;

728 (b) the Department of Natural Resources and Environment created under Section  
729 79-2-201;

730 (c) the Department of Agriculture and Food created under Section 4-2-1; or

731 (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3)  
732 of the Internal Revenue Code.

733 (2) (a) The money in the program shall be used for preserving or restoring open land  
734 and agricultural land.

735 (b) (i) Except as provided in Subsection (2)(b)(ii), money from the program may not be  
736 used to purchase a fee interest in real property in order to preserve open land or agricultural  
737 land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land  
738 Conservation Easement Act, or to fund similar methods to preserve open land or agricultural  
739 land.

740 (ii) Notwithstanding Subsection (2)(b)(i), money from the fund may be used to



741 purchase a fee interest in real property to preserve open land or agricultural land if:

742 (A) the parcel to be purchased is no more than 20 acres in size; and

743 (B) with respect to a parcel purchased in a county in which over 50% of the land area is  
744 publicly owned, real property roughly equivalent in size and located within that county is  
745 contemporaneously transferred to private ownership from the governmental entity that  
746 purchased the fee interest in real property.

747 (iii) Eminent domain may not be used or threatened in connection with any purchase  
748 using money from the program.

749 (iv) A parcel of land larger than 20 acres in size may not be divided into separate  
750 parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

751 (c) A local entity, department, or organization under Subsection (1) may not receive  
752 money from the program unless it provides matching funds equal to or greater than the amount  
753 of money received from the program.

754 (d) In granting money from the program, the commission may impose conditions on  
755 the recipient as to how the money is to be spent.

756 (e) The commission shall give priority to requests from the Department of Natural  
757 Resources and Environment for up to 20% of each annual increase in the amount of money in  
758 the program if the money is used for the protection of wildlife or watershed.

759 (f) (i) The commission may not make a grant from the program that exceeds  
760 \$1,000,000 until after making a report to the Legislative Management Committee about the  
761 grant.

762 (ii) The Legislative Management Committee may make a recommendation to the  
763 commission concerning the intended grant, but the recommendation is not binding on the  
764 commission.

765 (3) In determining the amount and type of financial assistance to provide an entity,  
766 department, or organization under Subsection (1) and subject to Subsection (2)(f), the  
767 commission shall consider:

768 (a) the nature and amount of open land and agricultural land proposed to be preserved  
769 or restored;

770 (b) the qualities of the open land and agricultural land proposed to be preserved or  
771 restored;

772 (c) the cost effectiveness of the project to preserve or restore open land or agricultural  
773 land;

774 (d) the funds available;

775 (e) the number of actual and potential applications for financial assistance and the  
776 amount of money sought by those applications;

777 (f) the open land preservation plan of the local entity where the project is located and  
778 the priority placed on the project by that local entity;

779 (g) the effects on housing affordability and diversity; and

780 (h) whether the project protects against the loss of private property ownership.

781 (4) If a local entity, department, or organization under Subsection (1) seeks money  
782 from the program for a project whose purpose is to protect critical watershed, the commission  
783 shall require that the needs and quality of that project be verified by the state engineer.

784 (5) Each interest in real property purchased with money from the program shall be held  
785 and administered by the state or a local entity.

786 Section 15. Section **17-27a-401** is amended to read:

787 **17-27a-401. General plan required -- Content -- Provisions related to radioactive**  
788 **waste facility.**

789 (1) In order to accomplish the purposes of this chapter, each county shall prepare and  
790 adopt a comprehensive, long-range general plan for:

791 (a) present and future needs of the county; and

792 (b) growth and development of all or any part of the land within the unincorporated  
793 portions of the county.

794 (2) The plan may provide for:

795 (a) health, general welfare, safety, energy conservation, transportation, prosperity, civic  
796 activities, aesthetics, and recreational, educational, and cultural opportunities;

797 (b) the reduction of the waste of physical, financial, or human resources that result  
798 from either excessive congestion or excessive scattering of population;

799 (c) the efficient and economical use, conservation, and production of the supply of:

800 (i) food and water; and

801 (ii) drainage, sanitary, and other facilities and resources;

802 (d) the use of energy conservation and solar and renewable energy resources;

- 803 (e) the protection of urban development;
- 804 (f) the protection or promotion of moderate income housing;
- 805 (g) the protection and promotion of air quality;
- 806 (h) historic preservation;
- 807 (i) identifying future uses of land that are likely to require an expansion or significant
- 808 modification of services or facilities provided by each affected entity; and
- 809 (j) an official map.

810 (3) (a) The plan shall include specific provisions related to any areas within, or

811 partially within, the exterior boundaries of the county, or contiguous to the boundaries of a

812 county, which are proposed for the siting of a storage facility or transfer facility for the

813 placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as

814 these wastes are defined in Section 19-3-303. The provisions shall address the effects of the

815 proposed site upon the health and general welfare of citizens of the state, and shall provide:

- 816 (i) the information identified in Section 19-3-305;
- 817 (ii) information supported by credible studies that demonstrates that the provisions of
- 818 Subsection 19-3-307(2) have been satisfied; and
- 819 (iii) specific measures to mitigate the effects of high-level nuclear waste and greater
- 820 than class C radioactive waste and guarantee the health and safety of the citizens of the state.

821 (b) A county may, in lieu of complying with Subsection (3)(a), adopt an ordinance

822 indicating that all proposals for the siting of a storage facility or transfer facility for the

823 placement of high-level nuclear waste or greater than class C radioactive waste wholly or

824 partially within the county are rejected.

825 (c) A county may adopt the ordinance listed in Subsection (3)(b) at any time.

826 (d) The county shall send a certified copy of the ordinance under Subsection (3)(b) to

827 the executive director of the Department of [~~Environmental Quality~~] Natural Resources and

828 Environment by certified mail within 30 days of enactment.

829 (e) If a county repeals an ordinance adopted pursuant to Subsection (3)(b) the county

830 shall:

- 831 (i) comply with Subsection (3)(a) as soon as reasonably possible; and
- 832 (ii) send a certified copy of the repeal to the executive director of the Department of
- 833 [~~Environmental Quality~~] Natural Resources and Environment by certified mail within 30 days

834 after the repeal.

835 (4) The plan may define the county's local customs, local culture, and the components  
836 necessary for the county's economic stability.

837 (5) Subject to Subsection 17-27a-403(2), the county may determine the  
838 comprehensiveness, extent, and format of the general plan.

839 Section 16. Section **17-27a-404** is amended to read:

840 **17-27a-404. Public hearing by planning commission on proposed general plan or**  
841 **amendment -- Notice -- Revisions to general plan or amendment -- Adoption or rejection**  
842 **by legislative body.**

843 (1) (a) After completing its recommendation for a proposed general plan, or proposal to  
844 amend the general plan, the planning commission shall schedule and hold a public hearing on  
845 the proposed plan or amendment.

846 (b) The planning commission shall provide notice of the public hearing, as required by  
847 Section 17-27a-204.

848 (c) After the public hearing, the planning commission may modify the proposed  
849 general plan or amendment.

850 (2) The planning commission shall forward the proposed general plan or amendment to  
851 the legislative body.

852 (3) (a) As provided by local ordinance and by Section 17-27a-204, the legislative body  
853 shall provide notice of its intent to consider the general plan proposal.

854 (b) (i) In addition to the requirements of Subsections (1), (2), and (3)(a), the legislative  
855 body shall hold a public hearing in Salt Lake City on provisions of the proposed county plan  
856 regarding Subsection 17-27a-401(3). The hearing procedure shall comply with this Subsection  
857 (3)(b).

858 (ii) The hearing format shall allow adequate time for public comment at the actual  
859 public hearing, and shall also allow for public comment in writing to be submitted to the  
860 legislative body for not fewer than 90 days after the date of the public hearing.

861 (c) (i) The legislative body shall give notice of the hearing in accordance with this  
862 Subsection (3) when the proposed plan provisions required by Subsection 17-27a-401(3) are  
863 complete.

864 (ii) Direct notice of the hearing shall be given, in writing, to the governor, members of

865 the state Legislature, executive director of the Department of [Environmental Quality] Natural  
866 Resources and Environment, the state planning coordinator, the Resource Development  
867 Coordinating Committee, and any other citizens or entities who specifically request notice in  
868 writing.

869 (iii) Public notice shall be given by publication:

870 (A) in at least one major Utah newspaper having broad general circulation in the state;

871 (B) in at least one Utah newspaper having a general circulation focused mainly on the  
872 county where the proposed high-level nuclear waste or greater than class C radioactive waste  
873 site is to be located; and

874 (C) on the Utah Public Notice Website created in Section 63F-1-701.

875 (iv) The notice shall be published to allow reasonable time for interested parties and  
876 the state to evaluate the information regarding the provisions of Subsection 17-27a-401(3),  
877 including:

878 (A) in a newspaper described in Subsection (3)(c)(iii)(A), no less than 180 days before  
879 the date of the hearing to be held under this Subsection (3); and

880 (B) publication described in Subsection (3)(c)(iii)(B) or (C) for 180 days before the  
881 date of the hearing to be held under this Subsection (3).

882 (4) (a) After the public hearing required under this section, the legislative body may  
883 make any revisions to the proposed general plan that it considers appropriate.

884 (b) The legislative body shall respond in writing and in a substantive manner to all  
885 those providing comments as a result of the hearing required by Subsection (3).

886 (5) (a) The county legislative body may adopt or reject the proposed general plan or  
887 amendment either as proposed by the planning commission or after making any revision the  
888 county legislative body considers appropriate.

889 (b) If the county legislative body rejects the proposed general plan or amendment, it  
890 may provide suggestions to the planning commission for its consideration.

891 (6) The legislative body shall adopt:

892 (a) a land use element as provided in Subsection 17-27a-403(2)(a)(i);

893 (b) a transportation and traffic circulation element as provided in Subsection  
894 17-27a-403(2)(a)(ii); and

895 (c) after considering the factors included in Subsection 17-27a-403(2)(b), a plan to

896 provide a realistic opportunity to meet estimated needs for additional moderate income housing  
897 if long-term projections for land use and development occur.

898 Section 17. Section **17-41-101** is amended to read:

899 **17-41-101. Definitions.**

900 As used in this chapter:

901 (1) "Advisory board" means:

902 (a) for an agriculture protection area, the agriculture protection area advisory board  
903 created as provided in Section 17-41-201; and

904 (b) for an industrial protection area, the industrial protection area advisory board  
905 created as provided in Section 17-41-201.

906 (2) (a) "Agriculture production" means production for commercial purposes of crops,  
907 livestock, and livestock products.

908 (b) "Agriculture production" includes the processing or retail marketing of any crops,  
909 livestock, and livestock products when more than 50% of the processed or merchandised  
910 products are produced by the farm operator.

911 (3) "Agriculture protection area" means a geographic area created under the authority  
912 of this chapter that is granted the specific legal protections contained in this chapter.

913 (4) "Applicable legislative body" means:

914 (a) with respect to a proposed agriculture protection area or industrial protection area:

915 (i) the legislative body of the county in which the land proposed to be included in an  
916 agriculture protection area or industrial protection area is located, if the land is within the  
917 unincorporated part of the county; or

918 (ii) the legislative body of the city or town in which the land proposed to be included in  
919 an agriculture protection area or industrial protection area is located; and

920 (b) with respect to an existing agriculture protection area or industrial protection area:

921 (i) the legislative body of the county in which the agriculture protection area or  
922 industrial protection area is located, if the agriculture protection area or industrial protection  
923 area is within the unincorporated part of the county; or

924 (ii) the legislative body of the city or town in which the agriculture protection area or  
925 industrial protection area is located.

926 (5) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.

- 927 (6) "Crops, livestock, and livestock products" includes:
- 928 (a) land devoted to the raising of useful plants and animals with a reasonable
- 929 expectation of profit, including:
- 930 (i) forages and sod crops;
- 931 (ii) grains and feed crops;
- 932 (iii) livestock as defined in Subsection 59-2-102(27)(d);
- 933 (iv) trees and fruits; or
- 934 (v) vegetables, nursery, floral, and ornamental stock; or
- 935 (b) land devoted to and meeting the requirements and qualifications for payments or
- 936 other compensation under a crop-land retirement program with an agency of the state or federal
- 937 government.
- 938 (7) "Division" means the Division of [~~Oil, Gas, and Mining~~] Energy created in Section
- 939 40-6-15.
- 940 (8) "Industrial protection area" means a geographic area created under the authority of
- 941 this chapter that is granted the specific legal protections contained in this chapter.
- 942 (9) "Mine operator" means a natural person, corporation, association, partnership,
- 943 receiver, trustee, executor, administrator, guardian, fiduciary, agent, or other organization or
- 944 representative, either public or private, including a successor, assign, affiliate, subsidiary, and
- 945 related parent company, that, as of January 1, 2009:
- 946 (a) owns, controls, or manages a mining use under a large mine permit issued by the
- 947 division or the board; and
- 948 (b) has produced commercial quantities of a mineral deposit from the mining use.
- 949 (10) "Mineral deposit" has the same meaning as defined in Section 40-8-4, but
- 950 excludes:
- 951 (a) building stone, decorative rock, and landscaping rock; and
- 952 (b) consolidated rock that:
- 953 (i) is not associated with another deposit of minerals;
- 954 (ii) is or may be extracted from land; and
- 955 (iii) is put to uses similar to the uses of sand, gravel, and other aggregates.
- 956 (11) "Mining protection area" means land where a vested mining use occurs, including
- 957 each surface or subsurface land or mineral estate that a mine operator with a vested mining use

958 owns or controls.

959 (12) "Mining use":

960 (a) means:

961 (i) the full range of activities, from prospecting and exploration to reclamation and  
962 closure, associated with the exploitation of a mineral deposit; and

963 (ii) the use of the surface and subsurface and groundwater and surface water of an area  
964 in connection with the activities described in Subsection (12)(a)(i) that have been, are being, or  
965 will be conducted; and

966 (b) includes, whether conducted on-site or off-site:

967 (i) any sampling, staking, surveying, exploration, or development activity;

968 (ii) any drilling, blasting, excavating, or tunneling;

969 (iii) the removal, transport, treatment, deposition, and reclamation of overburden,  
970 development rock, tailings, and other waste material;

971 (iv) any removal, transportation, extraction, beneficiation, or processing of ore;

972 (v) any smelting, refining, autoclaving, or other primary or secondary processing  
973 operation;

974 (vi) the recovery of any mineral left in residue from a previous extraction or processing  
975 operation;

976 (vii) a mining activity that is identified in a work plan or permitting document;

977 (viii) the use, operation, maintenance, repair, replacement, or alteration of a building,  
978 structure, facility, equipment, machine, tool, or other material or property that results from or is  
979 used in a surface or subsurface mining operation or activity;

980 (ix) any accessory, incidental, or ancillary activity or use, both active and passive,  
981 including a utility, private way or road, pipeline, land excavation, working, embankment, pond,  
982 gravel excavation, mining waste, conveyor, power line, trackage, storage, reserve, passive use  
983 area, buffer zone, and power production facility;

984 (x) the construction of a storage, factory, processing, or maintenance facility; and

985 (xi) any activity described in Subsection 40-8-4(14)(a).

986 (13) (a) "Municipal" means of or relating to a city or town.

987 (b) "Municipality" means a city or town.

988 (14) "New land" means surface or subsurface land or mineral estate that a mine



989 operator gains ownership or control of, whether or not that land or mineral estate is included in  
990 the mine operator's large mine permit.

991 (15) "Off-site" has the same meaning as provided in Section 40-8-4.

992 (16) "On-site" has the same meaning as provided in Section 40-8-4.

993 (17) "Planning commission" means:

994 (a) a countywide planning commission if the land proposed to be included in the  
995 agriculture protection area or industrial protection area is within the unincorporated part of the  
996 county and not within a township;

997 (b) a township planning commission if the land proposed to be included in the  
998 agriculture protection area or industrial protection area is within a township; or

999 (c) a planning commission of a city or town if the land proposed to be included in the  
1000 agriculture protection area or industrial protection area is within a city or town.

1001 (18) "Political subdivision" means a county, city, town, school district, local district, or  
1002 special service district.

1003 (19) "Proposal sponsors" means the owners of land in agricultural production or  
1004 industrial use who are sponsoring the proposal for creating an agriculture protection area or  
1005 industrial protection area, respectively.

1006 (20) "State agency" means each department, commission, board, council, agency,  
1007 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,  
1008 unit, bureau, panel, or other administrative unit of the state.

1009 (21) "Unincorporated" means not within a city or town.

1010 (22) "Vested mining use" means a mining use:

1011 (a) by a mine operator; and

1012 (b) that existed or was conducted or otherwise engaged in before a political subdivision  
1013 prohibits, restricts, or otherwise limits a mining use.

1014 Section 18. Section **17B-2a-818.5** is amended to read:

1015 **17B-2a-818.5. Contracting powers of public transit districts -- Health insurance**  
1016 **coverage.**

1017 (1) For purposes of this section:

1018 (a) "Employee" means an "employee," "worker," or "operative" as defined in Section  
1019 34A-2-104 who:

- 1020 (i) works at least 30 hours per calendar week; and
- 1021 (ii) meets employer eligibility waiting requirements for health care insurance which
- 1022 may not exceed the first day of the calendar month following 90 days from the date of hire.
- 1023 (b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.
- 1024 (c) "Qualified health insurance coverage" means at the time the contract is entered into
- 1025 or renewed:
  - 1026 (i) a health benefit plan and employer contribution level with a combined actuarial
  - 1027 value at least actuarially equivalent to the combined actuarial value of the benchmark plan
  - 1028 determined by the Children's Health Insurance Program under Subsection 26-40-106(2)(a), and
  - 1029 a contribution level of 50% of the premium for the employee and the dependents of the
  - 1030 employee who reside or work in the state, in which:
    - 1031 (A) the employer pays at least 50% of the premium for the employee and the
    - 1032 dependents of the employee who reside or work in the state; and
    - 1033 (B) for purposes of calculating actuarial equivalency under this Subsection (1)(c)(i):
      - 1034 (I) rather than the benchmark plan's deductible, and the benchmark plan's out-of-pocket
      - 1035 maximum based on income levels:
        - 1036 (Aa) the deductible is \$750 per individual and \$2,250 per family; and
        - 1037 (Bb) the out-of-pocket maximum is \$3,000 per individual and \$9,000 per family;
        - 1038 (II) dental coverage is not required; and
        - 1039 (III) other than Subsection 26-40-106(2)(a), the provisions of Section 26-40-106 do not
        - 1040 apply; or
        - 1041 (ii) (A) is a federally qualified high deductible health plan that, at a minimum, has a
        - 1042 deductible that is either:
          - 1043 (I) the lowest deductible permitted for a federally qualified high deductible health plan;
          - 1044 or
          - 1045 (II) a deductible that is higher than the lowest deductible permitted for a federally
          - 1046 qualified high deductible health plan, but includes an employer contribution to a health savings
          - 1047 account in a dollar amount at least equal to the dollar amount difference between the lowest
          - 1048 deductible permitted for a federally qualified high deductible plan and the deductible for the
          - 1049 employer offered federally qualified high deductible plan;
          - 1050 (B) an out-of-pocket maximum that does not exceed three times the amount of the

1051 annual deductible; and

1052 (C) under which the employer pays 75% of the premium for the employee and the  
1053 dependents of the employee who work or reside in the state.

1054 (d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

1055 (2) (a) Except as provided in Subsection (3), this section applies to a design or  
1056 construction contract entered into by the public transit district on or after July 1, 2009, and to a  
1057 prime contractor or to a subcontractor in accordance with Subsection (2)(b).

1058 (b) (i) A prime contractor is subject to this section if the prime contract is in the  
1059 amount of \$1,500,000 or greater.

1060 (ii) A subcontractor is subject to this section if a subcontract is in the amount of  
1061 \$750,000 or greater.

1062 (3) This section does not apply if:

1063 (a) the application of this section jeopardizes the receipt of federal funds;

1064 (b) the contract is a sole source contract; or

1065 (c) the contract is an emergency procurement.

1066 (4) (a) This section does not apply to a change order as defined in Section 63G-6-102,  
1067 or a modification to a contract, when the contract does not meet the initial threshold required  
1068 by Subsection (2).

1069 (b) A person who intentionally uses change orders or contract modifications to  
1070 circumvent the requirements of Subsection (2) is guilty of an infraction.

1071 (5) (a) A contractor subject to Subsection (2) shall demonstrate to the public transit  
1072 district that the contractor has and will maintain an offer of qualified health insurance coverage  
1073 for the contractor's employees and the employee's dependents during the duration of the  
1074 contract.

1075 (b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor  
1076 shall demonstrate to the public transit district that the subcontractor has and will maintain an  
1077 offer of qualified health insurance coverage for the subcontractor's employees and the  
1078 employee's dependents during the duration of the contract.

1079 (c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during  
1080 the duration of the contract is subject to penalties in accordance with an ordinance adopted by  
1081 the public transit district under Subsection (6).

1082 (B) A contractor is not subject to penalties for the failure of a subcontractor to meet the  
1083 requirements of Subsection (5)(b).

1084 (ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during  
1085 the duration of the contract is subject to penalties in accordance with an ordinance adopted by  
1086 the public transit district under Subsection (6).

1087 (B) A subcontractor is not subject to penalties for the failure of a contractor to meet the  
1088 requirements of Subsection (5)(a).

1089 (6) The public transit district shall adopt ordinances:

1090 (a) in coordination with:

1091 [~~(i) the Department of Environmental Quality in accordance with Section 19-1-206;~~]

1092 [~~(ii)~~] (i) the Department of Natural Resources and Environment in accordance with  
1093 Section 79-2-404;

1094 [~~(iii)~~] (ii) the State Building Board in accordance with Section 63A-5-205;

1095 [~~(iv)~~] (iii) the State Capitol Preservation Board in accordance with Section 63C-9-403;

1096 and

1097 [~~(v)~~] (iv) the Department of Transportation in accordance with Section 72-6-107.5; and

1098 (b) [~~which~~] that establish:

1099 (i) the requirements and procedures a contractor must follow to demonstrate to the  
1100 public transit district compliance with this section which shall include:

1101 (A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or

1102 (b) more than twice in any 12-month period; and

1103 (B) that the actuarially equivalent determination required in Subsection (1) is met by  
1104 the contractor if the contractor provides the department or division with a written statement of  
1105 actuarial equivalency from either:

1106 (I) the Utah Insurance Department;

1107 (II) an actuary selected by the contractor or the contractor's insurer; or

1108 (III) an underwriter who is responsible for developing the employer group's premium  
1109 rates;

1110 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
1111 violates the provisions of this section, which may include:

1112 (A) a three-month suspension of the contractor or subcontractor from entering into

1113 future contracts with the public transit district upon the first violation;

1114 (B) a six-month suspension of the contractor or subcontractor from entering into future  
1115 contracts with the public transit district upon the second violation;

1116 (C) an action for debarment of the contractor or subcontractor in accordance with  
1117 Section 63G-6-804 upon the third or subsequent violation; and

1118 (D) monetary penalties which may not exceed 50% of the amount necessary to  
1119 purchase qualified health insurance coverage for employees and dependents of employees of  
1120 the contractor or subcontractor who were not offered qualified health insurance coverage  
1121 during the duration of the contract; and

1122 (iii) a website on which the district shall post the benchmark for the qualified health  
1123 insurance coverage identified in Subsection (1)(c)(i).

1124 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(b)(ii), a contractor  
1125 or subcontractor who intentionally violates the provisions of this section shall be liable to the  
1126 employee for health care costs that would have been covered by qualified health insurance  
1127 coverage.

1128 (ii) An employer has an affirmative defense to a cause of action under Subsection  
1129 (7)(a)(i) if:

1130 (A) the employer relied in good faith on a written statement of actuarial equivalency  
1131 provided by an:

1132 (I) actuary; or

1133 (II) underwriter who is responsible for developing the employer group's premium rates;

1134 or

1135 (B) a department or division determines that compliance with this section is not  
1136 required under the provisions of Subsection (3) or (4).

1137 (b) An employee has a private right of action only against the employee's employer to  
1138 enforce the provisions of this Subsection (7).

1139 (8) Any penalties imposed and collected under this section shall be deposited into the  
1140 Medicaid Restricted Account created in Section 26-18-402.

1141 (9) The failure of a contractor or subcontractor to provide qualified health insurance  
1142 coverage as required by this section:

1143 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,

1144 or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8,  
1145 Legal and Contractual Remedies; and

1146 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
1147 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
1148 or construction.

1149 Section 19. Section **19-1-102** is amended to read:

1150 **19-1-102. Purposes.**

1151 The purpose of this title is to:

1152 (1) clarify the powers and duties of the Department of [~~Environmental Quality~~] Natural  
1153 Resources and Environment in relationship to local health departments;

1154 (2) provide effective, coordinated management of state environmental concerns;

1155 (3) safeguard public health and quality of life by protecting and improving  
1156 environmental quality while considering the benefits to public health, the impacts on economic  
1157 development, property, wildlife, tourism, business, agriculture, forests, and other interests, and  
1158 the costs to the public and to industry; and

1159 (4) (a) strengthen local health departments' environmental programs;

1160 (b) build consensus among the public, industry, and local governments in developing  
1161 environmental protection goals; and

1162 (c) appropriately balance the need for environmental protection with the need for  
1163 economic and industrial development.

1164 Section 20. Section **19-1-103** is amended to read:

1165 **19-1-103. Definitions.**

1166 As used in this title:

1167 (1) "Department" means the Department of [~~Environmental Quality~~] Natural Resources  
1168 and Environment.

1169 (2) "Executive director" means the executive director of the department appointed  
1170 pursuant to Section [~~19-1-104~~] 79-2-202.

1171 (3) "Local health department" means a local health department as defined in Title 26A,  
1172 Chapter 1, Part 1, Local Health Department Act.

1173 [~~(4) "Person" means an individual, trust, firm, estate, company, corporation,~~  
1174 ~~partnership, association, state, state or federal agency or entity, municipality, commission, or~~

1175 ~~political subdivision of a state.]~~

1176 Section 21. Section **19-1-201** is amended to read:

1177 **19-1-201. Powers of department.**

1178 (1) The department shall:

1179 (a) enter into cooperative agreements with the Department of Health to delineate  
1180 specific responsibilities to assure that assessment and management of risk to human health  
1181 from the environment are properly administered;

1182 (b) consult with the Department of Health and enter into cooperative agreements, as  
1183 needed, to ensure efficient use of resources and effective response to potential health and safety  
1184 threats from the environment, and to prevent gaps in protection from potential risks from the  
1185 environment to specific individuals or population groups; and

1186 (c) coordinate implementation of environmental programs to maximize efficient use of  
1187 resources by developing, with local health departments, a Comprehensive Environmental  
1188 Service Delivery Plan that:

1189 (i) recognizes that the department and local health departments are the foundation for  
1190 providing environmental health programs in the state;

1191 (ii) delineates the responsibilities of the department and each local health department  
1192 for the efficient delivery of environmental programs using federal, state, and local authorities,  
1193 responsibilities, and resources;

1194 (iii) provides for the delegation of authority and pass through of funding to local health  
1195 departments for environmental programs, to the extent allowed by applicable law, identified in  
1196 the plan, and requested by the local health department; and

1197 (iv) is reviewed and updated annually.

1198 (2) The department may:

1199 (a) investigate matters affecting the environment;

1200 (b) investigate and control matters affecting the public health when caused by  
1201 environmental hazards;

1202 (c) prepare, publish, and disseminate information to inform the public concerning  
1203 issues involving environmental quality;

1204 (d) establish and operate programs, as authorized by this title, necessary for protection  
1205 of the environment and public health from environmental hazards;

1206 (e) use local health departments in the delivery of environmental health programs to  
1207 the extent provided by law;

1208 (f) enter into contracts with local health departments or others to meet responsibilities  
1209 established under this title;

1210 [~~(g) acquire real and personal property by purchase, gift, devise, and other lawful~~  
1211 ~~means;~~]

1212 [~~(h) prepare and submit to the governor a proposed budget to be included in the budget~~  
1213 ~~submitted by the governor to the Legislature;~~]

1214 [~~(i) establish a schedule of fees that may be assessed for actions and services of the~~  
1215 ~~department according to the procedures and requirements of Section 63J-1-504; and]~~

1216 [~~(ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect~~  
1217 ~~the cost of services provided;~~]

1218 [~~(j)~~] (g) prescribe by rule reasonable requirements not inconsistent with law relating to  
1219 environmental quality for local health departments;

1220 [~~(k)~~] (h) perform the administrative functions of the boards [~~established by Section~~  
1221 ~~19-1-106~~] governed by this title, including the acceptance and administration of grants from the  
1222 federal government and from other sources, public or private, to carry out the board's functions;

1223 [~~(l)~~] (i) upon the request of any board governed by this title or the executive secretary  
1224 of that board, provide professional, technical, and clerical staff and field and laboratory  
1225 services, the extent of which are limited by the funds available to the department for the staff  
1226 and services; and

1227 [~~(m)~~] (j) establish a supplementary fee, not subject to Section 63J-1-504, to provide  
1228 service that the person paying the fee agrees by contract to be charged for the service in order  
1229 to efficiently utilize department resources, protect department permitting processes, address  
1230 extraordinary or unanticipated stress on permitting processes, or make use of specialized  
1231 expertise.

1232 (3) In providing service under Subsection (2)[~~(m)~~](j), the department may not provide  
1233 service in a manner that impairs any other person's service from the department.

1234 Section 22. Section **19-1-202** is amended to read:

1235 **19-1-202. Environmental quality-related duties and powers of the executive**  
1236 **director.**



- 1237 (1) The executive director shall:
- 1238 [~~(a) administer and supervise the department;~~]
- 1239 [~~(b) coordinate policies and program activities conducted through boards, divisions,~~
- 1240 ~~and offices of the department;~~]
- 1241 [~~(c) approve the proposed budget of each board, division, and office within the~~
- 1242 ~~department;~~]
- 1243 [~~(d) approve all applications for federal grants or assistance in support of any~~
- 1244 ~~department program;~~]
- 1245 [~~(e)~~] (a) with the governor's specific, prior approval, expend funds appropriated by the
- 1246 Legislature necessary for participation by the state in any fund, property, or service provided by
- 1247 the federal government; and
- 1248 [~~(f)~~] (b) in accordance with Section 19-1-301, appoint one or more administrative law
- 1249 judges to hear an adjudicative proceeding within the department.
- 1250 (2) The executive director may:
- 1251 (a) issue orders to enforce state laws and rules established by the department except
- 1252 where the enforcement power is given to a board [~~created under Section 19-1-106~~] governed by
- 1253 this title, unless the executive director finds that a condition exists that creates a clear and
- 1254 present hazard to the public health or the environment and requires immediate action, and if the
- 1255 enforcement power is vested with a board [~~created under Section 19-1-106~~] governed by this
- 1256 title, the executive director may with the concurrence of the governor order any person causing
- 1257 or contributing to the condition to reduce, mitigate, or eliminate the condition;
- 1258 (b) with the approval of the governor, participate in the distribution, disbursement, or
- 1259 administration of any fund or service, advanced, offered, or contributed by the federal
- 1260 government for purposes consistent with the powers and duties of the department;
- 1261 (c) accept and receive funds and gifts available from private and public groups for the
- 1262 purposes of promoting and protecting the public health and the environment and expend the
- 1263 funds as appropriated by the Legislature;
- 1264 [~~(d) make policies not inconsistent with law for the internal administration and~~
- 1265 ~~government of the department, the conduct of its employees, and the custody, use, and~~
- 1266 ~~preservation of the records, papers, books, documents, and property of the department;~~]
- 1267 [~~(e)~~] (d) create advisory committees as necessary to assist in carrying out the provisions

1268 of this title;

1269 ~~[(f) appoint division directors who may be removed at the will of the executive director~~  
1270 ~~and who shall be compensated in an amount fixed by the executive director;]~~

1271 ~~[(g)]~~ (e) advise, consult, and cooperate with other agencies of the state, the federal  
1272 government, other states and interstate agencies, affected groups, political subdivisions, and  
1273 industries in carrying out the purposes of this title;

1274 ~~[(h) consistent with Title 67, Chapter 19, Utah State Personnel Management Act,~~  
1275 ~~employ employees necessary to meet the requirements of this title;]~~

1276 ~~[(i)]~~ (f) authorize any employee or representative of the division to conduct inspections  
1277 as permitted in this title;

1278 ~~[(j)]~~ (g) encourage, participate in, or conduct any studies, investigations, research, and  
1279 demonstrations relating to hazardous materials or substances releases necessary to meet the  
1280 requirements of this title;

1281 ~~[(k)]~~ (h) collect and disseminate information about hazardous materials or substances  
1282 releases;

1283 ~~[(l)]~~ (i) review plans, specifications, or other data relating to hazardous substances  
1284 releases as provided in this title; and

1285 ~~[(m)]~~ (j) maintain, update not less than annually, and make available to the public a  
1286 record of sites, by name and location, at which response actions for the protection of the public  
1287 health and environment under Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation  
1288 Act, or under Title 19, Chapter 8, Voluntary Cleanup Program, have been completed in the  
1289 previous calendar year, and those that the department plans to address in the upcoming year  
1290 pursuant to this title, including if upon completion of the response action the site:

1291 (i) will be suitable for unrestricted use; or

1292 (ii) will be suitable only for restricted use, stating the institutional controls identified in  
1293 the remedy to which use of the site is subject.

1294 Section 23. Section **19-1-301** is amended to read:

1295 **19-1-301. Adjudicative proceedings.**

1296 (1) As used in this section, "dispositive action" is a final agency action that:

1297 (a) a board governed by this title takes following an adjudicative proceeding on a  
1298 request for agency action; and

- 1299 (b) is subject to judicial review under Section 63G-4-403.
- 1300 (2) (a) The department and [its] boards governed by this title shall comply with the  
1301 procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act.
- 1302 (b) The procedures for an adjudicative proceeding conducted by an administrative law  
1303 judge are governed by:
- 1304 (i) Title 63G, Chapter 4, Administrative Procedures Act;
- 1305 (ii) rules adopted by a board as authorized by:
- 1306 (A) Subsection 63G-4-102(6); and
- 1307 (B) this title; and
- 1308 (iii) the Utah Rules of Civil Procedure, in the absence of a procedure established under  
1309 Subsection (2)(b)(i) or (ii).
- 1310 (3) An administrative law judge shall hear a party's request for agency action made to a  
1311 board [~~created in Section 19-1-106~~] governed by this title.
- 1312 (4) The executive director shall appoint an administrative law judge who:
- 1313 (a) is a member in good standing of the Utah State Bar;
- 1314 (b) has a minimum of:
- 1315 (i) 10 years of experience practicing law; and
- 1316 (ii) five years of experience practicing in the field of:
- 1317 (A) environmental compliance;
- 1318 (B) natural resources;
- 1319 (C) regulation by an administrative agency; or
- 1320 (D) a field related to a field listed in Subsections (4)(b)(ii)(A) through (C); and
- 1321 (c) has a working knowledge of the federal laws and regulations and state statutes and  
1322 rules applicable to a request for agency action.
- 1323 (5) In appointing an administrative law judge who meets the qualifications listed in  
1324 Subsection (4), the executive director may:
- 1325 (a) compile a list of persons who may be engaged as an administrative law judge pro  
1326 tempore by mutual consent of the parties to an adjudicative proceeding;
- 1327 (b) appoint an assistant attorney general as an administrative law judge pro tempore; or
- 1328 (c) (i) appoint an administrative law judge as an employee of the department; and
- 1329 (ii) assign the administrative law judge responsibilities in addition to conducting an

1330 adjudicative proceeding.

1331 (6) (a) An administrative law judge shall:

1332 (i) conduct an adjudicative proceeding;

1333 (ii) take any action that is not a dispositive action; and

1334 (iii) submit to the board a proposed dispositive action, including:

1335 (A) written findings of fact;

1336 (B) written conclusions of law; and

1337 (C) a recommended order.

1338 (b) A board may:

1339 (i) approve, approve with modifications, or disapprove a proposed dispositive action

1340 submitted to the board under Subsection (6)(a); or

1341 (ii) return the proposed dispositive action to the administrative law judge for further

1342 action as directed.

1343 (7) To conduct an adjudicative proceeding, an administrative law judge may:

1344 (a) compel:

1345 (i) the attendance of a witness; and

1346 (ii) the production of a document or other evidence;

1347 (b) administer an oath;

1348 (c) take testimony; and

1349 (d) receive evidence as necessary.

1350 (8) A party may appear before an administrative law judge in person, through an agent

1351 or employee, or as provided by a board rule.

1352 (9) (a) An administrative law judge or board member may not communicate with a

1353 party to an adjudicative proceeding regarding the merits of the adjudicative proceeding unless

1354 notice and an opportunity to be heard are afforded to all parties.

1355 (b) An administrative law judge or board member who receives an ex parte

1356 communication shall place the communication into the public record of the proceedings and

1357 afford all parties an opportunity to comment on the information.

1358 (10) Nothing in this section limits a party's right to an adjudicative proceeding under

1359 Title 63G, Chapter 4, Administrative Procedures Act.

1360 Section 24. Section **19-1-306** is amended to read:

1361 **19-1-306. Records of the department.**

1362 (1) Except as provided in this section, records [~~of the department shall be~~] kept in  
1363 accordance with this title are subject to Title 63G, Chapter 2, Government Records Access and  
1364 Management Act.

1365 (2) (a) The standards of the federal Freedom of Information Act, 5 U.S.C. Sec. 552,  
1366 and not the standards of Subsections 63G-2-305(1) and (2), [~~shall~~] govern access to records [~~of~~  
1367 ~~the department~~] kept in accordance with this title for which business confidentiality has been  
1368 claimed under Section 63G-2-309, to the extent those records relate to a program:

1369 (i) that is delegated, authorized, or for which primacy has been granted to the state;

1370 (ii) for which the state is seeking delegation, authorization, or primacy; or

1371 (iii) under the federal Comprehensive Environmental Response, Compensation, and  
1372 Liability Act.

1373 (b) The regulation of the United States Environmental Protection Agency interpreting  
1374 the federal Freedom of Information Act, as it appeared at 40 C.F.R. Part 2 on January 1, 1992,  
1375 [~~shall also apply~~] also applies to the records described in Subsection (1).

1376 (3) (a) The department may, upon request, make trade secret and confidential business  
1377 records available to the United States Environmental Protection Agency insofar as they relate  
1378 to a delegated program, to a program for which the state is seeking delegation, or to a program  
1379 under the federal Comprehensive Environmental Response, Compensation and Liability Act.

1380 (b) In the event a record is released to the United States Environmental Protection  
1381 Agency under Subsection (3)(a), the department shall convey any claim of confidentiality to the  
1382 United States Environmental Protection Agency and shall notify the person who submitted the  
1383 information of its release.

1384 (4) Trade secret and confidential business records under Subsection (2) shall be  
1385 managed as protected records under the Government Records Access and Management Act,  
1386 and all provisions of that act [~~shall~~] apply except Subsections 63G-2-305(1) and (2).

1387 (5) Records obtained from the United States Environmental Protection Agency and  
1388 requested by that agency to be kept confidential shall be managed as protected records under  
1389 the Government Records Access and Management Act, and all provisions of that act shall  
1390 apply except to the extent they conflict with this section.

1391 Section 25. Section **19-1-307** is amended to read:

1392           **19-1-307. Evaluation of closure, postclosure, and perpetual care and maintenance**  
1393 **for hazardous waste and radioactive waste treatment and disposal facilities -- Report.**

1394           (1) (a) Beginning in 2006, the Solid and Hazardous Waste Control Board created in  
1395 Section [~~19-1-106~~] 79-2-201 shall direct an evaluation every five years of:

1396           (i) the adequacy of the amount of financial assurance required for closure and  
1397 postclosure care under 40 C.F.R. subpart H, Sections 264.140 through 264.151 submitted  
1398 pursuant to a hazardous waste operation plan for a commercial hazardous waste treatment,  
1399 storage, or disposal facility under Section 19-6-108; and

1400           (ii) the adequacy of the amount of financial assurance or funds required for perpetual  
1401 care and maintenance following the closure and postclosure period of a commercial hazardous  
1402 waste treatment, storage, or disposal facility, if found necessary following the evaluation under  
1403 Subsection (1)(c).

1404           (b) The evaluation shall determine:

1405           (i) whether the amount of financial assurance required is adequate for closure and  
1406 postclosure care of hazardous waste treatment, storage, or disposal facilities;

1407           (ii) whether the amount of financial assurance or funds required is adequate for  
1408 perpetual care and maintenance following the closure and postclosure period of a commercial  
1409 hazardous waste treatment, storage, or disposal facility, if found necessary following the  
1410 evaluation under Subsection (1)(c); and

1411           (iii) the costs above the minimal maintenance and monitoring for reasonable risks that  
1412 may occur during closure, postclosure, and perpetual care and maintenance of commercial  
1413 hazardous waste treatment, storage, or disposal facilities including:

1414           (A) groundwater corrective action;

1415           (B) differential settlement failure; or

1416           (C) major maintenance of a cell or cells.

1417           (c) The Solid and Hazardous Waste Control Board shall evaluate in 2006 whether  
1418 financial assurance or funds are necessary for perpetual care and maintenance following the  
1419 closure and postclosure period of a commercial hazardous waste treatment, storage, or disposal  
1420 facility to protect human health and the environment.

1421           (2) (a) Beginning in 2006, the Radiation Control Board created in Section [~~19-1-106~~]  
1422 79-2-201 shall direct an evaluation every five years of:

1423 (i) the adequacy of the Radioactive Waste Perpetual Care and Maintenance Account  
1424 created by Section 19-3-106.2; and

1425 (ii) the adequacy of the amount of financial assurance required for closure and  
1426 postclosure care of commercial radioactive waste treatment or disposal facilities under  
1427 Subsection 19-3-104(12).

1428 (b) The evaluation shall determine:

1429 (i) whether the restricted account is adequate to provide for perpetual care and  
1430 maintenance of commercial radioactive waste treatment or disposal facilities;

1431 (ii) whether the amount of financial assurance required is adequate to provide for  
1432 closure and postclosure care of commercial radioactive waste treatment or disposal facilities;

1433 (iii) the costs under Subsection 19-3-106.2(5)(b) of using the Radioactive Waste  
1434 Perpetual Care and Maintenance Account during the period before the end of 100 years  
1435 following final closure of the facility for maintenance, monitoring, or corrective action in the  
1436 event that the owner or operator is unwilling or unable to carry out the duties of postclosure  
1437 maintenance, monitoring, or corrective action; and

1438 (iv) the costs above the minimal maintenance and monitoring for reasonable risks that  
1439 may occur during closure, postclosure, and perpetual care and maintenance of commercial  
1440 radioactive waste treatment or disposal facilities including:

1441 (A) groundwater corrective action;

1442 (B) differential settlement failure; or

1443 (C) major maintenance of a cell or cells.

1444 (3) The boards under Subsections (1) and (2) shall submit a joint report on the  
1445 evaluations to the Legislative Management Committee on or before October 1 of the year in  
1446 which the report is due.

1447 Section 26. Section **19-1-406** is amended to read:

1448 **19-1-406. Retrofit compressed natural gas vehicles -- Inspections, standards, and**  
1449 **certification -- Compliance with other law -- Programs to coordinate.**

1450 (1) An owner of a retrofit compressed natural gas vehicle that is retrofit on or after July  
1451 1, 2010, may not operate the retrofit compressed natural gas vehicle before the owner has the  
1452 retrofit compressed natural gas vehicle:

1453 (a) inspected and certified as safe in accordance with relevant standards, including the

1454 National Fire Protection Association 52 Vehicular Gaseous Fuel Systems Code, by a CSA  
1455 America CNG Fuel System Inspector; and

1456 (b) tested to ensure that the retrofit compressed natural gas vehicle satisfies the  
1457 emissions standards:

1458 (i) if any, for the county in which the retrofit compressed natural gas vehicle is  
1459 registered; or

1460 (ii) for the county in the state with the most lenient emissions standards, if the retrofit  
1461 compressed natural gas vehicle is registered in a county with no emissions standards.

1462 (2) A person who performs a retrofit on a retrofit compressed natural gas vehicle shall  
1463 certify to the owner of the retrofit compressed natural gas vehicle that the retrofit does not  
1464 tamper with, circumvent, or otherwise affect the vehicle's on-board diagnostic system, if any.

1465 (3) (a) After the owner of a retrofit compressed natural gas vehicle that is retrofit on or  
1466 after July 1, 2010, has the retrofit compressed natural gas vehicle inspected under Subsection  
1467 (1), the owner shall have the retrofit inspected for safety by a CSA America CNG Fuel System  
1468 Inspector:

1469 (i) the sooner of:

1470 (A) every three years after the retrofit; or

1471 (B) every 36,000 miles after the retrofit; and

1472 (ii) after any collision occurring at a speed of greater than five miles per hour.

1473 (b) An inspector at a state-required safety inspection shall verify that a retrofit  
1474 compressed natural gas vehicle is inspected in accordance with Subsection (3)(a).

1475 (4) (a) The Division of Air Quality may develop programs to coordinate amongst  
1476 government agencies and interested parties in the private sector to facilitate:

1477 (i) testing to ensure compliance with emissions and anti-tampering standards  
1478 established in this section or by federal law; and

1479 (ii) the retrofitting of vehicles to operate on compressed natural gas vehicles in a  
1480 manner that provides for:

1481 (A) safety;

1482 (B) compliance with applicable law; and

1483 (C) potential improvement in the air quality of this state.

1484 (b) In developing a program under this Subsection (4), the Division of Air Quality



1485 shall:

- 1486 (i) allow for testing using equipment widely available within the state, if possible; and
- 1487 (ii) consult with relevant federal, state, and local government agencies and other
- 1488 interested parties.

1489 Section 27. Section **19-3-102** is amended to read:

1490 **19-3-102. Definitions.**

1491 As used in this chapter:

1492 (1) "Board" means the Radiation Control Board created under Section [~~19-1-106~~]  
1493 79-2-201.

1494 (2) (a) "Broker" means a person who performs one or more of the following functions  
1495 for a generator:

- 1496 (i) arranges for transportation of the radioactive waste;
- 1497 (ii) collects or consolidates shipments of radioactive waste; or
- 1498 (iii) processes radioactive waste in some manner.

1499 (b) "Broker" does not include a carrier whose sole function is to transport the  
1500 radioactive waste.

1501 (3) "Byproduct material" has the same meaning as in 42 U.S.C. Sec. 2014(e)(2).

1502 (4) "Class B and class C low-level radioactive waste" has the same meaning as in 10  
1503 CFR 61.55.

1504 (5) "Executive secretary" means the executive secretary of the board.

1505 (6) "Generator" means a person who:

1506 (a) possesses any material or component:

- 1507 (i) that contains radioactivity or is radioactively contaminated; and
- 1508 (ii) for which the person foresees no further use; and

1509 (b) transfers the material or component to:

- 1510 (i) a commercial radioactive waste treatment or disposal facility; or
- 1511 (ii) a broker.

1512 (7) (a) "High-level nuclear waste" means spent reactor fuel assemblies, dismantled  
1513 nuclear reactor components, and solid and liquid wastes from fuel reprocessing and  
1514 defense-related wastes.

1515 (b) "High-level nuclear waste" does not include medical or institutional wastes,

1516 naturally-occurring radioactive materials, or uranium mill tailings.

1517 (8) (a) "Low-level radioactive waste" means waste material which contains radioactive  
1518 nuclides emitting primarily beta or gamma radiation, or both, in concentrations or quantities  
1519 which exceed applicable federal or state standards for unrestricted release.

1520 (b) "Low-level radioactive waste" does not include waste containing more than 100  
1521 nanocuries of transuranic contaminants per gram of material, nor spent reactor fuel, nor  
1522 material classified as either high-level waste or waste which is unsuited for disposal by  
1523 near-surface burial under any applicable federal regulations.

1524 (9) "Radiation" means ionizing and nonionizing radiation, including gamma rays,  
1525 X-rays, alpha and beta particles, high speed electrons, and other nuclear particles.

1526 (10) "Radioactive" means any solid, liquid, or gas which emits radiation spontaneously  
1527 from decay of unstable nuclei.

1528 Section 28. Section **19-3-103** is amended to read:

1529 **19-3-103. Radiation Control Board -- Members -- Organization -- Meetings -- Per**  
1530 **diem and expenses.**

1531 (1) The board created under Section [~~19-1-106~~] 79-2-201 comprises 13 members, one  
1532 of whom shall be the executive director, or his designee, and the remainder of whom shall be  
1533 appointed by the governor with the consent of the Senate.

1534 (2) No more than six appointed members shall be from the same political party.

1535 (3) The appointed members shall be knowledgeable about radiation protection and  
1536 shall be as follows:

1537 (a) one physician;

1538 (b) one dentist;

1539 (c) one health physicist or other professional employed in the field of radiation safety;

1540 (d) three representatives of regulated industry, at least one of whom represents the  
1541 radioactive waste management industry, and at least one of whom represents the uranium  
1542 milling industry;

1543 (e) one registrant or licensee representative from academia;

1544 (f) one representative of a local health department;

1545 (g) one elected county official; and

1546 (h) three members of the general public, at least one of whom represents organized

1547 environmental interests.

1548 (4) (a) Except as required by Subsection (4)(b), as terms of current board members  
1549 expire, the governor shall appoint each new member or reappointed member to a four-year  
1550 term.

1551 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the  
1552 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
1553 board members are staggered so that approximately half of the board is appointed every two  
1554 years.

1555 (5) Each board member is eligible for reappointment to more than one term.

1556 (6) Each board member shall continue in office until the expiration of his term and  
1557 until a successor is appointed, but not more than 90 days after the expiration of his term.

1558 (7) When a vacancy occurs in the membership for any reason, the replacement shall be  
1559 appointed for the unexpired term by the governor, after considering recommendations by the  
1560 department and with the consent of the Senate.

1561 (8) The board shall annually elect a chair and vice chair from its members.

1562 (9) (a) The board shall meet at least quarterly.

1563 (b) Other meetings may be called by the chair, by the executive secretary, or upon the  
1564 request of three members of the board.

1565 (10) Reasonable notice shall be given each member of the board prior to any meeting.

1566 (11) (a) Seven members constitute a quorum.

1567 (b) The action of a majority of the members present is the action of the board.

1568 (12) A member may not receive compensation or benefits for the member's service, but  
1569 may receive per diem and travel expenses in accordance with:

1570 (a) Section 63A-3-106;

1571 (b) Section 63A-3-107; and

1572 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
1573 63A-3-107.

1574 Section 29. Section **19-3-301** is amended to read:

1575 **19-3-301. Restrictions on nuclear waste placement in state.**

1576 (1) The placement, including transfer, storage, decay in storage, treatment, or disposal,  
1577 within the exterior boundaries of Utah of high-level nuclear waste or greater than class C

1578 radioactive waste is prohibited.

1579           (2) Notwithstanding Subsection (1) the governor, after consultation with the county  
1580 executive and county legislative body of the affected county and with concurrence of the  
1581 Legislature, may specifically approve the placement as provided in this part, but only if:

1582           (a) (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the  
1583 Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A.  
1584 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear  
1585 waste or greater than class C radioactive waste; and

1586           (ii) the authority of the federal Nuclear Regulatory Commission to grant a license  
1587 under Subsection (2)(a)(i) is clearly upheld by a final judgment of a court of competent  
1588 jurisdiction; or

1589           (b) an agency of the federal government is transporting the waste, and all state and  
1590 federal requirements to proceed with the transportation have been met.

1591           (3) The requirement for the approval of a final court of competent jurisdiction shall be  
1592 met in all of the following categories, in order for a state license proceeding regarding waste to  
1593 begin:

1594           (a) transfer or transportation, by rail, truck, or other mechanisms;

1595           (b) storage, including any temporary storage at a site away from the generating reactor;

1596           (c) decay in storage;

1597           (d) treatment; and

1598           (e) disposal.

1599           (4) (a) Upon satisfaction of the requirements of Subsection (2)(a), for each category  
1600 listed in Subsection (3), or satisfaction of the requirements under Subsection (2)(b), the  
1601 governor, with the concurrence of the attorney general, shall certify in writing to the executive  
1602 director [~~of the Department of Environmental Quality~~] that all of the requirements have been  
1603 met, and that any necessary state licensing processes may begin.

1604           (b) Separate certification under this Subsection (4) shall be given for each category in  
1605 Subsection (3).

1606           (5) (a) The department shall make, by rule, a determination of the dollar amount of the  
1607 health and economic costs expected to result from a reasonably foreseeable accidental release  
1608 of waste involving a transfer facility or storage facility, or during transportation of waste,

1609 within the exterior boundaries of the state. The department may initiate rulemaking under this  
1610 Subsection (5)(a) on or after March 15, 2001.

1611 (b) (i) The department shall also determine the dollar amount currently available to  
1612 cover the costs as determined in Subsection (5)(a):

1613 (A) under nuclear industry self-insurance;

1614 (B) under federal insurance requirements; and

1615 (C) in federal money.

1616 (ii) The department may not include any calculations of federal money that may be  
1617 appropriated in the future in determining the amount under Subsection (5)(b)(i).

1618 (c) The department shall use the information compiled under Subsections (5)(a) and (b)  
1619 to determine the amount of unfunded potential liability in the event of a release of waste from a  
1620 storage or transfer facility, or a release during the transportation of waste.

1621 (6) (a) State agencies may not, for the purpose of providing any goods, services, or  
1622 municipal-type services to a storage facility or transfer facility, or to any organization engaged  
1623 in the transportation of waste, enter into any contracts or any other agreements prior to:

1624 (i) the satisfaction of the conditions in Subsection (4); and

1625 (ii) the executive director of the department having certified that the requirements of  
1626 Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application  
1627 proceeding for a storage facility or transfer facility.

1628 (b) Political subdivisions of the state may not enter into any contracts or any other  
1629 agreements for the purpose of providing any goods, services, or municipal-type services to a  
1630 storage facility or transfer facility, or to any organization engaged in the transportation of  
1631 waste.

1632 (c) This Subsection (6) does not prohibit a state agency from exercising the regulatory  
1633 authority granted to it by law.

1634 (7) (a) Notwithstanding any other provision of law, any political subdivision may not  
1635 be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or  
1636 municipal-type services to a storage facility or transfer facility prior to the satisfaction of the  
1637 conditions in Subsection (4). These political subdivisions include:

1638 (i) a cooperative;

1639 (ii) a local district authorized by Title 17B, Limited Purpose Local Government

1640 Entities - Local Districts;

1641 (iii) a special service district under Title 17D, Chapter 1, Special Service District Act;

1642 (iv) a limited purpose local governmental entities authorized by Title 17, Counties;

1643 (v) any joint power agreement authorized by Title 11, Cities, Counties, and Local

1644 Taxing Units; and

1645 (vi) the formation of a municipality, or any authority of a municipality authorized by

1646 Title 10, Utah Municipal Code.

1647 (b) (i) Subsection (7)(a) shall be strictly interpreted. Any political subdivision

1648 authorized and formed under the laws of the state on or after March 15, 2001, which

1649 subsequently contracts to, or in any manner agrees to provide, or does provide goods, services,

1650 or municipal-type services to a storage facility or transfer facility is formed in violation of

1651 Subsection (7)(a).

1652 (ii) If the conditions of Subsection (7)(b)(i) apply, the persons who formed the political

1653 subdivision are considered to have knowingly violated a provision of this part, and the

1654 penalties of Section 19-3-312 apply.

1655 (8) (a) An organization may not be formed for the purpose of providing any goods,

1656 services, or municipal-type services to a storage facility or transfer facility prior to:

1657 (i) the satisfaction of the conditions in Subsection (4); and

1658 (ii) the executive director of the department having certified that the requirements of

1659 Sections 19-3-304 through 19-3-308 have been met.

1660 (b) A foreign organization may not be registered to do business in the state for the

1661 purpose of providing any goods, services, or municipal-type services to a storage facility or

1662 transfer facility prior to:

1663 (i) the satisfaction of the conditions in Subsection (4); and

1664 (ii) the executive director of the department having certified that the requirements of

1665 Sections 19-3-304 through 19-3-308 have been met.

1666 (c) The prohibitions of Subsections (8)(a) and (b) shall be strictly applied, and:

1667 (i) the formation of a new organization or registration of a foreign organization within

1668 the state, any of whose purposes are to provide goods, services, or municipal-type services to a

1669 storage facility or transfer facility may not be licensed or registered in the state, and the local or

1670 foreign organization is void and does not have authority to operate within the state;

1671 (ii) any organization which is formed or registered on or after March 15, 2001, and  
1672 which subsequently contracts to, or in any manner agrees to provide, or does provide goods,  
1673 services, or municipal-type services to a storage facility or transfer facility has been formed or  
1674 registered in violation of Subsection (8)(a) or (b) respectively; and

1675 (iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the  
1676 organization or the principals of the foreign organization, are considered to have knowingly  
1677 violated a provision of this part, and are subject to the penalties in Section 19-3-312.

1678 (9) (a) (i) Any contract or agreement to provide any goods, services, or municipal-type  
1679 services to any organization engaging in, or attempting to engage in the placement of high-level  
1680 nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility  
1681 within the state are declared to be against the greater public interest, health, and welfare of the  
1682 state, by promoting an activity which has the great potential to cause extreme public harm.

1683 (ii) These contracts or agreements under Subsection (9)(a)(i), whether formal or  
1684 informal, are declared to be void from inception, agreement, or execution as against public  
1685 policy.

1686 (b) (i) Any contract or other agreement to provide goods, services, or municipal-type  
1687 services to storage or transfer facilities may not be executed within the state.

1688 (ii) Any contract or other agreement, existing or executed on or after March 15, 2001,  
1689 is considered void from the time of agreement or execution.

1690 (10) (a) All contracts and agreements under Subsection (10)(b) are assessed an annual  
1691 transaction fee of 75% of the gross value of the contract to the party providing the goods,  
1692 services, or municipal-type services to the storage facility or transfer facility or transportation  
1693 entity. The fee shall be assessed per calendar year, and is payable on a prorated basis on or  
1694 before the last day of each month in accordance with rules established under Subsection  
1695 (10)(d), and as follows:

1696 (i) 25% of the gross value of the contract to the department; and

1697 (ii) 50% of the gross value of the contract to the Department of Community and  
1698 Culture, to be used by the Utah Division of Indian Affairs as provided in Subsection (11).

1699 (b) Contracts and agreements subject to the fee under Subsection (10)(a) are those  
1700 contracts and agreements to provide goods, services, or municipal-type services to a storage or  
1701 transfer facility, or to any organization engaged in the transportation of high-level nuclear

1702 waste or greater than class C radioactive waste to a transfer facility or storage facility, and  
1703 which:

1704 (i) are in existence on March 15, 2001; or

1705 (ii) become effective notwithstanding Subsection (9)(a).

1706 (c) Any governmental agency which regulates the charges to consumers for services  
1707 provided by utilities or other organizations shall require the regulated utility or organization to  
1708 include the fees under Subsection (10)(a) in the rates charged to the purchaser of the goods,  
1709 services, or municipal-type services affected by Subsection (10)(b).

1710 (d) (i) The department, in consultation with the State Tax Commission, shall establish  
1711 rules for the valuation of the contracts and assessment and collection of the fees, and other  
1712 rules as necessary to determine the amount of and collection of the fee under Subsection  
1713 (10)(a). The department may initiate rulemaking under this Subsection (10)(d)(i) on or after  
1714 March 15, 2001.

1715 (ii) Persons and organizations holding contracts affected by Subsection (10)(b) shall  
1716 make a good faith estimate of the fee under Subsection (10)(a) for calendar year 2001, and  
1717 remit that amount to the department on or before July 31, 2001.

1718 (11) (a) The portion of the fees imposed under Subsection (10) which is to be paid to  
1719 the Department of Community and Culture for use by the Utah Division of Indian Affairs shall  
1720 be used for establishment of a statewide community and economic development program for  
1721 the tribes of Native American people within the exterior boundaries of the state who have by  
1722 tribal procedure established a position rejecting siting of any nuclear waste facility on their  
1723 reservation lands.

1724 (b) The program under Subsection (11)(a) shall include:

1725 (i) educational services and facilities;

1726 (ii) health care services and facilities;

1727 (iii) programs of economic development;

1728 (iv) utilities;

1729 (v) sewer;

1730 (vi) street lighting;

1731 (vii) roads and other infrastructure; and

1732 (viii) oversight and staff support for the program.



1733 (12) It is the intent of the Legislature that this part does not prohibit or interfere with a  
1734 person's exercise of the rights under the First Amendment to the Constitution of the United  
1735 States or under Utah Constitution Article I, Sec. 15, by an organization attempting to site a  
1736 storage facility or transfer facility within the borders of the state for the placement of high-level  
1737 nuclear waste or greater than class C radioactive waste.

1738 Section 30. Section **19-3-304** is amended to read:

1739 **19-3-304. Licensing and approval by governor and Legislature -- Powers and**  
1740 **duties of the department.**

1741 (1) (a) A person may not construct or operate a waste transfer, storage, decay in  
1742 storage, treatment, or disposal facility within the exterior boundaries of the state without  
1743 applying for and receiving a construction and operating license from the [~~state Department of~~  
1744 ~~Environmental Quality~~] department and also obtaining approval from the Legislature and the  
1745 governor.

1746 (b) The [~~Department of Environmental Quality~~] department may issue the license, and  
1747 the Legislature and the governor may approve the license, only upon finding the requirements  
1748 and standards of this part have been met.

1749 (2) The department shall by rule establish the procedures and forms required to submit  
1750 an application for a construction and operating license under this part.

1751 (3) The department may make rules implementing this part as necessary for the  
1752 protection of the public health and the environment, including:

1753 (a) rules for safe and proper construction, installation, repair, use, and operation of  
1754 waste transfer, storage, decay in storage, treatment, and disposal facilities;

1755 (b) rules governing prevention of and responsibility for costs incurred regarding  
1756 accidents that may occur in conjunction with the operation of the facilities; and

1757 (c) rules providing for disciplinary action against the license upon violation of any of  
1758 the licensure requirements under this part or rules made under this part.

1759 Section 31. Section **19-3-308** is amended to read:

1760 **19-3-308. Application fee and annual fees.**

1761 (1) (a) Any application for a waste transfer, storage, decay in storage, treatment, or  
1762 disposal facility shall be accompanied by an initial fee of \$5,000,000.

1763 (b) The applicant shall subsequently pay an additional fee to cover the costs to the state

1764 associated with review of the application, including costs to the state and the state's contractors  
1765 for permitting, technical, administrative, legal, safety, and emergency response reviews,  
1766 planning, training, infrastructure, and other impact analyses, studies, and services required to  
1767 evaluate a proposed facility.

1768 (2) For the purpose of funding the state oversight and inspection of any waste transfer,  
1769 storage, decay in storage, treatment, or disposal facility, and to establish state infrastructure,  
1770 including, but not limited to providing for [~~state Department of Environmental Quality~~] the  
1771 department's, state Department of [~~Transportation~~] Transportation's, state Department of Public  
1772 [~~Safety~~] Safety's, and other state agencies' technical, administrative, legal, infrastructure,  
1773 maintenance, training, safety, socio-economic, law enforcement, and emergency resources  
1774 necessary to respond to these facilities, the owner or operator shall pay to the state a fee as  
1775 established by department rule under Section 63J-1-504, to be assessed:

1776 (a) per ton of storage cask and high level nuclear waste per year for storage, decay in  
1777 storage, treatment, or disposal of high level nuclear waste;

1778 (b) per ton of transportation cask and high level nuclear waste for each transfer of high  
1779 level nuclear waste;

1780 (c) per ton of storage cask and greater than class C radioactive waste for the storage,  
1781 decay in storage, treatment, or disposal of greater than class C radioactive waste; and

1782 (d) per ton of transportation cask and greater than class C radioactive waste for each  
1783 transfer of greater than class C radioactive waste.

1784 (3) Funds collected under Subsection (2) shall be placed in the Nuclear Accident and  
1785 Hazard Compensation Account, created in Subsection 19-3-309(3).

1786 (4) The owner or operator of the facility shall pay the fees imposed under this section  
1787 to the department on or before the 15th day of the month following the month in which the fee  
1788 accrued.

1789 (5) Annual fees due under this part accrue on July 1 of each year and shall be paid to  
1790 the department by July 15 of that year.

1791 Section 32. Section **19-3-315** is amended to read:

1792 **19-3-315. Transportation requirements.**

1793 (1) A person may not transport wastes in the state, including on highways, roads, rail,  
1794 by air, or otherwise, without:

- 1795 (a) having received approval from the state Department of Transportation; and  
1796 (b) having demonstrated compliance with rules of the state Department of  
1797 Transportation.
- 1798 (2) The Department of Transportation may:
- 1799 (a) make rules requiring a transport and route approval permit, weight restrictions,  
1800 tracking systems, and state escort; and
- 1801 (b) assess appropriate fees as established under Section 63J-1-504 for each shipment of  
1802 waste, consistent with the requirements and limitations of federal law.
- 1803 (3) The [~~Department of Environmental Quality~~] department shall establish any other  
1804 transportation rules as necessary to protect the public health, safety, and environment.
- 1805 (4) Unless expressly authorized by the governor, with the concurrence of the  
1806 Legislature, an easement or other interest in property may not be granted upon any lands within  
1807 the state for a right of way for any carrier transportation system that:
- 1808 (a) is not a class I common or contract rail carrier organized and doing business prior to  
1809 January 1, 1999; and
- 1810 (b) transports high level nuclear waste or greater than class C radioactive waste to a  
1811 storage facility within the state.
- 1812 Section 33. Section **19-3-320** is amended to read:
- 1813 **19-3-320. Efforts to prevent siting of any nuclear waste facility to include**  
1814 **economic development study regarding Native American reservation lands within the**  
1815 **state.**
- 1816 (1) It is the intent of the Legislature that the department, in its efforts to prevent the  
1817 siting of a nuclear waste facility within the exterior borders of the state, include in its work the  
1818 study under Subsection (2) and the report under Subsection (3).
- 1819 (2) It is the intent of the Legislature that the Department of [~~Environmental Quality~~]  
1820 Natural Resources and Environment, in coordination with the office of the governor, and in  
1821 cooperation with the Departments of Community and Culture, Human Services, Health,  
1822 Workforce Services, Agriculture and Food, [~~Natural Resources,~~] and Transportation, the state  
1823 Office of Education, and the Board of Regents:
- 1824 (a) study the needs and requirements for economic development on the Native  
1825 American reservations within the state; and

1826 (b) prepare, on or before November 30, 2001, a long-term strategic plan for economic  
1827 development on the reservations.

1828 (3) It is the intent of the Legislature that this plan, prepared under Subsection (2)(b),  
1829 shall be distributed to the governor and the members of the Legislature on or before December  
1830 31, 2001.

1831 Section 34. Section **19-4-103** is amended to read:

1832 **19-4-103. Drinking Water Board -- Members -- Organization -- Meetings -- Per**  
1833 **diem and expenses.**

1834 (1) The [~~board~~] Drinking Water Board created under Section [~~19-4-106~~] 79-2-201  
1835 comprises 11 members, one of whom is the executive director and the remainder of whom shall  
1836 be appointed by the governor with the consent of the Senate.

1837 (2) No more than five appointed members shall be from the same political party.

1838 (3) The appointed members shall be knowledgeable about drinking water and public  
1839 water systems and shall represent different geographical areas within the state insofar as  
1840 practicable.

1841 (4) The 10 appointed members shall be appointed from the following areas:

1842 (a) two elected officials of municipal government or their representatives involved in  
1843 management or operation of public water systems;

1844 (b) two representatives of improvement districts, water conservancy districts, or  
1845 metropolitan water districts;

1846 (c) one representative from an industry [~~which~~] that manages or operates a public water  
1847 system;

1848 (d) one registered professional engineer with expertise in civil or sanitary engineering;

1849 (e) one representative from the state water research community or from an institution  
1850 of higher education [~~which~~] that has comparable expertise in water research;

1851 (f) two representatives of the public who do not represent other interests named in this  
1852 section and who do not receive, and have not received during the past two years, a significant  
1853 portion of their income, directly or indirectly, from suppliers; and

1854 (g) one representative from a local health department.

1855 (5) (a) Members of the Utah Safe Drinking Water Committee created by Laws of Utah  
1856 1981, Chapter 126, shall serve as members of the board throughout the terms for which they

1857 were appointed.

1858 (b) Except as required by Subsection (5)(c), as terms of current board members expire,  
1859 the governor shall appoint each new member or reappointed member to a four-year term.

1860 (c) Notwithstanding the requirements of Subsection (5)(b), the governor shall, at the  
1861 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
1862 board members are staggered so that approximately half of the board is appointed every two  
1863 years.

1864 (6) When a vacancy occurs in the membership for any reason, the replacement shall be  
1865 appointed for the unexpired term.

1866 (7) Each member holds office until the expiration of the member's term, and until a  
1867 successor is appointed, but not for more than 90 days after the expiration of the term.

1868 (8) The board shall elect annually a chair and a vice chair from its members.

1869 (9) (a) The board shall meet at least quarterly.

1870 (b) Special meetings may be called by the chair upon ~~[his]~~ the chair's own initiative,  
1871 upon the request of the executive secretary, or upon the request of three members of the board.

1872 (c) Reasonable notice shall be given each member of the board ~~[prior to]~~ before any  
1873 meeting.

1874 (10) Six members constitute a quorum at any meeting and the action of the majority of  
1875 the members present is the action of the board.

1876 (11) A member may not receive compensation or benefits for the member's service, but  
1877 may receive per diem and travel expenses in accordance with:

1878 (a) Section 63A-3-106;

1879 (b) Section 63A-3-107; and

1880 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
1881 63A-3-107.

1882 Section 35. Section **19-5-102** is amended to read:

1883 **19-5-102. Definitions.**

1884 As used in this chapter:

1885 (1) "Board" means the Water Quality Board created in Section ~~[19-1-106]~~ 79-2-201.

1886 (2) "Contaminant" means ~~[any]~~ a physical, chemical, biological, or radiological  
1887 substance or matter in water.

1888 (3) "Discharge" means the addition of [~~any~~] a pollutant to [~~any~~] the waters of the state.

1889 (4) "Discharge permit" means a permit issued to a person who:

1890 (a) discharges or whose activities would probably result in a discharge of pollutants  
1891 into the waters of the state; or

1892 (b) generates or manages sewage sludge.

1893 (5) "Disposal system" means a system for disposing of wastes, and includes sewerage  
1894 systems and treatment works.

1895 (6) "Effluent limitations" means [~~any~~] restrictions, requirements, or prohibitions,  
1896 including schedules of compliance established under this chapter [~~which~~] that apply to  
1897 discharges.

1898 (7) "Executive secretary" means the executive secretary of the board.

1899 (8) "Point source":

1900 (a) means [~~any~~] a discernible, confined, and discrete conveyance, including [~~but not~~  
1901 ~~limited to any~~] a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling  
1902 stock, concentrated animal feeding operation, or vessel or other floating craft, from which  
1903 pollutants are or may be discharged; and

1904 (b) does not include return flows from irrigated agriculture.

1905 (9) "Pollution" means [~~any~~] a man-made or man-induced alteration of the chemical,  
1906 physical, biological, or radiological integrity of [~~any~~] the waters of the state, unless the  
1907 alteration is necessary for the public health and safety.

1908 (10) "Publicly owned treatment works" means [~~any~~] a facility for the treatment of  
1909 pollutants owned by the state, its political subdivisions, or other public entity.

1910 (11) "Schedule of compliance" means a schedule of remedial measures, including an  
1911 enforceable sequence of actions or operations leading to compliance with this chapter.

1912 (12) "Sewage sludge" means [~~any~~] a solid, semisolid, or liquid residue removed during  
1913 the treatment of municipal wastewater or domestic sewage.

1914 (13) "Sewerage system" means pipelines or conduits, pumping stations, and all other  
1915 constructions, devices, appurtenances, and facilities used for collecting or conducting wastes to  
1916 a point of ultimate disposal.

1917 (14) "Treatment works" means [~~any~~] a plant, disposal field, lagoon, dam, pumping  
1918 station, incinerator, or other works used for the purpose of treating, stabilizing, or holding

1919 wastes.

1920 (15) "Underground injection" means the subsurface emplacement of fluids by well  
1921 injection.

1922 (16) "Underground wastewater disposal system" means a system for disposing of  
1923 domestic wastewater discharges as defined by the board and the executive director.

1924 (17) "Waste" or "pollutant" means dredged spoil, solid waste, incinerator residue,  
1925 sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive  
1926 materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial,  
1927 municipal, and agricultural waste discharged into water.

1928 (18) "Waters of the state":

1929 (a) means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs,  
1930 irrigation systems, drainage systems, and all other bodies or accumulations of water, surface  
1931 and underground, natural or artificial, public or private, [~~which~~] that are contained within, flow  
1932 through, or border upon this state or any portion of the state; and

1933 (b) does not include bodies of water confined to and retained within the limits of  
1934 private property, and [~~which~~] that do not develop into or constitute a nuisance, a public health  
1935 hazard, or a menace to fish or wildlife.

1936 Section 36. Section **19-5-122** is amended to read:

1937 **19-5-122. Underground wastewater disposal systems -- Fee imposed on new**  
1938 **systems.**

1939 (1) Beginning July 1, 2001, a one-time fee is imposed on each new underground  
1940 wastewater disposal system installed.

1941 (2) (a) From July 1, 2001, through June 30, 2002, the fee shall be \$25.

1942 (b) Beginning July 1, 2002, the fee shall be established by the department in  
1943 accordance with Section 63J-1-504.

1944 (3) (a) The fee shall be paid when plans and specifications for the construction of a  
1945 new underground wastewater disposal system are approved by the local health department or  
1946 the Department of [~~Environmental Quality~~] Natural Resources and Environment.

1947 (b) A local health department shall remit the fee revenue to the Division of Finance  
1948 quarterly.

1949 (4) The fee revenue shall be:

1950 (a) deposited into the Underground Wastewater Disposal Restricted Account created in  
1951 Section 19-5-123; and

1952 (b) used to pay for costs of underground wastewater disposal system training programs.  
1953 Section 37. Section **19-6-102** is amended to read:

1954 **19-6-102. Definitions.**

1955 As used in this part:

1956 (1) "Board" means the Solid and Hazardous Waste Control Board created in Section  
1957 [~~19-1-106~~] 79-2-201.

1958 (2) "Closure plan" means a plan under Section 19-6-108 to close a facility or site at  
1959 which the owner or operator has disposed of nonhazardous solid waste or has treated, stored, or  
1960 disposed of hazardous waste including, if applicable, a plan to provide postclosure care at the  
1961 facility or site.

1962 (3) (a) "Commercial nonhazardous solid waste treatment, storage, or disposal facility"  
1963 means a facility that receives, for profit, nonhazardous solid waste for treatment, storage, or  
1964 disposal.

1965 (b) "Commercial nonhazardous solid waste treatment, storage, or disposal facility"  
1966 does not include a facility that:

1967 (i) receives waste for recycling;

1968 (ii) receives waste to be used as fuel, in compliance with federal and state  
1969 requirements; or

1970 (iii) is solely under contract with a local government within the state to dispose of  
1971 nonhazardous solid waste generated within the boundaries of the local government.

1972 (4) "Construction waste or demolition waste":

1973 (a) means waste from building materials, packaging, and rubble resulting from  
1974 construction, demolition, remodeling, and repair of pavements, houses, commercial buildings,  
1975 and other structures, and from road building and land clearing; and

1976 (b) does not include: asbestos; contaminated soils or tanks resulting from remediation  
1977 or cleanup at ~~any~~ a release or spill; waste paints; solvents; sealers; adhesives; or similar  
1978 hazardous or potentially hazardous materials.

1979 (5) "Demolition waste" has the same meaning as the definition of construction waste in  
1980 this section.



1981 (6) "Disposal" means the discharge, deposit, injection, dumping, spilling, leaking, or  
1982 placing of any solid or hazardous waste into or on [~~any~~] land or water so that the waste or [~~any~~]  
1983 a constituent of the waste may enter the environment, be emitted into the air, or discharged into  
1984 any waters, including groundwaters.

1985 (7) "Executive secretary" means the executive secretary of the board.

1986 (8) "Generation" or "generated" means the act or process of producing nonhazardous  
1987 solid or hazardous waste.

1988 (9) "Hazardous waste" means a solid waste or combination of solid wastes other than  
1989 household waste [~~which~~] that, because of its quantity, concentration, or physical, chemical, or  
1990 infectious characteristics may cause or significantly contribute to an increase in mortality or an  
1991 increase in serious irreversible or incapacitating reversible illness or may pose a substantial  
1992 present or potential hazard to human health or the environment when improperly treated,  
1993 stored, transported, disposed of, or otherwise managed.

1994 (10) "Health facility" means hospitals, psychiatric hospitals, home health agencies,  
1995 hospices, skilled nursing facilities, intermediate care facilities, intermediate care facilities for  
1996 the mentally retarded, residential health care facilities, maternity homes or birthing centers, free  
1997 standing ambulatory surgical centers, facilities owned or operated by health maintenance  
1998 organizations, and state renal disease treatment centers including free standing hemodialysis  
1999 units, the offices of private physicians and dentists whether for individual or private practice,  
2000 veterinary clinics, and mortuaries.

2001 (11) "Household waste" means [~~any~~] waste material, including garbage, trash, and  
2002 sanitary wastes in septic tanks, derived from households, including single-family and  
2003 multiple-family residences, hotels and motels, bunk houses, ranger stations, crew quarters,  
2004 campgrounds, picnic grounds, and day-use recreation areas.

2005 (12) "Infectious waste" means a solid waste that contains or may reasonably be  
2006 expected to contain pathogens of sufficient virulence and quantity that exposure to the waste by  
2007 a susceptible host could result in an infectious disease.

2008 (13) "Manifest" means the form used for identifying the quantity, composition, origin,  
2009 routing, and destination of hazardous waste during its transportation from the point of  
2010 generation to the point of disposal, treatment, or storage.

2011 (14) "Mixed waste" means [~~any~~] material that is a hazardous waste as defined in this

2012 chapter and is also radioactive as defined in Section 19-3-102.

2013 (15) "Modification plan" means a plan under Section 19-6-108 to modify a facility or  
2014 site for the purpose of disposing of nonhazardous solid waste or treating, storing, or disposing  
2015 of hazardous waste.

2016 (16) "Operation plan" or "nonhazardous solid or hazardous waste operation plan"  
2017 means a plan or approval under Section 19-6-108, including:

2018 (a) a plan to own, construct, or operate a facility or site for the purpose of disposing of  
2019 nonhazardous solid waste or treating, storing, or disposing of hazardous waste;

2020 (b) a closure plan;

2021 (c) a modification plan; or

2022 (d) an approval that the executive secretary is authorized to issue.

2023 (17) "Permittee" means a person who is obligated under an operation plan.

2024 (18) (a) "Solid waste" means [~~any~~] garbage, refuse, sludge, including sludge from a  
2025 waste treatment plant, water supply treatment plant, or air pollution control facility, or other  
2026 discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting  
2027 from industrial, commercial, mining, or agricultural operations and from community activities  
2028 but does not include solid or dissolved materials in domestic sewage or in irrigation return  
2029 flows or discharges for which a permit is required under Title 19, Chapter 5, Water Quality  
2030 Act, or under the Water Pollution Control Act, 33 U.S.C., Section 1251, et seq.

2031 (b) "Solid waste" does not include any of the following wastes unless the waste causes  
2032 a public nuisance or public health hazard or is otherwise determined to be a hazardous waste:

2033 (i) certain large volume wastes, such as inert construction debris used as fill material;

2034 (ii) drilling muds, produced waters, and other wastes associated with the exploration,  
2035 development, or production of oil, gas, or geothermal energy;

2036 (iii) fly ash waste, bottom ash waste, slag waste, and flue gas emission control waste  
2037 generated primarily from the combustion of coal or other fossil fuels;

2038 (iv) solid wastes from the extraction, beneficiation, and processing of ores and  
2039 minerals; or

2040 (v) cement kiln dust.

2041 (19) "Storage" means the actual or intended containment of solid or hazardous waste  
2042 either on a temporary basis or for a period of years in such a manner as not to constitute

2043 disposal of the waste.

2044 (20) "Transportation" means the off-site movement of solid or hazardous waste to any  
2045 intermediate point or to any point of storage, treatment, or disposal.

2046 (21) "Treatment" means a method, technique, or process designed to change the  
2047 physical, chemical, or biological character or composition of ~~[any]~~ solid or hazardous waste so  
2048 as to neutralize the waste or render the waste nonhazardous, safer for transport, amenable for  
2049 recovery, amenable to storage, or reduced in volume.

2050 (22) "Underground storage tank" means a tank ~~[which]~~ that is regulated under Subtitle  
2051 I of the Resource Conservation and Recovery Act, 42 U.S.C., Section 6991, et seq.

2052 Section 38. Section **19-6-102.6** is amended to read:

2053 **19-6-102.6. Legislative participation in landfill siting disputes.**

2054 (1) (a) Upon the Legislature's receipt of a written request by a county governing body  
2055 or a member of the Legislature whose district is involved in a landfill siting dispute, the  
2056 president of the Senate and the speaker of the House shall appoint a committee as described  
2057 under Subsection (2) and volunteers under Subsection (3) to actively seek an acceptable  
2058 location for a municipal landfill if there is a dispute between two or more counties regarding  
2059 the proposed site of a municipal landfill.

2060 (b) The president and the speaker shall consult with the legislators appointed under this  
2061 subsection regarding their appointment of members of the committee under Subsection (2), and  
2062 volunteers under Subsection (3).

2063 (2) The committee ~~[shall consist]~~ consists of the following members, appointed jointly  
2064 by the president and the speaker:

2065 (a) two members from the Senate:

2066 (i) one member from the county where the proposed landfill site is located; and

2067 (ii) one member from the other county involved in the dispute, but if more than one  
2068 other county is involved, still only one senator from one of those counties;

2069 (b) two members from the House:

2070 (i) one member from the county where the proposed landfill site is located; and

2071 (ii) one member from the other county involved in the dispute, but if more than one  
2072 other county is involved, still only one representative from one of those counties;

2073 (c) one individual whose current principal residence is within a community located

2074 within 20 miles of any exterior boundary of the proposed landfill site, but if no community is  
2075 located within 20 miles of the community, then an individual whose current residence is in the  
2076 community nearest the proposed landfill site;

2077 (d) two resident citizens from the county where the proposed landfill site is located;  
2078 and

2079 (e) three resident citizens from the other county involved in the dispute, but if more  
2080 than one other county is involved, still only three citizen representatives from those counties.

2081 (3) (a) Two volunteers shall be appointed under Subsection (1).

2082 (b) The volunteers shall be individuals who agree to assist, as requested, the committee  
2083 members who represent the interests of the county where the proposed landfill site is located.

2084 (4) (a) Funding and staffing for the committee shall be provided jointly and equally by  
2085 the Senate and the House.

2086 (b) The [~~Department of Environmental Quality~~] department shall, at the request of the  
2087 committee and as funds are available within the department's existing budget, provide support  
2088 in arranging for committee hearings to receive public input and secretarial staff to make a  
2089 record of those hearings.

2090 (5) The committee shall:

2091 (a) appoint a chair from among its members; and

2092 (b) meet as necessary, but not less often than once per month, until its work is  
2093 completed.

2094 (6) The committee shall report in writing the results of its work and any  
2095 recommendations it may have for legislative action to the interim committees of the Legislature  
2096 as directed by the Legislative Management Committee.

2097 (7) (a) All action by the division, the executive secretary, or the [~~division board of the~~  
2098 ~~Department of Environmental Quality~~] department regarding [~~any~~] a proposed municipal  
2099 landfill site, regarding which a request has been submitted under Subsection (1), is tolled for  
2100 one year from the date the request is submitted, or until the committee completes its work  
2101 under this section, whichever occurs first.

2102 (b) This Subsection (7) also tolls the time limits imposed by Subsection 19-6-108(13).

2103 [~~(b)~~] (c) This Subsection (7) applies to any proposed landfill site regarding which the  
2104 department has not granted final approval on or before March 21, 1995.

2105            ~~[(e)]~~ (d) As used in this Subsection (7), "final approval" means final agency action  
2106 taken after conclusion of proceedings under Sections 63G-4-207 through 63G-4-405.

2107            (8) This section does not apply to a municipal solid waste facility that is, on or before  
2108 March 23, 1994:

2109            (a) operating under an existing permit or the renewal of an existing permit issued by  
2110 the local health department or other authority granted by the Department of ~~Environmental~~  
2111 ~~Quality~~ Natural Resources and Environment; or

2112            (b) operating under the approval of the local health department, regardless of whether a  
2113 formal permit has been issued.

2114            Section 39. Section **19-6-103** is amended to read:

2115            **19-6-103. Solid and Hazardous Waste Control Board -- Members -- Terms --**  
2116 **Organization -- Meetings -- Per diem and expenses.**

2117            (1) The Solid and Hazardous Waste Control Board created by Section ~~[19-1-106]~~  
2118 79-2-201 comprises the executive director and 12 members appointed by the governor with the  
2119 consent of the Senate.

2120            (2) The appointed members shall be knowledgeable about solid and hazardous waste  
2121 matters and consist of:

2122            (a) one representative of municipal government;

2123            (b) one representative of county government;

2124            (c) one representative of the manufacturing or fuel industry;

2125            (d) one representative of the mining industry;

2126            (e) one representative of the private solid waste disposal or solid waste recovery  
2127 industry;

2128            (f) one registered professional engineer;

2129            (g) one representative of a local health department;

2130            (h) one representative of the hazardous waste disposal industry; and

2131            (i) four representatives of the public, at least one of whom is a representative of  
2132 organized environmental interests.

2133            (3) Not more than six of the appointed members may be from the same political party.

2134            (4) (a) Except as required by Subsection (4)(b), members shall be appointed for terms  
2135 of four years each.

2136 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the  
2137 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
2138 board members are staggered so that approximately half of the board is appointed every two  
2139 years.

2140 (5) Each member is eligible for reappointment.

2141 (6) Board members shall continue in office until the expiration of their terms and until  
2142 their successors are appointed, but not more than 90 days after the expiration of their terms.

2143 (7) When a vacancy occurs in the membership for any reason, the replacement shall be  
2144 appointed for the unexpired term by the governor, after considering recommendations of the  
2145 board and with the consent of the Senate.

2146 (8) The board shall elect a chair and vice chair on or before April 1 of each year from  
2147 its membership.

2148 (9) A member may not receive compensation or benefits for the member's service, but  
2149 may receive per diem and travel expenses in accordance with:

2150 (a) Section 63A-3-106;

2151 (b) Section 63A-3-107; and

2152 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
2153 63A-3-107.

2154 (10) (a) The board shall hold a meeting at least once every three months including one  
2155 meeting during each annual general session of the Legislature.

2156 (b) Meetings shall be held on the call of the chair, the executive secretary, or any three  
2157 of the members.

2158 (11) Seven members constitute a quorum at any meeting, and the action of the majority  
2159 of members present is the action of the board.

2160 Section 40. Section **19-6-202** is amended to read:

2161 **19-6-202. Definitions.**

2162 As used in this part:

2163 (1) "Board" means the Solid and Hazardous Waste Control Board created in Section  
2164 [~~19-1-106~~] 79-2-201.

2165 (2) "Disposal" means the final disposition of hazardous wastes into or onto the lands,  
2166 waters, and air of this state.

2167 (3) "Hazardous wastes" means wastes as defined in Section 19-6-102.

2168 (4) "Hazardous waste treatment, disposal, and storage facility" means a facility or site  
2169 used or intended to be used for the treatment, storage, or disposal of hazardous waste materials,  
2170 including ~~[but not limited to]~~ physical, chemical, or thermal processing systems, incinerators,  
2171 and secure landfills.

2172 (5) "Site" means land used for the treatment, disposal, or storage of hazardous wastes.

2173 (6) "Siting plan" means the state hazardous waste facilities siting plan adopted by the  
2174 board pursuant to Sections 19-6-204 and 19-6-205.

2175 (7) "Storage" means the containment of hazardous wastes for a period of more than 90  
2176 days.

2177 (8) "Treatment" means any method, technique, or process designed to change the  
2178 physical, chemical, or biological character or composition of any hazardous waste to neutralize  
2179 or render it nonhazardous, safer for transport, amenable to recovery or storage, convertible to  
2180 another usable material, or reduced in volume and suitable for ultimate disposal.

2181 Section 41. Section **19-6-402** is amended to read:

2182 **19-6-402. Definitions.**

2183 As used in this part:

2184 (1) "Abatement action" means action taken to limit, reduce, mitigate, or eliminate a  
2185 release from an underground storage tank or petroleum storage tank, or to limit or reduce,  
2186 mitigate, or eliminate the damage caused by that release.

2187 (2) "Board" means the Solid and Hazardous Waste Control Board created in Section  
2188 ~~[19-1-106]~~ 79-2-201.

2189 (3) "Bodily injury" means bodily harm, sickness, disease, or death sustained by any  
2190 person.

2191 (4) "Certificate of compliance" means a certificate issued to a facility by the executive  
2192 secretary:

2193 (a) demonstrating that an owner or operator of a facility containing one or more  
2194 petroleum storage tanks has met the requirements of this part; and

2195 (b) listing all tanks at the facility, specifying which tanks may receive petroleum and  
2196 which tanks have not met the requirements for compliance.

2197 (5) "Certificate of registration" means a certificate issued to a facility by the executive

2198 secretary demonstrating that an owner or operator of a facility containing one or more  
2199 underground storage tanks has:

- 2200 (a) registered the tanks; and
- 2201 (b) paid the annual underground storage tank fee.

2202 (6) (a) "Certified underground storage tank consultant" means ~~any~~ a person who:

- 2203 (i) meets the education and experience standards established by the board under  
2204 Subsection 19-6-403(1)(a)(vi) in order to provide or contract to provide information, opinions,  
2205 or advice relating to underground storage tank management, release abatement, investigation,  
2206 corrective action, or evaluation for a fee, or in connection with the services for which a fee is  
2207 charged; and
- 2208 (ii) has submitted an application to the board and received a written statement of  
2209 certification from the board.

2210 (b) "Certified underground storage tank consultant" does not include:

- 2211 (i) an employee of the owner or operator of the underground storage tank, or an  
2212 employee of a business operation that has a business relationship with the owner or operator of  
2213 the underground storage tank, and that markets petroleum products or manages underground  
2214 storage tanks; or
- 2215 (ii) persons licensed to practice law in this state who offer only legal advice on  
2216 underground storage tank management, release abatement, investigation, corrective action, or  
2217 evaluation.

2218 (7) "Closed" means an underground storage tank no longer in use that has been:

- 2219 (a) emptied and cleaned to remove all liquids and accumulated sludges; and
- 2220 (b) either removed from the ground or filled with an inert solid material.

2221 (8) "Corrective action plan" means a plan for correcting a release from a petroleum  
2222 storage tank that includes provisions for all or any of the following:

- 2223 (a) cleanup or removal of the release;
- 2224 (b) containment or isolation of the release;
- 2225 (c) treatment of the release;
- 2226 (d) correction of the cause of the release;
- 2227 (e) monitoring and maintenance of the site of the release;
- 2228 (f) provision of alternative water supplies to persons whose drinking water has become



2229 contaminated by the release; or

2230 (g) temporary or permanent relocation, whichever is determined by the executive  
2231 secretary to be more cost-effective, of persons whose dwellings have been determined by the  
2232 executive secretary to be no longer habitable due to the release.

2233 (9) "Costs" means [~~any~~] money expended for:

2234 (a) investigation;

2235 (b) abatement action;

2236 (c) corrective action;

2237 (d) judgments, awards, and settlements for bodily injury or property damage to third  
2238 parties;

2239 (e) legal and claims adjusting costs incurred by the state in connection with judgments,  
2240 awards, or settlements for bodily injury or property damage to third parties; or

2241 (f) costs incurred by the state risk manager in determining the actuarial soundness of  
2242 the fund.

2243 (10) "Covered by the fund" means the requirements of Section 19-6-424 have been  
2244 met.

2245 (11) "Dwelling" means a building that is usually occupied by a person lodging there at  
2246 night.

2247 (12) "Enforcement proceedings" means a civil action or the procedures to enforce  
2248 orders established by Section 19-6-425.

2249 (13) "Executive secretary" means the executive secretary of the board.

2250 (14) "Facility" means all underground storage tanks located on a single parcel of  
2251 property or on any property adjacent or contiguous to that parcel.

2252 (15) "Fund" means the Petroleum Storage Tank Trust Fund created in Section  
2253 19-6-409.

2254 (16) "Loan fund" means the Petroleum Storage Tank Loan Fund created in Section  
2255 19-6-405.3.

2256 (17) "Operator" means [~~any~~] a person in control of or who is responsible on a daily  
2257 basis for the maintenance of an underground storage tank that is in use for the storage, use, or  
2258 dispensing of a regulated substance.

2259 (18) "Owner" means:

2260 (a) in the case of an underground storage tank in use on or after November 8, 1984, any  
2261 person who owns an underground storage tank used for the storage, use, or dispensing of a  
2262 regulated substance; and

2263 (b) in the case of ~~any~~ an underground storage tank in use before November 8, 1984,  
2264 but not in use on or after November 8, 1984, any person who owned the tank immediately  
2265 before the discontinuance of its use for the storage, use, or dispensing of a regulated substance.

2266 (19) "Petroleum" includes crude oil or any fraction of crude oil that is liquid at 60  
2267 degrees Fahrenheit and at a pressure of 14.7 pounds per square inch absolute.

2268 (20) "Petroleum storage tank" means a tank that:

2269 (a) (i) is underground;

2270 (ii) is regulated under Subtitle I of the Resource Conservation and Recovery Act, 42  
2271 U.S.C. Section 6991c, et seq.; and

2272 (iii) contains petroleum; or

2273 (b) is a tank that the owner or operator voluntarily submits for participation in the  
2274 Petroleum Storage Tank Trust Fund under Section 19-6-415.

2275 (21) "Petroleum Storage Tank Restricted Account" means the account created in  
2276 Section 19-6-405.5.

2277 (22) "Program" means the Environmental Assurance Program under Section  
2278 19-6-410.5.

2279 (23) "Property damage" means physical injury to or destruction of tangible property  
2280 including loss of use of that property.

2281 (24) "Regulated substance" means petroleum and petroleum-based substances  
2282 comprised of a complex blend of hydrocarbons derived from crude oil through processes of  
2283 separation, conversion, upgrading, and finishing, and includes motor fuels, jet fuels, distillate  
2284 fuel oils, residual fuel oils, lubricants, petroleum solvents, and used oils.

2285 (25) "Release" means ~~any~~ spilling, leaking, emitting, discharging, escaping, leaching,  
2286 or disposing from an underground storage tank or petroleum storage tank. The entire release is  
2287 considered a single release.

2288 (26) (a) "Responsible party" means ~~any~~ a person who:

2289 (i) is the owner or operator of a facility;

2290 (ii) owns or has legal or equitable title in a facility or an underground storage tank;

2291 (iii) owned or had legal or equitable title in the facility at the time any petroleum was  
2292 received or contained at the facility;

2293 (iv) operated or otherwise controlled activities at the facility at the time any petroleum  
2294 was received or contained at the facility; or

2295 (v) is an underground storage tank installation company.

2296 (b) "Responsible party" as defined in Subsections (26)(a)(i), (ii), and (iii) does not  
2297 include:

2298 (i) ~~any~~ a person who is not an operator and, without participating in the management  
2299 of a facility and otherwise not engaged in petroleum production, refining, and marketing, holds  
2300 indicia of ownership:

2301 (A) primarily to protect his security interest in the facility; or

2302 (B) as a fiduciary or custodian under Title 75, Utah Uniform Probate Code, or under an  
2303 employee benefit plan; or

2304 (ii) governmental ownership or control of property by involuntary transfers as provided  
2305 in CERCLA Section 101(20)(D), 42 U.S.C. Sec. 9601(20)(D).

2306 (c) The exemption created by Subsection (26)(b)(i)(B) does not apply to actions taken  
2307 by the state or its officials or agencies under this part.

2308 (d) The terms and activities "indicia of ownership," "primarily to protect a security  
2309 interest," "participation in management," and "security interest" under this part are in  
2310 accordance with 40 CFR Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9).

2311 (e) The terms "participate in management" and "indicia of ownership" as defined in 40  
2312 CFR Part 280, Subpart I, as amended, and 42 U.S.C. Sec. 6991b(h)(9) include and apply to the  
2313 fiduciaries listed in Subsection (26)(b)(i)(B).

2314 (27) "Soil test" means a test, established or approved by board rule, to detect the  
2315 presence of petroleum in soil.

2316 (28) "State cleanup appropriation" means the money appropriated by the Legislature to  
2317 the department to fund the investigation, abatement, and corrective action regarding releases  
2318 not covered by the fund.

2319 (29) "Underground storage tank" means ~~any~~ a tank regulated under Subtitle I,  
2320 Resource Conservation and Recovery Act, 42 U.S.C. Sec. 6991c, et seq., including:

2321 (a) a petroleum storage tank;

- 2322 (b) underground pipes and lines connected to a storage tank; and
- 2323 (c) any underground ancillary equipment and containment system.
- 2324 (30) "Underground storage tank installation company" means any person, firm,
- 2325 partnership, corporation, governmental entity, association, or other organization who installs
- 2326 underground storage tanks.
- 2327 (31) "Underground storage tank installation company permit" means a permit issued to
- 2328 an underground storage tank installation company by the executive secretary.
- 2329 (32) "Underground storage tank technician" means a person employed by and acting
- 2330 under the direct supervision of a certified underground storage tank consultant to assist in
- 2331 carrying out the functions described in Subsection (6)(a).
- 2332 Section 42. Section **19-6-409** is amended to read:
- 2333 **19-6-409. Petroleum Storage Tank Trust Fund created -- Source of revenues.**
- 2334 (1) (a) There is created a private-purpose trust fund entitled the "Petroleum Storage
- 2335 Tank Trust Fund."
- 2336 (b) The sole sources of revenues for the fund are:
- 2337 (i) petroleum storage tank fees paid under Section 19-6-411;
- 2338 (ii) underground storage tank installation company permit fees paid under Section
- 2339 19-6-411;
- 2340 (iii) the environmental assurance fee and penalties paid under Section 19-6-410.5; and
- 2341 (iv) interest accrued on revenues listed in this Subsection (1)(b).
- 2342 (c) Interest earned on fund money is deposited into the fund.
- 2343 (2) The executive secretary may expend money from the fund to pay costs:
- 2344 (a) covered by the fund under Section 19-6-419;
- 2345 (b) of administering the:
- 2346 (i) fund; and
- 2347 (ii) environmental assurance program and fee under Section 19-6-410.5;
- 2348 (c) incurred by the state for a legal service or claim adjusting service provided in
- 2349 connection with a claim, judgment, award, or settlement for bodily injury or property damage
- 2350 to a third party;
- 2351 (d) incurred by the state risk manager in determining the actuarial soundness of the
- 2352 fund;

2353 (e) incurred by a third party claiming injury or damages from a release reported on or  
2354 after May 11, 2010, for hiring a certified underground storage tank consultant:

2355 (i) to review an investigation or corrective action by a responsible party; and

2356 (ii) in accordance with Subsection (4); and

2357 (f) allowed under this part that are not listed under this Subsection (2).

2358 (3) Costs for the administration of the fund and the environmental assurance fee shall  
2359 be appropriated by the Legislature.

2360 (4) The executive secretary shall:

2361 (a) in paying costs under Subsection (2)(e):

2362 (i) determine a reasonable limit on costs paid based on the:

2363 (A) extent of the release;

2364 (B) impact of the release; and

2365 (C) services provided by the certified underground storage tank consultant;

2366 (ii) pay, per release, costs for one certified underground storage tank consultant agreed  
2367 to by all third parties claiming damages or injury;

2368 (iii) include costs paid in the coverage limits allowed under Section 19-6-419; and

2369 (iv) not pay legal costs of third parties;

2370 (b) review and give careful consideration to reports and recommendations provided by  
2371 a certified underground storage tank consultant hired by a third party; and

2372 (c) make reports and recommendations provided under Subsection (4)(b) available on  
2373 the Division of [~~Environmental Response and Remediation's~~] Solid and Hazardous Waste's  
2374 website.

2375 Section 43. Section **19-6-703** is amended to read:

2376 **19-6-703. Definitions.**

2377 (1) "Board" means the Solid and Hazardous Waste Control Board created in Section  
2378 [~~19-1-106~~] 79-2-201.

2379 (2) "Commission" means the State Tax Commission.

2380 (3) "Department" means the Department of [~~Environmental Quality created in Title 19,~~  
2381 ~~Chapter 1, General Provisions~~] Natural Resources and Environment.

2382 (4) "Division" means the Division of Solid and Hazardous Waste as created in Section  
2383 [~~19-1-105~~] 79-2-201.

- 2384 (5) "DIY" means do it yourself.
- 2385 (6) "DIYer" means a person who generates used oil through household activities,  
2386 including maintenance of personal vehicles.
- 2387 (7) "DIYer used oil" means used oil a person generates through household activities,  
2388 including maintenance of personal vehicles.
- 2389 (8) "DIYer used oil collection center" means [any] a site or facility that accepts or  
2390 aggregates and stores used oil collected only from DIYers.
- 2391 (9) "Executive secretary" means the executive secretary of the board.
- 2392 (10) "Hazardous waste" means [any] a substance defined as hazardous waste under  
2393 Title 19, Chapter 6, Hazardous Substances.
- 2394 (11) (a) "Lubricating oil" means the fraction of crude oil or synthetic oil used to reduce  
2395 friction in an industrial or mechanical device.
- 2396 (b) Lubricating oil includes rerefined oil.
- 2397 (12) "Lubricating oil vendor" means the person making the first sale of a lubricating oil  
2398 in Utah.
- 2399 (13) "Manifest" means the form used for identifying the quantity and composition and  
2400 the origin, routing, and destination of used oil during its transportation from the point of  
2401 collection to the point of storage, processing, use, or disposal.
- 2402 (14) "Off-specification used oil" means used oil that exceeds levels of constituents and  
2403 properties as specified by board rule and consistent with 40 CFR 279, Standards for the  
2404 Management of Used Oil.
- 2405 (15) "On-specification used oil" means used oil that does not exceed levels of  
2406 constituents and properties as specified by board rule and consistent with 40 CFR 279,  
2407 Standards for the Management of Used Oil.
- 2408 (16) (a) "Processing" means chemical or physical operations under Subsection (16)(b)  
2409 designed to produce from used oil, or to make used oil more amenable for production of:
- 2410 (i) gasoline, diesel, and other petroleum derived fuels;
- 2411 (ii) lubricants; or
- 2412 (iii) other products derived from used oil.
- 2413 (b) "Processing" includes:
- 2414 (i) blending used oil with virgin petroleum products;

2415 (ii) blending used oils to meet fuel specifications;

2416 (iii) filtration;

2417 (iv) simple distillation;

2418 (v) chemical or physical separation; and

2419 (vi) rerefining.

2420 (17) "Recycled oil" means oil reused for any purpose following its original use,

2421 including:

2422 (a) the purpose for which the oil was originally used; and

2423 (b) used oil processed or burned for energy recovery.

2424 (18) "Rerefining distillation bottoms" means the heavy fraction produced by vacuum  
2425 distillation of filtered and dehydrated used oil. The composition varies with column operation  
2426 and feedstock.

2427 (19) "Used oil" means [any] oil, refined from crude oil or a synthetic oil, that has been  
2428 used and as a result of that use is contaminated by physical or chemical impurities.

2429 (20) (a) "Used oil aggregation point" means [any] a site or facility that accepts,  
2430 aggregates, or stores used oil collected only from other used oil generation sites owned or  
2431 operated by the owner or operator of the aggregation point, from which used oil is transported  
2432 to the aggregation point in shipments of no more than 55 gallons.

2433 (b) A used oil aggregation point may also accept oil from DIYers.

2434 (21) "Used oil burner" means a person who burns used oil for energy recovery.

2435 (22) "Used oil collection center" means [any] a site or facility registered with the state  
2436 to manage used oil and that accepts or aggregates and stores used oil collected from used oil  
2437 generators, other than DIYers, who are regulated under this part and bring used oil to the  
2438 collection center in shipments of no more than 55 gallons and under the provisions of this part.  
2439 Used oil collection centers may accept DIYer used oil also.

2440 (23) "Used oil fuel marketer" means [any] a person who:

2441 (a) directs a shipment of off-specification used oil from its facility to a used oil burner;  
2442 or

2443 (b) first claims the used oil to be burned for energy recovery meets the used oil fuel  
2444 specifications of 40 CFR 279, Standards for the Management of Used Oil, except when the oil  
2445 is to be burned in accordance with rules for on-site burning in space heaters in accordance with

2446 40 CFR 279.

2447 (24) "Used oil generator" means [~~any~~] a person, by site, whose act or process produces  
2448 used oil or whose act first causes used oil to become subject to regulation.

2449 (25) "Used oil handler" means a person generating used oil, collecting used oil,  
2450 transporting used oil, operating a transfer facility or aggregation point, processing or rerefining  
2451 used oil, or marketing used oil.

2452 (26) "Used oil processor or rerefiner" means a facility that processes used oil.

2453 (27) "Used oil transfer facility" means [~~any~~] a transportation-related facility, including  
2454 loading docks, parking areas, storage areas, and other areas where shipments of used oil are  
2455 held for more than 24 hours during the normal course of transportation and not longer than 35  
2456 days.

2457 (28) (a) "Used oil transporter" means the following persons unless they are exempted  
2458 under Subsection (28)(b):

2459 (i) [~~any~~] a person who transports used oil;

2460 (ii) [~~any~~] a person who collects used oil from more than one generator and transports  
2461 the collected oil;

2462 (iii) except as exempted under Subsection (28)(b)(i), (ii), or (iii), [~~any~~] a person who  
2463 transports collected DIYer used oil from used oil generators, collection centers, aggregation  
2464 points, or other facilities required to be permitted or registered under this part and where  
2465 household DIYer used oil is collected; and

2466 (iv) owners and operators of used oil transfer facilities.

2467 (b) "Used oil transporter" does not include:

2468 (i) persons who transport oil on site;

2469 (ii) generators who transport shipments of used oil totalling 55 gallons or less from the  
2470 generator to a used oil collection center as allowed under 40 CFR 279.24, Off-site Shipments;

2471 (iii) generators who transport shipments of used oil totalling 55 gallons or less from the  
2472 generator to a used oil aggregation point owned or operated by the same generator as allowed  
2473 under 40 CFR 279.24, Off-site Shipments;

2474 (iv) persons who transport used oil generated by DIYers from the initial generator to a  
2475 used oil generator, used oil collection center, used oil aggregation point, used oil processor or  
2476 rerefiner, or used oil burner subject to permitting or registration under this part; or



2477 (v) railroads that transport used oil and are regulated under 49 U.S.C. Subtitle V, Rail  
2478 Programs, and 49 U.S.C. 5101 et seq., federal Hazardous Materials Transportation Uniform  
2479 Safety Act.

2480 Section 44. Section **19-6-803** is amended to read:

2481 **19-6-803. Definitions.**

2482 As used in this part:

2483 (1) "Abandoned waste tire pile" means a waste tire pile regarding which the local  
2484 department of health has not been able to:

2485 (a) locate the persons responsible for the tire pile; or

2486 (b) cause the persons responsible for the tire pile to remove it.

2487 (2) (a) "Beneficial use" means the use of chipped tires in a manner that is not recycling,  
2488 storage, or disposal, but that serves as a replacement for another product or material for specific  
2489 purposes.

2490 (b) "Beneficial use" includes the use of chipped tires:

2491 (i) as daily landfill cover;

2492 (ii) for civil engineering purposes;

2493 (iii) as low-density, light-weight aggregate fill; or

2494 (iv) for septic or drain field construction.

2495 (c) "Beneficial use" does not include the use of waste tires or material derived from  
2496 waste tires:

2497 (i) in the construction of fences; or

2498 (ii) as fill, other than low-density, light-weight aggregate fill.

2499 (3) "Board" means the Solid and Hazardous Waste Control Board created under  
2500 Section [~~19-1-106~~] 79-2-201.

2501 (4) "Chip" or "chipped tire" means a two inch square or smaller piece of a waste tire.

2502 (5) "Commission" means the Utah State Tax Commission.

2503 (6) (a) "Consumer" means a person who purchases a new tire to satisfy a direct need,  
2504 rather than for resale.

2505 (b) "Consumer" includes a person who purchases a new tire for a motor vehicle to be  
2506 rented or leased.

2507 (7) "Crumb rubber" means waste tires that have been ground, shredded, or otherwise

2508 reduced in size such that the particles are less than or equal to 3/8 inch in diameter and are 98%  
2509 wire free by weight.

2510 (8) "Disposal" means the deposit, dumping, or permanent placement of ~~[any]~~ a waste  
2511 tire in or on ~~[any]~~ land or in ~~[any]~~ water in the state.

2512 (9) "Dispose of" means to deposit, dump, or permanently place ~~[any]~~ a waste tire in or  
2513 on ~~[any]~~ land or in ~~[any]~~ water in the state.

2514 (10) "Division" means the Division of Solid and Hazardous Waste created in Section  
2515 ~~[19-1-105]~~ 79-2-201, within the ~~[Department of Environmental Quality]~~ department.

2516 (11) "Executive secretary" means the executive secretary of the Solid and Hazardous  
2517 Waste Control Board created in Section ~~[19-1-106]~~ 79-2-201.

2518 (12) "Fund" means the Waste Tire Recycling Fund created in Section 19-6-807.

2519 (13) "Landfill waste tire pile" means a waste tire pile:

2520 (a) located within the permitted boundary of a landfill operated by a governmental  
2521 entity; and

2522 (b) consisting solely of waste tires brought to a landfill for disposal and diverted from  
2523 the landfill waste stream to the waste tire pile.

2524 (14) "Local health department" means the local health department, as defined in  
2525 Section 26A-1-102, with jurisdiction over the recycler.

2526 (15) "Materials derived from waste tires" means tire sections, tire chips, tire  
2527 shreddings, rubber, steel, fabric, or other similar materials derived from waste tires.

2528 (16) "Mobile facility" means a mobile facility capable of cutting waste tires on site so  
2529 the waste tires may be effectively disposed of by burial, such as in a landfill.

2530 (17) "New motor vehicle" means a motor vehicle ~~[which]~~ that has never been titled or  
2531 registered.

2532 (18) "Passenger tire equivalent" means a measure of mixed sizes of tires where each 25  
2533 pounds of whole tires or material derived from waste tires is equal to one waste tire.

2534 (19) "Proceeds of the fee" means the money collected by the commission from  
2535 payment of the recycling fee including interest and penalties on delinquent payments.

2536 (20) "Recycler" means a person who:

2537 (a) annually uses, or can reasonably be expected within the next year to use, a  
2538 minimum of 100,000 waste tires generated in the state or 1,000 tons of waste tires generated in

2539 the state to recover energy or produce energy, crumb rubber, chipped tires, or an ultimate  
2540 product; and

2541 (b) is registered as a recycler in accordance with Section 19-6-806.

2542 (21) "Recycling fee" means the fee provided for in Section 19-6-805.

2543 (22) "Shredded waste tires" means waste tires or material derived from waste tires that  
2544 has been reduced to a six inch square or smaller.

2545 (23) (a) "Storage" means the placement of waste tires in a manner that does not  
2546 constitute disposal of the waste tires.

2547 (b) "Storage" does not include:

2548 (i) the use of waste tires as ballast to maintain covers on agricultural materials or to  
2549 maintain covers at a construction site; or

2550 (ii) the storage for five or fewer days of waste tires or material derived from waste tires  
2551 that are to be recycled or applied to a beneficial use.

2552 (24) (a) "Store" means to place waste tires in a manner that does not constitute disposal  
2553 of the waste tires.

2554 (b) "Store" does not include:

2555 (i) to use waste tires as ballast to maintain covers on agricultural materials or to  
2556 maintain covers at a construction site; or

2557 (ii) to store for five or fewer days waste tires or material derived from waste tires that  
2558 are to be recycled or applied to a beneficial use.

2559 (25) "Tire" means a pneumatic rubber covering designed to encircle the wheel of a  
2560 vehicle in which a person or property is or may be transported or drawn upon a highway.

2561 (26) "Tire retailer" means any person engaged in the business of selling new tires either  
2562 as replacement tires or as part of a new vehicle sale.

2563 (27) (a) "Ultimate product" means a product that has as a component materials derived  
2564 from waste tires and that the executive secretary finds has a demonstrated market.

2565 (b) "Ultimate product" includes pyrolized materials derived from:

2566 (i) waste tires; or

2567 (ii) chipped tires.

2568 (c) "Ultimate product" does not include a product regarding which a waste tire remains  
2569 after the product is disposed of or disassembled.

2570 (28) "Waste tire" means a tire that is no longer suitable for its original intended  
2571 purpose because of wear, damage, or defect.

2572 (29) "Waste tire pile" means a pile of 1,000 or more waste tires at one location.

2573 (30) (a) "Waste tire transporter" means a person or entity engaged in picking up or  
2574 transporting at one time more than 10 whole waste tires, or the equivalent amount of material  
2575 derived from waste tires, generated in Utah for the purpose of storage, processing, or disposal.

2576 (b) "Waste tire transporter" includes ~~any~~ a person engaged in the business of  
2577 collecting, hauling, or transporting waste tires or who performs these functions for another  
2578 person, except as provided in Subsection (30)(c).

2579 (c) "Waste tire transporter" does not include:

2580 (i) a person transporting waste tires generated solely by:

2581 (A) that person's personal vehicles;

2582 (B) a commercial vehicle fleet owned or operated by that person or that person's  
2583 employer;

2584 (C) vehicles sold, leased, or purchased by a motor vehicle dealership owned or  
2585 operated by that person or that person's employer; or

2586 (D) a retail tire business owned or operated by that person or that person's employer;

2587 (ii) a solid waste collector operating under a license issued by a unit of local  
2588 government as defined in Section 63M-5-103, or a local health department;

2589 (iii) a recycler of waste tires;

2590 (iv) a person transporting tires by rail as a common carrier subject to federal regulation;

2591 or

2592 (v) a person transporting processed or chipped tires.

2593 Section 45. Section **19-6-807** is amended to read:

2594 **19-6-807. Special revenue fund -- Creation -- Deposits.**

2595 (1) There is created a restricted special revenue fund entitled the "Waste Tire Recycling  
2596 Fund."

2597 (2) The fund shall consist of:

2598 (a) the proceeds of the fee imposed under Section 19-6-805;

2599 (b) penalties collected under this part; and

2600 (c) assets transferred to and loan repayments deposited in the fund pursuant to Section

2601 19-6-824.

2602 (3) Money in the fund shall be used for:

2603 (a) partial reimbursement of the costs of transporting, processing, recycling, or

2604 disposing of waste tires as provided in this part;

2605 (b) payment of administrative costs of local health departments as provided in Section

2606 19-6-817;

2607 (c) payment of costs incurred by the Division of Finance in accounting for and tracking

2608 outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan Program;

2609 and

2610 (d) payment of costs incurred by the Governor's Office of Economic Development in

2611 collecting outstanding loans made under the Waste Tire Recycling Industrial Assistance Loan

2612 Program.

2613 (4) The Legislature may appropriate money from the fund to pay for costs of the

2614 ~~[Department of Environmental Quality]~~ department in administering and enforcing this part.

2615 Section 46. Section **19-6-902** is amended to read:

2616 **19-6-902. Definitions.**

2617 As used in this part:

2618 (1) "Board" means the Solid and Hazardous Waste Control Board, as defined in

2619 Section ~~[19-1-106]~~ 79-2-201, within the ~~[Department of Environmental Quality]~~ department.

2620 (2) "Certified decontamination specialist" means an individual who has met the

2621 standards for certification as a decontamination specialist and has been certified by the board

2622 under Subsection 19-6-906(2).

2623 (3) "Contaminated" or "contamination" means:

2624 (a) polluted by hazardous materials that cause property to be unfit for human habitation

2625 or use due to immediate or long-term health hazards; or

2626 (b) that a property is polluted by hazardous materials as a result of the use, production,

2627 or presence of methamphetamine in excess of decontamination standards adopted by the

2628 Department of Health under Section 26-51-201.

2629 (4) "Contamination list" means a list maintained by the local health department of

2630 properties:

2631 (a) reported to the local health department under Section 19-6-903; and

2632 (b) determined by the local health department to be contaminated.  
2633 (5) (a) "Decontaminated" means property that at one time was contaminated, but the  
2634 contaminants have been removed.  
2635 (b) "Decontaminated" for a property that was contaminated by the use, production, or  
2636 presence of methamphetamine means that the property satisfies decontamination standards  
2637 adopted by the Department of Health under Section 26-51-201.  
2638 (6) "Hazardous materials":  
2639 (a) has the same meaning as "hazardous or dangerous materials" as defined in Section  
2640 58-37d-3; and  
2641 (b) includes any illegally manufactured controlled substances.  
2642 (7) "Health department" means a local health department under Title 26A, Local  
2643 Health Authorities.  
2644 (8) "Owner of record":  
2645 (a) means the owner of real property as shown on the records of the county recorder in  
2646 the county where the property is located; and  
2647 (b) may include an individual, financial institution, company, corporation, or other  
2648 entity.  
2649 (9) "Property":  
2650 (a) means any real property, site, structure, part of a structure, or the grounds  
2651 surrounding a structure; and  
2652 (b) includes single-family residences, outbuildings, garages, units of multiplexes,  
2653 condominiums, apartment buildings, warehouses, hotels, motels, boats, motor vehicles, trailers,  
2654 manufactured housing, shops, or booths.  
2655 (10) "Reported property" means property that is the subject of a law enforcement report  
2656 under Section 19-6-903.  
2657 Section 47. Section **19-6-906** is amended to read:  
2658 **19-6-906. Decontamination standards -- Specialist certification standards --**  
2659 **Rulemaking.**  
2660 (1) The Department of Health shall make rules under Title 63G, Chapter 3, Utah  
2661 Administrative Rulemaking Act, in consultation with the local health departments and the  
2662 Department of [~~Environmental Quality~~] Natural Resources and Environment, to establish:

2663 (a) decontamination and sampling standards and best management practices for the  
2664 inspection and decontamination of property and the disposal of contaminated debris under this  
2665 part;

2666 (b) appropriate methods for the testing of buildings and interior surfaces, and  
2667 furnishings, soil, and septic tanks for contamination; and

2668 (c) when testing for contamination may be required.

2669 (2) The [~~Department of Environmental Quality~~] Solid and Hazardous Waste Control  
2670 Board shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, in  
2671 consultation with the Department of Health and local health departments, to establish within  
2672 the [~~Department of Environmental Quality~~] Division of [~~Environmental Response and~~  
2673 ~~Remediation~~] Solid and Hazardous Waste:

2674 (a) certification standards for any private person, firm, or entity involved in the  
2675 decontamination of contaminated property; and

2676 (b) a process for revoking the certification of a decontamination specialist who fails to  
2677 maintain the certification standards.

2678 (3) All rules made under this part shall be consistent with other state and federal  
2679 requirements.

2680 (4) The board [~~has authority to~~] may enforce the provisions under Subsection (2).

2681 Section 48. Section **19-6-1102** is amended to read:

2682 **19-6-1102. Definitions.**

2683 As used in this part:

2684 (1) "Board" means the Solid and Hazardous Waste Control Board created under  
2685 Section [~~19-1-106~~] 79-2-201.

2686 (2) "Executive secretary" means the executive secretary of the board.

2687 (3) (a) "Industrial byproduct" means an industrial residual, including:

2688 (i) inert construction debris;

2689 (ii) fly ash;

2690 (iii) bottom ash;

2691 (iv) slag;

2692 (v) flue gas emission control residuals generated primarily from the combustion of coal  
2693 or other fossil fuel;

- 2694 (vi) residual from the extraction, beneficiation, and processing of an ore or mineral;
- 2695 (vii) cement kiln dust; or
- 2696 (viii) contaminated soil extracted as a result of a corrective action subject to an
- 2697 operation plan under Part 1, Solid and Hazardous Waste Act.
- 2698 (b) "Industrial byproduct" does not include material that:
- 2699 (i) causes a public nuisance or public health hazard; or
- 2700 (ii) is a hazardous waste under Part 1, Solid and Hazardous Waste Act.
- 2701 (4) "Public project" means a project of the Department of Transportation to construct:
- 2702 (a) a highway or road;
- 2703 (b) a curb;
- 2704 (c) a gutter;
- 2705 (d) a walkway;
- 2706 (e) a parking facility;
- 2707 (f) a public transportation facility; or
- 2708 (g) a facility, infrastructure, or transportation improvement that benefits the public.
- 2709 (5) "Reuse" means to use an industrial byproduct in place of a raw material.
- 2710 Section 49. Section **19-8-102** is amended to read:
- 2711 **19-8-102. Definitions.**
- 2712 As used in this chapter:
- 2713 (1) "Account" means the Environmental Voluntary Cleanup restricted account created
- 2714 under Section 19-8-103.
- 2715 (2) "Agreement" means a voluntary cleanup agreement under this chapter.
- 2716 (3) "Applicant" means the person:
- 2717 (a) who submits an application to participate in a voluntary cleanup agreement under
- 2718 this chapter; or
- 2719 (b) who enters into a voluntary cleanup agreement made under this chapter with the
- 2720 executive director.
- 2721 (4) "Completion" means, regarding property covered by an agreement:
- 2722 (a) no further response actions are necessary; or
- 2723 (b) the applicant is satisfactorily maintaining the engineering controls, remediation
- 2724 systems, postclosure care, and institutional controls to the extent required pursuant to the



2725 voluntary cleanup agreement.

2726 (5) "Contaminant" means:

2727 (a) hazardous materials as defined in Section 19-6-302;

2728 (b) hazardous substance as defined in Section 19-6-302;

2729 (c) hazardous waste as defined in Section 19-6-102;

2730 (d) hazardous waste constituent listed in 40 C.F.R. Part 261, Subpart D, or Table One,

2731 40 C.F.R. 261.24;

2732 (e) pollution as defined in Section 19-5-102;

2733 (f) regulated substance as defined in Section 19-6-402; and

2734 (g) solid waste as defined in Section 19-6-102.

2735 (6) "Environmental assessment" means the assessment described in Section 19-8-107.

2736 (7) "Executive director" means the executive director of the [~~Utah~~] Department of

2737 [~~Environmental Quality~~] Natural Resources and Environment or the executive director's  
2738 representative.

2739 (8) "Program" means the Voluntary Environmental Cleanup Program created under this  
2740 chapter.

2741 (9) "Response action" means the cleanup or removal of a contaminant from the  
2742 environment.

2743 (10) "Solid waste" has the same meaning as defined in Section 19-6-102.

2744 Section 50. Section **19-8-104** is amended to read:

2745 **19-8-104. Program.**

2746 (1) There is created under this chapter and within the Department of [~~Environmental~~  
2747 ~~Quality~~] Natural Resources and Environment the Voluntary Environmental Cleanup Program.

2748 (2) The program shall be administered by the executive director.

2749 (3) The program shall be funded by application fees and imposed oversight costs as  
2750 provided in this chapter.

2751 Section 51. Section **19-9-102** is amended to read:

2752 **19-9-102. Definitions.**

2753 As used in this chapter:

2754 (1) "Authority" means the Hazardous Waste Facilities Authority created pursuant to  
2755 Section 19-9-104.

2756 (2) "Board" means the Solid and Hazardous Waste Control Board created pursuant to  
2757 Section ~~[19-1-106]~~ 79-2-201.

2758 (3) "Disposal" means the final disposition of hazardous wastes into or onto the lands,  
2759 waters, and air of this state.

2760 (4) "Hazardous waste" has the same meaning as defined in Section 19-6-102.

2761 (5) "Hazardous waste treatment, disposal, and storage facility" means a facility or site  
2762 used or intended to be used for the treatment, storage, or disposal of hazardous waste, including  
2763 physical, chemical, or thermal processing systems, incinerators, and secure landfills.

2764 (6) "Obligations" means ~~[any]~~ notes, debentures, interim certificates, mortgage  
2765 certificates, revenue bonds, or other evidence of financial indebtedness, but does not mean any  
2766 general obligation bonds.

2767 (7) "Site" means land used for the treatment, disposal, or storage of hazardous waste.

2768 (8) "Storage" means the containment of hazardous waste for a period of more than 90  
2769 days.

2770 (9) "Treatment" means ~~[any]~~ a method, technique, or process designed to change the  
2771 physical, chemical, or biological character or composition of ~~[any]~~ a hazardous waste to  
2772 neutralize or render it nonhazardous, safer for transport, amenable to recovery or storage,  
2773 convertible to another usable material, or reduced in volume and suitable for ultimate disposal.

2774 Section 52. Section **19-9-104** is amended to read:

2775 **19-9-104. Creation of authority -- Members.**

2776 (1) (a) The authority comprises ~~[10]~~ nine members. If the requirements of Section  
2777 19-9-103 are met, the governor shall, with the consent of the Senate, appoint six members of  
2778 the authority from the public-at-large.

2779 (b) The remaining ~~[four]~~ three members of the authority are:

2780 (i) the executive director ~~[of the Department of Environmental Quality];~~

2781 (ii) the director of the Governor's Office of Economic Development or the director's  
2782 designee; and

2783 ~~[(iii) the executive director of the Department of Natural Resources; and]~~

2784 ~~[(iv)]~~ (iii) the executive director of the Department of Transportation.

2785 (2) Public-at-large members, no more than three of whom shall be from the same  
2786 political party, shall be appointed to six-year terms of office, subject to removal by the

2787 governor with or without cause.

2788 (3) The governor shall name one public-at-large member as chairman of the authority  
2789 responsible for the call and conduct of authority meetings.

2790 (4) The authority may elect other officers as necessary.

2791 (5) Five members of the authority present at a properly noticed meeting constitute a  
2792 quorum for the transaction of official authority business.

2793 (6) A public-at-large member may not receive compensation or benefits for the  
2794 member's service, but may receive per diem and travel expenses in accordance with:

2795 (a) Section 63A-3-106;

2796 (b) Section 63A-3-107; and

2797 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
2798 63A-3-107.

2799 Section 53. Section **19-10-102** is amended to read:

2800 **19-10-102. Definitions.**

2801 As used in this chapter:

2802 (1) "Environmental institutional control" or "institutional control" means with respect  
2803 to real property, ~~any~~ a deed restriction, restrictive covenant, easement, reservation,  
2804 environmental notice, engineering control, or other restriction or obligation that is designed to  
2805 protect human health or the environment and:

2806 (a) is established in connection with a cleanup or risk assessment that is reviewed,  
2807 overseen, conducted, or administered by the department; and

2808 (b) (i) limits the use of the real property, groundwater, or surface water;

2809 (ii) limits activities that may be performed on or at the property; or

2810 (iii) requires maintenance of any engineering or other control.

2811 (2) "Executive director" means the executive director of the ~~[state Department of~~  
2812 ~~Environment Quality]~~ department or the executive director's designated representative.

2813 Section 54. Section **23-13-2** is amended to read:

2814 **23-13-2. Definitions.**

2815 As used in this title:

2816 (1) "Activity regulated under this title" means any act, attempted act, or activity  
2817 prohibited or regulated under any provision of Title 23, Wildlife Resources Code of Utah, or

2818 the rules, and proclamations promulgated thereunder pertaining to protected wildlife including:

2819 (a) fishing;

2820 (b) hunting;

2821 (c) trapping;

2822 (d) taking;

2823 (e) permitting any dog, falcon, or other domesticated animal to take;

2824 (f) transporting;

2825 (g) possessing;

2826 (h) selling;

2827 (i) wasting;

2828 (j) importing;

2829 (k) exporting;

2830 (l) rearing;

2831 (m) keeping;

2832 (n) utilizing as a commercial venture; and

2833 (o) releasing to the wild.

2834 (2) "Aquatic animal" has the meaning provided in Section 4-37-103.

2835 (3) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or  
2836 amphibians.

2837 (4) "Aquaculture facility" has the meaning provided in Section 4-37-103.

2838 (5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife  
2839 that one person may legally take during one day.

2840 (6) "Big game" means species of hooved protected wildlife.

2841 (7) "Carcass" means the dead body of an animal or its parts.

2842 (8) "Certificate of registration" means a document issued under this title, or any rule or  
2843 proclamation of the Wildlife Board granting authority to engage in activities not covered by a  
2844 license, permit, or tag.

2845 (9) "Closed season" means the period of time during which the taking of protected  
2846 wildlife is prohibited.

2847 (10) "Conservation officer" means a full-time, permanent employee of the [~~Division of~~  
2848 ~~Wildlife Resources~~] Department of Natural Resources and Environment who is POST certified

2849 as a peace or a special function officer.

2850 (11) "Dedicated hunter program" means a program that provides:

2851 (a) expanded hunting opportunities;

2852 (b) opportunities to participate in projects that are beneficial to wildlife; and

2853 (c) education in hunter ethics and wildlife management principles.

2854 (12) "Division" means the Division of Wildlife Resources.

2855 (13) (a) "Domicile" means the place:

2856 (i) where an individual has a fixed permanent home and principal establishment;

2857 (ii) to which the individual if absent, intends to return; and

2858 (iii) in which the individual, and the individual's family voluntarily reside, not for a

2859 special or temporary purpose, but with the intention of making a permanent home.

2860 (b) To create a new domicile an individual must:

2861 (i) abandon the old domicile; and

2862 (ii) be able to prove that a new domicile has been established.

2863 (14) "Endangered" means wildlife designated as endangered according to Section 3 of

2864 the federal Endangered Species Act of 1973.

2865 (15) "Fee fishing facility" has the meaning provided in Section 4-37-103.

2866 (16) "Feral" means an animal that is normally domesticated but has reverted to the

2867 wild.

2868 (17) "Fishing" means to take fish or crayfish by any means.

2869 (18) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and  
2870 Castoridae families, except coyote and cougar.

2871 (19) "Game" means wildlife normally pursued, caught, or taken by sporting means for  
2872 human use.

2873 (20) "Guide" means a person who receives compensation or advertises services for  
2874 assisting another person to take protected wildlife, including the provision of food, shelter, or  
2875 transportation, or any combination of these.

2876 (21) "Guide's agent" means a person who is employed by a guide to assist another  
2877 person to take protected wildlife.

2878 (22) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any  
2879 means.

- 2880 (23) "Intimidate or harass" means to physically interfere with or impede, hinder, or  
2881 diminish the efforts of an officer in the performance of the officer's duty.
- 2882 (24) "Nonresident" means a person who does not qualify as a resident.
- 2883 (25) "Open season" means the period of time during which protected wildlife may be  
2884 legally taken.
- 2885 (26) "Pecuniary gain" means the acquisition of money or something of monetary value.
- 2886 (27) "Permit" means a document, including a stamp, that grants authority to engage in  
2887 specified activities under this title or a rule or proclamation of the Wildlife Board.
- 2888 (28) "Person" means an individual, association, partnership, government agency,  
2889 corporation, or an agent of the foregoing.
- 2890 (29) "Possession" means actual or constructive possession.
- 2891 (30) "Possession limit" means the number of bag limits one individual may legally  
2892 possess.
- 2893 (31) (a) "Private fish pond" means a body of water where privately owned, protected  
2894 aquatic wildlife are propagated or kept for a noncommercial purpose.
- 2895 (b) "Private fish pond" does not include an aquaculture facility or fee fishing facility.
- 2896 (32) "Private wildlife farm" means an enclosed place where privately owned birds or  
2897 furbearers are propagated or kept and that restricts the birds or furbearers from:
- 2898 (a) commingling with wild birds or furbearers; and  
2899 (b) escaping into the wild.
- 2900 (33) "Proclamation" means the publication used to convey a statute, rule, policy, or  
2901 pertinent information as it relates to wildlife.
- 2902 (34) (a) "Protected aquatic wildlife" means aquatic wildlife as defined in Subsection  
2903 (3), except as provided in Subsection (34)(b).
- 2904 (b) "Protected aquatic wildlife" does not include aquatic insects.
- 2905 (35) (a) "Protected wildlife" means wildlife as defined in Subsection (49), except as  
2906 provided in Subsection (35)(b).
- 2907 (b) "Protected wildlife" does not include coyote, field mouse, gopher, ground squirrel,  
2908 jack rabbit, muskrat, and raccoon.
- 2909 (36) "Released to the wild" means to be turned loose from confinement.
- 2910 (37) (a) "Resident" means a person who:

2911 (i) has been domiciled in the state for six consecutive months immediately preceding  
2912 the purchase of a license; and

2913 (ii) does not claim residency for hunting, fishing, or trapping in any other state or  
2914 country.

2915 (b) A Utah resident retains Utah residency if that person leaves this state:

2916 (i) to serve in the armed forces of the United States or for religious or educational  
2917 purposes; and

2918 (ii) the person complies with Subsection (37)(a)(ii).

2919 (c) (i) A member of the armed forces of the United States and dependents are residents  
2920 for the purposes of this chapter as of the date the member reports for duty under assigned  
2921 orders in the state if the member:

2922 (A) is not on temporary duty in this state; and

2923 (B) complies with Subsection (37)(a)(ii).

2924 (ii) A copy of the assignment orders must be presented to a wildlife division office to  
2925 verify the member's qualification as a resident.

2926 (d) A nonresident attending an institution of higher learning in this state as a full-time  
2927 student may qualify as a resident for purposes of this chapter if the student:

2928 (i) has been present in this state for 60 consecutive days immediately preceding the  
2929 purchase of the license; and

2930 (ii) complies with Subsection (37)(a)(ii).

2931 (e) A Utah resident license is invalid if a resident license for hunting, fishing, or  
2932 trapping is purchased in any other state or country.

2933 (f) An absentee landowner paying property tax on land in Utah does not qualify as a  
2934 resident.

2935 (38) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of  
2936 selling, bartering, exchanging, or trading.

2937 (39) "Small game" means species of protected wildlife:

2938 (a) commonly pursued for sporting purposes; and

2939 (b) not classified as big game, aquatic wildlife, or furbearers and excluding turkey,  
2940 cougar, and bear.

2941 (40) "Spoiled" means impairment of the flesh of wildlife which renders it unfit for

2942 human consumption.

2943 (41) "Spotlighting" means throwing or casting the rays of any spotlight, headlight, or  
2944 other artificial light on any highway or in any field, woodland, or forest while having in  
2945 possession a weapon by which protected wildlife may be killed.

2946 (42) "Tag" means a card, label, or other identification device issued for attachment to  
2947 the carcass of protected wildlife.

2948 (43) "Take" means to:

2949 (a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill any protected  
2950 wildlife; or

2951 (b) attempt any action referred to in Subsection (43)(a).

2952 (44) "Threatened" means wildlife designated as such pursuant to Section 3 of the  
2953 federal Endangered Species Act of 1973.

2954 (45) "Trapping" means taking protected wildlife with a trapping device.

2955 (46) "Trophy animal" means an animal described as follows:

2956 (a) deer - a buck with an outside antler measurement of 24 inches or greater;

2957 (b) elk - a bull with six points on at least one side;

2958 (c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;

2959 (d) moose - a bull with at least one antler exceeding five inches in length;

2960 (e) mountain goat - a male or female;

2961 (f) pronghorn antelope - a buck with horns exceeding 14 inches; or

2962 (g) bison - a bull.

2963 (47) "Waste" means to abandon protected wildlife or to allow protected wildlife to  
2964 spoil or to be used in a manner not normally associated with its beneficial use.

2965 (48) "Water pollution" means the introduction of matter or thermal energy to waters  
2966 within this state that:

2967 (a) exceeds state water quality standards; or

2968 (b) could be harmful to protected wildlife.

2969 (49) "Wildlife" means:

2970 (a) crustaceans, including brine shrimp and crayfish;

2971 (b) mollusks; and

2972 (c) vertebrate animals living in nature, except feral animals.



2973 Section 55. Section **23-14-1** is amended to read:

2974 **23-14-1. Division of Wildlife Resources -- Creation -- General powers and duties**  
2975 **-- Limits on authority of political subdivisions.**

2976 (1) (a) There is created the Division of Wildlife Resources within the Department of  
2977 Natural Resources and Environment under the administration and general supervision of the  
2978 executive director of the Department of Natural Resources and Environment.

2979 (b) The Division of Wildlife Resources is the wildlife authority for Utah and is vested  
2980 with the functions, powers, duties, rights, and responsibilities provided in this title and other  
2981 law.

2982 (2) (a) Subject to the broad policymaking authority of the Wildlife Board, the Division  
2983 of Wildlife Resources shall protect, propagate, manage, conserve, and distribute protected  
2984 wildlife throughout the state.

2985 (b) The Division of Wildlife Resources is appointed as the trustee and custodian of  
2986 protected wildlife and may initiate civil proceedings, in addition to criminal proceedings  
2987 provided for in this title, to:

2988 (i) recover damages;

2989 (ii) compel performance;

2990 (iii) compel substitution;

2991 (iv) restrain or enjoin;

2992 (v) initiate any other appropriate action; and

2993 (vi) seek any appropriate remedies in its capacity as trustee and custodian.

2994 (3) (a) If a political subdivision of the state adopts ordinances or regulations  
2995 concerning hunting, fishing, or trapping that conflict with this title or rules [~~promulgated~~]  
2996 adopted pursuant to this title, state law shall prevail.

2997 (b) Communities may close areas to hunting for safety reasons after confirmation by  
2998 the Wildlife Board.

2999 Section 56. Section **23-14-2** is amended to read:

3000 **23-14-2. Wildlife Board -- Creation -- Membership -- Terms -- Quorum --**  
3001 **Meetings -- Per diem and expenses.**

3002 (1) There is created a Wildlife Board which shall consist of seven members appointed  
3003 by the governor with the consent of the Senate.

3004 (2) (a) In addition to the requirements of Section 79-2-203, the members of the board  
3005 shall have expertise or experience in at least one of the following areas:

- 3006 (i) wildlife management or biology;
- 3007 (ii) habitat management, including range or aquatic;
- 3008 (iii) business, including knowledge of private land issues; and
- 3009 (iv) economics, including knowledge of recreational wildlife uses.

3010 (b) Each of the areas of expertise under Subsection (2)(a) shall be represented by at  
3011 least one member of the Wildlife Board.

3012 (3) (a) The governor shall select each board member from a list of nominees submitted  
3013 by the nominating committee pursuant to Section 23-14-2.5.

3014 (b) No more than two members shall be from a single wildlife region described in  
3015 Subsection 23-14-2.6(1).

3016 (c) The governor may request an additional list of at least two nominees from the  
3017 nominating committee if the initial list of nominees for a given position is unacceptable.

3018 (d) (i) If the governor fails to appoint a board member within 60 days after receipt of  
3019 the initial or additional list, the nominating committee shall make an interim appointment by  
3020 majority vote.

3021 (ii) The interim board member shall serve until the matter is resolved by the committee  
3022 and the governor or until the board member is replaced pursuant to this chapter.

3023 (4) (a) Except as required by Subsection (4)(b), as terms of current board members  
3024 expire, the governor shall appoint each new member or reappointed member to a six-year term.

3025 (b) Notwithstanding the requirements of Subsection (4)(a), the governor shall, at the  
3026 time of appointment or reappointment, adjust the length of terms to ensure that:

- 3027 (i) the terms of board members are staggered so that approximately 1/3 of the board is  
3028 appointed every two years; and
- 3029 (ii) members serving from the same region have staggered terms.

3030 (c) If a vacancy occurs, the nominating committee shall submit two names, as provided  
3031 in Subsection 23-14-2.5(4), to the governor and the governor shall appoint a replacement for  
3032 the unexpired term.

3033 (d) Board members may serve only one term unless:

- 3034 (i) the member is among the first board members appointed to serve four years or less;

3035 or

3036 (ii) the member filled a vacancy under Subsection (4)(c) for four years or less.

3037 (5) (a) The board shall elect a chair and a vice chair from its membership.

3038 (b) Four members of the board shall constitute a quorum.

3039 (c) The director of the Division of Wildlife Resources shall act as secretary to the  
3040 board but shall not be a voting member of the board.

3041 (6) (a) The Wildlife Board shall hold a sufficient number of public meetings each year  
3042 to expeditiously conduct its business.

3043 (b) Meetings may be called by the chair upon five days notice or upon shorter notice in  
3044 emergency situations.

3045 (c) Meetings may be held at the Salt Lake City office of the Division of Wildlife  
3046 Resources or elsewhere as determined by the Wildlife Board.

3047 (7) A member may not receive compensation or benefits for the member's service, but  
3048 may receive per diem and travel expenses in accordance with:

3049 (a) Section 63A-3-106;

3050 (b) Section 63A-3-107; and

3051 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
3052 63A-3-107.

3053 (8) (a) The members of the Wildlife Board shall complete an orientation course to  
3054 assist them in the performance of the duties of their office.

3055 (b) The Department of Natural Resources and Environment shall provide the course  
3056 required under Subsection (8)(a).

3057 Section 57. Section **23-14-2.6** is amended to read:

3058 **23-14-2.6. Regional advisory councils -- Creation -- Membership -- Duties -- Per**  
3059 **diem and expenses.**

3060 (1) There are created five regional advisory councils which shall consist of 12 to 15  
3061 members each from the wildlife region whose boundaries are established for administrative  
3062 purposes by the division.

3063 (2) The members shall include individuals who represent the following groups and  
3064 interests:

3065 (a) agriculture;

- 3066 (b) sportsmen;
- 3067 (c) nonconsumptive wildlife;
- 3068 (d) locally elected public officials;
- 3069 (e) federal land agencies; and
- 3070 (f) the public at large.
- 3071 (3) The executive director of the Department of Natural Resources and Environment,
- 3072 in consultation with the director of the Division of Wildlife Resources, shall select the
- 3073 members from a list of nominees submitted by the respective interest group or agency.
- 3074 (4) The councils shall:
  - 3075 (a) hear broad input, including recommendations, biological data, and information
  - 3076 regarding the effects of wildlife;
  - 3077 (b) gather information from staff, the public, and government agencies; and
  - 3078 (c) make recommendations to the Wildlife Board in an advisory capacity.
- 3079 (5) (a) Except as required by Subsection (5)(b), each member shall serve a four-year
- 3080 term.
- 3081 (b) Notwithstanding the requirements of Subsection (5)(a), the executive director shall,
- 3082 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
- 3083 of council members are staggered so that approximately half of the council is appointed every
- 3084 two years.
- 3085 (6) When a vacancy occurs in the membership for any reason, the replacement shall be
- 3086 appointed for the unexpired term.
- 3087 (7) The councils shall determine:
  - 3088 (a) the time and place of meetings; and
  - 3089 (b) any other procedural matter not specified in this chapter.
- 3090 (8) Members of the councils shall complete an orientation course as provided in
- 3091 Subsection 23-14-2(8).
- 3092 (9) A member may not receive compensation or benefits for the member's service, but
- 3093 may receive per diem and travel expenses in accordance with:
  - 3094 (a) Section 63A-3-106;
  - 3095 (b) Section 63A-3-107; and
  - 3096 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and

3097 63A-3-107.

3098 Section 58. Section **23-14-3** is amended to read:

3099 **23-14-3. Powers of division to determine facts -- Policy-making powers of**  
3100 **Wildlife Board.**

3101 (1) The Division of Wildlife Resources may determine the facts relevant to the wildlife  
3102 resources of this state.

3103 (2) (a) Upon a determination of these facts, the Wildlife Board shall establish the  
3104 policies best designed to accomplish the purposes and fulfill the intent of all laws pertaining to  
3105 wildlife and the preservation, protection, conservation, perpetuation, introduction, and  
3106 management of wildlife.

3107 (b) In establishing policy, the Wildlife Board shall:

3108 (i) recognize that wildlife and its habitat are an essential part of a healthy, productive  
3109 environment;

3110 (ii) recognize the impact of wildlife on man, his economic activities, private property  
3111 rights, and local economies;

3112 (iii) seek to balance the habitat requirements of wildlife with the social and economic  
3113 activities of man;

3114 (iv) recognize the social and economic values of wildlife, including fishing, hunting,  
3115 and other uses; and

3116 (v) seek to maintain wildlife on a sustainable basis.

3117 (c) (i) The Wildlife Board shall consider the recommendations of the regional advisory  
3118 councils established in Section 23-14-2.6.

3119 (ii) If a regional advisory council recommends a position or action to the Wildlife  
3120 Board, and the Wildlife Board rejects the recommendation, the Wildlife Board shall provide a  
3121 written explanation to the regional advisory council.

3122 (3) No authority conferred upon the Wildlife Board by this title shall supersede the  
3123 administrative authority of the executive director of the Department of Natural Resources and  
3124 Environment or the director of the Division of Wildlife Resources.

3125 Section 59. Section **23-14-8** is amended to read:

3126 **23-14-8. Director -- Executive authority and control -- Power to declare**  
3127 **emergency seasons.**

3128 The director of the Division of Wildlife Resources, under administrative supervision of  
3129 the executive director of the Department of Natural Resources and Environment, shall have:

3130 (1) executive authority and control of the Division of Wildlife Resources so that  
3131 policies of the Wildlife Board are carried out in accordance with the laws of this state;

3132 (2) authority over all personnel matters;

3133 (3) full control of all property acquired and held for the purposes specified in this title;  
3134 and

3135 (4) authority to declare emergency closed or open seasons in the interest of the wildlife  
3136 resources of the state.

3137 Section 60. Section **23-21-2** is amended to read:

3138 **23-21-2. Payments in lieu of property taxes on property purchased by division.**

3139 ~~[Prior to]~~ (1) Before the purchase of any real property held in private ownership, the  
3140 Division of Wildlife Resources shall first submit the proposition to the county legislative body  
3141 in a regular open public meeting in the county where the property is located and shall by  
3142 contractual agreement with the county legislative body, approved by the executive director of  
3143 the Department of Natural Resources and Environment, agree to pay an amount of money in  
3144 lieu of property taxes to the county.

3145 (2) The division shall, by contractual agreement with the county legislative body in  
3146 which any property previously acquired from private ownership and now owned by the division  
3147 is located, agree to pay annually an amount of money in lieu of wildlife resource fine money,  
3148 previously paid to the county.

3149 (3) (a) Payments provided for in this section will not exceed what the regularly  
3150 assessed real property taxes would be if the land had remained in private ownership~~;~~ ~~and these~~  
3151 ~~payments shall~~].

3152 (b) Payments made under this section may not include any amount for buildings,  
3153 installations, fixtures, improvements or personal property located upon the land or for those  
3154 acquired, constructed or placed by the division after it acquires the land.

3155 Section 61. Section **23-22-1** is amended to read:

3156 **23-22-1. Cooperative agreements and programs authorized.**

3157 (1) The Division of Wildlife Resources may enter into cooperative agreements and  
3158 programs with other state agencies, federal agencies, states, educational institutions,

3159 municipalities, counties, corporations, organized clubs, landowners, associations, and  
3160 individuals for purposes of wildlife conservation.

3161 (2) Cooperative agreements that are policy in nature must be:

3162 (a) approved by the executive director of the Department of Natural Resources and  
3163 Environment; and

3164 (b) reviewed by the Wildlife Board.

3165 Section 62. Section **23-27-102** is amended to read:

3166 **23-27-102. Definitions.**

3167 As used in this chapter:

3168 (1) "Board" means the Wildlife Board.

3169 (2) (a) "Conveyance" means a terrestrial or aquatic vehicle or a vehicle part that may  
3170 carry or contain a Dreissena mussel.

3171 (b) "Conveyance" includes a motor vehicle, a vessel, a motorboat, a sailboat, a personal  
3172 watercraft, a container, a trailer, a live well, or a bilge area.

3173 (3) "Decontaminate" means to:

3174 (a) drain and dry all non-treated water; and

3175 (b) chemically or thermally treat in accordance with rule.

3176 (4) "Director" means the director of the division.

3177 (5) "Division" means the Division of Wildlife Resources.

3178 (6) "Dreissena mussel" means a mussel of the genus Dreissena at any life stage,  
3179 including a zebra mussel, a quagga mussel, and Conrad's false mussel.

3180 (7) "Equipment" means an article, tool, implement, or device capable of carrying or  
3181 containing:

3182 (a) water; or

3183 (b) a Dreissena mussel.

3184 (8) "Executive director" means the executive director of the Department of Natural  
3185 Resources and Environment.

3186 (9) "Facility" means a structure that is located within or adjacent to a water body.

3187 (10) "Infested water" means a geographic region, water body, facility, or water supply  
3188 system within or outside the state that the board identifies in rule as carrying or containing a  
3189 Dreissena mussel.

3190 (11) "Water body" means natural or impounded surface water, including a stream,  
3191 river, spring, lake, reservoir, pond, wetland, tank, and fountain.

3192 (12) (a) "Water supply system" means a system that treats, conveys, or distributes  
3193 water for irrigation, industrial, waste water treatment, or culinary use.

3194 (b) "Water supply system" includes a pump, canal, ditch, or pipeline.

3195 (c) "Water supply system" does not include a water body.

3196 Section 63. Section **26-1-30** is amended to read:

3197 **26-1-30. Powers and duties of department.**

3198 (1) The department shall:

3199 (a) enter into cooperative agreements with the Department of [~~Environmental Quality~~]  
3200 Natural Resources and Environment to delineate specific responsibilities to assure that  
3201 assessment and management of risk to human health from the environment are properly  
3202 administered; and

3203 (b) consult with the Department of [~~Environmental Quality~~] Natural Resources and  
3204 Environment and enter into cooperative agreements, as needed, to ensure efficient use of  
3205 resources and effective response to potential health and safety threats from the environment,  
3206 and to prevent gaps in protection from potential risks from the environment to specific  
3207 individuals or population groups.

3208 (2) In addition to all other powers and duties of the department, it shall have and  
3209 exercise the following powers and duties:

3210 (a) promote and protect the health and wellness of the people within the state;

3211 (b) establish, maintain, and enforce rules necessary or desirable to carry out the  
3212 provisions and purposes of this title to promote and protect the public health or to prevent  
3213 disease and illness;

3214 (c) investigate and control the causes of epidemic, infectious, communicable, and other  
3215 diseases affecting the public health;

3216 (d) provide for the detection, reporting, prevention, and control of communicable,  
3217 infectious, acute, chronic, or any other disease or health hazard which the department considers  
3218 to be dangerous, important, or likely to affect the public health;

3219 (e) collect and report information on causes of injury, sickness, death, and disability  
3220 and the risk factors that contribute to the causes of injury, sickness, death, and disability within



3221 the state;

3222 (f) collect, prepare, publish, and disseminate information to inform the public  
3223 concerning the health and wellness of the population, specific hazards, and risks that may affect  
3224 the health and wellness of the population and specific activities which may promote and protect  
3225 the health and wellness of the population;

3226 (g) establish and operate programs necessary or desirable for the promotion or  
3227 protection of the public health and the control of disease or which may be necessary to  
3228 ameliorate the major causes of injury, sickness, death, and disability in the state, except that the  
3229 programs may not be established if adequate programs exist in the private sector;

3230 (h) establish, maintain, and enforce isolation and quarantine, and for this purpose only,  
3231 exercise physical control over property and individuals as the department finds necessary for  
3232 the protection of the public health;

3233 (i) close theaters, schools, and other public places and forbid gatherings of people  
3234 when necessary to protect the public health;

3235 (j) abate nuisances when necessary to eliminate sources of filth and infectious and  
3236 communicable diseases affecting the public health;

3237 (k) make necessary sanitary and health investigations and inspections in cooperation  
3238 with local health departments as to any matters affecting the public health;

3239 (l) establish laboratory services necessary to support public health programs and  
3240 medical services in the state;

3241 (m) establish and enforce standards for laboratory services which are provided by any  
3242 laboratory in the state when the purpose of the services is to protect the public health;

3243 (n) cooperate with the Labor Commission to conduct studies of occupational health  
3244 hazards and occupational diseases arising in and out of employment in industry, and make  
3245 recommendations for elimination or reduction of the hazards;

3246 (o) cooperate with the local health departments, the Department of Corrections, the  
3247 Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime  
3248 Victim Reparations Board to conduct testing for HIV infection of convicted sexual offenders  
3249 and any victims of a sexual offense;

3250 (p) investigate the cause of maternal and infant mortality;

3251 (q) establish, maintain, and enforce a procedure requiring the blood of adult pedestrians

3252 and drivers of motor vehicles killed in highway accidents be examined for the presence and  
3253 concentration of alcohol;

3254 (r) provide the commissioner of public safety with monthly statistics reflecting the  
3255 results of the examinations provided for in Subsection (2)(q) and provide safeguards so that  
3256 information derived from the examinations is not used for a purpose other than the compilation  
3257 of statistics authorized in this Subsection (2)(r);

3258 (s) establish qualifications for individuals permitted to draw blood pursuant to Section  
3259 41-6a-523, and to issue permits to individuals it finds qualified, which permits may be  
3260 terminated or revoked by the department;

3261 (t) establish a uniform public health program throughout the state which includes  
3262 continuous service, employment of qualified employees, and a basic program of disease  
3263 control, vital and health statistics, sanitation, public health nursing, and other preventive health  
3264 programs necessary or desirable for the protection of public health;

3265 (u) adopt rules and enforce minimum sanitary standards for the operation and  
3266 maintenance of:

3267 (i) orphanages;

3268 (ii) boarding homes;

3269 (iii) summer camps for children;

3270 (iv) lodging houses;

3271 (v) hotels;

3272 (vi) restaurants and all other places where food is handled for commercial purposes,  
3273 sold, or served to the public;

3274 (vii) tourist and trailer camps;

3275 (viii) service stations;

3276 (ix) public conveyances and stations;

3277 (x) public and private schools;

3278 (xi) factories;

3279 (xii) private sanatoria;

3280 (xiii) barber shops;

3281 (xiv) beauty shops;

3282 (xv) physicians' offices;

- 3283 (xvi) dentists' offices;
- 3284 (xvii) workshops;
- 3285 (xviii) industrial, labor, or construction camps;
- 3286 (xix) recreational resorts and camps;
- 3287 (xx) swimming pools, public baths, and bathing beaches;
- 3288 (xxi) state, county, or municipal institutions, including hospitals and other buildings,
- 3289 centers, and places used for public gatherings; and
- 3290 (xxii) of any other facilities in public buildings and on public grounds;
- 3291 (v) conduct health planning for the state;
- 3292 (w) monitor the costs of health care in the state and foster price competition in the
- 3293 health care delivery system;
- 3294 (x) adopt rules for the licensure of health facilities within the state pursuant to Title 26,
- 3295 Chapter 21, Health Care Facility Licensing and Inspection Act;
- 3296 (y) license the provision of child care;
- 3297 (z) accept contributions to and administer the funds contained in the Organ Donation
- 3298 Contribution Fund created in Section 26-18b-101; and
- 3299 (aa) serve as the collecting agent, on behalf of the state, for the nursing care facility
- 3300 assessment fee imposed under Title 26, Chapter 35a, Nursing Care Facility Assessment Act,
- 3301 and adopt rules for the enforcement and administration of the nursing facility assessment
- 3302 consistent with the provisions of Title 26, Chapter 35a.
- 3303 Section 64. Section **26A-1-106** is amended to read:
- 3304 **26A-1-106. Assistance in establishing local departments -- Monitoring and**
- 3305 **standards of performance -- Responsibilities.**
- 3306 (1) (a) By request of county governing bodies, the department may assist in the
- 3307 establishment of a local health department.
- 3308 (b) The department shall monitor the effort of the local health department to protect
- 3309 and promote the health of the public.
- 3310 (c) The department shall establish by rule minimum performance standards for basic
- 3311 programs of public health administration, personal health, laboratory services, health resources,
- 3312 and other preventive health programs not in conflict with state law as it finds necessary or
- 3313 desirable for the protection of the public health.

3314 (d) The department may by contract provide:  
3315 (i) funds to assist a local health department if local resources are inadequate; and  
3316 (ii) assistance to achieve the purposes of this part.  
3317 (2) Regulations or standards relating to public health or environmental health services  
3318 adopted or established by a local health department may not be less restrictive than department  
3319 rules.

3320 (3) Local health departments are responsible within their boundaries for providing,  
3321 directly or indirectly, basic public health services that include:

- 3322 (a) public health administration and support services;
- 3323 (b) maternal and child health;
- 3324 (c) communicable disease control, surveillance, and epidemiology;
- 3325 (d) food protection;
- 3326 (e) solid waste management;
- 3327 (f) waste water management; and
- 3328 (g) safe drinking water management.

3329 (4) The Department of [~~Environmental Quality~~] Natural Resources and Environment  
3330 shall establish by rule minimum performance standards, including standards for inspection and  
3331 enforcement, for basic programs of environmental health, not inconsistent with law, as  
3332 necessary or desirable for the protection of public health.

3333 Section 65. Section **26A-1-108** is amended to read:

3334 **26A-1-108. Jurisdiction and duties of local departments.**

3335 A local health department has jurisdiction in all unincorporated and incorporated areas  
3336 of the county or counties in which it is established and shall enforce state health laws,  
3337 Department of Health, Department of [~~Environmental Quality~~] Natural Resources and  
3338 Environment, and local health department rules, regulations, and standards within those areas.

3339 Section 66. Section **26A-1-114** is amended to read:

3340 **26A-1-114. Powers and duties of departments.**

3341 (1) A local health department may:  
3342 (a) subject to the provisions in Section 26A-1-108, enforce state laws, local ordinances,  
3343 department rules, and local health department standards and regulations relating to public  
3344 health and sanitation, including the plumbing code administered by the Division of

3345 Occupational and Professional Licensing under Section 58-56-4 and under Title 26, Chapter  
3346 15a, Food Safety Manager Certification Act, in all incorporated and unincorporated areas  
3347 served by the local health department;

3348 (b) establish, maintain, and enforce isolation and quarantine, and exercise physical  
3349 control over property and over individuals as the local health department finds necessary for  
3350 the protection of the public health;

3351 (c) establish and maintain medical, environmental, occupational, and other laboratory  
3352 services considered necessary or proper for the protection of the public health;

3353 (d) establish and operate reasonable health programs or measures not in conflict with  
3354 state law which:

3355 (i) are necessary or desirable for the promotion or protection of the public health and  
3356 the control of disease; or

3357 (ii) may be necessary to ameliorate the major risk factors associated with the major  
3358 causes of injury, sickness, death, and disability in the state;

3359 (e) close theaters, schools, and other public places and prohibit gatherings of people  
3360 when necessary to protect the public health;

3361 (f) abate nuisances or eliminate sources of filth and infectious and communicable  
3362 diseases affecting the public health and bill the owner or other person in charge of the premises  
3363 upon which this nuisance occurs for the cost of abatement;

3364 (g) make necessary sanitary and health investigations and inspections on its own  
3365 initiative or in cooperation with the Department of Health or ~~[Environmental Quality]~~  
3366 Department of Natural Resources and Environment, or both, as to any matters affecting the  
3367 public health;

3368 (h) pursuant to county ordinance or interlocal agreement:

3369 (i) establish and collect appropriate fees for the performance of services and operation  
3370 of authorized or required programs and duties;

3371 (ii) accept, use, and administer all federal, state, or private donations or grants of funds,  
3372 property, services, or materials for public health purposes; and

3373 (iii) make agreements not in conflict with state law which are conditional to receiving a  
3374 donation or grant;

3375 (i) prepare, publish, and disseminate information necessary to inform and advise the

3376 public concerning:

3377 (i) the health and wellness of the population, specific hazards, and risk factors that may  
3378 adversely affect the health and wellness of the population; and

3379 (ii) specific activities individuals and institutions can engage in to promote and protect  
3380 the health and wellness of the population;

3381 (j) investigate the causes of morbidity and mortality;

3382 (k) issue notices and orders necessary to carry out this part;

3383 (l) conduct studies to identify injury problems, establish injury control systems,  
3384 develop standards for the correction and prevention of future occurrences, and provide public  
3385 information and instruction to special high risk groups;

3386 (m) cooperate with boards [~~created under Section 19-1-106~~] governed by Title 19,  
3387 Environmental Quality Code, to enforce laws and rules within the jurisdiction of the boards;

3388 (n) cooperate with the state health department, the Department of Corrections, the  
3389 Administrative Office of the Courts, the Division of Juvenile Justice Services, and the Crime  
3390 Victim Reparations Board to conduct testing for HIV infection of convicted sexual offenders  
3391 and any victims of a sexual offense;

3392 (o) investigate suspected bioterrorism and disease pursuant to Section 26-23b-108; and

3393 (p) provide public health assistance in response to a national, state, or local emergency,  
3394 a public health emergency as defined in Section 26-23b-102, or a declaration by the President  
3395 of the United States or other federal official requesting public health-related activities.

3396 (2) The local health department shall:

3397 (a) establish programs or measures to promote and protect the health and general  
3398 wellness of the people within the boundaries of the local health department;

3399 (b) investigate infectious and other diseases of public health importance and implement  
3400 measures to control the causes of epidemic and communicable diseases and other conditions  
3401 significantly affecting the public health which may include involuntary testing of convicted  
3402 sexual offenders for the HIV infection pursuant to Section 76-5-502 and voluntary testing of  
3403 victims of sexual offenses for HIV infection pursuant to Section 76-5-503;

3404 (c) cooperate with the department in matters pertaining to the public health and in the  
3405 administration of state health laws; and

3406 (d) coordinate implementation of environmental programs to maximize efficient use of

3407 resources by developing with the Department of [~~Environmental Quality~~] Natural Resources  
3408 and Environment a Comprehensive Environmental Service Delivery Plan which:

3409 (i) recognizes that the Department of [~~Environmental Quality~~] Natural Resources and  
3410 Environment and local health departments are the foundation for providing environmental  
3411 health programs in the state;

3412 (ii) delineates the responsibilities of the department and each local health department  
3413 for the efficient delivery of environmental programs using federal, state, and local authorities,  
3414 responsibilities, and resources;

3415 (iii) provides for the delegation of authority and pass through of funding to local health  
3416 departments for environmental programs, to the extent allowed by applicable law, identified in  
3417 the plan, and requested by the local health department; and

3418 (iv) is reviewed and updated annually.

3419 (3) The local health department has the following duties regarding public and private  
3420 schools within its boundaries:

3421 (a) enforce all ordinances, standards, and regulations pertaining to the public health of  
3422 persons attending public and private schools;

3423 (b) exclude from school attendance any person, including teachers, who is suffering  
3424 from any communicable or infectious disease, whether acute or chronic, if the person is likely  
3425 to convey the disease to those in attendance; and

3426 (c) (i) make regular inspections of the health-related condition of all school buildings  
3427 and premises;

3428 (ii) report the inspections on forms furnished by the department to those responsible for  
3429 the condition and provide instructions for correction of any conditions that impair or endanger  
3430 the health or life of those attending the schools; and

3431 (iii) provide a copy of the report to the department at the time the report is made.

3432 (4) If those responsible for the health-related condition of the school buildings and  
3433 premises do not carry out any instructions for corrections provided in a report in Subsection  
3434 (3)(c), the local health board shall cause the conditions to be corrected at the expense of the  
3435 persons responsible.

3436 (5) The local health department may exercise incidental authority as necessary to carry  
3437 out the provisions and purposes of this part.

3438 (6) Nothing in this part may be construed to authorize a local health department to  
3439 enforce an ordinance, rule, or regulation requiring the installation or maintenance of a carbon  
3440 monoxide detector in a residential dwelling against anyone other than the occupant of the  
3441 dwelling.

3442 Section 67. Section **34-38-3** is amended to read:

3443 **34-38-3. Testing for drugs or alcohol.**

3444 (1) If an employer tests an employee or prospective employee for the presence of drugs  
3445 or alcohol as a condition of hiring or continued employment, the employer is protected from  
3446 liability as provided in this chapter if the employer complies with this chapter. However,  
3447 employers and management in general shall submit to the testing themselves on a periodic  
3448 basis.

3449 (2) (a) An organization that operates a storage facility or transfer facility or that is  
3450 engaged in the transportation of high-level nuclear waste or greater than class C radioactive  
3451 waste within the exterior boundaries of the state shall establish a mandatory drug testing  
3452 program regarding drugs and alcohol for prospective and existing employees as a condition of  
3453 hiring any employee or the continued employment of any employee. As a part of the program,  
3454 employers and management in general shall submit to the testing themselves on a periodic  
3455 basis. The program shall implement testing standards and procedures established under  
3456 Subsection (2)(b).

3457 (b) The executive director of the Department of [~~Environmental Quality~~] Natural  
3458 Resources and Environment, in consultation with the Labor Commission under Section  
3459 34A-1-103, shall by rule establish standards for timing of testing and dosage for impairment for  
3460 the drug and alcohol testing program under this Subsection (2). The standards shall address the  
3461 protection of the safety, health, and welfare of the public.

3462 Section 68. Section **34A-6-107** is amended to read:

3463 **34A-6-107. Research and related activities.**

3464 (1) (a) The division, after consultation with other appropriate agencies, shall conduct,  
3465 directly or by grants or contracts, whether federal or otherwise, research, experiments, and  
3466 demonstrations in the area of occupational safety and health, including studies of psychological  
3467 factors involved in innovative methods, techniques, and approaches for dealing with  
3468 occupational safety and health problems.



3469 (b) (i) The division, to comply with its responsibilities under this section, and to  
3470 develop needed information regarding toxic substances or harmful physical agents, may make  
3471 rules requiring employers to measure, record, and make reports on the exposure of employees  
3472 to substances or physical agents reasonably believed to endanger the health or safety of  
3473 employees.

3474 (ii) The division may establish programs for medical examinations and tests necessary  
3475 for determining the incidence of occupational diseases and the susceptibility of employees to  
3476 the diseases.

3477 (iii) Nothing in this chapter authorizes or requires a medical examination,  
3478 immunization, or treatment for persons who object on religious grounds, except when  
3479 necessary for the protection of the health or safety of others.

3480 (iv) Any employer who is required to measure and record employee exposure to  
3481 substances or physical agents as provided under Subsection (1)(b) may receive full or partial  
3482 financial or other assistance to defray additional expense incurred by measuring and recording  
3483 as provided in this Subsection (1)(b).

3484 (c) (i) Following a written request by any employer or authorized representative of  
3485 employees, specifying with reasonable particularity the grounds on which the request is made,  
3486 the division shall determine whether any substance normally found in a workplace has toxic  
3487 effects in the concentrations used or found, and shall submit its determination both to  
3488 employers and affected employees as soon as possible.

3489 (ii) The division shall immediately take action necessary under Section 34A-6-202 or  
3490 34A-6-305 if the division determines that:

3491 (A) any substance is toxic at the concentrations used or found in a workplace; and

3492 (B) the substance is not covered by an occupational safety or health standard  
3493 promulgated under Section 34A-6-202.

3494 (2) The division may inspect and question employers and employees as provided in  
3495 Section 34A-6-301, to carry out its functions and responsibilities under this section.

3496 (3) The division is authorized to enter into contracts, agreements, or other  
3497 arrangements with appropriate federal or state agencies, or private organizations to conduct  
3498 studies about its responsibilities under this chapter. In carrying out its responsibilities under  
3499 this subsection, the division shall cooperate with the Department of Health and the Department

3500 of [~~Environmental Quality~~] Natural Resources and Environment to avoid any duplication of  
3501 efforts under this section.

3502 (4) Information obtained by the division under this section shall be disseminated to  
3503 employers and employees and organizations of them.

3504 Section 69. Section **40-2-203** is amended to read:

3505 **TITLE 40. MINES, MINING, AND ENERGY**

3506 **40-2-203. Mine Safety Technical Advisory Council created -- Duties.**

3507 (1) Within the office there is created the "Mine Safety Technical Advisory Council"  
3508 consisting of 13 voting members and five nonvoting members as provided in this section.

3509 (2) (a) The commissioner shall appoint the voting members of the council as follows:

3510 (i) one individual who represents a coal miner union;

3511 (ii) two individuals with coal mining experience;

3512 (iii) two individuals who represent coal mine operators;

3513 (iv) one individual who represents an industry trade association;

3514 (v) two individuals from local law enforcement agencies or emergency medical service  
3515 providers;

3516 (vi) three individuals who have expertise in one or more of the following:

3517 (A) seismology;

3518 (B) mining engineering;

3519 (C) mine safety; or

3520 (D) another related subject; and

3521 (vii) two individuals from entities that provide mine safety training.

3522 (b) The nonvoting members of the council are:

3523 (i) the commissioner or the commissioner's designee;

3524 (ii) the executive director of the Department of Natural Resources and Environment or  
3525 the executive director's designee;

3526 (iii) the commissioner of the Department of Public Safety or the commissioner's  
3527 designee;

3528 (iv) a representative of the Mine Safety and Health Administration selected by the  
3529 Mine Safety and Health Administration; and

3530 (v) a representative of the federal Bureau of Land Management selected by the federal

3531 Bureau of Land Management.

3532 (3) (a) Except as required by Subsection (3)(b), a voting member shall serve a  
3533 four-year term beginning July 1 and ending June 30.

3534 (b) Notwithstanding the requirements of Subsection (3)(a), the commission shall, at the  
3535 time of appointment of the initial voting members of the council, adjust the length of terms of  
3536 the voting members to ensure that the terms of voting members are staggered so that  
3537 approximately half of the voting members are appointed every two years.

3538 (4) (a) The commissioner shall terminate the term of a voting member who ceases to be  
3539 representative as designated by the voting member's original appointment.

3540 (b) If a vacancy occurs in the voting members, the commissioner shall appoint a  
3541 replacement for the unexpired term after soliciting recommendations from the council  
3542 members.

3543 (5) (a) The council shall meet at least quarterly.

3544 (b) A majority of the voting members constitutes a quorum.

3545 (c) A vote of the majority of the members of the council when a quorum is present  
3546 constitutes an action of the council.

3547 (6) (a) The commissioner or the commissioner's designee is the chair of the council.

3548 (b) The commission shall staff the council.

3549 (7) A member may not receive compensation or benefits for the member's service, but  
3550 may receive per diem and travel expenses in accordance with:

3551 (a) Section 63A-3-106;

3552 (b) Section 63A-3-107; and

3553 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
3554 63A-3-107.

3555 (8) The council shall advise and make recommendations to the commission, the office,  
3556 and the Legislature regarding:

3557 (a) safety of coal mines located in Utah;

3558 (b) prevention of coal mine accidents;

3559 (c) effective coal mine emergency response;

3560 (d) coal miner certification and recertification; and

3561 (e) other topics reasonably related to safety of coal mines located in Utah.

3562 Section 70. Section **40-6-4** is amended to read:

3563 **CHAPTER 6. DIVISION OF ENERGY AND BOARD OF OIL, GAS, AND MINING**

3564 **40-6-4. Board of Oil, Gas, and Mining created -- Functions -- Appointment of**  
3565 **members -- Terms -- Chair -- Quorum -- Expenses.**

3566 (1) There is created within the Department of Natural Resources and Environment the  
3567 Board of Oil, Gas, and Mining. [~~The board shall be the policy making body for the Division of~~  
3568 ~~Oil, Gas, and Mining.~~]

3569 (2) The board shall consist of seven members appointed by the governor with the  
3570 consent of the Senate. No more than four members shall be from the same political party. In  
3571 addition to the requirements of Section 79-2-203, the members shall have the following  
3572 qualifications:

3573 (a) two members knowledgeable in mining matters;

3574 (b) two members knowledgeable in oil and gas matters;

3575 (c) one member knowledgeable in ecological and environmental matters;

3576 (d) one member who is a private land owner, owns a mineral or royalty interest and is  
3577 knowledgeable in those interests; and

3578 (e) one member who is knowledgeable in geological matters.

3579 (3) (a) Except as required by Subsection (3)(b), as terms of current board members  
3580 expire, the governor shall appoint each new member or reappointed member to a four-year  
3581 term.

3582 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the  
3583 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
3584 board members are staggered so that approximately half of the board is appointed every two  
3585 years.

3586 (4) (a) When a vacancy occurs in the membership for any reason, the replacement shall  
3587 be appointed for the unexpired term by the governor with the consent of the Senate.

3588 (b) The person appointed shall have the same qualifications as his predecessor.

3589 (5) The board shall appoint its chair from the membership. Four members of the board  
3590 shall constitute a quorum for the transaction of business and the holding of hearings.

3591 (6) A member may not receive compensation or benefits for the member's service, but  
3592 may receive per diem and travel expenses in accordance with:

- 3593 (a) Section 63A-3-106;
- 3594 (b) Section 63A-3-107; and
- 3595 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
- 3596 63A-3-107.

3597 Section 71. Section **40-6-10** is amended to read:

3598 **40-6-10. Procedures -- Adjudicative proceedings -- Emergency orders -- Hearing**  
3599 **examiners.**

3600 (1) (a) The Board of Oil, Gas, and Mining and the Division of [~~Oil, Gas, and Mining~~]  
3601 Energy shall comply with the procedures and requirements of Title 63G, Chapter 4,  
3602 Administrative Procedures Act, in their adjudicative proceedings.

3603 (b) The board shall enact rules governing its practice and procedure that are not  
3604 inconsistent with Title 63G, Chapter 4, Administrative Procedures Act.

3605 (2) When an emergency requiring immediate action is found by the division director or  
3606 any board member to exist, the division director or board member may issue an emergency  
3607 order according to the requirements and procedures of Title 63G, Chapter 4, Administrative  
3608 Procedures Act.

3609 (3) A notice required by this chapter, except as otherwise provided, shall be given at  
3610 the election of the board by:

3611 (a) personal service; or

3612 (b) (i) one publication in:

3613 (A) a daily newspaper of general circulation in the city of Salt Lake and county of Salt  
3614 Lake, Utah; and

3615 (B) all newspapers of general circulation published in the county where the land is  
3616 affected, or some part of the land is situated; and

3617 (ii) electronic publication in accordance with Section 45-1-101.

3618 (4) (a) Any order made by the board is effective on issuance.

3619 (b) All rules and orders issued by the board shall be:

3620 (i) in writing;

3621 (ii) entered in full in books to be kept by the board for that purpose;

3622 (iii) indexed; and

3623 (iv) public records open for inspection at all times during reasonable office hours.

3624 (c) A copy of any rule, finding of fact, or order, certified by the board or by the division  
3625 director, shall be received in evidence in all courts of this state with the same effect as the  
3626 original.

3627 (5) The board may act upon its own motion or upon the petition of any interested  
3628 person.

3629 (6) (a) The board may appoint a hearing examiner to take evidence and to recommend  
3630 findings of fact and conclusions of law to the board.

3631 (b) Any member of the board, division staff, or any other person designated by the  
3632 board may serve as a hearing examiner.

3633 (c) The board may enter an order based on the recommendations of the examiner.

3634 Section 72. Section **40-6-15** is amended to read:

3635 **40-6-15. Division created -- Functions -- Director of division -- Qualifications of**  
3636 **program administrators.**

3637 (1) There is created within the Department of Natural Resources and Environment the  
3638 Division of [~~Oil, Gas, and Mining~~] Energy.

3639 (2) The division shall implement the policies and orders of the board and perform all  
3640 other duties delegated by the [~~board~~] boards.

3641 (3) The director of the Division of [~~Oil, Gas, and Mining~~] Energy shall be appointed by  
3642 the executive director of the Department of Natural Resources and Environment with the  
3643 concurrence of the Board of Oil, Gas, and Mining.

3644 (4) The director shall be the executive and administrative head of the Division of [~~Oil,~~  
3645 ~~Gas, and Mining~~] Energy and shall be a person experienced in administration and  
3646 knowledgeable in the extraction of oil, gas, and minerals.

3647 (5) Within the division, the person administering the oil and gas program shall have the  
3648 technical background to efficiently administer that program.

3649 (6) The person administering the mining program shall have the technical background  
3650 to efficiently administer that program.

3651 Section 73. Section **40-6-16** is amended to read:

3652 **40-6-16. Duties of division relative to mining.**

3653 In addition to the duties assigned by the board, the division shall, with respect to mines  
3654 and mining:

3655 (1) develop and implement an inspection program that will include but not be limited  
3656 to production data, pre-drilling checks, and site security reviews;

3657 (2) publish a monthly production report;

3658 (3) publish a monthly gas processing plant report;

3659 (4) review and evaluate, prior to a hearing, evidence submitted with the petition to be  
3660 presented to the board;

3661 (5) require adequate assurance of approved water rights in accordance with rules and  
3662 orders enacted under Section 40-6-5; and

3663 (6) notify the county executive of the county in which the drilling will take place in  
3664 writing of the issuance of a drilling permit.

3665 Section 74. Section **40-6-17** is amended to read:

3666 **40-6-17. Cooperative research and development projects.**

3667 The board and the Division of [~~Oil, Gas, and Mining~~] Energy are authorized to enter  
3668 into cooperative agreements with the national, state or local governments, and with  
3669 independent organizations and institutions for the purpose of carrying out research and  
3670 development experiments involving energy resources to the extent that the project is funded or  
3671 partially funded and approved by the Legislature.

3672 Section 75. Section **40-6-19** is amended to read:

3673 **40-6-19. Bond and Surety Forfeiture Trust Fund created -- Contents -- Use of**  
3674 **fund money.**

3675 (1) There is created a private-purpose trust fund known as the "Bond and Surety  
3676 Forfeiture Trust Fund."

3677 (2) Money collected by the Division of [~~Oil, Gas, and Mining~~] Energy as a result of  
3678 bond or surety forfeitures shall be deposited in the fund.

3679 (3) Interest earned on money in the fund shall accrue to the fund.

3680 (4) (a) Money from each forfeited bond or surety, together with interest, shall be used  
3681 by the Division of [~~Oil, Gas, and Mining~~] Energy to accomplish the requisite performance  
3682 standards under the program to which the forfeited bond or surety corresponds.

3683 (b) Any money not used for a project shall be returned to the rightful claimant.

3684 Section 76. Section **40-8-4** is amended to read:

3685 **40-8-4. Definitions.**

3686 As used in this chapter:

3687 (1) "Adjudicative proceeding" means:

3688 (a) a division or board action or proceeding determining the legal rights, duties,  
3689 privileges, immunities, or other legal interests of one or more identifiable persons, including  
3690 actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right,  
3691 permit, or license; or

3692 (b) judicial review of a division or board action or proceeding specified in Subsection  
3693 (1)(a).

3694 (2) "Applicant" means a person who has filed a notice of intent to commence mining  
3695 operations, or who has applied to the board for a review of a notice or order.

3696 (3) (a) "Approved notice of intention" means a formally filed notice of intention to  
3697 commence mining operations, including revisions to it, which has been approved under Section  
3698 40-8-13.

3699 (b) An approved notice of intention is not required for small mining operations.

3700 (4) "Board" means the Board of Oil, Gas, and Mining.

3701 (5) "Conference" means an informal adjudicative proceeding conducted by the division  
3702 or board.

3703 (6) (a) "Deposit" or "mineral deposit" means an accumulation of mineral matter in the  
3704 form of consolidated rock, unconsolidated material, solutions, or occurring on the surface,  
3705 beneath the surface, or in the waters of the land from which any product useful to man may be  
3706 produced, extracted, or obtained or which is extracted by underground mining methods for  
3707 underground storage.

3708 (b) "Deposit" or "mineral deposit" excludes sand, gravel, rock aggregate, water,  
3709 geothermal steam, and oil and gas as defined in Title 40, Chapter 6, [~~Board and Division of~~  
3710 ~~Oil, Gas, and Mining~~] Division of Energy and Board of Oil, Gas, and Mining, but includes oil  
3711 shale and bituminous sands extracted by mining operations.

3712 (7) "Development" means the work performed in relation to a deposit following its  
3713 discovery but prior to and in contemplation of production mining operations, aimed at, but not  
3714 limited to, preparing the site for mining operations, defining further the ore deposit by drilling  
3715 or other means, conducting pilot plant operations, constructing roads or ancillary facilities, and  
3716 other related activities.



3717 (8) "Division" means the Division of [~~Oil, Gas, and Mining~~] Energy.

3718 (9) "Emergency order" means an order issued by the board in accordance with the  
3719 provisions of Title 63G, Chapter 4, Administrative Procedures Act.

3720 (10) (a) "Exploration" means surface-disturbing activities conducted for the purpose of  
3721 discovering a deposit or mineral deposit, delineating the boundaries of a deposit or mineral  
3722 deposit, and identifying regions or specific areas in which deposits or mineral deposits are most  
3723 likely to exist.

3724 (b) "Exploration" includes, but is not limited to: sinking shafts; tunneling; drilling  
3725 holes and digging pits or cuts; building of roads, and other access ways; and constructing and  
3726 operating other facilities related to these activities.

3727 (11) "Hearing" means a formal adjudicative proceeding conducted by the board under  
3728 its procedural rules.

3729 (12) (a) "Imminent danger to the health and safety of the public" means the existence  
3730 of a condition or practice, or a violation of a permit requirement or other requirement of this  
3731 chapter in a mining operation, which condition, practice, or violation could reasonably be  
3732 expected to cause substantial physical harm to persons outside the permit area before the  
3733 condition, practice, or violation can be abated.

3734 (b) A reasonable expectation of death or serious injury before abatement exists if a  
3735 rational person, subjected to the same conditions or practices giving rise to the peril, would not  
3736 expose himself or herself to the danger during the time necessary for abatement.

3737 (13) (a) "Land affected" means the surface and subsurface of an area within the state  
3738 where mining operations are being or will be conducted, including, but not limited to:

3739 (i) on-site private ways, roads, and railroads;

3740 (ii) land excavations;

3741 (iii) exploration sites;

3742 (iv) drill sites or workings;

3743 (v) refuse banks or spoil piles;

3744 (vi) evaporation or settling ponds;

3745 (vii) stockpiles;

3746 (viii) leaching dumps;

3747 (ix) placer areas;

- 3748 (x) tailings ponds or dumps; and
- 3749 (xi) work, parking, storage, or waste discharge areas, structures, and facilities.
- 3750 (b) All lands shall be excluded from the provisions of Subsection (13)(a) that would:
- 3751 (i) be includable as land affected, but which have been reclaimed in accordance with an
- 3752 approved plan, as may be approved by the board; and
- 3753 (ii) lands in which mining operations have ceased prior to July 1, 1977.
- 3754 (14) (a) "Mining operation" means activities conducted on the surface of the land for
- 3755 the exploration for, development of, or extraction of a mineral deposit, including, but not
- 3756 limited to, surface mining and the surface effects of underground and in situ mining, on-site
- 3757 transportation, concentrating, milling, evaporation, and other primary processing.
- 3758 (b) "Mining operation" does not include:
- 3759 (i) the extraction of sand, gravel, and rock aggregate;
- 3760 (ii) the extraction of oil and gas as defined in Title 40, Chapter 6, [~~Board and Division~~
- 3761 ~~of Oil, Gas, and Mining~~] Division of Energy and Board of Oil, Gas, and Mining;
- 3762 (iii) the extraction of geothermal steam;
- 3763 (iv) smelting or refining operations;
- 3764 (v) off-site operations and transportation;
- 3765 (vi) reconnaissance activities; or
- 3766 (vii) activities which will not cause significant surface resource disturbance or involve
- 3767 the use of mechanized earth-moving equipment, such as bulldozers or backhoes.
- 3768 (15) "Notice" means:
- 3769 (a) notice of intention, as defined in this chapter; or
- 3770 (b) written information given to an operator by the division describing compliance
- 3771 conditions at a mining operation.
- 3772 (16) "Notice of intention" means a notice to commence mining operations, including
- 3773 revisions to the notice.
- 3774 (17) "Off-site" means the land areas that are outside of or beyond the on-site land.
- 3775 (18) (a) "On-site" means the surface lands on or under which surface or underground
- 3776 mining operations are conducted.
- 3777 (b) A series of related properties under the control of a single operator, but separated
- 3778 by small parcels of land controlled by others, will be considered to be a single site unless an

3779 exception is made by the division.

3780 (19) "Operator" means a natural person, corporation, association, partnership, receiver,  
3781 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or  
3782 representative, either public or private, owning, controlling, or managing a mining operation or  
3783 proposed mining operation.

3784 (20) "Order" means written information provided by the division or board to an  
3785 operator or other parties, describing the compliance status of a permit or mining operation.

3786 (21) "Owner" means a natural person, corporation, association, partnership, receiver,  
3787 trustee, executor, administrator, guardian, fiduciary, agent, or other organization or  
3788 representative, either public or private, owning, controlling, or managing a mineral deposit or  
3789 the surface of lands employed in mining operations.

3790 [~~(22)~~] (22) "Permit" means a permit or notice to conduct mining operations issued by  
3791 the division.

3792 [~~(23)~~] (23) "Permit area" means the area of land indicated on the approved map  
3793 submitted by the operator with the application or notice to conduct mining operations.

3794 (24) "Permittee" means a person holding, or who is required by Utah law to hold, a  
3795 valid permit or notice to conduct mining operations.

3796 (25) "Person" means an individual, partnership, association, society, joint stock  
3797 company, firm, company, corporation, or other governmental or business organization.

3798 (26) "Reclamation" means actions performed during or after mining operations to  
3799 shape, stabilize, revegetate, or treat the land affected in order to achieve a safe, stable,  
3800 ecological condition and use which will be consistent with local environmental conditions.

3801 (27) "Small mining operations" means mining operations which disturb or will disturb  
3802 five or less surface acres at any given time.

3803 (28) "Unwarranted failure to comply" means the failure of a permittee to prevent the  
3804 occurrence of a violation of the permit or a requirement of this chapter due to indifference, lack  
3805 of diligence, or lack of reasonable care, or the failure to abate a violation of the permit or this  
3806 chapter due to indifference, lack of diligence, or lack of reasonable care.

3807 Section 77. Section **40-8-5** is amended to read:

3808 **40-8-5. Authority to enforce chapter -- Coordination of procedures -- Other**  
3809 **agencies.**

3810 (1) (a) The board and the division have jurisdiction and authority over all persons and  
3811 property, both public and private, necessary to enforce this chapter.

3812 (b) Any delegation of authority to ~~[any other]~~ another state officer, board, division,  
3813 commission, or agency to administer ~~[any or all]~~ other laws of this state relating to mined land  
3814 reclamation is withdrawn and the authority is unqualifiedly conferred upon the board and  
3815 division as provided in this chapter.

3816 (c) Nothing in this chapter, however, shall affect in any way the right of the landowner  
3817 or ~~[any]~~ a public agency having proprietary authority under other provisions of law to  
3818 administer lands within the state to include in ~~[any]~~ a lease, license, bill of sale, deed,  
3819 right-of-way, permit, contract, or other instrument, conditions as appropriate, provided that the  
3820 conditions are consistent with this chapter and the rules adopted under it.

3821 (2) (a) Where federal or local laws or regulations require operators to comply with  
3822 mined land reclamation procedures separate from those provided for in this chapter, the board  
3823 and division shall make every effort to have its rules and procedures accepted by the other  
3824 governing bodies as complying with their respective requirements.

3825 (b) The objective in coordination is to minimize the need for operators and prospective  
3826 operators to undertake duplicating, overlapping, or conflicting compliance procedures.

3827 ~~[(3) Nothing in this chapter is intended to abrogate or interfere with any powers or~~  
3828 ~~duties of the Department of Environmental Quality.]~~

3829 Section 78. Section **40-8-6** is amended to read:

3830 **40-8-6. Board -- Powers, functions, and duties.**

3831 In addition to those provided in Title 40, Chapter 6, ~~[Board and Division of Oil, Gas,~~  
3832 ~~and Mining]~~ Division of Energy and Board of Oil, Gas, and Mining, the board has the  
3833 following powers, functions, and duties:

3834 (1) To enact rules according to the procedures and requirements of Title 63G, Chapter  
3835 3, Utah Administrative Rulemaking Act, that are reasonably necessary to carry out the purposes  
3836 of this chapter.

3837 (2) To hold hearings and to issue orders or other appropriate instruments based upon  
3838 the results of those hearings.

3839 (3) To issue emergency orders according to the requirements and provisions of Title  
3840 63G, Chapter 4, Administrative Procedures Act.

3841 (4) To do all other things and take such other actions within the purposes of this act as  
3842 may be necessary to enforce its provisions.

3843 Section 79. Section **40-8-11** is amended to read:

3844 **40-8-11. Budget of administrative expenses -- Procedure -- Division authority to**  
3845 **appoint or employ consultants.**

3846 (1) The division, with the approval of the board, shall prepare a budget of the  
3847 administrative expenses in carrying out the provisions of this act for the fiscal year next  
3848 following the convening of the Legislature. This budget shall be submitted to the executive  
3849 director of the Department of Natural Resources and Environment for inclusion in the  
3850 governor's appropriation request to the Legislature.

3851 (2) The division shall have authority to appoint or employ technical support or  
3852 consultants in the pursuit of the objectives of this act and shall be responsible for coordination  
3853 with other agencies in matters relating to mined land reclamation and the application of related  
3854 laws.

3855 Section 80. Section **40-10-2** is amended to read:

3856 **40-10-2. Purpose.**

3857 It is the purpose of this chapter to:

3858 (1) grant to the Board [~~and Division~~] of Oil, Gas, and Mining and the Division of  
3859 Energy the necessary authority to assure exclusive jurisdiction over nonfederal lands and  
3860 cooperative jurisdiction over federal lands in regard to regulation of coal mining and  
3861 reclamation operations as authorized pursuant to Public Law 95-87;

3862 (2) assure that the rights of surface landowners and other persons with a legal interest  
3863 in the land or appurtenances thereto are fully protected from these operations;

3864 (3) assure that surface coal mining operations are conducted so as to protect the  
3865 environment, that reclamation occurs as contemporaneously as possible with the operations,  
3866 and that operations are not conducted where reclamation as required by this chapter is not  
3867 economically or technologically feasible;

3868 (4) assure that appropriate procedures are provided for the public participation in the  
3869 development, revision, and enforcement of rules, standards, reclamation plans, or programs  
3870 established by the state under this chapter;

3871 (5) promote the reclamation of mined areas left without adequate reclamation prior to

3872 the effective date of this chapter and which continue, in their unreclaimed condition, to  
3873 substantially degrade the quality of the environment, prevent or damage the beneficial use of  
3874 land or water resources, or endanger the health or safety of the public; and

3875 (6) wherever necessary, exercise the full reach of state constitutional powers to insure  
3876 the protection of the public interest through effective control of surface coal mining operations  
3877 and efficient reclamation of abandoned mines.

3878 Section 81. Section **40-10-3** is amended to read:

3879 **40-10-3. Definitions.**

3880 For the purposes of this chapter:

3881 (1) "Adjudicative proceeding" means:

3882 (a) a division or board action or proceeding determining the legal rights, duties,  
3883 privileges, immunities, or other legal interests of one or more identifiable persons, including  
3884 actions to grant, deny, revoke, suspend, modify, annul, withdraw, or amend an authority, right,  
3885 permit, or license; or

3886 (b) judicial review of a division or board action or proceeding specified in Subsection  
3887 (1)(a).

3888 (2) "Alluvial valley floors" mean the unconsolidated stream laid deposits holding  
3889 streams where water availability is sufficient for subirrigation or flood irrigation agricultural  
3890 activities but does not include upland areas which are generally overlain by a thin veneer of  
3891 colluvial deposits composed chiefly of debris from sheet erosion, deposits by unconcentrated  
3892 runoff or slope wash, together with talus, other mass movement accumulation and windblown  
3893 deposits.

3894 (3) "Approximate original contour" means that surface configuration achieved by  
3895 backfilling and grading of the mined area so that the reclaimed area, including any terracing or  
3896 access roads, closely resembles the general surface configuration of the land prior to mining  
3897 and blends into and complements the drainage pattern of the surrounding terrain, with all  
3898 highwalls and spoil piles eliminated; but water impoundments may be permitted where the  
3899 division determines that they are in compliance with Subsection 40-10-17(2)(h).

3900 (4) "Board" means the Board of Oil, Gas, and Mining and the board shall not be  
3901 defined as an employee of the division.

3902 (5) "Division" means the Division of [~~Oil, Gas, and Mining~~] Energy.

3903 (6) "Imminent danger to the health and safety of the public" means the existence of any  
3904 condition or practice, or any violation of a permit or other requirement of this chapter in a  
3905 surface coal mining and reclamation operation, which condition, practice, or violation could  
3906 reasonably be expected to cause substantial physical harm to persons outside the permit area  
3907 before the condition, practice, or violation can be abated. A reasonable expectation of death or  
3908 serious injury before abatement exists if a rational person, subjected to the same conditions or  
3909 practices giving rise to the peril, would not expose himself or herself to the danger during the  
3910 time necessary for abatement.

3911 (7) "Employee" means those individuals in the employ of the division and excludes the  
3912 board.

3913 (8) "Lands eligible for remining" means those lands that would otherwise be eligible  
3914 for expenditures under Section 40-10-25 or 40-10-25.1.

3915 (9) "Operator" means any person, partnership, or corporation engaged in coal mining  
3916 who removes or intends to remove more than 250 tons of coal from the earth by coal mining  
3917 within 12 consecutive calendar months in any one location.

3918 (10) "Other minerals" mean clay, stone, sand, gravel, metalliferous and  
3919 nonmetalliferous ores, and any other solid material or substances of commercial value  
3920 excavated in solid or solution form from natural deposits on or in the earth, exclusive of coal  
3921 and those minerals which occur naturally in liquid or gaseous form.

3922 (11) "Permit" means a permit to conduct surface coal mining and reclamation  
3923 operations issued by the division.

3924 (12) "Permit applicant" or "applicant" means a person applying for a permit.

3925 ~~[(14)]~~ (13) "Permit area" means the area of land indicated on the approved map  
3926 submitted by the operator with his application, which area of land shall be covered by the  
3927 operator's bond as required by Section 40-10-15 and shall be readily identifiable by appropriate  
3928 markers on the site.

3929 ~~[(15)]~~ (14) "Permittee" means a person holding a permit.

3930 ~~[(13)]~~ (15) "Permitting agency" means the division.

3931 (16) "Person" means an individual, partnership, association, society, joint stock  
3932 company, firm, company, corporation, or other governmental or business organization.

3933 (17) "Prime farmland" means the same as prescribed by the United States Department

3934 of Agriculture on the basis of such factors as moisture availability, temperature regime,  
3935 chemical balance, permeability, surface layer composition, susceptibility to flooding, and  
3936 erosion characteristics.

3937 (18) "Reclamation plan" means a plan submitted by an applicant for a permit which  
3938 sets forth a plan for reclamation of the proposed surface coal mining operations pursuant to  
3939 Section 40-10-10.

3940 (19) "Surface coal mining and reclamation operations" mean surface mining operations  
3941 and all activities necessary and incident to the reclamation of these operations after the  
3942 effective date of this chapter.

3943 (20) "Surface coal mining operations" mean:

3944 (a) Activities conducted on the surface of lands in connection with a surface coal mine  
3945 or subject to the requirements of Section 40-10-18, surface operations and surface impacts  
3946 incident to an underground coal mine, the products of which enter commerce or the operations  
3947 of which directly or indirectly affect interstate commerce. These activities include excavation  
3948 for the purpose of obtaining coal, including such common methods as contour, strip, auger,  
3949 mountaintop removal box cut, open pit, and area mining, the uses of explosives and blasting,  
3950 and in situ distillation or retorting, leaching or other chemical or physical processing, and the  
3951 cleaning, concentrating, or other processing or preparation, loading of coal for interstate  
3952 commerce at or near the mine site; but these activities do not include the extraction of coal  
3953 incidental to the extraction of other minerals where coal does not exceed 16-2/3% of the  
3954 tonnage of minerals removed for purposes of commercial use or sale or coal explorations  
3955 subject to Section 40-10-8.

3956 (b) The areas upon which the activities occur or where the activities disturb the natural  
3957 land surface. These areas shall also include any adjacent land the use of which is incidental to  
3958 the activities, all lands affected by the construction of new roads or the improvement or use of  
3959 existing roads to gain access to the site of the activities and for haulage and excavations,  
3960 workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles,  
3961 overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage  
3962 areas, processing areas, shipping areas, and other areas upon which are sited structures,  
3963 facilities, or other property or materials on the surface resulting from or incident to the  
3964 activities.



3965 (21) "Unanticipated event or condition" means an event or condition encountered in a  
3966 remining operation that was not contemplated by the applicable surface coal mining and  
3967 reclamation permit.

3968 (22) "Unwarranted failure to comply" means the failure of a permittee to prevent the  
3969 occurrence of any violation of his permit or any requirement of this chapter due to indifference,  
3970 lack of diligence, or lack of reasonable care, or the failure to abate any violation of the permit  
3971 or this chapter due to indifference, lack of diligence, or lack of reasonable care.

3972 Section 82. Section **41-6a-1644** is amended to read:

3973 **41-6a-1644. Diesel emissions program -- Implementation -- Monitoring --**  
3974 **Exemptions.**

3975 (1) The legislative body of each county required by the comprehensive plan for air  
3976 pollution control developed by the Air Quality Board under Subsection 19-2-104(3)(e) to use  
3977 an emissions opacity inspection and maintenance program for diesel-powered motor vehicles  
3978 shall:

3979 (a) make regulations or ordinances to implement and enforce the requirement  
3980 established by the Air Quality Board;

3981 (b) collect information about and monitor the program; and

3982 (c) by August 1 of each year, supply written information to the Department of  
3983 [~~Environmental Quality~~] Natural Resources and Environment to identify program status.

3984 (2) The following vehicles are exempt from an emissions opacity inspection and  
3985 maintenance program for diesel-powered motor vehicles established by a legislative body of a  
3986 county under Subsection (1):

3987 (a) an implement of husbandry; and

3988 (b) a motor vehicle that:

3989 (i) meets the definition of a farm truck under Section 41-1a-102; and

3990 (ii) has a gross vehicle weight rating of 12,001 pounds or more.

3991 (3) (a) The legislative body of a county identified in Subsection (1) shall exempt a  
3992 pickup truck, as defined in Section 41-1a-102, with a gross vehicle weight of 12,000 pounds or  
3993 less from the emissions opacity inspection and maintenance program requirements of this  
3994 section, if the registered owner of the pickup truck provides a signed statement to the  
3995 legislative body stating the truck is used:

3996 (i) by the owner or operator of a farm located on property that qualifies as land in  
3997 agricultural use under Sections 59-2-502 and 59-2-503; and

3998 (ii) exclusively for the following purposes in operating the farm:

3999 (A) for the transportation of farm products, including livestock and its products,  
4000 poultry and its products, and floricultural and horticultural products; and

4001 (B) for the transportation of farm supplies, including tile, fence, and every other thing  
4002 or commodity used in agricultural, floricultural, horticultural, livestock, and poultry production  
4003 and maintenance.

4004 (b) The county shall provide to the registered owner who signs and submits a signed  
4005 statement under this section a certificate of exemption from emissions opacity inspection and  
4006 maintenance program requirements for purposes of registering the exempt vehicle.

4007 Section 83. Section **46-4-503** is amended to read:

4008 **46-4-503. Government products and services provided electronically.**

4009 (1) Notwithstanding Section 46-4-501, a state governmental agency that administers  
4010 one or more of the following transactions shall allow those transactions to be conducted  
4011 electronically:

4012 (a) an application for or renewal of a professional or occupational license issued under  
4013 Title 58, Occupations and Professions;

4014 (b) the renewal of a drivers license;

4015 (c) an application for a hunting or fishing license;

4016 (d) the filing of:

4017 (i) a return under Title 59, Chapter 10, Individual Income Tax Act or 12, Sales and Use  
4018 Tax Act;

4019 (ii) a court document, as defined by the Judicial Council; or

4020 (iii) a document under Title 70A, Uniform Commercial Code;

4021 (e) a registration for:

4022 (i) a product; or

4023 (ii) a brand;

4024 (f) a renewal of a registration of a motor vehicle;

4025 (g) a registration under:

4026 (i) Title 16, Corporations;

- 4027 (ii) Title 42, Names; or
- 4028 (iii) Title 48, Partnership; or
- 4029 (h) submission of an application for benefits:
- 4030 (i) under Title 35A, Chapter 3, Employment Support Act;
- 4031 (ii) under Title 35A, Chapter 4, Employment Security Act; or
- 4032 (iii) related to accident and health insurance.
- 4033 (2) The state system of public education, in coordination with the Utah Education
- 4034 Network, shall make reasonable progress toward making the following services available
- 4035 electronically:
- 4036 (a) secure access by parents and students to student grades and progress reports;
- 4037 (b) e-mail communications with:
- 4038 (i) teachers;
- 4039 (ii) parent-teacher associations; and
- 4040 (iii) school administrators;
- 4041 (c) access to school calendars and schedules; and
- 4042 (d) teaching resources that may include:
- 4043 (i) teaching plans;
- 4044 (ii) curriculum guides; and
- 4045 (iii) media resources.
- 4046 (3) A state governmental agency shall:
- 4047 (a) in carrying out the requirements of this section, take reasonable steps to ensure the
- 4048 security and privacy of records that are private or controlled as defined by Title 63G, Chapter 2,
- 4049 Government Records Access and Management Act;
- 4050 (b) in addition to those transactions listed in Subsections (1) and (2), determine any
- 4051 additional services that may be made available to the public through electronic means; and
- 4052 (c) as part of the agency's information technology plan required by Section 63F-1-204,
- 4053 report on the progress of compliance with Subsections (1) through (3).
- 4054 (4) Notwithstanding the other provisions of this part, a state governmental agency is
- 4055 not required by this part to conduct a transaction electronically if:
- 4056 (a) conducting the transaction electronically is not required by federal law; and
- 4057 (b) conducting the transaction electronically is:

- 4058 (i) impractical;
- 4059 (ii) unreasonable; or
- 4060 (iii) not permitted by laws pertaining to privacy or security.
- 4061 (5) (a) For purposes of this Subsection (5), "one-stop shop" means the consolidation of
- 4062 access to diverse services and agencies at one location including virtual colocation.
- 4063 (b) State agencies that provide services or offer direct assistance to the business
- 4064 community shall participate in the establishment, maintenance, and enhancement of an
- 4065 integrated Utah business web portal known as Business.utah.gov. The purpose of the business
- 4066 web portal is to provide "one-stop shop" assistance to businesses.
- 4067 (c) State agencies shall partner with other governmental and nonprofit agencies whose
- 4068 primary mission is to provide services or offer direct assistance to the business community in
- 4069 Utah in fulfilling the requirements of this section.
- 4070 (d) The following state entities shall comply with the provisions of this Subsection (5):
- 4071 (i) Governor's Office of Economic Development, which shall serve as the managing
- 4072 partner for the website;
- 4073 (ii) Department of Workforce Services;
- 4074 (iii) Department of Commerce;
- 4075 (iv) Tax Commission;
- 4076 (v) Department of Administrative Services - Division of Purchasing and General
- 4077 Services, including other state agencies operating under a grant of authority from the division
- 4078 to procure goods and services in excess of \$5,000;
- 4079 (vi) Department of Agriculture;
- 4080 (vii) Department of Natural Resources and Environment; and
- 4081 (viii) other state agencies that provide services or offer direct assistance to the business
- 4082 sector.
- 4083 (e) The business services available on the business web portal may include:
- 4084 (i) business life cycle information;
- 4085 (ii) business searches;
- 4086 (iii) employment needs and opportunities;
- 4087 (iv) motor vehicle registration;
- 4088 (v) permit applications and renewal;

- 4089 (vi) tax information;
- 4090 (vii) government procurement bid notifications;
- 4091 (viii) general business information;
- 4092 (ix) business directories; and
- 4093 (x) business news.

4094 Section 84. Section **53-2-110** is amended to read:

4095 **53-2-110. Energy emergency plan.**

4096 (1) The division shall develop an energy emergency plan consistent with Title 63K,  
4097 Chapter 2, Energy Emergency Powers of Governor.

4098 (2) In developing the energy emergency plan, the division shall coordinate with:

- 4099 (a) the Division of Public Utilities;
- 4100 (b) the Division of [~~Oil, Gas, and Mining;~~] Energy;
- 4101 (c) the Division of Air Quality; and
- 4102 (d) the Department of Agriculture and Food with regard to weights and measures.

4103 (3) The energy emergency plan shall:

4104 (a) designate the division as the entity that will coordinate the implementation of the  
4105 energy emergency plan;

4106 (b) provide for annual review of the energy emergency plan;

4107 (c) provide for cooperation with public utilities and other relevant private sector  
4108 persons;

4109 (d) provide a procedure for maintaining a current list of contact persons required under  
4110 the energy emergency plan; and

4111 (e) provide that the energy emergency plan may only be implemented if the governor  
4112 declares:

4113 (i) a state of emergency as provided in Title 63K, Chapter [~~2~~] 4, Disaster Response and  
4114 Recovery Act; or

4115 (ii) a state of emergency related to energy as provided in Title 63K, Chapter 2, Energy  
4116 Emergency Powers of the Governor Act.

4117 (4) If an event requires the implementation of the energy emergency plan, the division  
4118 shall report on that event and the implementation of the energy emergency plan to:

4119 (a) the governor; and

4120 (b) the Public Utilities and Technology Interim Committee.

4121 (5) If the energy emergency plan includes a procedure for obtaining information, the  
4122 energy emergency plan shall incorporate reporting procedures that conform to existing  
4123 requirements of federal, state, and local regulatory authorities wherever possible.

4124 Section 85. Section **53-13-103** is amended to read:

4125 **53-13-103. Law enforcement officer.**

4126 (1) (a) "Law enforcement officer" means a sworn and certified peace officer who is an  
4127 employee of a law enforcement agency that is part of or administered by the state or any of its  
4128 political subdivisions, and whose primary and principal duties consist of the prevention and  
4129 detection of crime and the enforcement of criminal statutes or ordinances of this state or any of  
4130 its political subdivisions.

4131 (b) "Law enforcement officer" specifically includes the following:

4132 (i) any sheriff or deputy sheriff, chief of police, police officer, or marshal of any  
4133 county, city, or town;

4134 (ii) the commissioner of public safety and any member of the Department of Public  
4135 Safety certified as a peace officer;

4136 (iii) all persons specified in Sections 23-20-1.5 and 79-4-501;

4137 (iv) any police officer employed by any college or university;

4138 (v) investigators for the Motor Vehicle Enforcement Division;

4139 (vi) special agents or investigators employed by the attorney general, district attorneys,  
4140 and county attorneys;

4141 (vii) employees of the Department of Natural Resources and Environment designated  
4142 as peace officers by law;

4143 (viii) school district police officers as designated by the board of education for the  
4144 school district;

4145 (ix) the executive director of the Department of Corrections and any correctional  
4146 enforcement or investigative officer designated by the executive director and approved by the  
4147 commissioner of public safety and certified by the division;

4148 (x) correctional enforcement, investigative, or adult probation and parole officers  
4149 employed by the Department of Corrections serving on or before July 1, 1993;

4150 (xi) members of a law enforcement agency established by a private college or

4151 university provided that the college or university has been certified by the commissioner of  
4152 public safety according to rules of the Department of Public Safety;

4153 (xii) airport police officers of any airport owned or operated by the state or any of its  
4154 political subdivisions; and

4155 (xiii) transit police officers designated under Section 17B-2a-823.

4156 (2) Law enforcement officers may serve criminal process and arrest violators of any  
4157 law of this state and have the right to require aid in executing their lawful duties.

4158 (3) (a) A law enforcement officer has statewide full-spectrum peace officer authority,  
4159 but the authority extends to other counties, cities, or towns only when the officer is acting  
4160 under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is  
4161 employed by the state.

4162 (b) (i) A local law enforcement agency may limit the jurisdiction in which its law  
4163 enforcement officers may exercise their peace officer authority to a certain geographic area.

4164 (ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise his  
4165 authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act  
4166 on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the  
4167 limited geographic area.

4168 (c) The authority of law enforcement officers employed by the Department of  
4169 Corrections is regulated by Title 64, Chapter 13, Department of Corrections-State Prison.

4170 (4) A law enforcement officer shall, prior to exercising peace officer authority,  
4171 satisfactorily complete:

4172 (a) the basic course at a certified law enforcement officer training academy or pass a  
4173 certification examination as provided in Section 53-6-206, and be certified; and

4174 (b) annual certified training of at least 40 hours per year as directed by the director of  
4175 the division, with the advice and consent of the council.

4176 Section 86. Section **53-13-105** is amended to read:

4177 **53-13-105. Special function officer.**

4178 (1) (a) "Special function officer" means a sworn and certified peace officer performing  
4179 specialized investigations, service of legal process, security functions, or specialized ordinance,  
4180 rule, or regulatory functions.

4181 (b) "Special function officer" includes:

- 4182 (i) state military police;
- 4183 (ii) constables;
- 4184 (iii) port-of-entry agents as defined in Section 72-1-102;
- 4185 (iv) authorized employees or agents of the Department of Transportation assigned to  
4186 administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;
- 4187 (v) school district security officers;
- 4188 (vi) Utah State Hospital security officers designated pursuant to Section 62A-15-603;
- 4189 (vii) Utah State Developmental Center security officers designated pursuant to  
4190 Subsection 62A-5-206(9);
- 4191 (viii) fire arson investigators for any political subdivision of the state;
- 4192 (ix) ordinance enforcement officers employed by municipalities or counties may be  
4193 special function officers;
- 4194 (x) employees of the Department of Natural Resources and Environment who have  
4195 been designated to conduct supplemental enforcement functions as a collateral duty;
- 4196 (xi) railroad special agents deputized by a county sheriff under Section 17-30-2, or  
4197 appointed pursuant to Section 56-1-21.5;
- 4198 (xii) auxiliary officers, as described by Section 53-13-112;
- 4199 (xiii) special agents, process servers, and investigators employed by city attorneys;
- 4200 (xiv) criminal tax investigators designated under Section 59-1-206; and
- 4201 (xv) all other persons designated by statute as having special function officer authority  
4202 or limited peace officer authority.
- 4203 (2) (a) A special function officer may exercise that spectrum of peace officer authority  
4204 that has been designated by statute to the employing agency, and only while on duty, and not  
4205 for the purpose of general law enforcement.
- 4206 (b) If the special function officer is charged with security functions respecting facilities  
4207 or property, the powers may be exercised only in connection with acts occurring on the  
4208 property where the officer is employed or when required for the protection of the employer's  
4209 interest, property, or employees.
- 4210 (c) A special function officer may carry firearms only while on duty, and only if  
4211 authorized and under conditions specified by the officer's employer or chief administrator.
- 4212 (3) (a) A special function officer may not exercise the authority of a peace officer until:



4213 (i) the officer has satisfactorily completed an approved basic training program for  
4214 special function officers as provided under Subsection (4); and

4215 (ii) the chief law enforcement officer or administrator has certified this fact to the  
4216 director of the division.

4217 (b) City and county constables and their deputies shall certify their completion of  
4218 training to the legislative governing body of the city or county they serve.

4219 (4) (a) The agency that the special function officer serves may establish and maintain a  
4220 basic special function course and in-service training programs as approved by the director of  
4221 the division with the advice and consent of the council.

4222 (b) The in-service training shall consist of no fewer than 40 hours per year and may be  
4223 conducted by the agency's own staff or by other agencies.

4224 Section 87. Section **53C-1-203** is amended to read:

4225 **53C-1-203. Board of trustees nominating committee -- Composition --**  
4226 **Responsibilities -- Per diem and expenses.**

4227 (1) There is established an 11 member board of trustees nominating committee.

4228 (2) (a) The State Board of Education shall appoint five members to the nominating  
4229 committee from different geographical areas of the state.

4230 (b) The governor shall appoint five members to the nominating committee as follows:

4231 (i) one individual from a nomination list of at least two names of individuals  
4232 knowledgeable about institutional trust lands submitted by the University of Utah and Utah  
4233 State University on an alternating basis every four years;

4234 (ii) one individual from a nomination list of at least two names submitted by the  
4235 livestock industry;

4236 (iii) one individual from a nomination list of at least two names submitted by the Utah  
4237 Petroleum Association;

4238 (iv) one individual from a nomination list of at least two names submitted by the Utah  
4239 Mining Association; and

4240 (v) one individual from a nomination list of at least two names submitted by the  
4241 executive director of the Department of Natural Resources and Environment after consultation  
4242 with statewide wildlife and conservation organizations.

4243 (c) The president of the Utah Association of Counties shall designate the chair of the

4244 Public Lands Steering Committee, who must be an elected county commissioner or councilor,  
4245 to serve as the eleventh member of the nominating committee.

4246 (3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year  
4247 term.

4248 (b) Notwithstanding the requirements of Subsection (3)(a), the state board and the  
4249 governor shall, at the time of appointment or reappointment, adjust the length of terms to  
4250 ensure that the terms of committee members are staggered so that approximately half of the  
4251 committee is appointed every two years.

4252 (c) When a vacancy occurs in the membership for any reason, the replacement shall be  
4253 appointed for the unexpired term.

4254 (4) The nominating committee shall select a chair from its membership by majority  
4255 vote.

4256 (5) (a) The nominating committee shall nominate at least two candidates for each  
4257 position or vacancy which occurs on the board of trustees except for the governor's appointee  
4258 under Subsection 53C-1-202(5).

4259 (b) The nominations shall be by majority vote of the committee.

4260 (6) A member may not receive compensation or benefits for the member's service, but  
4261 may receive per diem and travel expenses in accordance with:

4262 (a) Section 63A-3-106;

4263 (b) Section 63A-3-107; and

4264 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
4265 63A-3-107.

4266 Section 88. Section **57-25-102** is amended to read:

4267 **57-25-102. Definitions.**

4268 As used in this chapter:

4269 (1) "Activity and use limitations" means restrictions or obligations created under this  
4270 chapter with respect to real property.

4271 (2) "Agency" means the [~~Utah~~] Department of [~~Environmental Quality~~] Natural  
4272 Resources and Environment or other state or federal agency that determines or approves the  
4273 environmental response project under which the environmental covenant is created.

4274 (3) "Common interest community" means a condominium, cooperative, or other real

4275 property with respect to which a person, by virtue of the person's ownership of a parcel of real  
4276 property, is obligated to pay property taxes or insurance premiums, or for maintenance, or  
4277 improvement of other real property described in a recorded covenant that creates the common  
4278 interest community.

4279 (4) "Environmental covenant" means a servitude arising under an environmental  
4280 response project that imposes activity and use limitations.

4281 (5) "Environmental response project" means a plan, risk assessment, or work  
4282 performed for environmental remediation of real property or surface and groundwater on or  
4283 beneath the real property and conducted:

4284 (a) under a federal or state program governing environmental remediation of real  
4285 property, including under Title 19, Environmental Quality Code;

4286 (b) incident to closure of a solid or hazardous waste management unit, if the closure is  
4287 conducted with approval of an agency; or

4288 (c) under the state voluntary clean-up program authorized in Title 19, Chapter 8,  
4289 Voluntary Cleanup Program.

4290 (6) "Holder" means the grantee of an environmental covenant as specified in  
4291 Subsection 57-25-103(1).

4292 (7) "Jurisdiction" means a state of the United States, the District of Columbia, Puerto  
4293 Rico, the United States Virgin Islands, or any territory or insular possession subject to the  
4294 jurisdiction of the United States.

4295 (8) "Record," used as a noun, means information that is inscribed on a tangible medium  
4296 or that is stored in an electronic or other medium and is retrievable in perceivable form.

4297 Section 89. Section **57-25-110** is amended to read:

4298 **57-25-110. Amendment or termination by consent.**

4299 (1) An environmental covenant may be amended or terminated by consent only if the  
4300 amendment or termination is signed by:

4301 (a) the agency;

4302 (b) unless waived by the agency, the current owner of the fee simple of the real  
4303 property subject to the covenant;

4304 (c) each person that originally signed the covenant, unless:

4305 (i) the person waived in a signed record the right to consent;

- 4306 (ii) the executive director of the Department of [~~Environmental Quality~~] Natural  
4307 Resources and Environment finds that the person:  
4308 (A) no longer exists;  
4309 (B) is not legally competent to sign the amendment or termination; or  
4310 (C) cannot be located or identified with the exercise of reasonable diligence; or  
4311 (iii) a court finds that the person no longer exists or cannot be located or identified with  
4312 the exercise of reasonable diligence; and  
4313 (d) except as otherwise provided in Subsection (4)(b), the holder.  
4314 (2) If an interest in real property is subject to an environmental covenant, the interest is  
4315 not affected by an amendment of the covenant unless the current owner of the interest consents  
4316 to the amendment or has waived in a signed record the right to consent to amendments.  
4317 (3) Except for an assignment undertaken under a governmental reorganization,  
4318 assignment of an environmental covenant to a new holder is an amendment.  
4319 (4) Except as otherwise provided in an environmental covenant:  
4320 (a) a holder may not assign its interest without consent of the other parties; and  
4321 (b) a holder may be removed and replaced by agreement of the other parties specified  
4322 in Subsection (1).  
4323 (5) A court of competent jurisdiction may fill a vacancy in the position of holder.  
4324 (6) A person required by Subsection (1) to sign the amendment or termination may  
4325 authorize in writing another person to sign the amendment or termination on the person's  
4326 behalf.

4327 Section 90. Section **59-5-101** is amended to read:

4328 **59-5-101. Definitions.**

4329 As used in this part:

- 4330 (1) "Board" means the Board of Oil, Gas, and Mining created in Section 40-6-4.  
4331 (2) "Coal-to-liquid" means the process of converting coal into a liquid synthetic fuel.  
4332 (3) "Condensate" means those hydrocarbons, regardless of gravity, that occur naturally  
4333 in the gaseous phase in the reservoir that are separated from the natural gas as liquids through  
4334 the process of condensation either in the reservoir, in the wellbore, or at the surface in field  
4335 separators.  
4336 (4) "Crude oil" means those hydrocarbons, regardless of gravity, that occur naturally in

4337 the liquid phase in the reservoir and are produced and recovered at the wellhead in liquid form.

4338 (5) "Development well" means any oil and gas producing well other than a wildcat  
4339 well.

4340 (6) "Division" means the Division of [~~Oil, Gas, and Mining~~] Energy established under  
4341 Title 40, Chapter 6, Division of Energy and Board of Oil, Gas, and Mining.

4342 (7) "Enhanced recovery project" means:

4343 (a) the injection of liquids or hydrocarbon or nonhydrocarbon gases directly into a  
4344 reservoir for the purpose of:

4345 (i) augmenting reservoir energy;

4346 (ii) modifying the properties of the fluids or gases in a reservoir; or

4347 (iii) changing the reservoir conditions to increase the recoverable oil, gas, or oil and  
4348 gas through the joint use of two or more well bores; and

4349 (b) a project initially approved by the board as a new or expanded enhanced recovery  
4350 project on or after January 1, 1996.

4351 (8) (a) "Gas" means:

4352 (i) natural gas;

4353 (ii) natural gas liquids; or

4354 (iii) any mixture of natural gas and natural gas liquids.

4355 (b) "Gas" does not include solid hydrocarbons.

4356 (9) "Incremental production" means that part of production, certified by the Division of  
4357 [~~Oil, Gas, and Mining~~] Energy, which is achieved from an enhanced recovery project that  
4358 would not have economically occurred under the reservoir conditions existing before the  
4359 project and that has been approved by the division as incremental production.

4360 (10) "Natural gas" means those hydrocarbons, other than oil and other than natural gas  
4361 liquids separated from natural gas, that occur naturally in the gaseous phase in the reservoir and  
4362 are produced and recovered at the wellhead in gaseous form.

4363 (11) "Natural gas liquids" means those hydrocarbons initially in reservoir natural gas,  
4364 regardless of gravity, that are separated in gas processing plants from the natural gas as liquids  
4365 at the surface through the process of condensation, absorption, adsorption, or other methods.

4366 (12) (a) "Oil" means:

4367 (i) crude oil;

- 4368 (ii) condensate; or
- 4369 (iii) any mixture of crude oil and condensate.
- 4370 (b) "Oil" does not include solid hydrocarbons.
- 4371 (13) "Oil or gas field" means a geographical area overlying oil or gas structures. The
- 4372 boundaries of oil or gas fields shall conform with the boundaries as fixed by the Board of Oil,
- 4373 Gas, and Mining and Division of [~~Oil, Gas, and Mining~~] Energy under Title 40, Chapter 6,
- 4374 [~~Board and Division of Oil, Gas, and Mining~~] Division of Energy and Board of Oil, Gas, and
- 4375 Mining.
- 4376 (14) "Oil shale" means a group of fine black to dark brown shales containing
- 4377 bituminous material that yields petroleum upon distillation.
- 4378 (15) "Operator" means any person engaged in the business of operating an oil or gas
- 4379 well, regardless of whether the person is:
- 4380 (a) a working interest owner;
- 4381 (b) an independent contractor; or
- 4382 (c) acting in a capacity similar to Subsection (15)(a) or (b) as determined by the
- 4383 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative
- 4384 Rulemaking Act.
- 4385 (16) "Owner" means any person having a working interest, royalty interest, payment
- 4386 out of production, or any other interest in the oil or gas produced or extracted from an oil or gas
- 4387 well in the state, or in the proceeds of this production.
- 4388 (17) (a) Subject to Subsections (17)(b) and (c), "processing costs" means the
- 4389 reasonable actual costs of processing oil or gas to remove:
- 4390 (i) natural gas liquids; or
- 4391 (ii) contaminants.
- 4392 (b) If processing costs are determined on the basis of an arm's-length contract,
- 4393 processing costs are the actual costs.
- 4394 (c) (i) If processing costs are determined on a basis other than an arm's-length contract,
- 4395 processing costs are those reasonable costs associated with:
- 4396 (A) actual operating and maintenance expenses, including oil or gas used or consumed
- 4397 in processing;
- 4398 (B) overhead directly attributable and allocable to the operation and maintenance; and

4399 (C) (I) depreciation and a return on undepreciated capital investment; or  
4400 (II) a cost equal to a return on the investment in the processing facilities as determined  
4401 by the commission.

4402 (ii) Subsection (17)(c)(i) includes situations where the producer performs the  
4403 processing for the producer's product.

4404 (18) "Producer" means any working interest owner in any lands in any oil or gas field  
4405 from which gas or oil is produced.

4406 (19) "Recompletion" means any downhole operation that is:

4407 (a) conducted to reestablish the producibility or serviceability of a well in any geologic  
4408 interval; and

4409 (b) approved by the division as a recompletion.

4410 (20) "Research and development" means the process of inquiry or experimentation  
4411 aimed at the discovery of facts, devices, technologies, or applications and the process of  
4412 preparing those devices, technologies, or applications for marketing.

4413 (21) "Royalty interest owner" means the owner of an interest in oil or gas, or in the  
4414 proceeds of production from the oil or gas who does not have the obligation to share in the  
4415 expenses of developing and operating the property.

4416 (22) "Solid hydrocarbons" means:

4417 (a) coal;

4418 (b) gilsonite;

4419 (c) ozocerite;

4420 (d) elaterite;

4421 (e) oil shale;

4422 (f) tar sands; and

4423 (g) all other hydrocarbon substances that occur naturally in solid form.

4424 (23) "Stripper well" means:

4425 (a) an oil well whose average daily production for the days the well has produced has  
4426 been 20 barrels or less of crude oil a day during any consecutive 12-month period; or

4427 (b) a gas well whose average daily production for the days the well has produced has  
4428 been 60 MCF or less of natural gas a day during any consecutive 90-day period.

4429 (24) "Tar sands" means impregnated sands that yield mixtures of liquid hydrocarbon

4430 and require further processing other than mechanical blending before becoming finished  
4431 petroleum products.

4432 (25) (a) Subject to Subsections (25)(b) and (c), "transportation costs" means the  
4433 reasonable actual costs of transporting oil or gas products from the well to the point of sale.

4434 (b) If transportation costs are determined on the basis of an arm's-length contract,  
4435 transportation costs are the actual costs.

4436 (c) (i) If transportation costs are determined on a basis other than an arm's-length  
4437 contract, transportation costs are those reasonable costs associated with:

4438 (A) actual operating and maintenance expenses, including fuel used or consumed in  
4439 transporting the oil or gas;

4440 (B) overhead costs directly attributable and allocable to the operation and maintenance;  
4441 and

4442 (C) depreciation and a return on undepreciated capital investment.

4443 (ii) Subsection (25)(c)(i) includes situations where the producer performs the  
4444 transportation for the producer's product.

4445 (d) Regardless of whether transportation costs are determined on the basis of an  
4446 arm's-length contract or a basis other than an arm's-length contract, transportation costs  
4447 include:

4448 (i) carbon dioxide removal;

4449 (ii) compression;

4450 (iii) dehydration;

4451 (iv) gathering;

4452 (v) separating;

4453 (vi) treating; or

4454 (vii) a process similar to Subsections (25)(d)(i) through (vi), as determined by the  
4455 commission by rule made in accordance with Title 63G, Chapter 3, Utah Administrative  
4456 Rulemaking Act.

4457 (26) "Tribe" means the Ute Indian Tribe of the Uintah and Ouray Reservation.

4458 (27) "Well or wells" means any extractive means from which oil or gas is produced or  
4459 extracted, located within an oil or gas field, and operated by one person.

4460 (28) "Wildcat well" means an oil and gas producing well which is drilled and



4461 completed in a pool, as defined under Section 40-6-2, in which a well has not been previously  
4462 completed as a well capable of producing in commercial quantities.

4463 (29) "Working interest owner" means the owner of an interest in oil or gas burdened  
4464 with a share of the expenses of developing and operating the property.

4465 (30) (a) "Workover" means any downhole operation that is:

4466 (i) conducted to sustain, restore, or increase the producibility or serviceability of a well  
4467 in the geologic intervals in which the well is currently completed; and

4468 (ii) approved by the division as a workover.

4469 (b) "Workover" does not include operations that are conducted primarily as routine  
4470 maintenance or to replace worn or damaged equipment.

4471 Section 91. Section **59-12-103** is amended to read:

4472 **59-12-103. Sales and use tax base -- Rates -- Effective dates -- Use of sales and use**  
4473 **tax revenues.**

4474 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or  
4475 charged for the following transactions:

4476 (a) retail sales of tangible personal property made within the state;

4477 (b) amounts paid for:

4478 (i) telecommunications service, other than mobile telecommunications service, that  
4479 originates and terminates within the boundaries of this state;

4480 (ii) mobile telecommunications service that originates and terminates within the  
4481 boundaries of one state only to the extent permitted by the Mobile Telecommunications  
4482 Sourcing Act, 4 U.S.C. Sec. 116 et seq.; or

4483 (iii) an ancillary service associated with a:

4484 (A) telecommunications service described in Subsection (1)(b)(i); or

4485 (B) mobile telecommunications service described in Subsection (1)(b)(ii);

4486 (c) sales of the following for commercial use:

4487 (i) gas;

4488 (ii) electricity;

4489 (iii) heat;

4490 (iv) coal;

4491 (v) fuel oil; or

- 4492 (vi) other fuels;
- 4493 (d) sales of the following for residential use:
- 4494 (i) gas;
- 4495 (ii) electricity;
- 4496 (iii) heat;
- 4497 (iv) coal;
- 4498 (v) fuel oil; or
- 4499 (vi) other fuels;
- 4500 (e) sales of prepared food;
- 4501 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or
- 4502 user fees for theaters, movies, operas, museums, planetariums, shows of any type or nature,
- 4503 exhibitions, concerts, carnivals, amusement parks, amusement rides, circuses, menageries,
- 4504 fairs, races, contests, sporting events, dances, boxing matches, wrestling matches, closed circuit
- 4505 television broadcasts, billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf
- 4506 driving ranges, batting cages, skating rinks, ski lifts, ski runs, ski trails, snowmobile trails,
- 4507 tennis courts, swimming pools, water slides, river runs, jeep tours, boat tours, scenic cruises,
- 4508 horseback rides, sports activities, or any other amusement, entertainment, recreation,
- 4509 exhibition, cultural, or athletic activity;
- 4510 (g) amounts paid or charged for services for repairs or renovations of tangible personal
- 4511 property, unless Section 59-12-104 provides for an exemption from sales and use tax for:
- 4512 (i) the tangible personal property; and
- 4513 (ii) parts used in the repairs or renovations of the tangible personal property described
- 4514 in Subsection (1)(g)(i), whether or not any parts are actually used in the repairs or renovations
- 4515 of that tangible personal property;
- 4516 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for
- 4517 assisted cleaning or washing of tangible personal property;
- 4518 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court
- 4519 accommodations and services that are regularly rented for less than 30 consecutive days;
- 4520 (j) amounts paid or charged for laundry or dry cleaning services;
- 4521 (k) amounts paid or charged for leases or rentals of tangible personal property if within
- 4522 this state the tangible personal property is:

- 4523 (i) stored;
- 4524 (ii) used; or
- 4525 (iii) otherwise consumed;
- 4526 (l) amounts paid or charged for tangible personal property if within this state the
- 4527 tangible personal property is:
  - 4528 (i) stored;
  - 4529 (ii) used; or
  - 4530 (iii) consumed; and
  - 4531 (m) amounts paid or charged for a sale:
    - 4532 (i) (A) of a product that:
      - 4533 (I) is transferred electronically; and
      - 4534 (II) would be subject to a tax under this chapter if the product was transferred in a
      - 4535 manner other than electronically; or
      - 4536 (B) of a repair or renovation of a product that:
        - 4537 (I) is transferred electronically; and
        - 4538 (II) would be subject to a tax under this chapter if the product was transferred in a
        - 4539 manner other than electronically; and
        - 4540 (ii) regardless of whether the sale provides:
          - 4541 (A) a right of permanent use of the product; or
          - 4542 (B) a right to use the product that is less than a permanent use, including a right:
            - 4543 (I) for a definite or specified length of time; and
            - 4544 (II) that terminates upon the occurrence of a condition.
      - 4545 (2) (a) Except as provided in Subsections (2)(b) through (e), a state tax and a local tax
      - 4546 is imposed on a transaction described in Subsection (1) equal to the sum of:
        - 4547 (i) a state tax imposed on the transaction at a tax rate equal to the sum of:
          - 4548 (A) 4.70%; and
          - 4549 (B) (I) the tax rate the state imposes in accordance with Part 18, Additional State Sales
          - 4550 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211
          - 4551 through 59-12-215 is in a county in which the state imposes the tax under Part 18, Additional
          - 4552 State Sales and Use Tax Act; and
          - 4553 (II) the tax rate the state imposes in accordance with Part 20, Supplemental State Sales

4554 and Use Tax Act, if the location of the transaction as determined under Sections 59-12-211  
4555 through 59-12-215 is in a city, town, or the unincorporated area of a county in which the state  
4556 imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4557 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
4558 transaction under this chapter other than this part.

4559 (b) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
4560 on a transaction described in Subsection (1)(d) equal to the sum of:

4561 (i) a state tax imposed on the transaction at a tax rate of 2%; and

4562 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
4563 transaction under this chapter other than this part.

4564 (c) Except as provided in Subsection (2)(d) or (e), a state tax and a local tax is imposed  
4565 on amounts paid or charged for food and food ingredients equal to the sum of:

4566 (i) a state tax imposed on the amounts paid or charged for food and food ingredients at  
4567 a tax rate of 1.75%; and

4568 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
4569 amounts paid or charged for food and food ingredients under this chapter other than this part.

4570 (d) (i) For a bundled transaction that is attributable to food and food ingredients and  
4571 tangible personal property other than food and food ingredients, a state tax and a local tax is  
4572 imposed on the entire bundled transaction equal to the sum of:

4573 (A) a state tax imposed on the entire bundled transaction equal to the sum of:

4574 (I) the tax rate described in Subsection (2)(a)(i)(A); and

4575 (II) (Aa) the tax rate the state imposes in accordance with Part 18, Additional State  
4576 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
4577 59-12-211 through 59-12-215 is in a county in which the state imposes the tax under Part 18,  
4578 Additional State Sales and Use Tax Act; and

4579 (Bb) the tax rate the state imposes in accordance with Part 20, Supplemental State  
4580 Sales and Use Tax Act, if the location of the transaction as determined under Sections  
4581 59-12-211 through 59-12-215 is in a city, town, or the unincorporated area of a county in which  
4582 the state imposes the tax under Part 20, Supplemental State Sales and Use Tax Act; and

4583 (B) a local tax imposed on the entire bundled transaction at the sum of the tax rates  
4584 described in Subsection (2)(a)(ii).

4585 (ii) Subject to Subsection (2)(d)(iii), for a bundled transaction other than a bundled  
4586 transaction described in Subsection (2)(d)(i):

4587 (A) if the sales price of the bundled transaction is attributable to tangible personal  
4588 property, a product, or a service that is subject to taxation under this chapter and tangible  
4589 personal property, a product, or service that is not subject to taxation under this chapter, the  
4590 entire bundled transaction is subject to taxation under this chapter unless:

4591 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
4592 personal property, product, or service that is not subject to taxation under this chapter from the  
4593 books and records the seller keeps in the seller's regular course of business; or

4594 (II) state or federal law provides otherwise; or

4595 (B) if the sales price of a bundled transaction is attributable to two or more items of  
4596 tangible personal property, products, or services that are subject to taxation under this chapter  
4597 at different rates, the entire bundled transaction is subject to taxation under this chapter at the  
4598 higher tax rate unless:

4599 (I) the seller is able to identify by reasonable and verifiable standards the tangible  
4600 personal property, product, or service that is subject to taxation under this chapter at the lower  
4601 tax rate from the books and records the seller keeps in the seller's regular course of business; or

4602 (II) state or federal law provides otherwise.

4603 (iii) For purposes of Subsection (2)(d)(ii), books and records that a seller keeps in the  
4604 seller's regular course of business includes books and records the seller keeps in the regular  
4605 course of business for nontax purposes.

4606 (e) Subject to Subsections (2)(f) and (g), a tax rate repeal or tax rate change for a tax  
4607 rate imposed under the following shall take effect on the first day of a calendar quarter:

4608 (i) Subsection (2)(a)(i)(A);

4609 (ii) Subsection (2)(b)(i);

4610 (iii) Subsection (2)(c)(i); or

4611 (iv) Subsection (2)(d)(i)(A)(I).

4612 (f) (i) A tax rate increase shall take effect on the first day of the first billing period that  
4613 begins after the effective date of the tax rate increase if the billing period for the transaction  
4614 begins before the effective date of a tax rate increase imposed under:

4615 (A) Subsection (2)(a)(i)(A);

- 4616 (B) Subsection (2)(b)(i);
- 4617 (C) Subsection (2)(c)(i); or
- 4618 (D) Subsection (2)(d)(i)(A)(I).
- 4619 (ii) The repeal of a tax or a tax rate decrease shall take effect on the first day of the last
- 4620 billing period that began before the effective date of the repeal of the tax or the tax rate
- 4621 decrease if the billing period for the transaction begins before the effective date of the repeal of
- 4622 the tax or the tax rate decrease imposed under:
  - 4623 (A) Subsection (2)(a)(i)(A);
  - 4624 (B) Subsection (2)(b)(i);
  - 4625 (C) Subsection (2)(c)(i); or
  - 4626 (D) Subsection (2)(d)(i)(A)(I).
- 4627 (g) (i) For a tax rate described in Subsection (2)(g)(ii), if a tax due on a catalogue sale
- 4628 is computed on the basis of sales and use tax rates published in the catalogue, a tax rate repeal
- 4629 or change in a tax rate takes effect:
  - 4630 (A) on the first day of a calendar quarter; and
  - 4631 (B) beginning 60 days after the effective date of the tax rate repeal or tax rate change.
- 4632 (ii) Subsection (2)(g)(i) applies to the tax rates described in the following:
  - 4633 (A) Subsection (2)(a)(i)(A);
  - 4634 (B) Subsection (2)(b)(i);
  - 4635 (C) Subsection (2)(c)(i); or
  - 4636 (D) Subsection (2)(d)(i)(A)(I).
- 4637 (iii) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
- 4638 the commission may by rule define the term "catalogue sale."
- 4639 (3) (a) The following state taxes shall be deposited into the General Fund:
  - 4640 (i) the tax imposed by Subsection (2)(a)(i)(A);
  - 4641 (ii) the tax imposed by Subsection (2)(b)(i);
  - 4642 (iii) the tax imposed by Subsection (2)(c)(i); or
  - 4643 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).
- 4644 (b) The following local taxes shall be distributed to a county, city, or town as provided
- 4645 in this chapter:
  - 4646 (i) the tax imposed by Subsection (2)(a)(ii);

- 4647 (ii) the tax imposed by Subsection (2)(b)(ii);  
4648 (iii) the tax imposed by Subsection (2)(c)(ii); and  
4649 (iv) the tax imposed by Subsection (2)(d)(i)(B).
- 4650 (4) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4651 2003, the lesser of the following amounts shall be used as provided in Subsections (4)(b)  
4652 through (g):
- 4653 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated:  
4654 (A) by a 1/16% tax rate on the transactions described in Subsection (1); and  
4655 (B) for the fiscal year; or  
4656 (ii) \$17,500,000.
- 4657 (b) (i) For a fiscal year beginning on or after July 1, 2003, 14% of the amount  
4658 described in Subsection (4)(a) shall be transferred each year as dedicated credits to the  
4659 Department of Natural Resources and Environment to:
- 4660 (A) implement the measures described in Subsections 79-2-303(3)(a) through (d) to  
4661 protect sensitive plant and animal species; or  
4662 (B) award grants, up to the amount authorized by the Legislature in an appropriations  
4663 act, to political subdivisions of the state to implement the measures described in Subsections  
4664 79-2-303(3)(a) through (d) to protect sensitive plant and animal species.
- 4665 (ii) Money transferred to the Department of Natural Resources and Environment under  
4666 Subsection (4)(b)(i) may not be used to assist the United States Fish and Wildlife Service or  
4667 any other person to list or attempt to have listed a species as threatened or endangered under  
4668 the Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.
- 4669 (iii) At the end of each fiscal year:
- 4670 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
4671 Conservation and Development Fund created in Section 73-10-24;  
4672 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
4673 Program Subaccount created in Section 73-10c-5; and  
4674 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
4675 Program Subaccount created in Section 73-10c-5.
- 4676 (c) For a fiscal year beginning on or after July 1, 2003, 3% of the amount described in  
4677 Subsection (4)(a) shall be deposited each year in the Agriculture Resource Development Fund

4678 created in Section 4-18-6.

4679 (d) (i) For a fiscal year beginning on or after July 1, 2003, 1% of the amount described  
4680 in Subsection (4)(a) shall be transferred each year as dedicated credits to the Division of Water  
4681 ~~[Rights]~~ Resources to cover the costs incurred in hiring legal and technical staff for the  
4682 adjudication of water rights.

4683 (ii) At the end of each fiscal year:

4684 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
4685 Conservation and Development Fund created in Section 73-10-24;

4686 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
4687 Program Subaccount created in Section 73-10c-5; and

4688 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
4689 Program Subaccount created in Section 73-10c-5.

4690 (e) (i) For a fiscal year beginning on or after July 1, 2003, 41% of the amount described  
4691 in Subsection (4)(a) shall be deposited in the Water Resources Conservation and Development  
4692 Fund created in Section 73-10-24 for use by the Division of Water Resources.

4693 (ii) In addition to the uses allowed of the Water Resources Conservation and  
4694 Development Fund under Section 73-10-24, the Water Resources Conservation and  
4695 Development Fund may also be used to:

4696 (A) conduct hydrologic and geotechnical investigations by the Division of Water  
4697 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
4698 quantifying surface and ground water resources and describing the hydrologic systems of an  
4699 area in sufficient detail so as to enable local and state resource managers to plan for and  
4700 accommodate growth in water use without jeopardizing the resource;

4701 (B) fund state required dam safety improvements; and

4702 (C) protect the state's interest in interstate water compact allocations, including the  
4703 hiring of technical and legal staff.

4704 (f) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
4705 in Subsection (4)(a) shall be deposited in the Utah Wastewater Loan Program Subaccount  
4706 created in Section 73-10c-5 for use by the Water Quality Board to fund wastewater projects.

4707 (g) For a fiscal year beginning on or after July 1, 2003, 20.5% of the amount described  
4708 in Subsection (4)(a) shall be deposited in the Drinking Water Loan Program Subaccount



4709 created in Section 73-10c-5 for use by the Division of [~~Drinking Water~~] Water Resources to:

4710 (i) provide for the installation and repair of collection, treatment, storage, and  
4711 distribution facilities for any public water system, as defined in Section 19-4-102;

4712 (ii) develop underground sources of water, including springs and wells; and

4713 (iii) develop surface water sources.

4714 (5) (a) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4715 2006, the difference between the following amounts shall be expended as provided in this  
4716 Subsection (5), if that difference is greater than \$1:

4717 (i) for taxes listed under Subsection (3)(a), the amount of tax revenue generated for the  
4718 fiscal year by a 1/16% tax rate on the transactions described in Subsection (1); and

4719 (ii) \$17,500,000.

4720 (b) (i) The first \$500,000 of the difference described in Subsection (5)(a) shall be:

4721 (A) transferred each fiscal year to the Department of Natural Resources and  
4722 Environment as dedicated credits; and

4723 (B) expended by the Department of Natural Resources and Environment for watershed  
4724 rehabilitation or restoration.

4725 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
4726 in Subsection (5)(b)(i) shall lapse to the Water Resources Conservation and Development Fund  
4727 created in Section 73-10-24.

4728 (c) (i) After making the transfer required by Subsection (5)(b)(i), \$150,000 of the  
4729 remaining difference described in Subsection (5)(a) shall be:

4730 (A) transferred each fiscal year to the Division of Water Resources as dedicated  
4731 credits; and

4732 (B) expended by the Division of Water Resources for cloud-seeding projects  
4733 authorized by Title 73, Chapter 15, Modification of Weather.

4734 (ii) At the end of each fiscal year, 100% of any unexpended dedicated credits described  
4735 in Subsection (5)(c)(i) shall lapse to the Water Resources Conservation and Development Fund  
4736 created in Section 73-10-24.

4737 (d) After making the transfers required by Subsections (5)(b) and (c), 94% of the  
4738 remaining difference described in Subsection (5)(a) shall be deposited into the Water  
4739 Resources Conservation and Development Fund created in Section 73-10-24 for use by the

4740 Division of Water Resources for:

4741 (i) preconstruction costs:

4742 (A) as defined in Subsection 73-26-103(6) for projects authorized by Title 73, Chapter  
4743 26, Bear River Development Act; and

4744 (B) as defined in Subsection 73-28-103(8) for the Lake Powell Pipeline project  
4745 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act;

4746 (ii) the cost of employing a civil engineer to oversee any project authorized by Title 73,  
4747 Chapter 26, Bear River Development Act;

4748 (iii) the cost of employing a civil engineer to oversee the Lake Powell Pipeline project  
4749 authorized by Title 73, Chapter 28, Lake Powell Pipeline Development Act; and

4750 (iv) other uses authorized under Sections 73-10-24, 73-10-25.1, 73-10-30, and  
4751 Subsection (4)(e)(ii) after funding the uses specified in Subsections (5)(d)(i) through (iii).

4752 (e) Any unexpended [~~monies~~] money described in Subsection (5)(d) that remain in the  
4753 Water Resources Conservation and Development Fund at the end of the fiscal year are  
4754 nonlapsing.

4755 (f) After making the transfers required by Subsections (5)(b) and (c) and subject to  
4756 Subsection (5)(g), 6% of the remaining difference described in Subsection (5)(a) shall be  
4757 transferred each year as dedicated credits to the Division of Water [~~Rights~~] Resources to cover  
4758 the costs incurred for employing additional technical staff for the administration of water  
4759 rights.

4760 (g) At the end of each fiscal year, any unexpended dedicated credits described in  
4761 Subsection (5)(f) over \$150,000 lapse to the Water Resources Conservation and Development  
4762 Fund created in Section 73-10-24.

4763 (6) Notwithstanding Subsection (3)(a), for a fiscal year beginning on or after July 1,  
4764 2003, and for taxes listed under Subsection (3)(a), the amount of revenue generated by a 1/16%  
4765 tax rate on the transactions described in Subsection (1) for the fiscal year shall be deposited in  
4766 the Transportation Fund created by Section 72-2-102.

4767 (7) (a) Notwithstanding Subsection (3)(a) and until Subsection (7)(b) applies,  
4768 beginning on January 1, 2000, the Division of Finance shall deposit into the Centennial  
4769 Highway Fund Restricted Account created in Section 72-2-118 a portion of the taxes listed  
4770 under Subsection (3)(a) equal to the revenues generated by a 1/64% tax rate on the taxable

4771 transactions under Subsection (1).

4772 (b) Notwithstanding Subsection (3)(a), when the highway general obligation bonds  
4773 have been paid off and the highway projects completed that are intended to be paid from  
4774 revenues deposited in the Centennial Highway Fund Restricted Account as determined by the  
4775 Executive Appropriations Committee under Subsection 72-2-118(6)(d), the Division of  
4776 Finance shall deposit into the Transportation Investment Fund of 2005 created by Section  
4777 72-2-124 a portion of the taxes listed under Subsection (3)(a) equal to the revenues generated  
4778 by a 1/64% tax rate on the taxable transactions under Subsection (1).

4779 (8) (a) Notwithstanding Subsection (3)(a) and in addition to the amount deposited in  
4780 Subsection (7)(a), for the 2010-11 fiscal year only, the Division of Finance shall deposit into  
4781 the Centennial Highway Fund Restricted Account created by Section 72-2-118 a portion of the  
4782 taxes listed under Subsection (3)(a) equal to 1.93% of the revenues collected from the  
4783 following taxes, which represents a portion of the approximately 17% of sales and use tax  
4784 revenues generated annually by the sales and use tax on vehicles and vehicle-related products:

- 4785 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 4786 (ii) the tax imposed by Subsection (2)(b)(i);
- 4787 (iii) the tax imposed by Subsection (2)(c)(i); and
- 4788 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

4789 (b) Notwithstanding Subsection (3)(a), in addition to the amount deposited in  
4790 Subsection (7)(a), and until Subsection (8)(c) applies, for a fiscal year beginning on or after  
4791 July 1, 2011, the Division of Finance shall deposit into the Centennial Highway Fund  
4792 Restricted Account created by Section 72-2-118 a portion of the taxes listed under Subsection  
4793 (3)(a) equal to 8.3% of the revenues collected from the following taxes, which represents a  
4794 portion of the approximately 17% of sales and use tax revenues generated annually by the sales  
4795 and use tax on vehicles and vehicle-related products:

- 4796 (i) the tax imposed by Subsection (2)(a)(i)(A);
- 4797 (ii) the tax imposed by Subsection (2)(b)(i);
- 4798 (iii) the tax imposed by Subsection (2)(c)(i); and
- 4799 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

4800 (c) Notwithstanding Subsection (3)(a) and in addition to the amounts deposited under  
4801 Subsection (7)(b), when the highway general obligation bonds have been paid off and the

4802 highway projects completed that are intended to be paid from revenues deposited in the  
4803 Centennial Highway Fund Restricted Account as determined by the Executive Appropriations  
4804 Committee under Subsection 72-2-118(6)(d), the Division of Finance shall deposit into the  
4805 Transportation Investment Fund of 2005 created by Section 72-2-124 a portion of the taxes  
4806 listed under Subsection (3)(a) equal to 8.3% of the revenues collected from the following taxes,  
4807 which represents a portion of the approximately 17% of sales and use tax revenues generated  
4808 annually by the sales and use tax on vehicles and vehicle-related products:

4809 (i) the tax imposed by Subsection (2)(a)(i)(A);

4810 (ii) the tax imposed by Subsection (2)(b)(i);

4811 (iii) the tax imposed by Subsection (2)(c)(i); and

4812 (iv) the tax imposed by Subsection (2)(d)(i)(A)(I).

4813 (9) (a) Notwithstanding Subsection (3)(a) and for the fiscal year 2008-09 only, the  
4814 Division of Finance shall deposit \$55,000,000 of the revenues generated by the taxes listed  
4815 under Subsection (3)(a) into the Critical Highway Needs Fund created by Section 72-2-125.

4816 (b) Notwithstanding Subsection (3)(a) and until Subsection (9)(c) applies, for a fiscal  
4817 year beginning on or after July 1, 2009, the Division of Finance shall annually deposit  
4818 \$90,000,000 of the revenues generated by the taxes listed under Subsection (3)(a) into the  
4819 Critical Highway Needs Fund created by Section 72-2-125.

4820 (c) Notwithstanding Subsection (3)(a) and in addition to any amounts deposited under  
4821 Subsections (7) and (8), when the general obligation bonds authorized by Section 63B-16-101  
4822 have been paid off and the highway projects completed that are included in the prioritized  
4823 project list under Subsection 72-2-125(4) as determined in accordance with Subsection  
4824 72-2-125(6), the Division of Finance shall annually deposit \$90,000,000 of the revenues  
4825 generated by the taxes listed under Subsection (3)(a) into the Transportation Investment Fund  
4826 of 2005 created by Section 72-2-124.

4827 (10) Notwithstanding Subsection (3)(a), for each fiscal year beginning with fiscal year  
4828 2009-10, \$533,750 shall be deposited into the Qualified Emergency Food Agencies Fund  
4829 created by Section 9-4-1409 and expended as provided in Section 9-4-1409.

4830 (11) (a) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection  
4831 (11)(a)(ii), and until Subsection (11)(b) applies, beginning on January 1, 2009, the Division of  
4832 Finance shall deposit into the Critical Highway Needs Fund created by Section 72-2-125 the

4833 amount of tax revenue generated by a .025% tax rate on the transactions described in  
4834 Subsection (1).

4835 (ii) For purposes of Subsection (11)(a)(i), the Division of Finance may not deposit into  
4836 the Critical Highway Needs Fund any tax revenue generated by amounts paid or charged for  
4837 food and food ingredients, except for tax revenue generated by a bundled transaction  
4838 attributable to food and food ingredients and tangible personal property other than food and  
4839 food ingredients described in Subsection (2)(e).

4840 (b) (i) Notwithstanding Subsection (3)(a), except as provided in Subsection (11)(b)(ii),  
4841 and in addition to any amounts deposited under Subsections (7), (9), and (10), when the general  
4842 obligation bonds authorized by Section 63B-16-101 have been paid off and the highway  
4843 projects completed that are included in the prioritized project list under Subsection 72-2-125(4)  
4844 as determined in accordance with Subsection 72-2-125(6), the Division of Finance shall  
4845 deposit into the Transportation Investment Fund of 2005 created by Section 72-2-124 the  
4846 amount of tax revenue generated by a .025% tax rate on the transactions described in  
4847 Subsection (1).

4848 (ii) For purposes of Subsection (11)(b)(i), the Division of Finance may not deposit into  
4849 the Transportation Investment Fund of 2005 any tax revenue generated by amounts paid or  
4850 charged for food and food ingredients, except for tax revenue generated by a bundled  
4851 transaction attributable to food and food ingredients and tangible personal property other than  
4852 food and food ingredients described in Subsection (2)(e).

4853 (12) (a) Notwithstanding Subsection (3)(a), and except as provided in Subsection  
4854 (12)(b), beginning on January 1, 2009, the Division of Finance shall deposit into the  
4855 Transportation Fund created by Section 72-2-102 the amount of tax revenue generated by a  
4856 .025% tax rate on the transactions described in Subsection (1) to be expended to address  
4857 chokepoints in construction management.

4858 (b) For purposes of Subsection (12)(a), the Division of Finance may not deposit into  
4859 the Transportation Fund any tax revenue generated by amounts paid or charged for food and  
4860 food ingredients, except for tax revenue generated by a bundled transaction attributable to food  
4861 and food ingredients and tangible personal property other than food and food ingredients  
4862 described in Subsection (2)(e).

4863 Section 92. Section **59-23-4** is amended to read:

4864           **59-23-4. Brine shrimp royalty -- Royalty rate -- Commission to prepare billing**  
4865 **statement -- Deposit of revenue.**

4866           (1) A person shall pay for each tax year a brine shrimp royalty of 3.75 cents multiplied  
4867 by the total number of pounds of unprocessed brine shrimp eggs that the person harvests within  
4868 the state during the tax year.

4869           (2) (a) A person that harvests unprocessed brine shrimp eggs shall report to the  
4870 Department of Natural Resources and Environment the total number of pounds of unprocessed  
4871 brine shrimp eggs harvested by that person for that tax year on or before the February 15  
4872 immediately following the last day of that tax year.

4873           (b) The Department of Natural Resources and Environment shall provide the following  
4874 information to the commission on or before the March 1 immediately following the last day of  
4875 a tax year:

4876           (i) the total number of pounds of unprocessed brine shrimp eggs harvested for that tax  
4877 year; and

4878           (ii) for each person that harvested unprocessed brine shrimp eggs for that tax year:

4879           (A) the total number of pounds of unprocessed brine shrimp eggs harvested by that  
4880 person for that tax year; and

4881           (B) a current billing address for that person; and

4882           (iii) any additional information required by the commission.

4883           (c) (i) The commission shall prepare and mail a billing statement to each person that  
4884 harvested unprocessed brine shrimp eggs in a tax year by the March 30 immediately following  
4885 the last day of a tax year.

4886           (ii) The billing statement under Subsection (2)(c)(i) shall specify:

4887           (A) the total number of pounds of unprocessed brine shrimp eggs harvested by that  
4888 person for that tax year;

4889           (B) the brine shrimp royalty that the person owes; and

4890           (C) the date that the brine shrimp royalty payment is due as provided in Section

4891 59-23-5.

4892           (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
4893 commission may make rules prescribing the information required under Subsection (2)(b)(iii).

4894           (3) Revenue generated by the brine shrimp royalty shall be deposited in the Species

4895 Protection Account created in Section 79-2-303.

4896 (4) Beginning with the 2004 interim, the Revenue and Taxation Interim Committee:

4897 (a) shall review the brine shrimp royalty imposed under this section at least every five  
4898 years;

4899 (b) shall determine on or before the November interim meeting of the year in which the  
4900 Revenue and Taxation Interim Committee reviews the brine shrimp royalty imposed under this  
4901 section whether the brine shrimp royalty should be continued, modified, or repealed; and

4902 (c) may review any other issue related to the brine shrimp royalty imposed under this  
4903 part.

4904 Section 93. Section **63A-5-204** is amended to read:

4905 **63A-5-204. Specific powers and duties of director.**

4906 (1) As used in this section, "capitol hill facilities" and "capitol hill grounds" have the  
4907 same meaning as provided in Section 63C-9-102.

4908 (2) (a) The director shall:

4909 (i) recommend rules to the executive director for the use and management of facilities  
4910 and grounds owned or occupied by the state for the use of its departments and agencies;

4911 (ii) supervise and control the allocation of space, in accordance with legislative  
4912 directive through annual appropriations acts or other specific legislation, to the various  
4913 departments, commissions, institutions, and agencies in all buildings or space owned, leased, or  
4914 rented by or to the state, except capitol hill facilities and capitol hill grounds and except as  
4915 otherwise provided by law;

4916 (iii) comply with the procedures and requirements of Title 63A, Chapter 5, Part 3,  
4917 Division of Facilities Construction and Management Leasing;

4918 (iv) except as provided in Subsection (2)(b), acquire, as authorized by the Legislature  
4919 through the appropriations act or other specific legislation, and hold title to, in the name of the  
4920 division, all real property, buildings, fixtures, or appurtenances owned by the state or any of its  
4921 agencies;

4922 (v) adopt and use a common seal, of a form and design determined by the director, and  
4923 of which courts shall take judicial notice;

4924 (vi) file a description and impression of the seal with the Division of Archives;

4925 (vii) collect and maintain all deeds, abstracts of title, and all other documents

4926 evidencing title to or interest in property belonging to the state or any of its departments, except  
4927 institutions of higher education and the School and Institutional Trust Lands Administration;

4928 (viii) report all properties acquired by the state, except those acquired by institutions of  
4929 higher education, to the director of the Division of Finance for inclusion in the state's financial  
4930 records;

4931 (ix) before charging a rate, fee, or other amount for services provided by the division's  
4932 internal service fund to an executive branch agency, or to a subscriber of services other than an  
4933 executive branch agency:

4934 (A) submit the proposed rates, fees, and cost analysis to the Rate Committee  
4935 established in Section 63A-1-114; and

4936 (B) obtain the approval of the Legislature as required by Section 63J-1-410;

4937 (x) conduct a market analysis by July 1, 2005, and periodically thereafter, of proposed  
4938 rates and fees, which analysis shall include a comparison of the division's rates and fees with  
4939 the fees of other public or private sector providers where comparable services and rates are  
4940 reasonably available;

4941 (xi) implement the State Building Energy Efficiency Program under Section  
4942 63A-5-701; and

4943 (xii) take all other action necessary for carrying out the purposes of this chapter.

4944 (b) Legislative approval is not required for acquisitions by the division that cost less  
4945 than \$250,000.

4946 (3) (a) The director shall direct or delegate maintenance and operations, preventive  
4947 maintenance, and facilities inspection programs and activities for any department, commission,  
4948 institution, or agency, except:

4949 (i) the State Capitol Preservation Board; and

4950 (ii) state institutions of higher education.

4951 (b) The director may choose to delegate responsibility for these functions only when  
4952 the director determines that:

4953 (i) the department or agency has requested the responsibility;

4954 (ii) the department or agency has the necessary resources and skills to comply with  
4955 facility maintenance standards approved by the State Building Board; and

4956 (iii) the delegation would result in net cost savings to the state as a whole.



4957 (c) The State Capitol Preservation Board and state institutions of higher education are  
4958 exempt from Division of Facilities Construction and Management oversight.

4959 (d) Each state institution of higher education shall comply with the facility  
4960 maintenance standards approved by the State Building Board.

4961 (e) Except for the State Capitol Preservation Board, agencies and institutions that are  
4962 exempt from division oversight shall annually report their compliance with the facility  
4963 maintenance standards to the division in the format required by the division.

4964 (f) The division shall:

4965 (i) prescribe a standard format for reporting compliance with the facility maintenance  
4966 standards;

4967 (ii) report agency and institution compliance or noncompliance with the standards to  
4968 the Legislature; and

4969 (iii) conduct periodic audits of exempt agencies and institutions to ensure that they are  
4970 complying with the standards.

4971 (4) (a) In making any allocations of space under Subsection (2), the director shall:

4972 (i) conduct studies to determine the actual needs of each department, commission,  
4973 institution, or agency; and

4974 (ii) comply with the restrictions contained in this Subsection (4).

4975 (b) The supervision and control of the legislative area is reserved to the Legislature.

4976 (c) The supervision and control of the judicial area is reserved to the judiciary for trial  
4977 courts only.

4978 (d) The director may not supervise or control the allocation of space for entities in the  
4979 public and higher education systems.

4980 (e) The supervision and control of capitol hill facilities and capitol hill grounds is  
4981 reserved to the State Capitol Preservation Board.

4982 (5) The director may:

4983 (a) hire or otherwise procure assistance and services, professional, skilled, or  
4984 otherwise, that are necessary to carry out the director's responsibilities, and may expend funds  
4985 provided for that purpose either through annual operating budget appropriations or from  
4986 nonlapsing project funds;

4987 (b) sue and be sued in the name of the division; and

4988 (c) hold, buy, lease, and acquire by exchange or otherwise, as authorized by the  
4989 Legislature, whatever real or personal property that is necessary for the discharge of the  
4990 director's duties.

4991 (6) Notwithstanding the provisions of Subsection (2)(a)(iv), the following entities may  
4992 hold title to any real property, buildings, fixtures, and appurtenances held by them for purposes  
4993 other than administration that are under their control and management:

4994 (a) the Office of Trust Administrator;

4995 (b) the Department of Transportation;

4996 (c) the Division of Forestry, Fire, and State Lands;

4997 (d) the Department of Natural Resources and Environment;

4998 (e) the Utah National Guard;

4999 (f) any area vocational center or other institution administered by the State Board of  
5000 Education;

5001 (g) any institution of higher education; and

5002 (h) the Utah Science Technology and Research Governing Authority.

5003 (7) The director shall ensure that any firm performing testing and inspection work  
5004 governed by the American Society for Testing Materials Standard E-329 on public buildings  
5005 under the director's supervision shall:

5006 (a) fully comply with the American Society for Testing Materials standard  
5007 specifications for agencies engaged in the testing and inspection of materials known as ASTM  
5008 E-329; and

5009 (b) carry a minimum of \$1,000,000 of errors and omissions insurance.

5010 (8) Notwithstanding Subsections (2)(a)(iii) and (iv), the School and Institutional Trust  
5011 Lands Administration may hold title to any real property, buildings, fixtures, and appurtenances  
5012 held by it that are under its control.

5013 Section 94. Section **63A-5-205** is amended to read:

5014 **63A-5-205. Contracting powers of director -- Retainage -- Health insurance**  
5015 **coverage.**

5016 (1) As used in this section:

5017 (a) "Capital developments" has the same meaning as provided in Section 63A-5-104.

5018 (b) "Capital improvements" has the same meaning as provided in Section 63A-5-104.

5019 (c) "Employee" means an "employee," "worker," or "operative" as defined in Section  
5020 34A-2-104 who:

5021 (i) works at least 30 hours per calendar week; and

5022 (ii) meets employer eligibility waiting requirements for health care insurance which  
5023 may not exceed the first day of the calendar month following 90 days from the date of hire.

5024 (d) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

5025 (e) "Qualified health insurance coverage" means at the time the contract is entered into  
5026 or renewed:

5027 (i) a health benefit plan and employer contribution level with a combined actuarial  
5028 value at least actuarially equivalent to the combined actuarial value of the benchmark plan  
5029 determined by the Children's Health Insurance Program under Subsection 26-40-106(2)(a), and  
5030 a contribution level of 50% of the premium for the employee and the dependents of the  
5031 employee who reside or work in the state, in which:

5032 (A) the employer pays at least 50% of the premium for the employee and the  
5033 dependents of the employee who reside or work in the state; and

5034 (B) for purposes of calculating actuarial equivalency under this Subsection (1)(e)(i):

5035 (I) rather than the benchmark plan's deductible, and the benchmark plan's out-of-pocket  
5036 maximum based on income levels:

5037 (Aa) the deductible is \$750 per individual and \$2,250 per family; and

5038 (Bb) the out-of-pocket maximum is \$3,000 per individual and \$9,000 per family;

5039 (II) dental coverage is not required; and

5040 (III) other than Subsection 26-40-106(2)(a), the provisions of Section 26-40-106 do not  
5041 apply; or

5042 (ii) (A) is a federally qualified high deductible health plan that, at a minimum, has a  
5043 deductible that is either:

5044 (I) the lowest deductible permitted for a federally qualified high deductible health plan;  
5045 or

5046 (II) a deductible that is higher than the lowest deductible permitted for a federally  
5047 qualified high deductible health plan, but includes an employer contribution to a health savings  
5048 account in a dollar amount at least equal to the dollar amount difference between the lowest  
5049 deductible permitted for a federally qualified high deductible plan and the deductible for the

5050 employer offered federally qualified high deductible plan;

5051 (B) an out-of-pocket maximum that does not exceed three times the amount of the  
5052 annual deductible; and

5053 (C) under which the employer pays 75% of the premium for the employee and the  
5054 dependents of the employee who work or reside in the state.

5055 (f) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

5056 (2) In accordance with Title 63G, Chapter 6, Utah Procurement Code, the director may:

5057 (a) subject to Subsection (3), enter into contracts for any work or professional services  
5058 which the division or the State Building Board may do or have done; and

5059 (b) as a condition of any contract for architectural or engineering services, prohibit the  
5060 architect or engineer from retaining a sales or agent engineer for the necessary design work.

5061 (3) (a) Except as provided in Subsection (3)(b), this Subsection (3) applies to all design  
5062 or construction contracts entered into by the division or the State Building Board on or after  
5063 July 1, 2009, and:

5064 (i) applies to a prime contractor if the prime contract is in the amount of \$1,500,000 or  
5065 greater; and

5066 (ii) applies to a subcontractor if the subcontract is in the amount of \$750,000 or greater.

5067 (b) This Subsection (3) does not apply:

5068 (i) if the application of this Subsection (3) jeopardizes the receipt of federal funds;

5069 (ii) if the contract is a sole source contract;

5070 (iii) if the contract is an emergency procurement; or

5071 (iv) to a change order as defined in Section 63G-6-102, or a modification to a contract,  
5072 when the contract does not meet the threshold required by Subsection (3)(a).

5073 (c) A person who intentionally uses change orders or contract modifications to  
5074 circumvent the requirements of Subsection (3)(a) is guilty of an infraction.

5075 (d) (i) A contractor subject to Subsection (3)(a) shall demonstrate to the director that  
5076 the contractor has and will maintain an offer of qualified health insurance coverage for the  
5077 contractor's employees and the employees' dependents.

5078 (ii) If a subcontractor of the contractor is subject to Subsection (3)(a), the contractor  
5079 shall demonstrate to the director that the subcontractor has and will maintain an offer of  
5080 qualified health insurance coverage for the subcontractor's employees and the employees'

5081 dependents.

5082 (e) (i) (A) A contractor who fails to meet the requirements of Subsection (3)(d)(i)  
5083 during the duration of the contract is subject to penalties in accordance with administrative  
5084 rules adopted by the division under Subsection (3)(f).

5085 (B) A contractor is not subject to penalties for the failure of a subcontractor to meet the  
5086 requirements of Subsection (3)(d)(ii).

5087 (ii) (A) A subcontractor who fails to meet the requirements of Subsection (3)(d)(ii)  
5088 during the duration of the contract is subject to penalties in accordance with administrative  
5089 rules adopted by the division under Subsection (3)(f).

5090 (B) A subcontractor is not subject to penalties for the failure of a contractor to meet the  
5091 requirements of Subsection (3)(d)(i).

5092 (f) The division shall adopt administrative rules:

5093 (i) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

5094 (ii) in coordination with:

5095 (A) the Department of Environmental Quality in accordance with Section 19-1-206;

5096 (B) the Department of Natural Resources and Environment in accordance with Section  
5097 79-2-404;

5098 (C) a public transit district in accordance with Section 17B-2a-818.5;

5099 (D) the State Capitol Preservation Board in accordance with Section 63C-9-403;

5100 (E) the Department of Transportation in accordance with Section 72-6-107.5; and

5101 (F) the Legislature's Administrative Rules Review Committee; and

5102 (iii) which establish:

5103 (A) the requirements and procedures a contractor must follow to demonstrate to the  
5104 director compliance with this Subsection (3) which shall include:

5105 (I) that a contractor will not have to demonstrate compliance with Subsection (3)(d)(i)  
5106 or (ii) more than twice in any 12-month period; and

5107 (II) that the actuarially equivalent determination required in Subsection (1) is met by  
5108 the contractor if the contractor provides the department or division with a written statement of  
5109 actuarial equivalency from either:

5110 (Aa) the Utah Insurance Department;

5111 (Bb) an actuary selected by the contractor or the contractor's insurer; or

5112 (Cc) an underwriter who is responsible for developing the employer group's premium  
5113 rates;

5114 (B) the penalties that may be imposed if a contractor or subcontractor intentionally  
5115 violates the provisions of this Subsection (3), which may include:

5116 (I) a three-month suspension of the contractor or subcontractor from entering into  
5117 future contracts with the state upon the first violation;

5118 (II) a six-month suspension of the contractor or subcontractor from entering into future  
5119 contracts with the state upon the second violation;

5120 (III) an action for debarment of the contractor or subcontractor in accordance with  
5121 Section 63G-6-804 upon the third or subsequent violation; and

5122 (IV) monetary penalties which may not exceed 50% of the amount necessary to  
5123 purchase qualified health insurance coverage for an employee and the dependents of an  
5124 employee of the contractor or subcontractor who was not offered qualified health insurance  
5125 coverage during the duration of the contract; and

5126 (C) a website on which the department shall post the benchmark for the qualified  
5127 health insurance coverage identified in Subsection (1)(e)(i).

5128 (g) (i) In addition to the penalties imposed under Subsection (3)(f)(iii), a contractor or  
5129 subcontractor who intentionally violates the provisions of this section shall be liable to the  
5130 employee for health care costs that would have been covered by qualified health insurance  
5131 coverage.

5132 (ii) An employer has an affirmative defense to a cause of action under Subsection  
5133 (3)(g)(i) if:

5134 (A) the employer relied in good faith on a written statement of actuarial equivalency  
5135 provided by:

5136 (I) an actuary; or

5137 (II) an underwriter who is responsible for developing the employer group's premium  
5138 rates; or

5139 (B) the department determines that compliance with this section is not required under  
5140 the provisions of Subsection (3)(b).

5141 (iii) An employee has a private right of action only against the employee's employer to  
5142 enforce the provisions of this Subsection (3)(g).

5143 (h) Any penalties imposed and collected under this section shall be deposited into the  
5144 Medicaid Restricted Account created by Section 26-18-402.

5145 (i) The failure of a contractor or subcontractor to provide qualified health insurance  
5146 coverage as required by this section:

5147 (i) may not be the basis for a protest or other action from a prospective bidder, offeror,  
5148 or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8,  
5149 Legal and Contractual Remedies; and

5150 (ii) may not be used by the procurement entity or a prospective bidder, offeror, or  
5151 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
5152 or construction.

5153 (4) The judgment of the director as to the responsibility and qualifications of a bidder  
5154 is conclusive, except in case of fraud or bad faith.

5155 (5) The division shall make all payments to the contractor for completed work in  
5156 accordance with the contract and pay the interest specified in the contract on any payments that  
5157 are late.

5158 (6) If any payment on a contract with a private contractor to do work for the division or  
5159 the State Building Board is retained or withheld, it shall be retained or withheld and released as  
5160 provided in Section 13-8-5.

5161 Section 95. Section **63A-5-222** is amended to read:

5162 **63A-5-222. Critical land near state prison -- Definitions -- Preservation as open**  
5163 **land -- Management and use of land -- Restrictions on transfer -- Wetlands development**  
5164 **-- Conservation easement.**

5165 (1) For purposes of this section:

5166 (a) "Corrections" means the Department of Corrections created under Section 64-13-2.

5167 (b) "Critical land" means:

5168 (i) a parcel of approximately 250 acres of land owned by the division and located on  
5169 the east edge of the Jordan River between about 12300 South and 14600 South in Salt Lake  
5170 County, approximately the southern half of whose eastern boundary abuts the Denver and Rio  
5171 Grande Western Railroad right-of-way; and

5172 (ii) any parcel acquired in a transaction authorized under Subsection (3)(c) as a  
5173 replacement for a portion of the parcel described in Subsection (1)(b)(i) that is conveyed as part

5174 of the transaction.

5175 (c) (i) "Open land" means land that is:

5176 (A) preserved in or restored to a predominantly natural, open, and undeveloped  
5177 condition; and

5178 (B) used for:

5179 (I) wildlife habitat;

5180 (II) cultural or recreational use;

5181 (III) watershed protection; or

5182 (IV) another use consistent with the preservation of the land in or restoration of the  
5183 land to a predominantly natural, open, and undeveloped condition.

5184 (ii) (A) "Open land" does not include land whose predominant use is as a developed  
5185 facility for active recreational activities, including baseball, tennis, soccer, golf, or other  
5186 sporting or similar activity.

5187 (B) The condition of land does not change from a natural, open, and undeveloped  
5188 condition because of the development or presence on the land of facilities, including trails,  
5189 waterways, and grassy areas, that:

5190 (I) enhance the natural, scenic, or aesthetic qualities of the land; or

5191 (II) facilitate the public's access to or use of the land for the enjoyment of its natural,  
5192 scenic, or aesthetic qualities and for compatible recreational activities.

5193 (2) (a) (i) The critical land shall be preserved in perpetuity as open land.

5194 (ii) The long-term ownership and management of the critical land should eventually be  
5195 turned over to the Department of Natural Resources and Environment created under Section  
5196 79-2-201 or another agency or entity that is able to accomplish the purposes and intent of this  
5197 section.

5198 (b) Notwithstanding Subsection (2)(a)(i) and as funding is available, certain actions  
5199 should be taken on or with respect to the critical land, including:

5200 (i) the development and implementation of a program to eliminate noxious vegetation  
5201 and restore and facilitate the return of natural vegetation on the critical land;

5202 (ii) the development of a system of trails through the critical land that is compatible  
5203 with the preservation of the critical land as open land;

5204 (iii) the development and implementation of a program to restore the natural features of



5205 and improve the flows of the Jordan River as it crosses the critical land;

5206 (iv) the preservation of the archeological site discovered on the critical land and the  
5207 development of an interpretive site in connection with the archeological discovery;

5208 (v) in restoring features on the critical land, the adoption of methods and plans that will  
5209 enhance the critical land's function as a wildlife habitat;

5210 (vi) taking measures to reduce safety risks on the critical land; and

5211 (vii) the elimination or rehabilitation of a prison dump site on the critical land.

5212 (3) (a) Except as provided in Subsections (3)(b) and (c), no interest in the critical land  
5213 may be sold, assigned, leased, or otherwise transferred unless measures are taken to ensure that  
5214 the critical land that is transferred will be preserved as open land in perpetuity.

5215 (b) Notwithstanding Subsection (3)(a), exchanges of property may be undertaken to  
5216 resolve boundary disputes with adjacent property owners and easements may be granted for  
5217 trails and other purposes consistent with Subsection (2)(b) and with the preservation of the  
5218 critical land as open land.

5219 (c) The Department of Natural Resources and Environment may transfer title to a  
5220 portion of the critical land described in Subsection (1)(b)(i) in exchange for a parcel of land if:

5221 (i) the parcel being acquired is:

5222 (A) open land; and

5223 (B) located within one mile of the portion of critical land being transferred; and

5224 (ii) the purpose of the exchange is to facilitate the development of a commuter rail  
5225 transit station and associated transit oriented development.

5226 (4) The division shall use the funds remaining from the appropriation under Laws of  
5227 Utah 1998, Chapter 399, for the purposes of:

5228 (a) determining the boundaries and legal description of the critical land;

5229 (b) determining the boundaries and legal description of the adjacent property owned by  
5230 the division;

5231 (c) fencing the critical land and adjacent land owned by the division where appropriate  
5232 and needed; and

5233 (d) assisting to carry out the intent of this section.

5234 (5) (a) Notwithstanding Subsection (2)(a)(i), the division or its successor in title to the  
5235 critical land may develop or allow a public agency or private entity to develop more wetlands

5236 on the critical land than exist naturally or existed previously.

5237 (b) (i) Subject to Subsections (3)(a) and (5)(b)(ii), the division or its successor in title  
5238 may transfer jurisdiction of all or a portion of the critical land to a public agency or private  
5239 entity to provide for the development and management of wetlands and designated wetland  
5240 buffer areas.

5241 (ii) Before transferring jurisdiction of any part of the critical land under Subsection  
5242 (5)(b)(i), the division or its successor in title shall assure that reasonable efforts are made to  
5243 obtain approval from the appropriate federal agency to allow mitigation credits in connection  
5244 with the critical land to be used for impacts occurring anywhere along the Wasatch Front.

5245 (6) Notwithstanding any other provision of this section, corrections shall have access to  
5246 the cooling pond located on the critical land as long as that access to and use of the cooling  
5247 pond are not inconsistent with the preservation of the critical land as open land.

5248 (7) The Department of Corrections, the division, and all other state departments,  
5249 divisions, or agencies shall cooperate together to carry out the intent of this section.

5250 (8) In order to ensure that the land referred to in this section is preserved as open land,  
5251 the division shall, as soon as practicable, place the land under a perpetual conservation  
5252 easement in favor of an independent party such as a reputable land conservation organization or  
5253 a state or local government agency with experience in conservation easements.

5254 Section 96. Section **63A-9-301** is amended to read:

5255 **63A-9-301. Motor Vehicle Review Committee -- Composition.**

5256 (1) There is created a Motor Vehicle Review Committee to advise the division.

5257 (2) The committee shall be composed of nine members as follows:

5258 (a) the executive director of the Department of Administrative Services or the director's  
5259 designee;

5260 (b) a member from a state agency other than higher education, the Department of  
5261 Transportation, the Department of Public Safety, or the Department of Natural Resources and  
5262 Environment, who uses the division's services;

5263 (c) the director of the Division of Purchasing and General Services or the director's  
5264 designee;

5265 (d) one member from:

5266 (i) higher education, designated annually by the executive director of the Department

5267 of Administrative Services;

5268 (ii) the Department of Transportation, designated annually by the executive director of  
5269 the Department of Administrative Services;

5270 (iii) the Department of Public Safety, designated annually by the executive director of  
5271 the Department of Administrative Services; and

5272 (iv) the Department of Natural Resources and Environment, designated annually by the  
5273 executive director of the Department of Administrative Services; and

5274 (e) two public members with experience in fleet operations and maintenance appointed  
5275 by the governor.

5276 (3) (a) Except as required by Subsection (3)(b), the governor shall appoint each public  
5277 member to a four-year term.

5278 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the  
5279 time of appointment, adjust the length of terms to ensure that the terms of public members are  
5280 staggered so that one of the public members is appointed every two years.

5281 (c) When a vacancy occurs in the membership for any reason, the replacement shall be  
5282 appointed for the unexpired term.

5283 (4) A member may not receive compensation or benefits for the member's service, but  
5284 may receive per diem and travel expenses in accordance with:

5285 (a) Section 63A-3-106;

5286 (b) Section 63A-3-107; and

5287 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
5288 63A-3-107.

5289 (5) Five members of the committee are a quorum.

5290 (6) The executive director of the Department of Administrative Services is chair of the  
5291 committee.

5292 Section 97. Section **63B-3-301** is amended to read:

5293 **63B-3-301. Legislative intent -- Additional projects.**

5294 (1) It is the intent of the Legislature that, for any lease purchase agreement that the  
5295 Legislature may authorize the Division of Facilities Construction and Management to enter into  
5296 during its 1994 Annual General Session, the State Building Ownership Authority, at the  
5297 reasonable rates and amounts it may determine, and with technical assistance from the state

5298 treasurer, the director of the Division of Finance, and the director of the Governor's Office of  
5299 Planning and Budget, may seek out the most cost effective and prudent lease purchase plans  
5300 available to the state and may, pursuant to Title 63B, Chapter 1, Part 3, State Building  
5301 Ownership Authority Act, certificate out interests in, or obligations of the authority pertaining  
5302 to:

- 5303 (a) the lease purchase obligation; or
- 5304 (b) lease rental payments under the lease purchase obligation.

5305 (2) It is the intent of the Legislature that the Department of Transportation dispose of  
5306 surplus real properties and use the proceeds from those properties to acquire or construct  
5307 through the Division of Facilities Construction and Management a new District Two Complex.

5308 (3) It is the intent of the Legislature that the State Building Board allocate funds from  
5309 the Capital Improvement appropriation and donations to cover costs associated with the  
5310 upgrade of the Governor's Residence that go beyond the restoration costs which can be covered  
5311 by insurance proceeds.

5312 (4) (a) It is the intent of the Legislature to authorize the State Building Ownership  
5313 Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority  
5314 Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in  
5315 which participation interests may be created, to provide up to \$10,600,000 for the construction  
5316 of a Natural Resources Building in Salt Lake City, together with additional amounts necessary  
5317 to:

- 5318 (i) pay costs of issuance;
- 5319 (ii) pay capitalized interest; and
- 5320 (iii) fund any debt service reserve requirements.

5321 (b) It is the intent of the Legislature that the authority seek out the most cost effective  
5322 and prudent lease purchase plan available with technical assistance from the state treasurer, the  
5323 director of the Division of Finance, and the director of the Governor's Office of Planning and  
5324 Budget.

5325 (c) It is the intent of the Legislature that the operating budget for the Department of  
5326 Natural Resources and Environment not be increased to fund these lease payments.

5327 (5) (a) It is the intent of the Legislature to authorize the State Building Ownership  
5328 Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority

5329 Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in  
5330 which participation interests may be created, to provide up to \$8,300,000 for the acquisition of  
5331 the office buildings currently occupied by the Department of Environmental Quality and  
5332 approximately 19 acres of additional vacant land at the Airport East Business Park in Salt Lake  
5333 City, together with additional amounts necessary to:

- 5334 (i) pay costs of issuance;
- 5335 (ii) pay capitalized interest; and
- 5336 (iii) fund any debt service reserve requirements.

5337 (b) It is the intent of the Legislature that the authority seek out the most cost effective  
5338 and prudent lease purchase plan available with technical assistance from the state treasurer, the  
5339 director of the Division of Finance, and the director of the Governor's Office of Planning and  
5340 Budget.

5341 (6) (a) It is the intent of the Legislature to authorize the State Building Ownership  
5342 Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority  
5343 Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in  
5344 which participation interests may be created, to provide up to \$9,000,000 for the acquisition or  
5345 construction of up to two field offices for the Department of Human Services in the  
5346 southwestern portion of Salt Lake County, together with additional amounts necessary to:

- 5347 (i) pay costs of issuance;
- 5348 (ii) pay capitalized interest; and
- 5349 (iii) fund any debt service reserve requirements.

5350 (b) It is the intent of the Legislature that the authority seek out the most cost effective  
5351 and prudent lease purchase plan available with technical assistance from the state treasurer, the  
5352 director of the Division of Finance, and the director of the Governor's Office of Planning and  
5353 Budget.

5354 (7) (a) It is the intent of the Legislature to authorize the State Building Ownership  
5355 Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority  
5356 Act, to issue or execute obligations or enter into or arrange for lease purchase agreements in  
5357 which participation interests may be created, to provide up to \$5,000,000 for the acquisition or  
5358 construction of up to 13 stores for the Department of Alcoholic Beverage Control, together  
5359 with additional amounts necessary to:

- 5360 (i) pay costs of issuance;
- 5361 (ii) pay capitalized interest; and
- 5362 (iii) fund any debt service reserve requirements.

5363 (b) It is the intent of the Legislature that the authority seek out the most cost effective  
5364 and prudent lease purchase plan available with technical assistance from the state treasurer, the  
5365 director of the Division of Finance, and the director of the Governor's Office of Planning and  
5366 Budget.

5367 (c) It is the intent of the Legislature that the operating budget for the Department of  
5368 Alcoholic Beverage Control not be increased to fund these lease payments.

5369 (8) (a) It is the intent of the Legislature to authorize the State Building Ownership  
5370 Authority under authority of Title 63B, Chapter 1, Part 3, State Building Ownership Authority  
5371 Act, to issue or execute obligations or enter into or arrange for a lease purchase agreement in  
5372 which participation interests may be created, to provide up to \$6,800,000 for the construction  
5373 of a Prerelease and Parole Center for the Department of Corrections, containing a minimum of  
5374 300 beds, together with additional amounts necessary to:

- 5375 (i) pay costs of issuance;
- 5376 (ii) pay capitalized interest; and
- 5377 (iii) fund any debt service reserve requirements.

5378 (b) It is the intent of the Legislature that the authority seek out the most cost effective  
5379 and prudent lease purchase plan available with technical assistance from the state treasurer, the  
5380 director of the Division of Finance, and the director of the Governor's Office of Planning and  
5381 Budget.

5382 (9) If S.B. 275, 1994 General Session, which authorizes funding for a Courts Complex  
5383 in Salt Lake City, becomes law, it is the intent of the Legislature that:

5384 (a) the Legislative Management Committee, the Interim Appropriation Subcommittees  
5385 for General Government and Capital Facilities and Executive Offices, Courts, and Corrections,  
5386 the Office of the Legislative Fiscal Analyst, the Governor's Office of Planning and Budget, and  
5387 the State Building Board participate in a review of the proposed facility design for the Courts  
5388 Complex no later than December 1994; and

5389 (b) although this review will not affect the funding authorization issued by the 1994  
5390 Legislature, it is expected that Division of Facilities Construction and Management will give

5391 proper attention to concerns raised in these reviews and make appropriate design changes  
5392 pursuant to the review.

5393 (10) It is the intent of the Legislature that:

5394 (a) the Division of Facilities Construction and Management, in cooperation with the  
5395 Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services,  
5396 develop a flexible use prototype facility for the Division of Youth Corrections renamed in 2003  
5397 to the Division of Juvenile Justice Services;

5398 (b) the development process use existing prototype proposals unless it can be  
5399 quantifiably demonstrated that the proposals cannot be used;

5400 (c) the facility is designed so that with minor modifications, it can accommodate  
5401 detention, observation and assessment, transition, and secure programs as needed at specific  
5402 geographical locations;

5403 (d) (i) funding as provided in the fiscal year 1995 bond authorization for the Division  
5404 of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services is used to  
5405 design and construct one facility and design the other;

5406 (ii) the Division of Youth Corrections renamed in 2003 to the Division of Juvenile  
5407 Justice Services shall:

5408 (A) determine the location for the facility for which design and construction are fully  
5409 funded; and

5410 (B) in conjunction with the Division of Facilities Construction and Management,  
5411 determine the best methodology for design and construction of the fully funded facility;

5412 (e) the Division of Facilities Construction and Management submit the prototype as  
5413 soon as possible to the Capital Facilities and Administrative Services Appropriation  
5414 Subcommittee and Executive Offices, Criminal Justice, and Legislature Appropriation  
5415 Subcommittee for review;

5416 (f) the Division of Facilities Construction and Management issue a Request for  
5417 Proposal for one of the facilities, with that facility designed and constructed entirely by the  
5418 winning firm;

5419 (g) the other facility be designed and constructed under the existing Division of  
5420 Facilities Construction and Management process;

5421 (h) that both facilities follow the program needs and specifications as identified by

5422 Division of Facilities Construction and Management and the Division of Youth Corrections  
5423 renamed in 2003 to the Division of Juvenile Justice Services in the prototype; and

5424 (i) the fully funded facility should be ready for occupancy by September 1, 1995.

5425 (11) It is the intent of the Legislature that the fiscal year 1995 funding for the State Fair  
5426 Park Master Study be used by the Division of Facilities Construction and Management to  
5427 develop a master plan for the State Fair Park that:

5428 (a) identifies capital facilities needs, capital improvement needs, building  
5429 configuration, and other long term needs and uses of the State Fair Park and its buildings; and

5430 (b) establishes priorities for development, estimated costs, and projected timetables.

5431 (12) It is the intent of the Legislature that:

5432 (a) the Division of Facilities Construction and Management, in cooperation with the  
5433 Division of Parks and Recreation and surrounding counties, develop a master plan and general  
5434 program for the phased development of Antelope Island;

5435 (b) the master plan:

5436 (i) establish priorities for development;

5437 (ii) include estimated costs and projected time tables; and

5438 (iii) include recommendations for funding methods and the allocation of  
5439 responsibilities between the parties; and

5440 (c) the results of the effort be reported to the Natural Resources Appropriations  
5441 Subcommittee and Capital Facilities and Administrative Services Appropriation  
5442 Subcommittee.

5443 (13) It is the intent of the Legislature to authorize the University of Utah to use:

5444 (a) bond reserves to plan, design, and construct the Kingsbury Hall renovation under  
5445 the supervision of the director of the Division of Facilities Construction and Management  
5446 unless supervisory authority is delegated by the director; and

5447 (b) donated and other nonappropriated funds to plan, design, and construct the Biology  
5448 Research Building under the supervision of the director of the Division of Facilities  
5449 Construction and Management unless supervisory authority is delegated by the director.

5450 (14) It is the intent of the Legislature to authorize Utah State University to use:

5451 (a) federal and other funds to plan, design, and construct the Bee Lab under the  
5452 supervision of the director of the Division of Facilities Construction and Management unless



5453 supervisory authority is delegated by the director;

5454 (b) donated and other nonappropriated funds to plan, design, and construct an Athletic  
5455 Facility addition and renovation under the supervision of the director of the Division of  
5456 Facilities Construction and Management unless supervisory authority is delegated by the  
5457 director;

5458 (c) donated and other nonappropriated funds to plan, design, and construct a renovation  
5459 to the Nutrition and Food Science Building under the supervision of the director of the  
5460 Division of Facilities Construction and Management unless supervisory authority is delegated  
5461 by the director; and

5462 (d) federal and private funds to plan, design, and construct the Millville Research  
5463 Facility under the supervision of the director of the Division of Facilities Construction and  
5464 Management unless supervisory authority is delegated by the director.

5465 (15) It is the intent of the Legislature to authorize Salt Lake Community College to use:

5466 (a) institutional funds to plan, design, and construct a remodel to the Auto Trades  
5467 Office and Learning Center under the supervision of the director of the Division of Facilities  
5468 Construction and Management unless supervisory authority is delegated by the director;

5469 (b) institutional funds to plan, design, and construct the relocation and expansion of a  
5470 temporary maintenance compound under the supervision of the director of the Division of  
5471 Facilities Construction and Management unless supervisory authority is delegated by the  
5472 director; and

5473 (c) institutional funds to plan, design, and construct the Alder Amphitheater under the  
5474 supervision of the director of the Division of Facilities Construction and Management unless  
5475 supervisory authority is delegated by the director.

5476 (16) It is the intent of the Legislature to authorize Southern Utah University to use:

5477 (a) federal funds to plan, design, and construct a Community Services Building under  
5478 the supervision of the director of the Division of Facilities Construction and Management  
5479 unless supervisory authority is delegated by the director; and

5480 (b) donated and other nonappropriated funds to plan, design, and construct a stadium  
5481 expansion under the supervision of the director of the Division of Facilities Construction and  
5482 Management unless supervisory authority is delegated by the director.

5483 (17) It is the intent of the Legislature to authorize the Department of Corrections to use

5484 donated funds to plan, design, and construct a Prison Chapel at the Central Utah Correctional  
5485 Facility in Gunnison under the supervision of the director of the Division of Facilities  
5486 Construction and Management unless supervisory authority is delegated by the director.

5487 (18) If the Utah National Guard does not relocate in the Signetics Building, it is the  
5488 intent of the Legislature to authorize the Guard to use federal funds and funds from Provo City  
5489 to plan and design an Armory in Provo, Utah, under the supervision of the director of the  
5490 Division of Facilities Construction and Management unless supervisory authority is delegated  
5491 by the director.

5492 (19) It is the intent of the Legislature that the Utah Department of Transportation use  
5493 \$250,000 of the fiscal year 1995 highway appropriation to fund an environmental study in  
5494 Ogden, Utah of the 2600 North Corridor between Washington Boulevard and I-15.

5495 (20) It is the intent of the Legislature that the Ogden-Weber Applied Technology  
5496 Center use the money appropriated for fiscal year 1995 to design the Metal Trades Building  
5497 and purchase equipment for use in that building that could be used in metal trades or other  
5498 programs in other Applied Technology Centers.

5499 (21) It is the intent of the Legislature that the Bridgerland Applied Technology Center  
5500 and the Ogden-Weber Applied Technology Center projects as designed in fiscal year 1995 be  
5501 considered as the highest priority projects for construction funding in fiscal year 1996.

5502 (22) It is the intent of the Legislature that:

5503 (a) the Division of Facilities Construction and Management complete physical space  
5504 utilization standards by June 30, 1995, for the use of technology education activities;

5505 (b) these standards are to be developed with and approved by the State Office of  
5506 Education, the Board of Regents, and the Utah State Building Board;

5507 (c) these physical standards be used as the basis for:

5508 (i) determining utilization of any technology space based on number of stations capable  
5509 and occupied for any given hour of operation; and

5510 (ii) requests for any new space or remodeling;

5511 (d) the fiscal year 1995 projects at the Bridgerland Applied Technology Center and the  
5512 Ogden-Weber Applied Technology Center are exempt from this process; and

5513 (e) the design of the Davis Applied Technology Center take into account the utilization  
5514 formulas established by the Division of Facilities Construction and Management.

5515 (23) It is the intent of the Legislature that Utah Valley State College may use the  
5516 money from the bond allocated to the remodel of the Signetics building to relocate its technical  
5517 education programs at other designated sites or facilities under the supervision of the director  
5518 of the Division of Facilities Construction and Management unless supervisory authority is  
5519 delegated by the director.

5520 (24) It is the intent of the Legislature that the money provided for the fiscal year 1995  
5521 project for the Bridgerland Applied Technology Center be used to design and construct the  
5522 space associated with Utah State University and design the technology center portion of the  
5523 project.

5524 (25) It is the intent of the Legislature that the governor provide periodic reports on the  
5525 expenditure of the funds provided for electronic technology, equipment, and hardware to the  
5526 Information Technology Commission, the Capital Facilities and Administrative Services  
5527 Appropriation Subcommittee, and the Legislative Management Committee.

5528 Section 98. Section **63B-4-102** is amended to read:

5529 **63B-4-102. Maximum amount -- Projects authorized.**

5530 (1) The total amount of bonds issued under this part may not exceed \$45,300,000.

5531 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide  
5532 funds to pay all or part of the cost of acquiring and constructing the projects listed in this  
5533 Subsection (2).

5534 (b) These costs may include the cost of acquiring land, interests in land, easements and  
5535 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities  
5536 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or  
5537 convenient to the facilities, interest estimated to accrue on these bonds during the period to be  
5538 covered by construction of the projects plus a period of six months after the end of the  
5539 construction period, and all related engineering, architectural, and legal fees.

5540 (c) For the division, proceeds shall be provided for the following:

5541	CAPITAL IMPROVEMENTS	
5542	Alterations, Repairs, and Improvements	\$7,200,000
5543	TOTAL IMPROVEMENTS	\$7,200,000

5544 CAPITAL AND ECONOMIC DEVELOPMENT

5545	PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE COSTS
5546	Corrections - Uinta IVA	\$11,300,000	\$212,800
5547	Utah County Youth Correctional Facility	\$6,650,000	\$245,000
5548	Ogden Weber Applied Technology Center - Metal Trades	\$5,161,000	\$176,000
5549	Project Reserve Fund	\$3,500,000	None
5550	Weber State University - Browning Center Remodel	\$3,300,000	None
5551	Heber Wells Building Remodel	\$2,000,000	None
5552	Higher Education Davis County - Land Purchase	\$1,600,000	None
5553	National Guard -- Provo Armory	\$1,500,000	\$128,000
5554	Department of Natural Resources <u>and Environment</u> - Pioneer Trails Visitor Center	\$900,000	\$65,000
5555	Higher Education Design Projects	\$800,000	Varies depending upon projects selected
5556	Salt Lake Community College -South Valley Planning	\$300,000	None
5557	Division of Youth Corrections renamed in 2003 to the Division of Juvenile Justice Services - Logan Land Purchase	\$120,000	None
5558	TOTAL CAPITAL AND ECONOMIC DEVELOPMENT		\$37,131,000
5559	TOTAL IMPROVEMENTS AND CAPITAL AND ECONOMIC DEVELOPMENT		\$44,331,000
5560	(d) For purposes of this section, operations and maintenance costs:		
5561	(i) are estimates only;		

5562 (ii) may include any operations and maintenance costs already funded in existing  
5563 agency budgets; and

5564 (iii) are not commitments by this Legislature or future Legislatures to fund those  
5565 operations and maintenance costs.

5566 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not  
5567 constitute a limitation on the amount that may be expended for any project.

5568 (b) The board may revise these estimates and redistribute the amount estimated for a  
5569 project among the projects authorized.

5570 (c) The commission, by resolution and in consultation with the board, may delete one  
5571 or more projects from this list if the inclusion of that project or those projects in the list could  
5572 be construed to violate state law or federal law or regulation.

5573 (4) (a) The division may enter into agreements related to these projects before the  
5574 receipt of proceeds of bonds issued under this chapter.

5575 (b) The division shall make those expenditures from unexpended and unencumbered  
5576 building funds already appropriated to the Capital Projects Fund.

5577 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds  
5578 of bonds issued under this chapter.

5579 (d) The commission may, by resolution, make any statement of intent relating to that  
5580 reimbursement that is necessary or desirable to comply with federal tax law.

5581 (5) (a) For those projects for which only partial funding is provided in Subsection (2),  
5582 it is the intent of the Legislature that the balance necessary to complete the projects be  
5583 addressed by future Legislatures, either through appropriations or through the issuance or sale  
5584 of bonds.

5585 (b) For those phased projects, the division may enter into contracts for amounts not to  
5586 exceed the anticipated full project funding but may not allow work to be performed on those  
5587 contracts in excess of the funding already authorized by the Legislature.

5588 (c) Those contracts shall contain a provision for termination of the contract for the  
5589 convenience of the state as required by Section 63G-6-601.

5590 (d) It is also the intent of the Legislature that this authorization to the division does not  
5591 bind future Legislatures to fund projects initiated from this authorization.

5592 Section 99. Section **63B-6-102** is amended to read:

5593 **63B-6-102. Maximum amount -- Projects authorized.**

5594 (1) The total amount of bonds issued under this part may not exceed \$57,000,000.

5595 (2) (a) Proceeds from the issuance of bonds shall be provided to the division to provide  
 5596 funds to pay all or part of the cost of acquiring and constructing the projects listed in this  
 5597 Subsection (2).

5598 (b) These costs may include the cost of acquiring land, interests in land, easements and  
 5599 rights-of-way, improving sites, and acquiring, constructing, equipping, and furnishing facilities  
 5600 and all structures, roads, parking facilities, utilities, and improvements necessary, incidental, or  
 5601 convenient to the facilities, interest estimated to accrue on these bonds during the period to be  
 5602 covered by construction of the projects plus a period of six months after the end of the  
 5603 construction period, and all related engineering, architectural, and legal fees.

5604 (c) For the division, proceeds shall be provided for the following:

5605 CAPITAL AND ECONOMIC DEVELOPMENT

5606	PROJECT DESCRIPTION	AMOUNT FUNDED	ESTIMATED OPERATIONS AND MAINTENANCE
5607	Youth Corrections - Carbon / Emery (18 beds)	\$2,298,100	\$70,000
5608	State Hospital - 100 bed Forensic Facility	\$13,800,700	\$320,600
5609	Utah State University - Widtsoe Hall	\$23,986,700	\$750,200
5610	Davis Applied Technology Center - Medical/Health Tech Addition	\$6,344,900	\$144,000
5611	Southern Utah University -- Physical Education Building (Design)	\$1,100,000	\$456,100
5612	Salt Lake Community College -- High Technology Building, 90th So. Campus (Design)	\$1,165,000	\$718,500
5613	Department of Natural Resources <u>and Environment</u> - Antelope Island Road	\$3,600,000	None
5614	Youth Corrections - Region 1 72 Secured Bed Facility	\$1,500,000	None

5615	Department of Natural Resources <u>and Environment</u> - Dead Horse Point Visitors Center	\$1,350,000	\$5,700
5616	TOTAL CAPITAL AND ECONOMIC DEVELOPMENT		\$55,145,400

- 5617 (d) For purposes of this section, operations and maintenance costs:
- 5618 (i) are estimates only;
- 5619 (ii) may include any operations and maintenance costs already funded in existing
- 5620 agency budgets; and
- 5621 (iii) are not commitments by this Legislature or future Legislatures to fund those
- 5622 operations and maintenance costs.
- 5623 (3) (a) The amounts funded as listed in Subsection (2) are estimates only and do not
- 5624 constitute a limitation on the amount that may be expended for any project.
- 5625 (b) The board may revise these estimates and redistribute the amount estimated for a
- 5626 project among the projects authorized.
- 5627 (c) The commission, by resolution and in consultation with the board, may delete one
- 5628 or more projects from this list if the inclusion of that project or those projects in the list could
- 5629 be construed to violate state law or federal law or regulation.
- 5630 (4) (a) The division may enter into agreements related to these projects before the
- 5631 receipt of proceeds of bonds issued under this chapter.
- 5632 (b) The division shall make those expenditures from unexpended and unencumbered
- 5633 building funds already appropriated to the Capital Projects Fund.
- 5634 (c) The division shall reimburse the Capital Projects Fund upon receipt of the proceeds
- 5635 of bonds issued under this chapter.
- 5636 (d) The commission may, by resolution, make any statement of intent relating to that
- 5637 reimbursement that is necessary or desirable to comply with federal tax law.
- 5638 (5) (a) For those projects for which only partial funding is provided in Subsection (2),
- 5639 it is the intent of the Legislature that the balance necessary to complete the projects be
- 5640 addressed by future Legislatures, either through appropriations or through the issuance or sale
- 5641 of bonds.
- 5642 (b) For those phased projects, the division may enter into contracts for amounts not to
- 5643 exceed the anticipated full project funding but may not allow work to be performed on those

5644 contracts in excess of the funding already authorized by the Legislature.

5645 (c) Those contracts shall contain a provision for termination of the contract for the  
5646 convenience of the state as required by Section 63G-6-601.

5647 (d) It is also the intent of the Legislature that this authorization to the division does not  
5648 bind future Legislatures to fund projects initiated from this authorization.

5649 Section 100. Section **63B-10-401** is amended to read:

5650 **63B-10-401. Other capital facility authorizations and intent language.**

5651 (1) It is the intent of the Legislature that:

5652 (a) Utah State University use institutional funds to plan, design, and construct an  
5653 expansion of the HPER Building under the direction of the director of the Division of Facilities  
5654 Construction and Management unless supervisory authority has been delegated;

5655 (b) no state funds be used for any portion of this project; and

5656 (c) the university may request state funds for operations and maintenance to the extent  
5657 that the university is able to demonstrate to the Board of Regents that the facility meets  
5658 approved academic and training purposes under Board of Regents policy R710.

5659 (2) It is the intent of the Legislature that:

5660 (a) the University of Utah use institutional funds to plan, design, and construct the  
5661 Moran Eye Center II project under the direction of the director of the Division of Facilities  
5662 Construction and Management unless supervisory authority has been delegated;

5663 (b) no state funds be used for any portion of this project; and

5664 (c) the university may request state funds for operations and maintenance to the extent  
5665 that the university is able to demonstrate to the Board of Regents that the facility meets  
5666 approved academic and training purposes under Board of Regents policy R710.

5667 (3) It is the intent of the Legislature that:

5668 (a) the University of Utah use institutional funds to plan, design, and construct the E.  
5669 E. Jones Medical Science Addition under the direction of the director of the Division of  
5670 Facilities Construction and Management unless supervisory authority has been delegated;

5671 (b) no state funds be used for any portion of this project; and

5672 (c) the university may request state funds for operations and maintenance to the extent  
5673 that the university is able to demonstrate to the Board of Regents that the facility meets  
5674 approved academic and training purposes under Board of Regents policy R710.



5675 (4) It is the intent of the Legislature that:

5676 (a) the University of Utah use institutional funds to plan, design, and construct a  
5677 Museum of Natural History under the direction of the director of the Division of Facilities  
5678 Construction and Management unless supervisory authority has been delegated;

5679 (b) no state funds be used for any portion of this project; and

5680 (c) the university may request state funds for operations and maintenance to the extent  
5681 that the university is able to demonstrate to the Board of Regents that the facility meets  
5682 approved academic and training purposes under Board of Regents policy R710.

5683 (5) It is the intent of the Legislature that:

5684 (a) Dixie College use institutional funds to plan, design, and construct the Hurricane  
5685 Education Center under the direction of the director of the Division of Facilities Construction  
5686 and Management unless supervisory authority has been delegated;

5687 (b) no state funds be used for any portion of this project; and

5688 (c) the college may request state funds for operations and maintenance to the extent  
5689 that the university is able to demonstrate to the Board of Regents that the facility meets  
5690 approved academic and training purposes under Board of Regents policy R710.

5691 (6) It is the intent of the Legislature that:

5692 (a) Southern Utah University use institutional funds to plan, design, and construct the  
5693 Shakespearean Festival Center under the direction of the director of the Division of Facilities  
5694 Construction and Management unless supervisory authority has been delegated;

5695 (b) no state funds be used for any portion of this project; and

5696 (c) the college may not request state funds for operations and maintenance.

5697 (7) It is the intent of the Legislature that:

5698 (a) the Department of Corrections use donations to plan, design, and construct the  
5699 Wasatch Family History Center under the direction of the director of the Division of Facilities  
5700 Construction and Management unless supervisory authority has been delegated;

5701 (b) no state funds be used for any portion of this project; and

5702 (c) the department may request state funds for operations and maintenance.

5703 (8) It is the intent of the Legislature that:

5704 (a) the Department of Workforce Services use \$1,186,700 from its Special  
5705 Administrative Expense Account created in Section 35A-4-506 to plan, design, and construct

5706 an addition to the Cedar City Employment Center under the direction of the director of the  
5707 Division of Facilities Construction and Management unless supervisory authority has been  
5708 delegated; and

5709 (b) the department may request state funds for operations and maintenance.

5710 (9) It is the intent of the Legislature that the Division of Facilities Construction and  
5711 Management, acting on behalf of the Department of Natural Resources and Environment, may  
5712 enter into a lease purchase agreement with Carbon County to provide needed space for agency  
5713 programs in the area if the Department of Natural Resources and Environment obtains the  
5714 approval of the State Building Board by demonstrating that the lease purchase will be a benefit  
5715 to the state and that the lease, including operation and maintenance costs, can be funded within  
5716 existing agency budgets.

5717 Section 101. Section **63B-13-401** is amended to read:

5718 **63B-13-401. Authorizations to construct capital facilities using institutional or**  
5719 **agency funds.**

5720 (1) It is the intent of the Legislature that:

5721 (a) the University of Utah may use federal grants, research funds, and other  
5722 institutional funds to plan, design, and construct a Department of Chemistry Gauss Haus under  
5723 the direction of the director of the Division of Facilities Construction and Management unless  
5724 supervisory authority has been delegated;

5725 (b) no state funds be used for any portion of this project; and

5726 (c) the university may request state funds for operations and maintenance to the extent  
5727 that the university is able to demonstrate to the Board of Regents that the facility meets  
5728 approved academic and training purposes under Board of Regents policy R710.

5729 (2) It is the intent of the Legislature that:

5730 (a) the University of Utah use donations and other institutional funds to plan, design,  
5731 and construct a College of Health Academic Facility under the direction of the director of the  
5732 Division of Facilities Construction and Management unless supervisory authority has been  
5733 delegated;

5734 (b) no state funds be used for any portion of this project; and

5735 (c) the university may request state funds for operations and maintenance to the extent  
5736 that the university is able to demonstrate to the Board of Regents that the facility meets

5737 approved academic and training purposes under Board of Regents policy R710.

5738 (3) It is the intent of the Legislature that:

5739 (a) the University of Utah use donations and other institutional funds to plan, design,  
5740 and construct a Geology and Geophysics Building and parking terrace under the direction of  
5741 the director of the Division of Facilities Construction and Management unless supervisory  
5742 authority has been delegated;

5743 (b) no state funds be used for any portion of this project; and

5744 (c) the university may request state funds for operations and maintenance to the extent  
5745 that the university is able to demonstrate to the Board of Regents that the facility meets  
5746 approved academic and training purposes under Board of Regents policy R710.

5747 (4) It is the intent of the Legislature that:

5748 (a) Utah State University use donations, federal grants, and other institutional funds to  
5749 plan, design, and construct a Child Care Facility under the direction of the director of the  
5750 Division of Facilities Construction and Management unless supervisory authority has been  
5751 delegated;

5752 (b) no state funds be used for any portion of this project; and

5753 (c) the university may not request state funds for operations and maintenance.

5754 (5) It is the intent of the Legislature that:

5755 (a) Utah State University use donations and other institutional funds to plan, design,  
5756 and construct a replacement Team Building at Romney Stadium under the direction of the  
5757 director of the Division of Facilities Construction and Management unless supervisory  
5758 authority has been delegated;

5759 (b) no state funds be used for any portion of this project; and

5760 (c) the university may not request state funds for operations and maintenance.

5761 (6) It is the intent of the Legislature that Utah State University use up to \$200,000 of  
5762 excess funds in its Contingency Reserve from state funded projects to increase the capacity of  
5763 its chilled water plant.

5764 (7) It is the intent of the Legislature that:

5765 (a) the Utah College of Applied Technology use donations to plan, design, and  
5766 construct an Entrepreneurial Building at the Davis ATC campus under the direction of the  
5767 director of the Division of Facilities Construction and Management unless supervisory

5768 authority has been delegated;

5769 (b) no state funds be used for any portion of this project; and

5770 (c) the college may not request state funds for operations and maintenance.

5771 (8) It is the intent of the Legislature that:

5772 (a) the Utah College of Applied Technology use donations, grants from the Community  
5773 Impact Board, and existing reserves to plan, design, and construct a technology building at the  
5774 Blanding campus of the Southeast ATC under the direction of the director of the Division of  
5775 Facilities Construction and Management unless supervisory authority has been delegated; and

5776 (b) the college may request state funds for operations and maintenance.

5777 (9) (a) It is the intent of the Legislature that the Department of Workforce Services use  
5778 up to \$2,801,000 from its Special Administrative Expense Fund to plan, design, and construct  
5779 an Employment Center in Logan under the direction of the director of the Division of Facilities  
5780 Construction and Management unless supervisory authority is delegated.

5781 (b) It is the intent of the Legislature that, if agreement is reached to acquire a site from  
5782 Cache County or Logan City for the project, the Division of Facilities Construction and  
5783 Management may sell or exchange the currently-owned Workforce Services property and apply  
5784 the proceeds to the acquisition of the site and towards the cost of the project.

5785 (10) It is the intent of the Legislature that the Department of Natural Resources and  
5786 Environment use up to \$250,000 of the existing balance in its Wildlife Resources Trust  
5787 Account to purchase property in Price to be used for a future office complex for the  
5788 Department of Natural Resources and Environment.

5789 (11) It is the intent of the Legislature that:

5790 (a) the Utah National Guard use federal funds to plan, design, and construct a Total  
5791 Army School System (TASS) Barracks at Camp Williams under the direction of the director of  
5792 the Division of Facilities Construction and Management unless supervisory authority has been  
5793 delegated;

5794 (b) no state funds be used for any portion of this project; and

5795 (c) the National Guard may not request state funds for operations and maintenance.

5796 (12) It is the intent of the Legislature that:

5797 (a) the Utah National Guard use federal funds to plan, design, and construct a  
5798 Readiness Center at Camp Williams under the direction of the director of the Division of

5799 Facilities Construction and Management unless supervisory authority has been delegated;

5800 (b) no state funds be used for any portion of this project; and

5801 (c) the National Guard may request state funds for operations and maintenance.

5802 (13) It is the intent of the Legislature that:

5803 (a) the Department of Public Safety, the Department of Corrections, and Salt Lake

5804 Community College use donations, federal funds, and other non-appropriated funds to plan,

5805 design, and construct a Western Regional Public Safety Education and Training Center under

5806 the direction of the director of the Division of Facilities Construction and Management unless

5807 supervisory authority has been delegated or the construction of the project is otherwise exempt

5808 from the director's oversight;

5809 (b) no state funds be used for any portion of this project other than planning and

5810 design;

5811 (c) the Department of Public Safety and the Department of Corrections may request

5812 state funds for operations and maintenance; and

5813 (d) the college may request state funds for operations and maintenance to the extent

5814 that the college is able to demonstrate to the Board of Regents that the facility meets approved

5815 academic and training purposes under Board of Regents policy R710.

5816 Section 102. Section **63B-14-401** is amended to read:

5817 **63B-14-401. Authorizations to construct capital facilities using institutional or**  
5818 **agency funds.**

5819 (1) It is the intent of the Legislature that:

5820 (a) the University of Utah use donations and other institutional funds to plan, design,

5821 and construct an addition to the Social Work Building under the direction of the director of the

5822 Division of Facilities Construction and Management unless supervisory authority has been

5823 delegated;

5824 (b) no state funds be used for any portion of this project; and

5825 (c) the university may request state funds for operations and maintenance to the extent

5826 that the university is able to demonstrate to the Board of Regents that the facility meets

5827 approved academic and training purposes under Board of Regents policy R710.

5828 (2) It is the intent of the Legislature that:

5829 (a) the University of Utah use donations and other institutional funds to plan, design,

5830 and construct the first phase of a College of Humanities Building under the direction of the  
5831 director of the Division of Facilities Construction and Management unless supervisory  
5832 authority has been delegated;

5833 (b) no state funds be used for any portion of this project; and

5834 (c) the university may request state funds for operations and maintenance to the extent  
5835 that the university is able to demonstrate to the Board of Regents that the facility meets  
5836 approved academic and training purposes under Board of Regents policy R710.

5837 (3) It is the intent of the Legislature that:

5838 (a) Snow College use donations and other institutional funds to plan, design, and  
5839 construct improvements to its football stadium under the direction of the director of the  
5840 Division of Facilities Construction and Management unless supervisory authority has been  
5841 delegated;

5842 (b) the contractor may be required to provide for financing of construction costs, if  
5843 necessary, to cover the timing of cash flow of committed donations;

5844 (c) Snow College retain financial responsibility for all project costs through its  
5845 commitment, if necessary, to raise student fees and seek future approval of a revenue bond;

5846 (d) no state funds be used for any portion of this project; and

5847 (e) the college may not request additional state funds for operations and maintenance.

5848 (4) It is the intent of the Legislature that:

5849 (a) the Department of Corrections use donations and institutional funds provided by  
5850 Snow College to plan, design, and construct an expansion of the education area at the Central  
5851 Utah Correctional Facility under the direction of the director of the Division of Facilities  
5852 Construction and Management unless supervisory authority has been delegated;

5853 (b) no state funds be used for any portion of this project; and

5854 (c) the Department of Corrections may request state funds for operations and  
5855 maintenance.

5856 (5) It is the intent of the Legislature that the Administrative Office of the Courts  
5857 exercise its option to purchase the West Valley courthouse using equity accrued through its  
5858 lease payments.

5859 (6) It is the intent of the Legislature that:

5860 (a) the Department of Natural Resources and Environment, Division of Wildlife

5861 Resources, use up to \$938,000 from the General Fund Restricted -- Fish Hatchery Maintenance  
5862 Account to plan, design, and construct a Fisheries Experiment Station Technical Services  
5863 Building under the direction of the director of the Division of Facilities Construction and  
5864 Management unless supervisory authority has been delegated; and

5865 (b) the Department of Natural Resources and Environment may not request state funds  
5866 for operations and maintenance.

5867 (7) It is the intent of the Legislature that:

5868 (a) the Utah National Guard use federal funds to plan, design, and construct a  
5869 Readiness Center for the 85th Civil Support Team under the direction of the director of the  
5870 Division of Facilities Construction and Management unless supervisory authority has been  
5871 delegated;

5872 (b) no state funds be used for any portion of this project; and

5873 (c) the Utah National Guard may request state funds for operations and maintenance.

5874 (8) It is the intent of the Legislature that:

5875 (a) the Utah National Guard use federal funds to plan, design, and construct a Joint  
5876 Forces Headquarters addition under the direction of the director of the Division of Facilities  
5877 Construction and Management unless supervisory authority has been delegated;

5878 (b) no state funds be used for any portion of this project; and

5879 (c) the Utah National Guard may request state funds for operations and maintenance.

5880 (9) It is the intent of the Legislature that:

5881 (a) the Utah National Guard use federal funds to plan, design, and construct a 19th  
5882 Special Forces Armory addition under the direction of the director of the Division of Facilities  
5883 Construction and Management unless supervisory authority has been delegated;

5884 (b) no state funds be used for any portion of this project; and

5885 (c) the Utah National Guard may request state funds for operations and maintenance.

5886 (10) It is the intent of the Legislature that:

5887 (a) the Utah National Guard use federal funds to plan, design, and construct a  
5888 Readiness Center for the 117th Utilities Detachment and the 120th Quartermaster Detachment  
5889 under the direction of the director of the Division of Facilities Construction and Management  
5890 unless supervisory authority has been delegated;

5891 (b) no state funds be used for any portion of this project; and

5892 (c) the Utah National Guard may request state funds for operations and maintenance.

5893 (11) It is the intent of the Legislature that the Division of Facilities Construction and  
5894 Management negotiate and enter into an agreement with the city of St. George for the future  
5895 exchange of the current courthouse property in St. George for a replacement court facility site,  
5896 with the exchange of title occurring after funding is authorized by the Legislature for the  
5897 construction of the replacement facility.

5898 Section 103. Section **63B-17-401** is amended to read:

5899 **63B-17-401. Authorizations to acquire or exchange property.**

5900 The Legislature intends that:

5901 (1) the Division of Facilities Construction and Management, acting on behalf of the  
5902 Department of Natural Resources and Environment, may enter into a lease purchase agreement  
5903 with Uintah County to provide needed space for agency programs in the area;

5904 (2) the agreement shall involve a trade at fair market value between the Division of  
5905 Facilities Construction and Management and Uintah County of the following two properties:

5906 (a) that portion of the current Uintah County complex that is owned by the state,  
5907 located at 147 East Main Street, Vernal, Utah, which currently houses the Department of  
5908 Natural Resources and Environment and other state agencies; and

5909 (b) a parcel of land owned by Uintah County, located at approximately 318 North  
5910 Vernal Avenue, Vernal, Utah, which would become the location of the needed space under the  
5911 lease purchase agreement;

5912 (3) before entering into an agreement with Uintah County, the Division of Facilities  
5913 Construction and Management shall ensure that all other state agencies in the Uintah County  
5914 complex stay in their current location or receive adequate replacement space, with the terms of  
5915 any replacement space acceptable to each state agency;

5916 (4) before entering into an agreement with Uintah County, the Department of Natural  
5917 Resources and Environment shall obtain the approval of the State Building Board;

5918 (5) the State Building Board may approve the agreement only if the Department of  
5919 Natural Resources and Environment demonstrates that the lease purchase will be a benefit to  
5920 the state; and

5921 (6) before entering into an agreement with Uintah County, and after obtaining the  
5922 approval of the State Building Board, the Department of Natural Resources and Environment



5923 shall report the terms of the agreement to the legislative Executive Appropriations Committee.

5924 Section 104. Section **63B-18-301** is amended to read:

5925 **63B-18-301. Authorizations to design and construct capital facilities using**  
5926 **institutional or agency funds.**

5927 (1) The Legislature intends that:

5928 (a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State  
5929 Building Board - Division of Facilities Construction and Management, use institutional funds  
5930 to plan and design an ambulatory care complex;

5931 (b) this authorization and the existence of plans and designs do not guarantee nor  
5932 improve the chances for legislative approval of the remainder of the building in any subsequent  
5933 year; and

5934 (c) no state funds be used for any portion of this planning and design.

5935 (2) The Legislature intends that:

5936 (a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State  
5937 Building Board - Division of Facilities Construction and Management, use \$64,445,000 in  
5938 donations to plan, design, and construct a replacement and expansion of the Eccles School of  
5939 Business Building, with 135,000 new square feet;

5940 (b) no state funds be used for any portion of this project unless expressly appropriated  
5941 for this purpose or approved in a general obligation bond bill; and

5942 (c) the university may request state funds for operation and maintenance costs and  
5943 capital improvements to the extent that the university is able to demonstrate to the Board of  
5944 Regents that the facility meets approved academic and training purposes under Board of  
5945 Regents policy R710.

5946 (3) The Legislature intends that:

5947 (a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State  
5948 Building Board - Division of Facilities Construction and Management, use \$8,689,000 in  
5949 donations to plan, design, and construct a renovation of the Kennecott Building, with 19,400  
5950 new square feet;

5951 (b) no state funds be used for any portion of this project; and

5952 (c) the university may request state funds for operation and maintenance costs and  
5953 capital improvements to the extent that the university is able to demonstrate to the Board of

5954 Regents that the facility meets approved academic and training purposes under Board of  
5955 Regents policy R710.

5956 (4) The Legislature intends that:

5957 (a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State  
5958 Building Board - Division of Facilities Construction and Management, use \$30,737,000 in  
5959 donations to plan, design, and construct a Sorenson Arts and Education Complex, with 85,400  
5960 new square feet;

5961 (b) no state funds be used for any portion of this project; and

5962 (c) the university may request state funds for operation and maintenance costs and  
5963 capital improvements to the extent that the university is able to demonstrate to the Board of  
5964 Regents that the facility meets approved academic and training purposes under Board of  
5965 Regents policy R710.

5966 (5) The Legislature intends that:

5967 (a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State  
5968 Building Board - Division of Facilities Construction and Management, use \$4,477,500 in  
5969 donations to plan, design, and construct a Meldrum Civil Engineering Building, with 11,800  
5970 new square feet;

5971 (b) no state funds be used for any portion of this project; and

5972 (c) the university may request state funds for operation and maintenance costs and  
5973 capital improvements to the extent that the university is able to demonstrate to the Board of  
5974 Regents that the facility meets approved academic and training purposes under Board of  
5975 Regents policy R710.

5976 (6) The Legislature intends that:

5977 (a) the University of Utah may, subject to requirements in Title 63A, Chapter 5, State  
5978 Building Board - Division of Facilities Construction and Management, negotiate with a private  
5979 developer to develop the Universe Project on land west of the university football stadium;

5980 (b) before entering into a contract with the developer, the university shall:

5981 (i) present the final contract terms to the Legislature's Executive Appropriations  
5982 Committee;

5983 (ii) obtain the approval of the State Building Board; and

5984 (iii) the State Building Board may approve the agreement only if the university

5985 demonstrates that the contract terms will be a benefit to the state;

5986 (c) no state funds be used for any portion of this project; and

5987 (d) the university may request state funds for operation and maintenance costs and  
5988 capital improvements to the extent that the university is able to demonstrate to the Board of  
5989 Regents that the facility meets approved academic and training purposes under Board of  
5990 Regents policy R710.

5991 (7) The Legislature intends that:

5992 (a) Utah Valley University may, subject to requirements in Title 63A, Chapter 5, State  
5993 Building Board - Division of Facilities Construction and Management, use \$2,650,000 in  
5994 grants and institutional funds to plan, design, and construct a Business Resource Center, with  
5995 12,000 new square feet;

5996 (b) no state funds be used for any portion of this project; and

5997 (c) the university may request state funds for operation and maintenance costs and  
5998 capital improvements to the extent that the university is able to demonstrate to the Board of  
5999 Regents that the facility meets approved academic and training purposes under Board of  
6000 Regents policy R710.

6001 (8) The Legislature intends that:

6002 (a) Utah Valley University may, subject to requirements in Title 63A, Chapter 5, State  
6003 Building Board - Division of Facilities Construction and Management, use \$1,200,000 in  
6004 donations and institutional funds to plan, design, and construct a track and field facility;

6005 (b) no state funds be used for any portion of this project; and

6006 (c) the university may request state funds for operation and maintenance costs and  
6007 capital improvements to the extent that the university is able to demonstrate to the Board of  
6008 Regents that the facility meets approved academic and training purposes under Board of  
6009 Regents policy R710.

6010 (9) The Legislature intends that:

6011 (a) Utah Valley University may, subject to requirements in Title 63A, Chapter 5, State  
6012 Building Board - Division of Facilities Construction and Management, use \$600,000 in  
6013 institutional funds to plan, design, and construct intramural playing fields;

6014 (b) no state funds be used for any portion of this project; and

6015 (c) the university may request state funds for operation and maintenance costs and

6016 capital improvements to the extent that the university is able to demonstrate to the Board of  
6017 Regents that the facility meets approved academic and training purposes under Board of  
6018 Regents policy R710.

6019 (10) The Legislature intends that:

6020 (a) Southern Utah University may, subject to requirements in Title 63A, Chapter 5,  
6021 State Building Board - Division of Facilities Construction and Management, use \$2,000,000 in  
6022 donations to plan, design, and construct a baseball and soccer complex upgrade;

6023 (b) no state funds be used for any portion of this project; and

6024 (c) the university may not request state funds for operation and maintenance costs or  
6025 capital improvements.

6026 (11) The Legislature intends that:

6027 (a) the Department of Natural Resources and Environment may, subject to  
6028 requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities  
6029 Construction and Management, use \$3,000,000 in federal grants to plan, design, and construct  
6030 an interagency fire dispatch center, with 10,000 new square feet;

6031 (b) no state funds be used for any portion of this project; and

6032 (c) the department may not request state funds for operation and maintenance costs or  
6033 capital improvements.

6034 (12) The Legislature intends that:

6035 (a) the Department of Natural Resources and Environment may, subject to  
6036 requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities  
6037 Construction and Management, use \$7,500,000 in federal grants to plan, design, and construct  
6038 a curation facility in Vernal, with 21,000 new square feet;

6039 (b) no state funds be used for any portion of this project; and

6040 (c) the department may not request state funds for operation and maintenance costs or  
6041 capital improvements.

6042 (13) The Legislature intends that:

6043 (a) the Department of Natural Resources and Environment may, subject to  
6044 requirements in Title 63A, Chapter 5, State Building Board - Division of Facilities  
6045 Construction and Management, use \$650,000 in federal grants to plan, design, and construct an  
6046 expansion to the seed warehouse at the Great Basin Research Center, with 9,000 new square

6047 feet;

6048 (b) no state funds be used for any portion of this project unless expressly appropriated  
6049 for this purpose; and

6050 (c) the department may not request state funds for operation and maintenance costs or  
6051 capital improvements.

6052 (14) The Legislature intends that:

6053 (a) the Department of Veterans' Affairs may, subject to requirements in Title 63A,  
6054 Chapter 5, State Building Board - Division of Facilities Construction and Management, use  
6055 \$3,500,000 in federal grants to plan, design, and construct improvements at the Veterans'  
6056 Cemetery, with 15,000 new square feet;

6057 (b) no state funds be used for any portion of this project unless expressly appropriated  
6058 for this purpose; and

6059 (c) the department may not request state funds for operation and maintenance costs or  
6060 capital improvements.

6061 Section 105. Section **63C-4-101** is amended to read:

6062 **63C-4-101. Creation of Constitutional Defense Council -- Membership --**  
6063 **Vacancies -- Reports -- Per diem, travel expenses, and funding.**

6064 (1) There is created the Constitutional Defense Council.

6065 (2) (a) The defense council shall consist of the following members:

6066 (i) the governor or the lieutenant governor, who shall serve as chair of the council;

6067 (ii) the president of the Senate or the president of the Senate's designee who shall serve  
6068 as vice chair of the council;

6069 (iii) the speaker of the House or the speaker of the House's designee who shall serve as  
6070 vice chair of the council;

6071 (iv) the minority leader of the Senate or the minority leader of the Senate's designee;

6072 (v) the minority leader of the House or the minority leader of the House's designee;

6073 (vi) the attorney general or the attorney general's designee, who shall be one of the  
6074 attorney general's appointees, not a current career service employee;

6075 (vii) the director of the School and Institutional Trust Lands Administration;

6076 (viii) four elected county commissioners, county council members, or county  
6077 executives from different counties who are selected by the Utah Association of Counties, at

6078 least one of whom shall be from a county of the first or second class;

6079 (ix) the executive director of the Department of Natural Resources and Environment,  
6080 who may not vote;

6081 (x) the commissioner of the Department of Agriculture and Food, who may not vote;

6082 (xi) the director of the Governor's Office of Economic Development, who may not  
6083 vote; and

6084 (xii) two elected county commissioners, county council members, or county executives  
6085 from different counties appointed by the Utah Association of Counties, who may not vote.

6086 (b) The council vice chairs shall conduct a council meeting in the absence of the chair.

6087 (c) If both the governor and the lieutenant governor are absent from a meeting of the  
6088 council, the governor may designate a person to attend the meeting solely for the purpose of  
6089 casting a vote on any matter on the governor's behalf.

6090 (3) When a vacancy occurs in the membership for any reason, the replacement shall be  
6091 appointed for the unexpired term in the same manner as the original appointment.

6092 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the defense council shall meet at  
6093 least monthly or more frequently as needed.

6094 (ii) The defense council need not meet monthly if the chair, after polling the members,  
6095 determines that a majority of the members do not wish to meet.

6096 (b) The governor or any six members of the council may call a meeting of the council.

6097 (c) Before calling a meeting, the governor or council members shall solicit items for  
6098 the agenda from other members of the council.

6099 (d) (i) The Constitutional Defense Council shall require that any entity that receives  
6100 money from the Constitutional Defense Restricted Account provide financial reports and  
6101 litigation reports to the Council.

6102 (ii) Nothing in this Subsection (4)(d) prohibits the council from closing a meeting  
6103 under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the council from  
6104 complying with Title 63G, Chapter 2, Government Records Access and Management Act.

6105 (e) A majority of the voting membership on the defense council is required for a  
6106 quorum to conduct council business. A majority vote of the quorum is required for any action  
6107 taken by the defense council.

6108 (5) The Office of the Attorney General shall advise the defense council.

6109 (6) A member may not receive compensation or benefits for the member's service, but  
6110 may receive per diem and travel expenses in accordance with:

6111 (a) Section 63A-3-106;

6112 (b) Section 63A-3-107; and

6113 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
6114 63A-3-107.

6115 (7) (a) The council shall be funded from the Constitutional Defense Restricted Account  
6116 created in Section 63C-4-103.

6117 (b) Money appropriated for or received by the council may be expended by the  
6118 governor in consultation with the council.

6119 Section 106. Section **63C-6-101** is amended to read:

6120 **63C-6-101. Creation of commission -- Membership -- Appointment -- Vacancies.**

6121 (1) There is created the Utah Seismic Safety Commission consisting of 15 members,  
6122 designated as follows:

6123 (a) the director of the Division of Homeland Security or his designee;

6124 (b) ~~the director~~ a representative of the Utah Geological Survey ~~[or his designee]~~;

6125 (c) the director of the University of Utah Seismograph Stations or his designee;

6126 (d) the executive director of the Utah League of Cities and Towns or his designee;

6127 (e) a representative from the Structural Engineers Association of Utah biannually  
6128 selected by its membership;

6129 (f) the director of the Division of Facilities Construction and Management or his  
6130 designee;

6131 (g) the executive director of the Department of Transportation or his designee;

6132 (h) the State Planning Coordinator or his designee;

6133 (i) a representative from the American Institute of Architects, Utah Section;

6134 (j) a representative from the American Society of Civil Engineers, Utah Section;

6135 (k) a member of the House of Representatives appointed biannually by the speaker of  
6136 the House;

6137 (l) a member of the Senate appointed biannually by the president of the Senate;

6138 (m) the commissioner of the Department of Insurance or his designee;

6139 (n) a representative from the Association of Contingency Planners, Utah Chapter,

6140 biannually selected by its membership; and

6141 (o) a representative from the American Public Works Association, Utah Chapter,

6142 biannually selected by its membership.

6143 (2) The commission shall annually select one of its members to serve as chair of the

6144 commission.

6145 (3) When a vacancy occurs in the membership for any reason, the replacement shall be

6146 appointed for the unexpired term.

6147 Section 107. Section **63C-9-403** is amended to read:

6148 **63C-9-403. Contracting power of executive director -- Health insurance coverage.**

6149 (1) For purposes of this section:

6150 (a) "Employee" means an "employee," "worker," or "operative" as defined in Section

6151 34A-2-104 who:

6152 (i) works at least 30 hours per calendar week; and

6153 (ii) meets employer eligibility waiting requirements for health care insurance which

6154 may not exceed the first of the calendar month following 90 days from the date of hire.

6155 (b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

6156 (c) "Qualified health insurance coverage" means at the time the contract is entered into

6157 or renewed:

6158 (i) a health benefit plan and employer contribution level with a combined actuarial

6159 value at least actuarially equivalent to the combined actuarial value of the benchmark plan

6160 determined by the Children's Health Insurance Program under Subsection 26-40-106(2)(a), and

6161 a contribution level of 50% of the premium for the employee and the dependents of the

6162 employee who reside or work in the state, in which:

6163 (A) the employer pays at least 50% of the premium for the employee and the

6164 dependents of the employee who reside or work in the state; and

6165 (B) for purposes of calculating actuarial equivalency under this Subsection (1)(c)(i):

6166 (I) rather than the benchmark plan's deductible, and the benchmark plan's out-of-pocket

6167 maximum based on income levels:

6168 (Aa) the deductible is \$750 per individual and \$2,250 per family; and

6169 (Bb) the out-of-pocket maximum is \$3,000 per individual and \$9,000 per family;

6170 (II) dental coverage is not required; and



6171 (III) other than Subsection 26-40-106(2)(a), the provisions of Section 26-40-106 do not  
6172 apply; or

6173 (ii) (A) is a federally qualified high deductible health plan that, at a minimum, has a  
6174 deductible that is either:

6175 (I) the lowest deductible permitted for a federally qualified high deductible health plan;  
6176 or

6177 (II) a deductible that is higher than the lowest deductible permitted for a federally  
6178 qualified high deductible health plan, but includes an employer contribution to a health savings  
6179 account in a dollar amount at least equal to the dollar amount difference between the lowest  
6180 deductible permitted for a federally qualified high deductible plan and the deductible for the  
6181 employer offered federally qualified high deductible plan;

6182 (B) an out-of-pocket maximum that does not exceed three times the amount of the  
6183 annual deductible; and

6184 (C) under which the employer pays 75% of the premium for the employee and the  
6185 dependents of the employee who work or reside in the state.

6186 (d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

6187 (2) (a) Except as provided in Subsection (3), this section applies to a design or  
6188 construction contract entered into by the board or on behalf of the board on or after July 1,  
6189 2009, and to a prime contractor or a subcontractor in accordance with Subsection (2)(b).

6190 (b) (i) A prime contractor is subject to this section if the prime contract is in the  
6191 amount of \$1,500,000 or greater.

6192 (ii) A subcontractor is subject to this section if a subcontract is in the amount of  
6193 \$750,000 or greater.

6194 (3) This section does not apply if:

6195 (a) the application of this section jeopardizes the receipt of federal funds;

6196 (b) the contract is a sole source contract; or

6197 (c) the contract is an emergency procurement.

6198 (4) (a) This section does not apply to a change order as defined in Section 63G-6-102,  
6199 or a modification to a contract, when the contract does not meet the initial threshold required  
6200 by Subsection (2).

6201 (b) A person who intentionally uses change orders or contract modifications to

6202 circumvent the requirements of Subsection (2) is guilty of an infraction.

6203           (5) (a) A contractor subject to Subsection (2) shall demonstrate to the executive  
6204 director that the contractor has and will maintain an offer of qualified health insurance  
6205 coverage for the contractor's employees and the employees' dependents during the duration of  
6206 the contract.

6207           (b) If a subcontractor of the contractor is subject to Subsection (2)(b), the contractor  
6208 shall demonstrate to the executive director that the subcontractor has and will maintain an offer  
6209 of qualified health insurance coverage for the subcontractor's employees and the employees'  
6210 dependents during the duration of the contract.

6211           (c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during  
6212 the duration of the contract is subject to penalties in accordance with administrative rules  
6213 adopted by the division under Subsection (6).

6214           (B) A contractor is not subject to penalties for the failure of a subcontractor to meet the  
6215 requirements of Subsection (5)(b).

6216           (ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during  
6217 the duration of the contract is subject to penalties in accordance with administrative rules  
6218 adopted by the department under Subsection (6).

6219           (B) A subcontractor is not subject to penalties for the failure of a contractor to meet the  
6220 requirements of Subsection (5)(a).

6221           (6) The department shall adopt administrative rules:

6222           (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

6223           (b) in coordination with:

6224           (i) the Department of Environmental Quality in accordance with Section 19-1-206;

6225           (ii) the Department of Natural Resources and Environment in accordance with Section  
6226 79-2-404;

6227           (iii) the State Building Board in accordance with Section 63A-5-205;

6228           (iv) a public transit district in accordance with Section 17B-2a-818.5;

6229           (v) the Department of Transportation in accordance with Section 72-6-107.5; and

6230           (vi) the Legislature's Administrative Rules Review Committee; and

6231           (c) which establish:

6232           (i) the requirements and procedures a contractor must follow to demonstrate to the

6233 executive director compliance with this section which shall include:

6234 (A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or  
6235 (b) more than twice in any 12-month period; and

6236 (B) that the actuarially equivalent determination required in Subsection (1) is met by  
6237 the contractor if the contractor provides the department or division with a written statement of  
6238 actuarial equivalency from either:

6239 (I) the Utah Insurance Department;

6240 (II) an actuary selected by the contractor or the contractor's insurer; or

6241 (III) an underwriter who is responsible for developing the employer group's premium  
6242 rates;

6243 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
6244 violates the provisions of this section, which may include:

6245 (A) a three-month suspension of the contractor or subcontractor from entering into  
6246 future contracts with the state upon the first violation;

6247 (B) a six-month suspension of the contractor or subcontractor from entering into future  
6248 contracts with the state upon the second violation;

6249 (C) an action for debarment of the contractor or subcontractor in accordance with  
6250 Section 63G-6-804 upon the third or subsequent violation; and

6251 (D) monetary penalties which may not exceed 50% of the amount necessary to  
6252 purchase qualified health insurance coverage for employees and dependents of employees of  
6253 the contractor or subcontractor who were not offered qualified health insurance coverage  
6254 during the duration of the contract; and

6255 (iii) a website on which the department shall post the benchmark for the qualified  
6256 health insurance coverage identified in Subsection (1)(c)(i).

6257 (7) (a) (i) In addition to the penalties imposed under Subsection (6)(c), a contractor or  
6258 subcontractor who intentionally violates the provisions of this section shall be liable to the  
6259 employee for health care costs that would have been covered by qualified health insurance  
6260 coverage.

6261 (ii) An employer has an affirmative defense to a cause of action under Subsection  
6262 (7)(a)(i) if:

6263 (A) the employer relied in good faith on a written statement of actuarial equivalency

6264 provided by:

6265 (I) an actuary; or

6266 (II) an underwriter who is responsible for developing the employer group's premium  
6267 rates; or

6268 (B) the department determines that compliance with this section is not required under  
6269 the provisions of Subsection (3) or (4).

6270 (b) An employee has a private right of action only against the employee's employer to  
6271 enforce the provisions of this Subsection (7).

6272 (8) Any penalties imposed and collected under this section shall be deposited into the  
6273 Medicaid Restricted Account created in Section 26-18-402.

6274 (9) The failure of a contractor or subcontractor to provide qualified health insurance  
6275 coverage as required by this section:

6276 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
6277 or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8,  
6278 Legal and Contractual Remedies; and

6279 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
6280 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
6281 or construction.

6282 Section 108. Section **63C-12-107** is amended to read:

6283 **63C-12-107. Research team.**

6284 (1) There is created a Snake Valley Aquifer Research Team composed of the following  
6285 four members:

6286 (a) a representative of the Division of Air Quality, appointed by the executive director  
6287 of the Department of [~~Environmental Quality~~] Natural Resources and Environment;

6288 (b) a representative of the Department of Agriculture and Food, appointed by the  
6289 commissioner of the Department of Agriculture and Food;

6290 (c) the executive director of the Department of Natural Resources and Environment or  
6291 the executive director's designee; and

6292 (d) the director of the Public Lands Policy Coordinating Office.

6293 (2) The director of the Public Lands Policy Coordinating Office shall coordinate and  
6294 direct the research team's data and information compilation and reporting required by Section

6295 63C-12-108.

6296 Section 109. Section **63F-1-801** is amended to read:

6297 **63F-1-801. Statewide Communications Interoperability Committee --**  
6298 **Membership -- Chair -- Quorum.**

6299 (1) As used in this part:

6300 (a) "Committee" means the Statewide Communications Interoperability Committee.

6301 (b) "Interoperability spectrum" means the radio signal transmission spectrum to  
6302 communicate between agencies as assigned by the Federal Communications Commission.

6303 (2) There is created within the department the Statewide Communications  
6304 Interoperability Committee.

6305 (3) (a) The governor shall appoint the following 25 committee members:

6306 (i) except as provided in Subsection (4), five representatives from counties of the first  
6307 or second class who are in:

6308 (A) law enforcement or fire service; and

6309 (B) a leadership position with radio communication experience;

6310 (ii) one representative each of six associations of government from rural Utah that  
6311 represent counties not represented in Subsection (3)(a)(i);

6312 (iii) one representative of the Utah Communications Agency Network established  
6313 under Title 63C, Chapter 7, Utah Communications Agency Network Act;

6314 (iv) one representative of the Native American tribes;

6315 (v) one representative of the Utah National Guard;

6316 (vi) one representative of an association that represents chiefs of police;

6317 (vii) one representative of an association that represents sheriffs;

6318 (viii) one representative of an association that represents fire chiefs; and

6319 (ix) one representative of an association that represents urban security efforts.

6320 (b) The following shall also be committee members:

6321 (i) the chief information officer or the chief information officer's designee;

6322 (ii) the commissioner of the Department of Public Safety or the commissioner's  
6323 designee;

6324 (iii) the executive director of the Department of Transportation or the executive  
6325 director's designee;

6326 (iv) the executive director of the Department of Corrections or the executive director's  
6327 designee;

6328 (v) the executive director of the Department of Natural Resources and Environment or  
6329 the executive director's designee;

6330 (vi) the director of the Department of Health or the director's designee; and

6331 (vii) the executive director of the Department of Technology Services or the executive  
6332 director's designee.

6333 (4) Subject to Subsection (3)(a)(i), if a member of law enforcement cannot be seated,  
6334 then a representative who has leadership experience in radio communications and public safety  
6335 shall be seated.

6336 (5) (a) The term of office of each member described in Subsection (3)(a) is four years.

6337 (b) Notwithstanding the requirements of Subsection (5)(a), the committee chair with  
6338 the approval of the governor shall, at the time of appointment or reappointment, adjust the  
6339 length of terms to stagger the terms of committee members so that approximately 1/2 of the  
6340 committee members are appointed every two years.

6341 (c) A mid-term vacancy shall be filled for the unexpired term in the same manner as an  
6342 appointment under Subsection (3)(a).

6343 (6) (a) The chief information officer shall serve as the committee chair.

6344 (b) (i) The committee members shall elect a vice-chair from their number; and

6345 (ii) the vice-chair shall rotate among representatives described in Subsection (3)(a)  
6346 every year.

6347 (c) The committee shall establish bylaws for the organization and operation of the  
6348 committee.

6349 (7) (a) A majority of the committee constitutes a quorum for voting purposes.

6350 (b) All actions shall be by majority vote of the quorum in attendance.

6351 (8) The committee:

6352 (a) may meet as often as necessary to perform its duties; and

6353 (b) shall meet at least monthly.

6354 (9) The department shall provide staff services to the committee.

6355 (10) (a) No member may receive compensation or benefits for the member's service on  
6356 the committee.

6357 (b) A committee member is not required to give a bond for the performance of official  
6358 duties.

6359 (11) (a) The committee may create an executive committee from its number to:

6360 (i) plan agendas;

6361 (ii) call committee meetings; and

6362 (iii) meet as often as necessary, at the call of the chair.

6363 (b) The committee may establish subcommittees and working groups to address  
6364 wireless technology coordination and communication issues among agencies providing vital  
6365 services to citizens.

6366 (12) The committee does not have the authority to require expenditure of public funds.

6367 Section 110. Section **63G-2-206** is amended to read:

6368 **63G-2-206. Sharing records.**

6369 (1) A governmental entity may provide a record that is private, controlled, or protected  
6370 to another governmental entity, a government-managed corporation, a political subdivision, the  
6371 federal government, or another state if the requesting entity:

6372 (a) serves as a repository or archives for purposes of historical preservation,  
6373 administrative maintenance, or destruction;

6374 (b) enforces, litigates, or investigates civil, criminal, or administrative law, and the  
6375 record is necessary to a proceeding or investigation;

6376 (c) is authorized by state statute to conduct an audit and the record is needed for that  
6377 purpose;

6378 (d) is one that collects information for presentence, probationary, or parole purposes; or

6379 (e) (i) is:

6380 (A) the Legislature;

6381 (B) a legislative committee;

6382 (C) a member of the Legislature; or

6383 (D) a legislative staff member acting at the request of the Legislature, a legislative  
6384 committee, or a member of the Legislature; and

6385 (ii) requests the record in relation to the Legislature's duties including:

6386 (A) the preparation or review of a legislative proposal or legislation;

6387 (B) appropriations; or

6388 (C) an investigation or review conducted by the Legislature or a legislative committee.

6389 (2) (a) A governmental entity may provide a private, controlled, or protected record or  
6390 record series to another governmental entity, a political subdivision, a government-managed  
6391 corporation, the federal government, or another state if the requesting entity provides written  
6392 assurance:

6393 (i) that the record or record series is necessary to the performance of the governmental  
6394 entity's duties and functions;

6395 (ii) that the record or record series will be used for a purpose similar to the purpose for  
6396 which the information in the record or record series was collected or obtained; and

6397 (iii) that the use of the record or record series produces a public benefit that outweighs  
6398 the individual privacy right that protects the record or record series.

6399 (b) A governmental entity may provide a private, controlled, or protected record or  
6400 record series to a contractor or a private provider according to the requirements of Subsection  
6401 (6)(b).

6402 (3) (a) A governmental entity shall provide a private, controlled, or protected record to  
6403 another governmental entity, a political subdivision, a government-managed corporation, the  
6404 federal government, or another state if the requesting entity:

6405 (i) is entitled by law to inspect the record;

6406 (ii) is required to inspect the record as a condition of participating in a state or federal  
6407 program or for receiving state or federal funds; or

6408 (iii) is an entity described in Subsection (1)(a), (b), (c), (d), or (e).

6409 (b) Subsection (3)(a)(iii) applies only if the record is a record described in Subsection  
6410 63G-2-305(4).

6411 (4) Before disclosing a record or record series under this section to another  
6412 governmental entity, another state, the United States, a foreign government, or to a contractor  
6413 or private provider, the originating governmental entity shall:

6414 (a) inform the recipient of the record's classification and the accompanying restrictions  
6415 on access; and

6416 (b) if the recipient is not a governmental entity to which this chapter applies, obtain the  
6417 recipient's written agreement which may be by mechanical or electronic transmission that it  
6418 will abide by those restrictions on access unless a statute, federal regulation, or interstate



6419 agreement otherwise governs the sharing of the record or record series.

6420 (5) A governmental entity may disclose a record to another state, the United States, or a  
6421 foreign government for the reasons listed in Subsections (1) and (2) without complying with  
6422 the procedures of Subsection (2) or (4) if disclosure is authorized by executive agreement,  
6423 treaty, federal statute, compact, federal regulation, or state statute.

6424 (6) (a) Subject to Subsections (6)(b) and (c), an entity receiving a record under this  
6425 section is subject to the same restrictions on disclosure of the record as the originating entity.

6426 (b) A contractor or a private provider may receive information under this section only  
6427 if:

6428 (i) the contractor or private provider's use of the record or record series produces a  
6429 public benefit that outweighs the individual privacy right that protects the record or record  
6430 series;

6431 (ii) the record or record series it requests:

6432 (A) is necessary for the performance of a contract with a governmental entity;

6433 (B) will only be used for the performance of the contract with the governmental entity;

6434 (C) will not be disclosed to any other person; and

6435 (D) will not be used for advertising or solicitation purposes; and

6436 (iii) the contractor or private provider gives written assurance to the governmental  
6437 entity that is providing the record or record series that it will adhere to the restrictions of this  
6438 Subsection (6)(b).

6439 (c) The classification of a record already held by a governmental entity and the  
6440 applicable restrictions on disclosure of that record are not affected by the governmental entity's  
6441 receipt under this section of a record with a different classification that contains information  
6442 that is also included in the previously held record.

6443 (7) Notwithstanding any other provision of this section, if a more specific court rule or  
6444 order, state statute, federal statute, or federal regulation prohibits or requires sharing  
6445 information, that rule, order, statute, or federal regulation controls.

6446 (8) The following records may not be shared under this section:

6447 (a) records held by the Division of [~~Oil, Gas, and Mining~~] Energy that pertain to any  
6448 person and that are gathered under authority of Title 40, Chapter 6, [~~Board and Division of Oil,  
6449 Gas, and Mining~~] Division of Energy and Board of Oil, Gas, and Mining; and

6450 (b) records of publicly funded libraries as described in Subsection 63G-2-302(1)(c).

6451 (9) Records that may evidence or relate to a violation of law may be disclosed to a

6452 government prosecutor, peace officer, or auditor.

6453 Section 111. Section **63G-2-301** is amended to read:

6454 **63G-2-301. Records that must be disclosed.**

6455 (1) As used in this section:

6456 (a) "Business address" means a single address of a governmental agency designated for  
6457 the public to contact an employee or officer of the governmental agency.

6458 (b) "Business email address" means a single email address of a governmental agency  
6459 designated for the public to contact an employee or officer of the governmental agency.

6460 (c) "Business telephone number" means a single telephone number of a governmental  
6461 agency designated for the public to contact an employee or officer of the governmental agency.

6462 (2) The following records are public except to the extent they contain information  
6463 expressly permitted to be treated confidentially under the provisions of Subsections  
6464 63G-2-201(3)(b) and (6)(a):

6465 (a) laws;

6466 (b) the name, gender, gross compensation, job title, job description, business address,  
6467 business email address, business telephone number, number of hours worked per pay period,  
6468 dates of employment, and relevant education, previous employment, and similar job  
6469 qualifications of a current or former employee or officer of the governmental entity, excluding:

6470 (i) undercover law enforcement personnel; and

6471 (ii) investigative personnel if disclosure could reasonably be expected to impair the  
6472 effectiveness of investigations or endanger any individual's safety;

6473 (c) final opinions, including concurring and dissenting opinions, and orders that are  
6474 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except  
6475 that if the proceedings were properly closed to the public, the opinion and order may be  
6476 withheld to the extent that they contain information that is private, controlled, or protected;

6477 (d) final interpretations of statutes or rules by a governmental entity unless classified as  
6478 protected as provided in Subsections 63G-2-305(16), (17), and (18);

6479 (e) information contained in or compiled from a transcript, minutes, or report of the  
6480 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open

6481 and Public Meetings Act, including the records of all votes of each member of the  
6482 governmental entity;

6483 (f) judicial records unless a court orders the records to be restricted under the rules of  
6484 civil or criminal procedure or unless the records are private under this chapter;

6485 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of  
6486 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning  
6487 commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust  
6488 Lands Administration, the Division of ~~[Oil, Gas, and Mining]~~ Energy, the Division of Water  
6489 ~~[Rights]~~ Resources, or other governmental entities that give public notice of:

6490 (i) titles or encumbrances to real property;

6491 (ii) restrictions on the use of real property;

6492 (iii) the capacity of persons to take or convey title to real property; or

6493 (iv) tax status for real and personal property;

6494 (h) records of the Department of Commerce that evidence incorporations, mergers,  
6495 name changes, and uniform commercial code filings;

6496 (i) data on individuals that would otherwise be private under this chapter if the  
6497 individual who is the subject of the record has given the governmental entity written  
6498 permission to make the records available to the public;

6499 (j) documentation of the compensation that a governmental entity pays to a contractor  
6500 or private provider;

6501 (k) summary data; and

6502 (l) voter registration records, including an individual's voting history, except for those  
6503 parts of the record that are classified as private in Subsection 63G-2-302(1)(i).

6504 (3) The following records are normally public, but to the extent that a record is  
6505 expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),  
6506 Section 63G-2-302, 63G-2-304, or 63G-2-305:

6507 (a) administrative staff manuals, instructions to staff, and statements of policy;

6508 (b) records documenting a contractor's or private provider's compliance with the terms  
6509 of a contract with a governmental entity;

6510 (c) records documenting the services provided by a contractor or a private provider to  
6511 the extent the records would be public if prepared by the governmental entity;

- 6512 (d) contracts entered into by a governmental entity;
- 6513 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds  
6514 by a governmental entity;
- 6515 (f) records relating to government assistance or incentives publicly disclosed,  
6516 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a  
6517 business in Utah, except as provided in Subsection 63G-2-305(35);
- 6518 (g) chronological logs and initial contact reports;
- 6519 (h) correspondence by and with a governmental entity in which the governmental entity  
6520 determines or states an opinion upon the rights of the state, a political subdivision, the public,  
6521 or any person;
- 6522 (i) empirical data contained in drafts if:
- 6523 (i) the empirical data is not reasonably available to the requester elsewhere in similar  
6524 form; and
- 6525 (ii) the governmental entity is given a reasonable opportunity to correct any errors or  
6526 make nonsubstantive changes before release;
- 6527 (j) drafts that are circulated to anyone other than:
- 6528 (i) a governmental entity;
- 6529 (ii) a political subdivision;
- 6530 (iii) a federal agency if the governmental entity and the federal agency are jointly  
6531 responsible for implementation of a program or project that has been legislatively approved;
- 6532 (iv) a government-managed corporation; or
- 6533 (v) a contractor or private provider;
- 6534 (k) drafts that have never been finalized but were relied upon by the governmental  
6535 entity in carrying out action or policy;
- 6536 (l) original data in a computer program if the governmental entity chooses not to  
6537 disclose the program;
- 6538 (m) arrest warrants after issuance, except that, for good cause, a court may order  
6539 restricted access to arrest warrants prior to service;
- 6540 (n) search warrants after execution and filing of the return, except that a court, for good  
6541 cause, may order restricted access to search warrants prior to trial;
- 6542 (o) records that would disclose information relating to formal charges or disciplinary

6543 actions against a past or present governmental entity employee if:

6544 (i) the disciplinary action has been completed and all time periods for administrative  
6545 appeal have expired; and

6546 (ii) the charges on which the disciplinary action was based were sustained;

6547 (p) records maintained by the Division of Forestry, Fire, and State Lands, the School  
6548 and Institutional Trust Lands Administration, or the Division of [~~Oil, Gas, and Mining~~] Energy  
6549 that evidence mineral production on government lands;

6550 (q) final audit reports;

6551 (r) occupational and professional licenses;

6552 (s) business licenses; and

6553 (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar  
6554 records used to initiate proceedings for discipline or sanctions against persons regulated by a  
6555 governmental entity, but not including records that initiate employee discipline.

6556 (4) The list of public records in this section is not exhaustive and should not be used to  
6557 limit access to records.

6558 Section 112. Section **63I-1-219** is amended to read:

6559 **63I-1-219. Repeal dates, Title 19.**

6560 (1) The following Sections are repealed July 1, 2012:

6561 (a) Section 19-1-104;

6562 (b) Section 19-1-105;

6563 (c) Section 19-1-106;

6564 (d) Section 19-1-204;

6565 (e) Section 19-1-205;

6566 (f) Section 19-1-206; and

6567 (g) Section 19-1-304.

6568 [~~(1)~~] (2) Title 19, Chapter 2, Air Conservation Act, is repealed July 1, 2014.

6569 [~~(2)~~] (3) Title 19, Chapter 3, Radiation Control Act, is repealed July 1, [~~2012~~] 2014.

6570 [~~(3)~~] (4) Title 19, Chapter 4, Safe Drinking Water Act, is repealed July 1, 2019.

6571 [~~(4)~~] (5) Title 19, Chapter 5, Water Quality Act, is repealed July 1, 2019.

6572 [~~(5)~~] (6) Title 19, Chapter 6, Part 1, Solid and Hazardous Waste Act, is repealed July 1,  
6573 2019.

6574            [~~(6)~~] (7) Title 19, Chapter 6, Part 3, Hazardous Substances Mitigation Act, is repealed  
6575 July 1, 2020.

6576            [~~(7)~~] (8) Title 19, Chapter 6, Part 4, Underground Storage Tank Act, is repealed July 1,  
6577 2018.

6578            [~~(8)~~] (9) Title 19, Chapter 6, Part 6, Lead Acid Battery Disposal, is repealed July 1,  
6579 2016.

6580            [~~(9)~~] (10) Title 19, Chapter 6, Part 7, Used Oil Management Act, is repealed July 1,  
6581 2019.

6582            [~~(10)~~] (11) Title 19, Chapter 6, Part 8, Waste Tire Recycling Act, is repealed July 1,  
6583 2020.

6584            [~~(11)~~] (12) Title 19, Chapter 6, Part 10, Mercury Switch Removal Act, is repealed July  
6585 1, [~~2012~~] 2014.

6586            Section 113. Section **63I-1-273** is amended to read:

6587            **63I-1-273. Repeal dates, Title 73.**

6588            (1) The following sections are repealed July 1, 2012:

6589            (a) Section 73-2-1.1; and

6590            (b) Section 73-2-1.2.

6591            [~~(12)~~] (2) Title 73, Chapter 27, State Water Development Commission, is repealed  
6592 December 31, 2018.

6593            [~~(2)~~] (3) The instream flow water right for trout habitat established in Subsection  
6594 73-3-30(3) is repealed December 31, 2018.

6595            Section 114. Section **63I-1-279** is enacted to read:

6596            **63I-1-279. Repeal dates, Title 79.**

6597            Section 79-3-203 is repealed July 1, 2012.

6598            Section 115. Section **63J-4-401** is amended to read:

6599            **63J-4-401. Planning duties of the planning coordinator and office.**

6600            (1) The state planning coordinator shall:

6601            (a) act as the governor's adviser on state, regional, metropolitan, and local  
6602 governmental planning matters relating to public improvements and land use;

6603            (b) counsel with the authorized representatives of the Department of Transportation,  
6604 the State Building Board, the Department of Health, the Department of Workforce Services,

6605 the Labor Commission, the Department of Natural Resources and Environment, the School and  
6606 Institutional Trust Lands Administration, and other proper persons concerning all state  
6607 planning matters;

6608 (c) when designated to do so by the governor, receive funds made available to Utah by  
6609 the federal government;

6610 (d) receive and review plans of the various state agencies and political subdivisions  
6611 relating to public improvements and programs;

6612 (e) when conflicts occur between the plans and proposals of state agencies, prepare  
6613 specific recommendations for the resolution of the conflicts and submit the recommendations  
6614 to the governor for a decision resolving the conflict;

6615 (f) when conflicts occur between the plans and proposals of a state agency and a  
6616 political subdivision or between two or more political subdivisions, advise these entities of the  
6617 conflict and make specific recommendations for the resolution of the conflict;

6618 (g) act as the governor's planning agent in planning public improvements and land use  
6619 and, in this capacity, undertake special studies and investigations;

6620 (h) provide information and cooperate with the Legislature or any of its committees in  
6621 conducting planning studies;

6622 (i) cooperate and exchange information with federal agencies and local, metropolitan,  
6623 or regional agencies as necessary to assist with federal, state, regional, metropolitan, and local  
6624 programs;

6625 (j) make recommendations to the governor that the planning coordinator considers  
6626 advisable for the proper development and coordination of plans for state government and  
6627 political subdivisions; and

6628 (k) oversee and supervise the activities and duties of the public lands policy  
6629 coordinator.

6630 (2) The state planning coordinator may:

6631 (a) perform regional and state planning and assist state government planning agencies  
6632 in performing state planning;

6633 (b) provide planning assistance to Indian tribes regarding planning for Indian  
6634 reservations; and

6635 (c) assist city, county, metropolitan, and regional planning agencies in performing

6636 local, metropolitan, and regional planning, provided that the state planning coordinator and the  
6637 state planning coordinator's agents and designees recognize and promote the plans, policies,  
6638 programs, processes, and desired outcomes of each planning agency whenever possible.

6639 (3) When preparing or assisting in the preparation of plans, policies, programs, or  
6640 processes related to the management or use of federal lands or natural resources on federal  
6641 lands in Utah, the state planning coordinator shall:

6642 (a) incorporate the plans, policies, programs, processes, and desired outcomes of the  
6643 counties where the federal lands or natural resources are located, to the maximum extent  
6644 consistent with state and federal law, provided that this requirement shall not be interpreted to  
6645 infringe upon the authority of the governor;

6646 (b) identify inconsistencies or conflicts between the plans, policies, programs,  
6647 processes, and desired outcomes prepared under Subsection (3)(a) and the plans, programs,  
6648 processes, and desired outcomes of local government as early in the preparation process as  
6649 possible, and seek resolution of the inconsistencies through meetings or other conflict  
6650 resolution mechanisms involving the necessary and immediate parties to the inconsistency or  
6651 conflict;

6652 (c) present to the governor the nature and scope of any inconsistency or other conflict  
6653 that is not resolved under the procedures in Subsection (3)(b) for the governor's decision about  
6654 the position of the state concerning the inconsistency or conflict;

6655 (d) develop, research, and use factual information, legal analysis, and statements of  
6656 desired future condition for the state, or subregion of the state, as necessary to support the  
6657 plans, policies, programs, processes, and desired outcomes of the state and the counties where  
6658 the federal lands or natural resources are located;

6659 (e) establish and coordinate agreements between the state and federal land management  
6660 agencies, federal natural resource management agencies, and federal natural resource  
6661 regulatory agencies to facilitate state and local participation in the development, revision, and  
6662 implementation of land use plans, guidelines, regulations, other instructional memoranda, or  
6663 similar documents proposed or promulgated for lands and natural resources administered by  
6664 federal agencies; and

6665 (f) work in conjunction with political subdivisions to establish agreements with federal  
6666 land management agencies, federal natural resource management agencies, and federal natural



6667 resource regulatory agencies to provide a process for state and local participation in the  
6668 preparation of, or coordinated state and local response to, environmental impact analysis  
6669 documents and similar documents prepared pursuant to law by state or federal agencies.

6670 (4) The state planning coordinator shall comply with the requirements of Subsection  
6671 63C-4-102(8) before submitting any comments on a draft environmental impact statement or  
6672 on an environmental assessment for a proposed land management plan, if the governor would  
6673 be subject to Subsection 63C-4-102(8) if the governor were submitting the material.

6674 (5) The state planning coordinator shall cooperate with and work in conjunction with  
6675 appropriate state agencies and political subdivisions to develop policies, plans, programs,  
6676 processes, and desired outcomes authorized by this section by coordinating the development of  
6677 positions:

6678 (a) through the Resource Development Coordinating Committee;

6679 (b) in conjunction with local government officials concerning general local government  
6680 plans;

6681 (c) by soliciting public comment through the Resource Development Coordinating  
6682 Committee; and

6683 (d) by working with the Public Lands Policy Coordinating Office.

6684 (6) The state planning coordinator shall recognize and promote the following principles  
6685 when preparing any policies, plans, programs, processes, or desired outcomes relating to  
6686 federal lands and natural resources on federal lands pursuant to this section:

6687 (a) (i) the citizens of the state are best served by applying multiple-use and  
6688 sustained-yield principles in public land use planning and management; and

6689 (ii) multiple-use and sustained-yield management means that federal agencies should  
6690 develop and implement management plans and make other resource-use decisions that:

6691 (A) achieve and maintain in perpetuity a high-level annual or regular periodic output of  
6692 mineral and various renewable resources from public lands;

6693 (B) support valid existing transportation, mineral, and grazing privileges at the highest  
6694 reasonably sustainable levels;

6695 (C) support the specific plans, programs, processes, and policies of state agencies and  
6696 local governments;

6697 (D) are designed to produce and provide the desired vegetation for the watersheds,

6698 timber, food, fiber, livestock forage, and wildlife forage, and minerals that are necessary to  
6699 meet present needs and future economic growth and community expansion without permanent  
6700 impairment of the productivity of the land;

6701 (E) meet the recreational needs and the personal and business-related transportation  
6702 needs of the citizens of the state by providing access throughout the state;

6703 (F) meet the recreational needs of the citizens of the state;

6704 (G) meet the needs of wildlife;

6705 (H) provide for the preservation of cultural resources, both historical and  
6706 archaeological;

6707 (I) meet the needs of economic development;

6708 (J) meet the needs of community development; and

6709 (K) provide for the protection of water rights;

6710 (b) managing public lands for "wilderness characteristics" circumvents the statutory  
6711 wilderness process and is inconsistent with the multiple-use and sustained-yield management  
6712 standard that applies to all Bureau of Land Management and U.S. Forest Service lands that are  
6713 not wilderness areas or wilderness study areas;

6714 (c) all waters of the state are:

6715 (i) owned exclusively by the state in trust for its citizens;

6716 (ii) are subject to appropriation for beneficial use; and

6717 (iii) are essential to the future prosperity of the state and the quality of life within the  
6718 state;

6719 (d) the state has the right to develop and use its entitlement to interstate rivers;

6720 (e) all water rights desired by the federal government must be obtained through the  
6721 state water appropriation system;

6722 (f) land management and resource-use decisions which affect federal lands should give  
6723 priority to and support the purposes of the compact between the state and the United States  
6724 related to school and institutional trust lands;

6725 (g) development of the solid, fluid, and gaseous mineral resources of the state is an  
6726 important part of the economy of the state, and of local regions within the state;

6727 (h) the state should foster and support industries that take advantage of the state's  
6728 outstanding opportunities for outdoor recreation;

6729 (i) wildlife constitutes an important resource and provides recreational and economic  
6730 opportunities for the state's citizens;

6731 (j) proper stewardship of the land and natural resources is necessary to ensure the  
6732 health of the watersheds, timber, forage, and wildlife resources to provide for a continuous  
6733 supply of resources for the people of the state and the people of the local communities who  
6734 depend on these resources for a sustainable economy;

6735 (k) forests, rangelands, timber, and other vegetative resources:

6736 (i) provide forage for livestock;

6737 (ii) provide forage and habitat for wildlife;

6738 (iii) provide resources for the state's timber and logging industries;

6739 (iv) contribute to the state's economic stability and growth; and

6740 (v) are important for a wide variety of recreational pursuits;

6741 (l) management programs and initiatives that improve watersheds, forests, and increase  
6742 forage for the mutual benefit of wildlife species and livestock, logging, and other agricultural  
6743 industries by utilizing proven techniques and tools are vital to the state's economy and the  
6744 quality of life in Utah; and

6745 (m) (i) land management plans, programs, and initiatives should provide that the  
6746 amount of domestic livestock forage, expressed in animal unit months, for permitted, active  
6747 use as well as the wildlife forage included in that amount, be no less than the maximum  
6748 number of animal unit months sustainable by range conditions in grazing allotments and  
6749 districts, based on an on-the-ground and scientific analysis;

6750 (ii) the state opposes the relinquishment or retirement of grazing animal unit months in  
6751 favor of conservation, wildlife, and other uses;

6752 (iii) (A) the state favors the best management practices that are jointly sponsored by  
6753 cattlemen's, sportsmen's, and wildlife management groups such as chaining, logging, seeding,  
6754 burning, and other direct soil and vegetation prescriptions that are demonstrated to restore  
6755 forest and rangeland health, increase forage, and improve watersheds in grazing districts and  
6756 allotments for the mutual benefit of domestic livestock and wildlife;

6757 (B) when practices described in Subsection (6)(m)(iii)(A) increase a grazing  
6758 allotment's forage beyond the total permitted forage use that was allocated to that allotment in  
6759 the last federal land use plan or allotment management plan still in existence as of January 1,

6760 2005, a reasonable and fair portion of the increase in forage beyond the previously allocated  
6761 total permitted use should be allocated to wildlife as recommended by a joint, evenly balanced  
6762 committee of livestock and wildlife representatives that is appointed and constituted by the  
6763 governor for that purpose;

6764 (C) the state favors quickly and effectively adjusting wildlife population goals and  
6765 population census numbers in response to variations in the amount of available forage caused  
6766 by drought or other climatic adjustments, and state agencies responsible for managing wildlife  
6767 population goals and population census numbers will give due regard to both the needs of the  
6768 livestock industry and the need to prevent the decline of species to a point where listing under  
6769 the terms of the Endangered Species Act when making such adjustments;

6770 (iv) the state opposes the transfer of grazing animal unit months to wildlife for  
6771 supposed reasons of rangeland health;

6772 (v) reductions in domestic livestock animal unit months must be temporary and  
6773 scientifically based upon rangeland conditions;

6774 (vi) policies, plans, programs, initiatives, resource management plans, and forest plans  
6775 may not allow the placement of grazing animal unit months in a suspended use category unless  
6776 there is a rational and scientific determination that the condition of the rangeland allotment or  
6777 district in question will not sustain the animal unit months sought to be placed in suspended  
6778 use;

6779 (vii) any grazing animal unit months that are placed in a suspended use category should  
6780 be returned to active use when range conditions improve;

6781 (viii) policies, plans, programs, and initiatives related to vegetation management  
6782 should recognize and uphold the preference for domestic grazing over alternate forage uses in  
6783 established grazing districts while upholding management practices that optimize and expand  
6784 forage for grazing and wildlife in conjunction with state wildlife management plans and  
6785 programs in order to provide maximum available forage for all uses; and

6786 (ix) in established grazing districts, animal unit months that have been reduced due to  
6787 rangeland health concerns should be restored to livestock when rangeland conditions improve,  
6788 and should not be converted to wildlife use.

6789 (7) The state planning coordinator shall recognize and promote the following findings  
6790 in the preparation of any policies, plans, programs, processes, or desired outcomes relating to

6791 federal lands and natural resources on federal lands under this section:

6792 (a) as a coholder of R.S. 2477 rights-of-way with the counties, the state supports its  
6793 recognition by the federal government and the public use of R.S. 2477 rights-of-way and urges  
6794 the federal government to fully recognize the rights-of-way and their use by the public as  
6795 expeditiously as possible;

6796 (b) it is the policy of the state to use reasonable administrative and legal measures to  
6797 protect and preserve valid existing rights-of-way granted by Congress under R.S. 2477, and to  
6798 support and work in conjunction with counties to redress cases where R.S. 2477 rights-of-way  
6799 are not recognized or are impaired; and

6800 (c) transportation and access routes to and across federal lands, including all  
6801 rights-of-way vested under R.S. 2477, are vital to the state's economy and to the quality of life  
6802 in the state, and must provide, at a minimum, a network of roads throughout the resource  
6803 planning area that provides for:

6804 (i) movement of people, goods, and services across public lands;

6805 (ii) reasonable access to a broad range of resources and opportunities throughout the  
6806 resource planning area, including:

6807 (A) livestock operations and improvements;

6808 (B) solid, fluid, and gaseous mineral operations;

6809 (C) recreational opportunities and operations, including motorized and nonmotorized  
6810 recreation;

6811 (D) search and rescue needs;

6812 (E) public safety needs; and

6813 (F) access for transportation of wood products to market;

6814 (iii) access to federal lands for people with disabilities and the elderly; and

6815 (iv) access to state lands and school and institutional trust lands to accomplish the  
6816 purposes of those lands.

6817 (8) The state planning coordinator shall recognize and promote the following findings  
6818 in the preparation of any plans, policies, programs, processes, or desired outcomes relating to  
6819 federal lands and natural resources on federal lands pursuant to this section:

6820 (a) the state's support for the addition of a river segment to the National Wild and  
6821 Scenic Rivers System, 16 U.S.C. Sec. 1271 et seq., will be withheld until:

- 6822 (i) it is clearly demonstrated that water is present and flowing at all times;
- 6823 (ii) it is clearly demonstrated that the required water-related value is considered  
6824 outstandingly remarkable within a region of comparison consisting of one of the three  
6825 physiographic provinces in the state, and that the rationale and justification for the conclusions  
6826 are disclosed;
- 6827 (iii) it is clearly demonstrated that the inclusion of each river segment is consistent  
6828 with the plans and policies of the state and the county or counties where the river segment is  
6829 located as those plans and policies are developed according to Subsection (3);
- 6830 (iv) the effects of the addition upon the local and state economies, agricultural and  
6831 industrial operations and interests, outdoor recreation, water rights, water quality, water  
6832 resource planning, and access to and across river corridors in both upstream and downstream  
6833 directions from the proposed river segment have been evaluated in detail by the relevant federal  
6834 agency;
- 6835 (v) it is clearly demonstrated that the provisions and terms of the process for review of  
6836 potential additions have been applied in a consistent manner by all federal agencies;
- 6837 (vi) the rationale and justification for the proposed addition, including a comparison  
6838 with protections offered by other management tools, is clearly analyzed within the multiple-use  
6839 mandate, and the results disclosed;
- 6840 (vii) it is clearly demonstrated that the federal agency with management authority over  
6841 the river segment, and which is proposing the segment for inclusion in the National Wild and  
6842 Scenic River System will not use the actual or proposed designation as a basis to impose  
6843 management standards outside of the federal land management plan;
- 6844 (viii) it is clearly demonstrated that the terms and conditions of the federal land and  
6845 resource management plan containing a recommendation for inclusion in the National Wild  
6846 and Scenic River System:
- 6847 (A) evaluates all eligible river segments in the resource planning area completely and  
6848 fully for suitability for inclusion in the National Wild and Scenic River System;
- 6849 (B) does not suspend or terminate any studies for inclusion in the National Wild and  
6850 Scenic River System at the eligibility phase;
- 6851 (C) fully disclaims any interest in water rights for the recommended segment as a result  
6852 of the adoption of the plan; and

6853 (D) fully disclaims the use of the recommendation for inclusion in the National Wild  
6854 and Scenic River System as a reason or rationale for an evaluation of impacts by proposals for  
6855 projects upstream, downstream, or within the recommended segment;

6856 (ix) it is clearly demonstrated that the agency with management authority over the river  
6857 segment commits not to use an actual or proposed designation as a basis to impose Visual  
6858 Resource Management Class I or II management prescriptions that do not comply with the  
6859 provisions of Subsection (8)(t); and

6860 (x) it is clearly demonstrated that including the river segment and the terms and  
6861 conditions for managing the river segment as part of the National Wild and Scenic River  
6862 System will not prevent, reduce, impair, or otherwise interfere with:

6863 (A) the state and its citizens' enjoyment of complete and exclusive water rights in and  
6864 to the rivers of the state as determined by the laws of the state; or

6865 (B) local, state, regional, or interstate water compacts to which the state or any county  
6866 is a party;

6867 (b) the conclusions of all studies related to potential additions to the National Wild and  
6868 Scenic River System, 16 U.S.C. Sec. 1271 et seq., are submitted to the state for review and  
6869 action by the Legislature and governor, and the results, in support of or in opposition to, are  
6870 included in any planning documents or other proposals for addition and are forwarded to the  
6871 United States Congress;

6872 (c) the state's support for designation of an Area of Critical Environmental Concern  
6873 (ACEC), as defined in 43 U.S.C. Sec. 1702, within federal land management plans will be  
6874 withheld until:

6875 (i) it is clearly demonstrated that the proposed area satisfies all the definitional  
6876 requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec.  
6877 1702(a);

6878 (ii) it is clearly demonstrated that the area proposed for designation as an ACEC is  
6879 limited in geographic size and that the proposed management prescriptions are limited in scope  
6880 to the minimum necessary to specifically protect and prevent irreparable damage to the relevant  
6881 and important values identified, or limited in geographic size and management prescriptions to  
6882 the minimum required to specifically protect human life or safety from natural hazards;

6883 (iii) it is clearly demonstrated that the proposed area is limited only to areas that are

6884 already developed or used or to areas where no development is required;

6885 (iv) it is clearly demonstrated that the proposed area contains relevant and important  
6886 historic, cultural or scenic values, fish or wildlife resources, or natural processes which are  
6887 unique or substantially significant on a regional basis, or contain natural hazards which  
6888 significantly threaten human life or safety;

6889 (v) the federal agency has analyzed regional values, resources, processes, or hazards for  
6890 irreparable damage and its potential causes resulting from potential actions which are  
6891 consistent with the multiple-use, sustained-yield principles, and the analysis describes the  
6892 rationale for any special management attention required to protect, or prevent irreparable  
6893 damage to the values, resources, processes, or hazards;

6894 (vi) it is clearly demonstrated that the proposed designation is consistent with the plans  
6895 and policies of the state and of the county where the proposed designation is located as those  
6896 plans and policies are developed according to Subsection (3);

6897 (vii) it is clearly demonstrated that the proposed ACEC designation will not be applied  
6898 redundantly over existing protections provided by other state and federal laws for federal lands  
6899 or resources on federal lands, and that the federal statutory requirement for special management  
6900 attention for a proposed ACEC will discuss and justify any management requirements needed  
6901 in addition to those specified by the other state and federal laws;

6902 (viii) the difference between special management attention required for an ACEC and  
6903 normal multiple-use management has been identified and justified, and that any determination  
6904 of irreparable damage has been analyzed and justified for short and long-term horizons;

6905 (ix) it is clearly demonstrated that the proposed designation:

6906 (A) is not a substitute for a wilderness suitability recommendation;

6907 (B) is not a substitute for managing areas inventoried for wilderness characteristics  
6908 after 1993 under the BLM interim management plan for valid wilderness study areas; and

6909 (C) it is not an excuse or justification to apply de facto wilderness management  
6910 standards; and

6911 (x) the conclusions of all studies are submitted to the state, as a cooperating agency, for  
6912 review, and the results, in support of or in opposition to, are included in all planning  
6913 documents;

6914 (d) sufficient federal lands are made available for government-to-government



6915 exchanges of school and institutional trust lands and federal lands without regard for a  
6916 resource-to-resource correspondence between the surface or mineral characteristics of the  
6917 offered trust lands and the offered federal lands;

6918 (e) federal agencies should support government-to-government exchanges of land with  
6919 the state based on a fair process of valuation which meets the fiduciary obligations of both the  
6920 state and federal governments toward trust lands management, and which assures that revenue  
6921 authorized by federal statute to the state from mineral or timber production, present or future, is  
6922 not diminished in any manner during valuation, negotiation, or implementation processes;

6923 (f) agricultural and grazing lands should continue to produce the food and fiber needed  
6924 by the citizens of the state and the nation, and the rural character and open landscape of rural  
6925 Utah should be preserved through a healthy and active agricultural and grazing industry,  
6926 consistent with private property rights and state fiduciary duties;

6927 (g) the resources of the forests and rangelands of the state should be integrated as part  
6928 of viable, robust, and sustainable state and local economies, and available forage should be  
6929 evaluated for the full complement of herbivores the rangelands can support in a sustainable  
6930 manner, and forests should contain a diversity of timber species, and disease or insect  
6931 infestations in forests should be controlled using logging or other best management practices;

6932 (h) the state opposes any additional evaluation of national forest service lands as  
6933 "roadless" or "unroaded" beyond the forest service's second roadless area review evaluation and  
6934 opposes efforts by agencies to specially manage those areas in a way that:

6935 (i) closes or declassifies existing roads unless multiple side by side roads exist running  
6936 to the same destination and state and local governments consent to close or declassify the extra  
6937 roads;

6938 (ii) permanently bars travel on existing roads;

6939 (iii) excludes or diminishes traditional multiple-use activities, including grazing and  
6940 proper forest harvesting;

6941 (iv) interferes with the enjoyment and use of valid, existing rights, including water  
6942 rights, local transportation plan rights, R.S. 2477 rights, grazing allotment rights, and mineral  
6943 leasing rights; or

6944 (v) prohibits development of additional roads reasonably necessary to pursue  
6945 traditional multiple-use activities;

6946 (i) the state's support for any forest plan revision or amendment will be withheld until  
6947 the appropriate plan revision or plan amendment clearly demonstrates that:

6948 (i) established roads are not referred to as unclassified roads or a similar classification;

6949 (ii) lands in the vicinity of established roads are managed under the multiple-use,  
6950 sustained-yield management standard; and

6951 (iii) no roadless or unroaded evaluations or inventories are recognized or upheld  
6952 beyond those that were recognized or upheld in the forest service's second roadless area review  
6953 evaluation;

6954 (j) the state's support for any recommendations made under the statutory requirement to  
6955 examine the wilderness option during the revision of land and resource management plans by  
6956 the U.S. Forest Service will be withheld until it is clearly demonstrated that:

6957 (i) the duly adopted transportation plans of the state and county or counties within the  
6958 planning area are fully and completely incorporated into the baseline inventory of information  
6959 from which plan provisions are derived;

6960 (ii) valid state or local roads and rights-of-way are recognized and not impaired in any  
6961 way by the recommendations;

6962 (iii) the development of mineral resources by underground mining is not affected by  
6963 the recommendations;

6964 (iv) the need for additional administrative or public roads necessary for the full use of  
6965 the various multiple-uses, including recreation, mineral exploration and development, forest  
6966 health activities, and grazing operations is not unduly affected by the recommendations;

6967 (v) analysis and full disclosure is made concerning the balance of multiple-use  
6968 management in the proposed areas, and that the analysis compares the full benefit of  
6969 multiple-use management to the recreational, forest health, and economic needs of the state and  
6970 the counties to the benefits of the requirements of wilderness management; and

6971 (vi) the conclusions of all studies related to the requirement to examine the wilderness  
6972 option are submitted to the state for review and action by the Legislature and governor, and the  
6973 results, in support of or in opposition to, are included in any planning documents or other  
6974 proposals that are forwarded to the United States Congress;

6975 (k) the invasion of noxious weeds and undesirable invasive plant species into the state  
6976 should be reversed, their presence eliminated, and their return prevented;

6977 (l) management and resource-use decisions by federal land management and regulatory  
6978 agencies concerning the vegetative resources within the state should reflect serious  
6979 consideration of the proper optimization of the yield of water within the watersheds of the  
6980 state;

6981 (m) (i) it is the policy of the state that:

6982 (A) mineral and energy production and environmental protection are not mutually  
6983 exclusive;

6984 (B) it is technically feasible to permit appropriate access to mineral and energy  
6985 resources while preserving nonmineral and nonenergy resources;

6986 (C) resource management planning should seriously consider all available mineral and  
6987 energy resources;

6988 (D) the development of the solid, fluid, and gaseous mineral resources of the state and  
6989 the renewable resources of the state should be encouraged;

6990 (E) the waste of fluid and gaseous minerals within developed areas should be  
6991 prohibited; and

6992 (F) requirements to mitigate or reclaim mineral development projects should be based  
6993 on credible evidence of significant impacts to natural or cultural resources;

6994 (ii) the state's support for mineral development provisions within federal land  
6995 management plans will be withheld until the appropriate land management plan environmental  
6996 impact statement clearly demonstrates:

6997 (A) that the authorized planning agency has:

6998 (I) considered and evaluated the mineral and energy potential in all areas of the  
6999 planning area as if the areas were open to mineral development under standard lease  
7000 agreements; and

7001 (II) evaluated any management plan prescription for its impact on the area's baseline  
7002 mineral and energy potential;

7003 (B) that the development provisions do not unduly restrict access to public lands for  
7004 energy exploration and development;

7005 (C) that the authorized planning agency has supported any closure of additional areas  
7006 to mineral leasing and development or any increase of acres subject to no surface occupancy  
7007 restrictions by adhering to:

7008 (I) the relevant provisions of the Federal Land Policy and Management Act of 1976, 43  
7009 U.S.C. Sec. 1701 et seq.;

7010 (II) other controlling mineral development laws; and

7011 (III) the controlling withdrawal and reporting procedures set forth in the Federal Land  
7012 Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;

7013 (D) that the authorized planning agency evaluated whether to repeal any moratorium  
7014 that may exist on the issuance of additional mining patents and oil and gas leases;

7015 (E) that the authorized planning agency analyzed all proposed mineral lease  
7016 stipulations and considered adopting the least restrictive necessary to protect against damage to  
7017 other significant resource values;

7018 (F) that the authorized planning agency evaluated mineral lease restrictions to  
7019 determine whether to waive, modify, or make exceptions to the restrictions on the basis that  
7020 they are no longer necessary or effective;

7021 (G) that the authorized federal agency analyzed all areas proposed for no surface  
7022 occupancy restrictions, and that the analysis evaluated:

7023 (I) whether directional drilling is economically feasible and ecologically necessary for  
7024 each proposed no surface occupancy area;

7025 (II) whether the directional drilling feasibility analysis, or analysis of other  
7026 management prescriptions, demonstrates that the proposed no surface occupancy prescription,  
7027 in effect, sterilizes the mineral and energy resources beneath the area; and

7028 (III) whether, if the minerals are effectively sterilized, the area must be reported as  
7029 withdrawn under the provisions of the Federal Land Policy and Management Act; and

7030 (H) that the authorized planning agency has evaluated all directional drilling  
7031 requirements in no surface occupancy areas to determine whether directional drilling is feasible  
7032 from an economic, ecological, and engineering standpoint;

7033 (n) motorized, human, and animal-powered outdoor recreation should be integrated  
7034 into a fair and balanced allocation of resources within the historical and cultural framework of  
7035 multiple-uses in rural Utah, and outdoor recreation should be supported as part of a balanced  
7036 plan of state and local economic support and growth;

7037 (o) off-highway vehicles should be used responsibly, the management of off-highway  
7038 vehicles should be uniform across all jurisdictions, and laws related to the use of off-highway

7039 vehicles should be uniformly applied across all jurisdictions;

7040 (p) (i) rights-of-way granted and vested under the provisions of R.S. 2477 should be  
7041 preserved and acknowledged;

7042 (ii) land use management plans, programs, and initiatives should be consistent with  
7043 both state and county transportation plans developed according to Subsection (3) in order to  
7044 provide a network of roads throughout the planning area that provides for:

7045 (A) movement of people, goods, and services across public lands;

7046 (B) reasonable access to a broad range of resources and opportunities throughout the  
7047 planning area, including access to livestock, water, and minerals;

7048 (C) economic and business needs;

7049 (D) public safety;

7050 (E) search and rescue;

7051 (F) access for people with disabilities and the elderly;

7052 (G) access to state lands; and

7053 (H) recreational opportunities;

7054 (q) transportation and access provisions for all other existing routes, roads, and trails  
7055 across federal, state, and school trust lands within the state should be determined and  
7056 identified, and agreements should be executed and implemented, as necessary to fully authorize  
7057 and determine responsibility for maintenance of all routes, roads, and trails;

7058 (r) the reasonable development of new routes and trails for motorized, human, and  
7059 animal-powered recreation should be implemented;

7060 (s) (i) forests, rangelands, and watersheds, in a healthy condition, are necessary and  
7061 beneficial for wildlife, livestock grazing, and other multiple-uses;

7062 (ii) management programs and initiatives that are implemented to increase forage for  
7063 the mutual benefit of the agricultural industry, livestock operations, and wildlife species should  
7064 utilize all proven techniques and tools;

7065 (iii) the continued viability of livestock operations and the livestock industry should be  
7066 supported on the federal lands within the state by management of the lands and forage  
7067 resources, by the proper optimization of animal unit months for livestock, in accordance with  
7068 the multiple-use provisions of the Federal Land Policy and Management Act of 1976, 43  
7069 U.S.C. 1701 et seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C. 315 et seq.,

7070 and the provisions of the Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et seq.;

7071 (iv) provisions for predator control initiatives or programs under the direction of state  
7072 and local authorities should be implemented; and

7073 (v) resource-use and management decisions by federal land management and  
7074 regulatory agencies should support state-sponsored initiatives or programs designed to stabilize  
7075 wildlife populations that may be experiencing a scientifically demonstrated decline in those  
7076 populations; and

7077 (t) management and resource use decisions by federal land management and regulatory  
7078 agencies concerning the scenic resources of the state must balance the protection of scenery  
7079 with the full management requirements of the other authorized uses of the land under  
7080 multiple-use management, and should carefully consider using Visual Resource Management  
7081 Class I protection only for areas of inventoried Class A scenery or equivalent.

7082 (9) Nothing contained in this section may be construed to restrict or supersede the  
7083 planning powers conferred upon state departments, agencies, instrumentalities, or advisory  
7084 councils of the state or the planning powers conferred upon political subdivisions by any other  
7085 existing law.

7086 (10) Nothing in this section may be construed to affect any lands withdrawn from the  
7087 public domain for military purposes, which are administered by the United States Army, Air  
7088 Force, or Navy.

7089 Section 116. Section **63J-4-502** is amended to read:

7090 **63J-4-502. Membership -- Terms -- Chair -- Expenses.**

7091 (1) The Resource Development Coordinating Committee shall consist of the following  
7092 [25] members:

7093 (a) the state science advisor;

7094 (b) a representative from the Department of Agriculture and Food appointed by the  
7095 executive director;

7096 (c) a representative from the Department of Community and Culture appointed by the  
7097 executive director;

7098 [~~(d) a representative from the Department of Environmental Quality appointed by the~~  
7099 ~~executive director;~~]

7100 [~~(e)~~ (d) a representative from the Department of Natural Resources and Environment

7101 appointed by the executive director;

7102           ~~[(f)]~~ (e) a representative from the Department of Transportation appointed by the

7103 executive director;

7104           ~~[(g)]~~ (f) a representative from the Governor's Office of Economic Development

7105 appointed by the director;

7106           ~~[(h)]~~ (g) a representative from the Division of Housing and Community Development

7107 appointed by the director;

7108           ~~[(i)]~~ (h) a representative from the Division of State History appointed by the director;

7109           ~~[(j)]~~ (i) a representative from the Division of Air Quality appointed by the director;

7110           ~~[(k)] a representative from the Division of Drinking Water appointed by the director;]~~

7111           ~~[(l)] a representative from the Division of Environmental Response and Remediation~~

7112 ~~appointed by the director;]~~

7113           ~~[(m)]~~ (j) a representative from the Division of Radiation appointed by the director;

7114           ~~[(n)]~~ (k) a representative from the Division of Solid and Hazardous Waste appointed by

7115 the director;

7116           ~~[(o)] a representative from the Division of Water Quality appointed by the director;]~~

7117           ~~[(p)]~~ (l) a representative from the Division of Oil, Gas, and Mining appointed by the

7118 director;

7119           ~~[(q)]~~ (m) a representative from the Division of Parks and Recreation appointed by the

7120 director;

7121           ~~[(r)]~~ (n) a representative from the Division of Forestry, Fire, and State Lands appointed

7122 by the director;

7123           ~~[(s)]~~ (o) a representative from the Utah Geological Survey appointed by the executive

7124 director of the Department of Natural Resources and Environment;

7125           ~~[(t)]~~ (p) a representative from the Division of Water Resources appointed by the

7126 director;

7127           ~~[(u)] a representative from the Division of Water Rights appointed by the director;]~~

7128           ~~[(v)]~~ (q) a representative from the Division of Wildlife Resources appointed by the

7129 director;

7130           ~~[(w)]~~ (r) a representative from the School and Institutional Trust Lands Administration

7131 appointed by the director;

7132            [~~(x)~~] (s) a representative from the Division of Facilities Construction and Management  
7133 appointed by the director; and

7134            [~~(y)~~] (t) a representative from the Division of Homeland Security appointed by the  
7135 director.

7136            (2) (a) As particular issues require, the committee may, by majority vote of the  
7137 members present, and with the concurrence of the state planning coordinator, appoint  
7138 additional temporary members to serve as ex officio voting members.

7139            (b) Those ex officio members may discuss and vote on the issue or issues for which  
7140 they were appointed.

7141            (3) A chair shall be selected by a majority vote of committee members with the  
7142 concurrence of the state planning coordinator.

7143            (4) A member may not receive compensation or benefits for the member's service, but  
7144 may receive per diem and travel expenses in accordance with:

7145            (a) Section 63A-3-106;

7146            (b) Section 63A-3-107; and

7147            (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
7148 63A-3-107.

7149            Section 117. Section **63K-1-102** is amended to read:

7150            **63K-1-102. Definitions.**

7151            (1) (a) "Absent" means:

7152            (i) not physically present or not able to be communicated with for 48 hours; or

7153            (ii) for local government officers, as defined by local ordinances.

7154            (b) "Absent" does not include a person who can be communicated with via telephone,  
7155 radio, or telecommunications.

7156            (2) "Attack" means a nuclear, conventional, biological, or chemical warfare action  
7157 against the United States of America or this state.

7158            (3) "Department" means the Department of Administrative Services, the Department of  
7159 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of  
7160 Commerce, the Department of Community and Culture, the Department of Corrections, [~~the~~  
7161 ~~Department of Environmental Quality,~~] the Department of Financial Institutions, the  
7162 Department of Health, the Department of Human Resource Management, the Department of



7163 Workforce Services, the Labor Commission, the National Guard, the Department of Insurance,  
7164 the Department of Natural Resources and Environment, the Department of Public Safety, the  
7165 Public Service Commission, the Department of Human Services, the State Tax Commission,  
7166 the Department of Technology Services, the Department of Transportation, any other major  
7167 administrative subdivisions of state government, the State Board of Education, the State Board  
7168 of Regents, the Utah Housing Corporation, the Workers' Compensation Fund, the State  
7169 Retirement Board, and each institution of higher education within the system of higher  
7170 education.

7171 (4) "Disaster" means a situation causing, or threatening to cause, widespread damage,  
7172 social disruption, or injury or loss of life or property resulting from attack, internal disturbance,  
7173 natural phenomenon, or technological hazard.

7174 (5) "Division" means the Division of Homeland Security established in Title 53,  
7175 Chapter 2, Part 1, Homeland Security Act.

7176 (6) "Emergency interim successor" means a person designated by this chapter to  
7177 exercise the powers and discharge the duties of an office when the person legally exercising the  
7178 powers and duties of the office is unavailable.

7179 (7) "Executive director" means the person with ultimate responsibility for managing  
7180 and overseeing the operations of each department, however denominated.

7181 (8) "Internal disturbance" means a riot, prison break, terrorism, or strike.

7182 (9) "Natural phenomenon" means any earthquake, tornado, storm, flood, landslide,  
7183 avalanche, forest or range fire, drought, epidemic, or other catastrophic event.

7184 (10) (a) "Office" includes all state and local offices, the powers and duties of which are  
7185 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

7186 (b) "Office" does not include the office of governor or the legislative or judicial offices.

7187 (11) "Place of governance" means the physical location where the powers of an office  
7188 are being exercised.

7189 (12) "Political subdivision" includes counties, cities, towns, townships, districts,  
7190 authorities, and other public corporations and entities whether organized and existing under  
7191 charter or general law.

7192 (13) "Political subdivision officer" means a person holding an office in a political  
7193 subdivision.

7194 (14) "State officer" means the attorney general, the state treasurer, the state auditor, and  
7195 the executive director of each department.

7196 (15) "Technological hazard" means any hazardous materials accident, mine accident,  
7197 train derailment, air crash, radiation incident, pollution, structural fire, or explosion.

7198 (16) "Unavailable" means:

7199 (a) absent from the place of governance during a disaster that seriously disrupts normal  
7200 governmental operations, whether or not that absence or inability would give rise to a vacancy  
7201 under existing constitutional or statutory provisions; or

7202 (b) as otherwise defined by local ordinance.

7203 Section 118. Section **63K-3-201** is amended to read:

7204 **63K-3-201. Emergency Management Administration Council created -- Function**  
7205 **-- Composition -- Expenses.**

7206 (1) There is created the Emergency Management Administration Council to provide  
7207 advice and coordination for state and local government agencies on government emergency  
7208 prevention, mitigation, preparedness, response, and recovery actions and activities.

7209 (2) The council shall meet at the call of the chair, but at least quarterly.

7210 (3) The council shall be made up of the:

7211 (a) lieutenant governor, or the lieutenant governor's designee;

7212 (b) attorney general, or the attorney general's designee;

7213 (c) heads of the following state agencies, or their designees:

7214 (i) Department of Public Safety;

7215 (ii) Division of Homeland Security;

7216 (iii) Department of Transportation;

7217 (iv) Department of Health;

7218 [~~(v) Department of Environmental Quality;~~]

7219 [~~(vi)~~] (v) Department of Community and Economic Development; and

7220 [~~(vii)~~] (vi) Department of Natural Resources and Environment;

7221 (d) adjutant general of the National Guard or the adjutant general's designee;

7222 (e) commissioner of agriculture and food or the commissioner's designee;

7223 (f) two representatives with expertise in emergency management appointed by the Utah

7224 League of Cities and Towns;

7225 (g) two representatives with expertise in emergency management appointed by the  
7226 Utah Association of Counties;

7227 (h) up to four additional members with expertise in homeland security, critical  
7228 infrastructure, or key resources as these terms are defined under 6 U.S. Code Section 101  
7229 appointed from the private sector, by the chair of the council; and

7230 (i) two representatives appointed by the Utah Emergency Management Association.

7231 (4) The commissioner of Public Safety and the lieutenant governor shall serve as  
7232 co-chairs of the council.

7233 (5) A member may not receive compensation or benefits for the member's service, but  
7234 may receive per diem and travel expenses in accordance with:

7235 (a) Section 63A-3-106;

7236 (b) Section 63A-3-107; and

7237 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
7238 63A-3-107.

7239 (6) The council shall coordinate with existing emergency management related entities  
7240 including:

7241 (a) the Homeland Security Regional Committees established by the Department of  
7242 Public Safety;

7243 (b) the Statewide Mutual Aid Committee established under Section 53-2-503; and

7244 (c) the Hazardous Chemical Emergency Response Commission designated under  
7245 Section 63K-3-301.

7246 (7) The council may establish other committees and task forces as determined  
7247 necessary by the council to carry out the duties of the council.

7248 Section 119. Section **63K-3-301** is amended to read:

7249 **63K-3-301. Hazardous Chemical Emergency Response Commission -- Allocation**  
7250 **of responsibilities -- Local planning committees -- Specified federal law considered law of**  
7251 **state -- Application to federal agencies and facilities.**

7252 (1) (a) The commissioner of the Department of Public Safety and the executive director  
7253 of the Department of [~~Environmental Quality~~] Natural Resources and Environment, or their  
7254 respective designees, are designated as the state's Hazardous Chemical Emergency Response  
7255 Commission for purposes of carrying out all requirements of the federal Emergency Planning

7256 and Community Right To Know Act of 1986.

7257 (b) A member may not receive compensation or benefits for the member's service, but  
7258 may receive per diem and travel expenses in accordance with:

7259 (i) Section 63A-3-106;

7260 (ii) Section 63A-3-107; and

7261 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
7262 63A-3-107.

7263 (2) The Department of Public Safety has primary responsibility for all emergency  
7264 planning activities under the federal Emergency Planning and Community Right To Know Act  
7265 of 1986, and shall prepare policy and procedure and make rules necessary for implementation  
7266 of that act in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

7267 (3) The Department of [~~Environmental Quality~~] Natural Resources and Environment  
7268 has primary responsibility for receiving, processing, and managing hazardous chemical  
7269 information and notifications under the federal Emergency Planning and Community Right To  
7270 Know Act of 1986, including preparation of policy and procedure, and promulgation of rules  
7271 necessary for implementation of that act. Funding for this program must be from the  
7272 appropriation acts.

7273 (4) The Department of Public Safety and the Department of [~~Environmental Quality~~]  
7274 Natural Resources and Environment shall enter into an interagency agreement providing for  
7275 exchange of information and coordination of their respective duties and responsibilities under  
7276 this section.

7277 (5) (a) The Hazardous Chemical Emergency Response Commission shall appoint a  
7278 local planning committee for each local planning district that it establishes, as required by the  
7279 federal Emergency Planning and Community Right To Know Act of 1986, and to the extent  
7280 possible, shall use an existing local governmental organization as the local planning committee.

7281 (b) (i) Local government members who do not receive salary, per diem, or expenses  
7282 from the entity that they represent for their service may receive per diem and expenses incurred  
7283 in the performance of their official duties at the rates established by the Division of Finance  
7284 under Sections 63A-3-106 and 63A-3-107.

7285 (ii) Local government members may decline to receive per diem and expenses for their  
7286 service.

7287 (6) Requirements of the federal Emergency Planning and Community Right To Know  
7288 Act of 1986 pertaining to notification and submission of information are the law of this state,  
7289 and apply equally to federal agencies, departments, installations, and facilities located in this  
7290 state, as well as to other facilities that are subject to that act.

7291 Section 120. Section **63K-5-102** is amended to read:

7292 **63K-5-102. Definitions.**

7293 As used in this chapter:

7294 (1) "Claim" has the same definition as in the following sections, as applicable:

7295 (a) Section 6-902, Idaho Code; or

7296 (b) Section 63G-7-102, Utah Code Annotated.

7297 (2) "Emergency":

7298 (a) means a situation where it reasonably appears that the life or safety of a person is at  
7299 peril or real or personal property is at risk of destruction or loss;

7300 (b) includes disasters, fires, persons who are lost or missing, boats that are sinking or  
7301 are in danger of sinking, medical situations where care is needed, and transportation of persons  
7302 by ambulance; and

7303 (c) is not limited in duration to a discrete period of time.

7304 (3) (a) "Emergency responder" means a person whose duties include providing services  
7305 to protect property or the life or safety of any person and who is:

7306 (i) employed by a governmental entity of another state;

7307 (ii) temporarily employed by a governmental entity; or

7308 (iii) a volunteer who is serving at the request of a governmental entity.

7309 (b) "Emergency responder" includes:

7310 (i) law enforcement officers, fire fighters, search and rescue personnel, emergency  
7311 medical technicians, ambulance personnel, Department of Natural Resources and Environment  
7312 employees, park rangers, and volunteers participating in search and rescue operations; and

7313 (ii) persons and parties identified in the interstate mutual aid agreement.

7314 (4) "Interstate mutual aid agreement" means an agreement that establishes procedures  
7315 for claims against an out-of-state emergency responder, and that:

7316 (a) is established reciprocally between the Utah Highway Patrol and the Idaho State  
7317 Police;

7318 (b) is on file with the Utah Highway Patrol; and  
7319 (c) has a duration of one year from the time the agreement is entered into by Utah and  
7320 Idaho.

7321 Section 121. Section **63M-1-604** is amended to read:

7322 **63M-1-604. Members -- Appointment -- Terms -- Qualifications -- Vacancies --**  
7323 **Chair and vice chair -- Executive secretary -- Executive committee -- Quorum --**  
7324 **Expenses.**

7325 (1) The council comprises the following nonvoting members or their designees:

7326 (a) the adviser;

7327 (b) the executive director of the Department of Natural Resources and Environment;

7328 (c) the executive director of the Department of Community and Culture;

7329 (d) the executive director of the Department of Health;

7330 [~~(e) the executive director of the Department of Environmental Quality;~~]

7331 [~~(f)~~] (e) the commissioner of agriculture and food;

7332 [~~(g)~~] (f) the commissioner of higher education;

7333 [~~(h)~~] (g) the state planning coordinator; and

7334 [~~(i)~~] (h) the executive director of the Department of Transportation.

7335 (2) The governor may appoint other voting members, not to exceed 12.

7336 (3) (a) Except as required by Subsection (3)(b), as terms of current council members  
7337 expire, the governor shall appoint each new member or reappointed member to a four-year  
7338 term.

7339 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the  
7340 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
7341 council members are staggered so that approximately half of the council is appointed every two  
7342 years.

7343 (4) The governor shall consider all institutions of higher education in the state in the  
7344 appointment of council members.

7345 (5) The voting members of the council shall be experienced or knowledgeable in the  
7346 application of science and technology to business, industry, or public problems and have  
7347 demonstrated their interest in and ability to contribute to the accomplishment of the purposes of  
7348 this part.

7349 (6) When a vacancy occurs in the membership for any reason, the replacement shall be  
7350 appointed for the unexpired term.

7351 (7) (a) Each year the council shall select from its membership a chair and a vice chair.

7352 (b) The chair and vice chair shall hold office for one year or until a successor is  
7353 appointed and qualified.

7354 (8) The adviser serves as executive secretary of the council.

7355 (9) An executive committee shall be established consisting of the chair, vice chair, and  
7356 the adviser.

7357 (10) (a) In order to conduct business matters of the council at regularly convened  
7358 meetings, a quorum consisting of a simple majority of the total voting membership of the  
7359 council is required.

7360 (b) All matters of business affecting public policy require not less than a simple  
7361 majority of affirmative votes of the total membership.

7362 (11) A member may not receive compensation or benefits for the member's service, but  
7363 may receive per diem and travel expenses in accordance with:

7364 (a) Section 63A-3-106;

7365 (b) Section 63A-3-107; and

7366 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
7367 63A-3-107.

7368 Section 122. Section **65A-1-2** is amended to read:

7369 **65A-1-2. Forestry, Fire, and State Lands Advisory Council -- Creation --**  
7370 **Responsibilities.**

7371 (1) (a) The Forestry, Fire, and State Lands Advisory Council is created within the  
7372 Department of Natural Resources and Environment.

7373 (b) The council advises the Division of Forestry, Fire, and State Lands on matters  
7374 relating to state land management.

7375 (c) (i) Where reference is made in the Utah Code to the State Land Board or the Board  
7376 of State Lands, it shall be construed as referring to the Forestry, Fire, and State Lands Advisory  
7377 Council, but only if the reference pertains to advisory functions, powers, and duties related to  
7378 state land management.

7379 (ii) In all other instances, the reference shall be construed as referring to the Division of

7380 Forestry, Fire, and State Lands, except in matters related to school and institutional trust lands  
7381 as defined in Section 53C-1-103, in which case the reference shall be considered as referring to  
7382 the director of school and institutional trust lands or its board of trustees.

7383 (2) In carrying out its responsibilities the council shall provide the division with advice  
7384 and expertise for the administration of state lands under comprehensive land management  
7385 policies using multiple use-sustained yield principles.

7386 Section 123. Section **65A-1-4** is amended to read:

7387 **65A-1-4. Division of Forestry, Fire, and State Lands -- Creation -- Power and**  
7388 **authority.**

7389 (1) (a) The Division of Forestry, Fire, and State Lands is created within the Department  
7390 of Natural Resources and Environment under the administration and general supervision of the  
7391 executive director of the department.

7392 (b) The division is the executive authority for the management of sovereign lands, and  
7393 the state's mineral estates on lands other than school and institutional trust lands, and shall  
7394 provide for forestry and fire control activities as required in Section 65A-8-101.

7395 (2) The division shall adopt rules under Title 63G, Chapter 3, Utah Administrative  
7396 Rulemaking Act, necessary to fulfill the purposes of this title.

7397 (3) The director of the Division of Forestry, Fire, and State Lands is the executive and  
7398 administrative head of the division and shall be a person experienced in administration and  
7399 management of natural resources.

7400 (4) The director shall inform the council:

7401 (a) in an annual meeting of the division's plans, policies, and budget; and

7402 (b) of policy changes and developing conflicts.

7403 (5) The director shall give the council an opportunity to advise on the changes and  
7404 conflicts.

7405 (6) (a) An aggrieved party to a final action by the director may appeal that action to the  
7406 executive director of the Department of Natural Resources within 20 days after the action.

7407 (b) The executive director shall rule on the director's action within 20 days after receipt  
7408 of the appeal.

7409 Section 124. Section **65A-4-2** is amended to read:

7410 **65A-4-2. Central index -- Division to maintain index of lands owned by agencies**



7411 **of the Department of Natural Resources and Environment -- Information to be furnished.**

7412 (1) The division shall maintain a central index of all lands owned by agencies of the  
7413 Department of Natural Resources and Environment and shall make that index available for the  
7414 public.

7415 (2) All agencies of the Department of Natural Resources and Environment having any  
7416 right, title, or interest in lands shall furnish the division with the following information:

7417 (a) legal description of the land;

7418 (b) when the land was acquired;

7419 (c) where the abstracts, deeds, or other indicia of interest in the property may be found;

7420 (d) name of agency acquiring or holding the mineral interest;

7421 (e) name of the grantor; and

7422 (f) nature of state's interest in the land including whether mineral interests were  
7423 obtained.

7424 (3) This section does not apply to Board of Water Resources lands that are subject to a  
7425 repurchase agreement by the water project sponsor.

7426 Section 125. Section **65A-10-2** is amended to read:

7427 **65A-10-2. Recreational use of sovereign lands.**

7428 (1) The division, with the approval of the executive director of the Department of  
7429 Natural Resources and Environment and the governor, may set aside for public or recreational  
7430 use any part of the lands claimed by the state as the beds of lakes or streams.

7431 (2) Management of those lands may be delegated to the Division of Parks and  
7432 Recreation, the Division of Wildlife Resources, or any other state agency.

7433 Section 126. Section **65A-10-8** is amended to read:

7434 **65A-10-8. Great Salt Lake -- Management responsibilities of the division.**

7435 The division has the following powers and duties:

7436 (1) Prepare and maintain a comprehensive plan for the lake which recognizes the  
7437 following policies:

7438 (a) develop strategies to deal with a fluctuating lake level;

7439 (b) encourage development of the lake in a manner which will preserve the lake,  
7440 encourage availability of brines to lake extraction industries, protect wildlife, and protect  
7441 recreational facilities;

- 7442 (c) maintain the lake's flood plain as a hazard zone;
- 7443 (d) promote water quality management for the lake and its tributary streams;
- 7444 (e) promote the development of lake brines, minerals, chemicals, and petro-chemicals
- 7445 to aid the state's economy;
- 7446 (f) encourage the use of appropriate areas for extraction of brine, minerals, chemicals,
- 7447 and petro-chemicals;
- 7448 (g) maintain the lake and the marshes as important to the waterfowl flyway system;
- 7449 (h) encourage the development of an integrated industrial complex;
- 7450 (i) promote and maintain recreation areas on and surrounding the lake;
- 7451 (j) encourage safe boating use of the lake;
- 7452 (k) maintain and protect state, federal, and private marshlands, rookeries, and wildlife
- 7453 refuges; and
- 7454 (1) provide public access to the lake for recreation, hunting, and fishing.
- 7455 (2) Employ personnel and purchase equipment and supplies which the Legislature
- 7456 authorizes through appropriations for the purposes of this chapter.
- 7457 (3) Initiate studies of the lake and its related resources.
- 7458 (4) Publish scientific and technical information concerning the lake.
- 7459 (5) Define the lake's flood plain.
- 7460 (6) Qualify for, accept, and administer grants, gifts, or other funds from the federal
- 7461 government and other sources, for carrying out any functions under this chapter.
- 7462 (7) Determine the need for public works and utilities for the lake area.
- 7463 (8) Implement the comprehensive plan through state and local entities or agencies.
- 7464 (9) Coordinate the activities of the various divisions within the Department of Natural
- 7465 Resources and Environment with respect to the lake.
- 7466 (10) Perform all other acts reasonably necessary to carry out the purposes and
- 7467 provisions of this chapter.
- 7468 (11) Retain and encourage the continued activity of the Great Salt Lake technical team.
- 7469 Section 127. Section **67-19-6.7** is amended to read:
- 7470 **67-19-6.7. Overtime policies for state employees.**
- 7471 (1) As used in this section:
- 7472 (a) "Accrued overtime hours" means:

7473 (i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end  
7474 of the fiscal year, have not been paid and have not been taken as time off by the nonexempt  
7475 state employee who accrued them; and

7476 (ii) for exempt employees, overtime hours earned during an overtime year.

7477 (b) "Appointed official" means:

7478 (i) each department executive director and deputy director, each division director, and  
7479 each member of a board or commission; and

7480 (ii) any other person employed by a department who is appointed by, or whose  
7481 appointment is required by law to be approved by, the governor and who:

7482 (A) is paid a salary by the state; and

7483 (B) who exercises managerial, policy-making, or advisory responsibility.

7484 (c) "Department" means the Department of Administrative Services, the Department of  
7485 Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage  
7486 Control, the Insurance Department, the Public Service Commission, the Labor Commission,  
7487 the Department of Agriculture and Food, the Department of Human Services, the State Board  
7488 of Education, the Department of Natural Resources and Environment, the Department of  
7489 Technology Services, the Department of Transportation, the Department of Commerce, the  
7490 Department of Workforce Services, the State Tax Commission, the Department of Community  
7491 and Culture, the Department of Health, the National Guard, [~~the Department of Environmental~~  
7492 ~~Quality~~], the Department of Public Safety, the Department of Human Resource Management,  
7493 the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the  
7494 Office of the Attorney General, merit employees in the Office of the State Treasurer, merit  
7495 employees in the Office of the State Auditor, Department of Veterans' Affairs, and the Board of  
7496 Pardons and Parole.

7497 (d) "Elected official" means any person who is an employee of the state because the  
7498 person was elected by the registered voters of Utah to a position in state government.

7499 (e) "Exempt employee" means a state employee who is exempt as defined by the Fair  
7500 Labor Standards Act of 1978, 29 U.S.C. Section 201 et seq.

7501 (f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Section 201 et seq.

7502 (g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards  
7503 Act of 1978, 29 U.S.C. Section 201 et seq., by which a nonexempt employee elects the form of

7504 compensation the nonexempt employee will receive for overtime.

7505 (h) "Nonexempt employee" means a state employee who is nonexempt as defined by  
7506 the Department of Human Resource Management applying FLSA requirements.

7507 (i) "Overtime" means actual time worked in excess of the employee's defined work  
7508 period.

7509 (j) "Overtime year" means the year determined by a department under Subsection  
7510 (4)(b) at the end of which an exempt employee's accrued overtime lapses.

7511 (k) "State employee" means every person employed by a department who is not:

7512 (i) an appointed official;

7513 (ii) an elected official;

7514 (iii) a member of a board or commission who is paid only on a per diem or travel  
7515 expenses basis; or

7516 (iv) employed on a contractual basis at the State Office of Education.

7517 (l) "Uniform annual date" means the date when an exempt employee's accrued  
7518 overtime lapses.

7519 (m) "Work period" means:

7520 (i) for all nonexempt employees, except law enforcement and hospital employees, a  
7521 consecutive seven day 24 hour work period of 40 hours;

7522 (ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

7523 (iii) for nonexempt law enforcement and hospital employees, the period established by  
7524 each department by rule for those employees according to the requirements of the Fair Labor  
7525 Standards Act of 1978, 29 U.S.C. Section 201 et seq.

7526 (2) Each department shall compensate each state employee who works overtime by  
7527 complying with the requirements of this section.

7528 (3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each  
7529 nonexempt employee.

7530 (b) In the FLSA agreement, the nonexempt employee shall elect either to be  
7531 compensated for overtime by:

7532 (i) taking time off work at the rate of one and one-half hour off for each overtime hour  
7533 worked; or

7534 (ii) being paid for the overtime worked at the rate of one and one-half times the rate per

7535 hour that the state employee receives for nonovertime work.

7536 (c) Any nonexempt employee who elects to take time off under this Subsection (3)  
7537 shall be paid for any overtime worked in excess of the cap established by the Department of  
7538 Human Resource Management.

7539 (d) Before working any overtime, each nonexempt employee shall obtain authorization  
7540 to work overtime from the employee's immediate supervisor.

7541 (e) Each department shall:

7542 (i) for employees who elect to be compensated with time off for overtime, allow  
7543 overtime earned during a fiscal year to be accumulated; and

7544 (ii) for employees who elect to be paid for overtime worked, pay them for overtime  
7545 worked in the paycheck for the pay period in which the employee worked the overtime.

7546 (f) If the department pays a nonexempt employee for overtime, the department shall  
7547 charge that payment to the department's budget.

7548 (g) At the end of each fiscal year, the Division of Finance shall total all the accrued  
7549 overtime hours for nonexempt employees and charge that total against the appropriate fund or  
7550 subfund.

7551 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall  
7552 compensate exempt employees who work overtime by granting them time off at the rate of one  
7553 hour off for each hour of overtime worked.

7554 (ii) The executive director of the Department of Human Resource Management may  
7555 grant limited exceptions to this requirement, where work circumstances dictate, by authorizing  
7556 a department to pay employees for overtime worked at the rate per hour that the employee  
7557 receives for nonovertime work, if the department has funds available.

7558 (b) (i) Each department shall:

7559 (A) establish in its written human resource policies a uniform annual date for each  
7560 division that is at the end of any pay period; and

7561 (B) communicate the uniform annual date to its employees.

7562 (ii) If any department fails to establish a uniform annual date as required by this  
7563 Subsection (4), the executive director of the Department of Human Resource Management, in  
7564 conjunction with the director of the Division of Finance, shall establish the date for that  
7565 department.

7566 (c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a  
7567 benefit, and is not a vested right.

7568 (ii) A court may not construe the overtime for exempt employees authorized by this  
7569 Subsection (4) as an entitlement, a benefit, or as a vested right.

7570 (d) At the end of the overtime year, upon transfer to another department at any time,  
7571 and upon termination, retirement, or other situations where the employee will not return to  
7572 work before the end of the overtime year:

7573 (i) any of an exempt employee's overtime that is more than the maximum established  
7574 by the Department of Human Resource Management rule lapses; and

7575 (ii) unless authorized by the executive director of the Department of Human Resource  
7576 Management under Subsection (4)(a)(ii), a department may not compensate the exempt  
7577 employee for that lapsed overtime by paying the employee for the overtime or by granting the  
7578 employee time off for the lapsed overtime.

7579 (e) Before working any overtime, each exempt employee shall obtain authorization to  
7580 work overtime from the exempt employee's immediate supervisor.

7581 (f) If the department pays an exempt employee for overtime under authorization from  
7582 the executive director of the Department of Human Resource Management, the department  
7583 shall charge that payment to the department's budget in the pay period earned.

7584 (5) The Department of Human Resource Management shall:

7585 (a) ensure that the provisions of the FLSA and this section are implemented throughout  
7586 state government;

7587 (b) determine, for each state employee, whether that employee is exempt, nonexempt,  
7588 law enforcement, or has some other status under the FLSA;

7589 (c) in coordination with modifications to the systems operated by the Division of  
7590 Finance, make rules:

7591 (i) establishing procedures for recording overtime worked that comply with FLSA  
7592 requirements;

7593 (ii) establishing requirements governing overtime worked while traveling and  
7594 procedures for recording that overtime that comply with FLSA requirements;

7595 (iii) establishing requirements governing overtime worked if the employee is "on call"  
7596 and procedures for recording that overtime that comply with FLSA requirements;

7597 (iv) establishing requirements governing overtime worked while an employee is being  
7598 trained and procedures for recording that overtime that comply with FLSA requirements;

7599 (v) subject to the FLSA, establishing the maximum number of hours that a nonexempt  
7600 employee may accrue before a department is required to pay the employee for the overtime  
7601 worked;

7602 (vi) subject to the FLSA, establishing the maximum number of overtime hours for an  
7603 exempt employee that do not lapse; and

7604 (vii) establishing procedures for adjudicating appeals of any FLSA determinations  
7605 made by the Department of Human Resource Management as required by this section;

7606 (d) monitor departments for compliance with the FLSA; and

7607 (e) recommend to the Legislature and the governor any statutory changes necessary  
7608 because of federal government action.

7609 (6) In coordination with the procedures for recording overtime worked established in  
7610 rule by the Department of Human Resource Management, the Division of Finance shall modify  
7611 its payroll and human resource systems to accommodate those procedures.

7612 (a) Notwithstanding the procedures and requirements of Title 63G, Chapter 4,  
7613 Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who  
7614 is aggrieved by the FLSA designation made by the Department of Human Resource  
7615 Management as required by this section may appeal that determination to the executive director  
7616 of the Department of Human Resource Management by following the procedures and  
7617 requirements established in Department of Human Resource Management rule.

7618 (b) Upon receipt of an appeal under this section, the executive director shall notify the  
7619 executive director of the employee's department that the appeal has been filed.

7620 (c) If the employee is aggrieved by the decision of the executive director of the  
7621 Department of Human Resource Management, the employee shall appeal that determination to  
7622 the Department of Labor, Wage and Hour Division, according to the procedures and  
7623 requirements of federal law.

7624 Section 128. Section **67-19-27** is amended to read:

7625 **67-19-27. Leave of absence with pay for disabled employees covered under other**  
7626 **civil service systems.**

7627 (1) As used in this section:

7628 (a) (i) "Law enforcement officer" means a sworn and certified peace officer who is an  
7629 employee of a law enforcement agency that is part of or administered by the state, and whose  
7630 primary and principal duties consist of the prevention and detection of crime and the  
7631 enforcement of criminal statutes of this state.

7632 (ii) "Law enforcement officer" specifically includes the following:

7633 (A) the commissioner of public safety and any member of the Department of Public  
7634 Safety certified as a peace officer;

7635 (B) all persons specified in Sections 23-20-1.5 and 79-4-501;

7636 (C) investigators for the Motor Vehicle Enforcement Division;

7637 (D) special agents or investigators employed by the attorney general;

7638 (E) employees of the Department of Natural Resources and Environment designated as  
7639 peace officers by law;

7640 (F) the executive director of the Department of Corrections and any correctional  
7641 enforcement or investigative officer designated by the executive director and approved by the  
7642 commissioner of public safety and certified by the division; and

7643 (G) correctional enforcement, investigative, or adult probation and parole officers  
7644 employed by the Department of Corrections serving on or before July 1, 1993.

7645 (b) "State correctional officer" means a correctional officer as defined in Section  
7646 53-13-104 who is employed by the Department of Corrections.

7647 (2) (a) Each law enforcement officer, state correctional officer, operator license  
7648 examiner, commercial license examiner, or Driver License Division hearing examiner who is  
7649 injured in the course of employment shall be given a leave of absence with full pay during the  
7650 period the employee is temporarily disabled.

7651 (b) This compensation is in lieu of all other compensation provided by law except  
7652 hospital and medical services that are provided by law.

7653 (3) Each law enforcement officer or state correctional officer who is 100% disabled  
7654 through a criminal act upon his person while in the lawful discharge of his duties, shall be  
7655 given a leave of absence with full compensation until he retires or reaches the retirement age of  
7656 62 years.

7657 Section 129. Section **67-19c-101** is amended to read:

7658 **67-19c-101. Department award program.**



7659 (1) As used in this section:

7660 (a) "Department" means the Department of Administrative Services, the Department of  
7661 Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of  
7662 Commerce, the Department of Community and Culture, the Department of Corrections, the  
7663 Department of Workforce Services, [~~the Department of Environmental Quality,~~] the  
7664 Department of Financial Institutions, the Department of Health, the Department of Human  
7665 Resource Management, the Department of Human Services, the Insurance Department, the  
7666 National Guard, the Department of Natural Resources and Environment, the Department of  
7667 Public Safety, the Public Service Commission, the Labor Commission, the State Board of  
7668 Education, the State Board of Regents, the State Tax Commission, the Department of  
7669 Technology Services, and the Department of Transportation.

7670 (b) "Department head" means the individual or body of individuals in whom the  
7671 ultimate legal authority of the department is vested by law.

7672 (2) There is created a department awards program to award an outstanding employee in  
7673 each department of state government.

7674 (3) (a) By April 1 of each year, each department head shall solicit nominations for  
7675 outstanding employee of the year for his department from the employees in his department.

7676 (b) By July 1 of each year, the department head shall:

7677 (i) select a person from the department to receive the outstanding employee of the year  
7678 award using the criteria established in Subsection (3)(c); and

7679 (ii) announce the recipient of the award to his employees.

7680 (c) Department heads shall make the award to a person who demonstrates:

7681 (i) extraordinary competence in performing his function;

7682 (ii) creativity in identifying problems and devising workable, cost-effective solutions to  
7683 them;

7684 (iii) excellent relationships with the public and other employees;

7685 (iv) a commitment to serving the public as the client; and

7686 (v) a commitment to economy and efficiency in government.

7687 (4) (a) The Department of Human Resource Management shall divide any  
7688 appropriation for outstanding department employee awards that it receives from the Legislature  
7689 equally among the departments.

7690 (b) If the department receives money from the Department of Human Resource  
7691 Management or if the department budget allows, the department head shall provide the  
7692 employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

7693 (5) (a) The department head may name the award after an exemplary present or former  
7694 employee of the department.

7695 (b) A department head may not name the award for himself or for any relative as  
7696 defined in Section 52-3-1.

7697 (c) Any awards or award programs existing in any department as of May 3, 1993, shall  
7698 be modified to conform to the requirements of this section.

7699 Section 130. Section **67-22-2** is amended to read:

7700 **67-22-2. Compensation -- Other state officers.**

7701 (1) As used in this section:

7702 (a) "Appointed executive" means the:

7703 (i) Commissioner of the Department of Agriculture and Food;

7704 (ii) Commissioner of the Insurance Department;

7705 (iii) Commissioner of the Labor Commission;

7706 (iv) Director, Alcoholic Beverage Control Commission;

7707 (v) Commissioner of the Department of Financial Institutions;

7708 (vi) Executive Director, Department of Commerce;

7709 (vii) Executive Director, Commission on Criminal and Juvenile Justice;

7710 (viii) Adjutant General;

7711 (ix) Executive Director, Department of Community and Culture;

7712 (x) Executive Director, Department of Corrections;

7713 (xi) Commissioner, Department of Public Safety;

7714 (xii) Executive Director, Department of Natural Resources and Environment;

7715 (xiii) Director, Governor's Office of Planning and Budget;

7716 (xiv) Executive Director, Department of Administrative Services;

7717 (xv) Executive Director, Department of Human Resource Management;

7718 [~~(xvi) Executive Director, Department of Environmental Quality;~~]

7719 [~~(xvii)~~] (xvi) Director, Governor's Office of Economic Development;

7720 [~~(xviii)~~] (xvii) Executive Director, Utah Science Technology and Research Governing

- 7721 Authority;
- 7722 [~~(xix)~~] (xviii) Executive Director, Department of Workforce Services;
- 7723 [~~(xx)~~] (xix) Executive Director, Department of Health, Nonphysician;
- 7724 [~~(xxi)~~] (xx) Executive Director, Department of Human Services;
- 7725 [~~(xxii)~~] (xxi) Executive Director, Department of Transportation;
- 7726 [~~(xxiii)~~] (xxii) Executive Director, Department of Technology Services; and
- 7727 [~~(xxiv)~~] (xxiii) Executive Director, Department of Veterans Affairs.
- 7728 (b) "Board or commission executive" means:
- 7729 (i) Members, Board of Pardons and Parole;
- 7730 (ii) Chair, State Tax Commission;
- 7731 (iii) Commissioners, State Tax Commission;
- 7732 (iv) Executive Director, State Tax Commission;
- 7733 (v) Chair, Public Service Commission; and
- 7734 (vi) Commissioners, Public Service Commission.
- 7735 (c) "Deputy" means the person who acts as the appointed executive's second in
- 7736 command as determined by the Department of Human Resource Management.
- 7737 (2) (a) The executive director of the Department of Human Resource Management
- 7738 shall:
- 7739 (i) before October 31 of each year, recommend to the governor a compensation plan for
- 7740 the appointed executives and the board or commission executives; and
- 7741 (ii) base those recommendations on market salary studies conducted by the Department
- 7742 of Human Resource Management.
- 7743 (b) (i) The Department of Human Resource Management shall determine the salary
- 7744 range for the appointed executives by:
- 7745 (A) identifying the salary range assigned to the appointed executive's deputy;
- 7746 (B) designating the lowest minimum salary from those deputies' salary ranges as the
- 7747 minimum salary for the appointed executives' salary range; and
- 7748 (C) designating 105% of the highest maximum salary range from those deputies' salary
- 7749 ranges as the maximum salary for the appointed executives' salary range.
- 7750 (ii) If the deputy is a medical doctor, the Department of Human Resource Management
- 7751 may not consider that deputy's salary range in designating the salary range for appointed

7752 executives.

7753 (c) In establishing the salary ranges for board or commission executives, the  
7754 Department of Human Resource Management shall set the maximum salary in the salary range  
7755 for each of those positions at 90% of the salary for district judges as established in the annual  
7756 appropriation act under Section 67-8-2.

7757 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a  
7758 specific salary for each appointed executive within the range established under Subsection  
7759 (2)(b).

7760 (ii) If the executive director of the Department of Health is a physician, the governor  
7761 shall establish a salary within the highest physician salary range established by the Department  
7762 of Human Resource Management.

7763 (iii) The governor may provide salary increases for appointed executives within the  
7764 range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

7765 (b) The governor shall apply the same overtime regulations applicable to other FLSA  
7766 exempt positions.

7767 (c) The governor may develop standards and criteria for reviewing the appointed  
7768 executives.

7769 (4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are  
7770 not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial  
7771 Salary Act, shall be established as provided in Section 67-19-15.

7772 (5) (a) The Legislature fixes benefits for the appointed executives and the board or  
7773 commission executives as follows:

7774 (i) the option of participating in a state retirement system established by Title 49, Utah  
7775 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered  
7776 by the State Retirement Office in accordance with the Internal Revenue Code and its  
7777 accompanying rules and regulations;

7778 (ii) health insurance;

7779 (iii) dental insurance;

7780 (iv) basic life insurance;

7781 (v) unemployment compensation;

7782 (vi) workers' compensation;

- 7783 (vii) required employer contribution to Social Security;
- 7784 (viii) long-term disability income insurance;
- 7785 (ix) the same additional state-paid life insurance available to other noncareer service
- 7786 employees;
- 7787 (x) the same severance pay available to other noncareer service employees;
- 7788 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
- 7789 follows:
- 7790 (A) sick leave;
- 7791 (B) converted sick leave if accrued prior to January 1, 2014;
- 7792 (C) educational allowances;
- 7793 (D) holidays; and
- 7794 (E) annual leave except that annual leave shall be accrued at the maximum rate
- 7795 provided to Schedule B state employees;
- 7796 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
- 7797 provided by law or rule upon resignation or retirement according to the same criteria and
- 7798 procedures applied to Schedule B state employees;
- 7799 (xiii) the option to purchase additional life insurance at group insurance rates according
- 7800 to the same criteria and procedures applied to Schedule B state employees; and
- 7801 (xiv) professional memberships if being a member of the professional organization is a
- 7802 requirement of the position.
- 7803 (b) Each department shall pay the cost of additional state-paid life insurance for its
- 7804 executive director from its existing budget.
- 7805 (6) The Legislature fixes the following additional benefits:
- 7806 (a) for the executive director of the State Tax Commission a vehicle for official and
- 7807 personal use;
- 7808 (b) for the executive director of the Department of Transportation a vehicle for official
- 7809 and personal use;
- 7810 (c) for the executive director of the Department of Natural Resources and Environment
- 7811 a vehicle for commute and official use;
- 7812 (d) for the Commissioner of Public Safety:
- 7813 (i) an accidental death insurance policy if POST certified; and

- 7814 (ii) a public safety vehicle for official and personal use;
- 7815 (e) for the executive director of the Department of Corrections:
- 7816 (i) an accidental death insurance policy if POST certified; and
- 7817 (ii) a public safety vehicle for official and personal use;
- 7818 (f) for the Adjutant General a vehicle for official and personal use; and
- 7819 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
- 7820 official use.

7821 Section 131. Section **72-6-107.5** is amended to read:

7822 **72-6-107.5. Construction of improvements of highway -- Contracts -- Health**  
7823 **insurance coverage.**

7824 (1) For purposes of this section:

7825 (a) "Employee" means an "employee," "worker," or "operative" as defined in Section  
7826 34A-2-104 who:

- 7827 (i) works at least 30 hours per calendar week; and
- 7828 (ii) meets employer eligibility waiting requirements for health care insurance which  
7829 may not exceed the first day of the calendar month following 90 days from the date of hire.

7830 (b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

7831 (c) "Qualified health insurance coverage" means at the time the contract is entered into  
7832 or renewed:

7833 (i) a health benefit plan and employer contribution level with a combined actuarial  
7834 value at least actuarially equivalent to the combined actuarial value of the benchmark plan  
7835 determined by the Children's Health Insurance Program under Subsection 26-40-106(2)(a), and  
7836 a contribution level of 50% of the premium for the employee and the dependents of the  
7837 employee who reside or work in the state, in which:

7838 (A) the employer pays at least 50% of the premium for the employee and the  
7839 dependents of the employee who reside or work in the state; and

7840 (B) for purposes of calculating actuarial equivalency under this Subsection (1)(c)(i):

7841 (I) rather than the benchmark plan's deductible, and the benchmark plan's out-of-pocket  
7842 maximum based on income levels:

7843 (Aa) the deductible is \$750 per individual and \$2,250 per family; and

7844 (Bb) the out-of-pocket maximum is \$3,000 per individual and \$9,000 per family;

7845 (II) dental coverage is not required; and  
7846 (III) other than Subsection 26-40-106(2)(a), the provisions of Section 26-40-106 do not  
7847 apply; or  
7848 (ii) (A) is a federally qualified high deductible health plan that, at a minimum, has a  
7849 deductible that is either:  
7850 (I) the lowest deductible permitted for a federally qualified high deductible health plan;  
7851 or  
7852 (II) a deductible that is higher than the lowest deductible permitted for a federally  
7853 qualified high deductible health plan, but includes an employer contribution to a health savings  
7854 account in a dollar amount at least equal to the dollar amount difference between the lowest  
7855 deductible permitted for a federally qualified high deductible plan and the deductible for the  
7856 employer offered federally qualified high deductible plan;  
7857 (B) an out-of-pocket maximum that does not exceed three times the amount of the  
7858 annual deductible; and  
7859 (C) under which the employer pays 75% of the premium for the employee and the  
7860 dependents of the employee who work or reside in the state.  
7861 (d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.  
7862 (2) (a) Except as provided in Subsection (3), this section applies to contracts entered  
7863 into by the department on or after July 1, 2009, for construction or design of highways and to a  
7864 prime contractor or to a subcontractor in accordance with Subsection (2)(b).  
7865 (b) (i) A prime contractor is subject to this section if the prime contract is in the  
7866 amount of \$1,500,000 or greater.  
7867 (ii) A subcontractor is subject to this section if a subcontract is in the amount of  
7868 \$750,000 or greater.  
7869 (3) This section does not apply if:  
7870 (a) the application of this section jeopardizes the receipt of federal funds;  
7871 (b) the contract is a sole source contract; or  
7872 (c) the contract is an emergency procurement.  
7873 (4) (a) This section does not apply to a change order as defined in Section 63G-6-102,  
7874 or a modification to a contract, when the contract does not meet the initial threshold required  
7875 by Subsection (2).

7876 (b) A person who intentionally uses change orders or contract modifications to  
7877 circumvent the requirements of Subsection (2) is guilty of an infraction.

7878 (5) (a) A contractor subject to Subsection (2) shall demonstrate to the department that  
7879 the contractor has and will maintain an offer of qualified health insurance coverage for the  
7880 contractor's employees and the employees' dependents during the duration of the contract.

7881 (b) If a subcontractor of the contractor is subject to Subsection (2), the contractor shall  
7882 demonstrate to the department that the subcontractor has and will maintain an offer of qualified  
7883 health insurance coverage for the subcontractor's employees and the employees' dependents  
7884 during the duration of the contract.

7885 (c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during  
7886 the duration of the contract is subject to penalties in accordance with administrative rules  
7887 adopted by the department under Subsection (6).

7888 (B) A contractor is not subject to penalties for the failure of a subcontractor to meet the  
7889 requirements of Subsection (5)(b).

7890 (ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during  
7891 the duration of the contract is subject to penalties in accordance with administrative rules  
7892 adopted by the department under Subsection (6).

7893 (B) A subcontractor is not subject to penalties for the failure of a contractor to meet the  
7894 requirements of Subsection (5)(a).

7895 (6) The department shall adopt administrative rules:

7896 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

7897 (b) in coordination with:

7898 [~~(i) the Department of Environmental Quality in accordance with Section 19-1-206;~~]

7899 [~~(ii)~~] (i) the Department of Natural Resources and Environment in accordance with  
7900 Section 79-2-404;

7901 [~~(iii)~~] (ii) the State Building Board in accordance with Section 63A-5-205;

7902 [~~(iv)~~] (iii) the State Capitol Preservation Board in accordance with Section 63C-9-403;

7903 [~~(v)~~] (iv) a public transit district in accordance with Section 17B-2a-818.5; and

7904 [~~(vi)~~] (v) the Legislature's Administrative Rules Review Committee; and

7905 (c) [~~which~~] that establish:

7906 (i) the requirements and procedures a contractor must follow to demonstrate to the



7907 department compliance with this section which shall include:

7908 (A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or  
7909 (b) more than twice in any 12-month period; and

7910 (B) that the actuarially equivalent determination required in Subsection (1) is met by  
7911 the contractor if the contractor provides the department or division with a written statement of  
7912 actuarial equivalency from either:

7913 (I) the Utah Insurance Department;

7914 (II) an actuary selected by the contractor or the contractor's insurer; or

7915 (III) an underwriter who is responsible for developing the employer group's premium  
7916 rates;

7917 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally  
7918 violates the provisions of this section, which may include:

7919 (A) a three-month suspension of the contractor or subcontractor from entering into  
7920 future contracts with the state upon the first violation;

7921 (B) a six-month suspension of the contractor or subcontractor from entering into future  
7922 contracts with the state upon the second violation;

7923 (C) an action for debarment of the contractor or subcontractor in accordance with  
7924 Section 63G-6-804 upon the third or subsequent violation; and

7925 (D) monetary penalties which may not exceed 50% of the amount necessary to  
7926 purchase qualified health insurance coverage for an employee and a dependent of the employee  
7927 of the contractor or subcontractor who was not offered qualified health insurance coverage  
7928 during the duration of the contract; and

7929 (iii) a website on which the department shall post the benchmark for the qualified  
7930 health insurance coverage identified in Subsection (1)(c)(i).

7931 (7) (a) (i) In addition to the penalties imposed under Subsection (6), a contractor or  
7932 subcontractor who intentionally violates the provisions of this section shall be liable to the  
7933 employee for health care costs that would have been covered by qualified health insurance  
7934 coverage.

7935 (ii) An employer has an affirmative defense to a cause of action under Subsection  
7936 (7)(a)(i) if:

7937 (A) the employer relied in good faith on a written statement of actuarial equivalency

7938 provided by:

7939 (I) an actuary; or

7940 (II) an underwriter who is responsible for developing the employer group's premium  
7941 rates; or

7942 (B) the department determines that compliance with this section is not required under  
7943 the provisions of Subsection (3) or (4).

7944 (b) An employee has a private right of action only against the employee's employer to  
7945 enforce the provisions of this Subsection (7).

7946 (8) Any penalties imposed and collected under this section shall be deposited into the  
7947 Medicaid Restricted Account created in Section 26-18-402.

7948 (9) The failure of a contractor or subcontractor to provide qualified health insurance  
7949 coverage as required by this section:

7950 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
7951 or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8,  
7952 Legal and Contractual Remedies; and

7953 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
7954 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
7955 or construction.

7956 Section 132. Section **72-6-115** is amended to read:

7957 **72-6-115. Traffic Management Committee -- Appointment -- Duties.**

7958 (1) As used in this section, "committee" means the Traffic Management Committee  
7959 created in this section.

7960 (2) (a) There is created within the Department of Transportation the Traffic  
7961 Management Committee comprising up to ~~[13]~~ 12 members knowledgeable about traffic  
7962 engineering, traffic flow, air quality, or intelligent transportation systems as follows:

7963 (i) two members designated by the executive director of the department;

7964 (ii) one member designated by the Utah Association of Counties;

7965 ~~[(iii) one member designated by the Department of Environmental Quality;]~~

7966 ~~[(iv)]~~ (iii) one member designated by the Wasatch Front Regional Council;

7967 ~~[(v)]~~ (iv) one member designated by the Mountainland Association of Governments;

7968 ~~[(vi)]~~ (v) one member designated by the Commissioner of Public Safety;

7969            [~~(vii)~~] (vi) one member designated by the Utah League of Cities and Towns;  
7970            [~~(viii)~~] (vii) one member designated by the general manager of a public transit district  
7971 with more than 200,000 people residing within the public transit district boundaries;  
7972            [~~(ix)~~] (viii) up to four additional members designated by the committee for one-year  
7973 terms; and  
7974            [~~(x)~~] (ix) a designating entity under Subsections (2)(a)(i) through (viii) may designate  
7975 an alternative member to serve in the absence of its designated member.  
7976            (b) The committee shall:  
7977            (i) advise the department on matters related to the implementation and administration  
7978 of this section;  
7979            (ii) make recommendations to law enforcement agencies related to traffic flow and  
7980 incident management during heavy traffic periods;  
7981            (iii) make recommendations to the department, counties, and municipalities on  
7982 increasing the safety and efficiency of highways using current traffic management systems,  
7983 including traffic signal coordination, traffic monitoring, freeway ramp metering, variable  
7984 message signing, and incident management; and  
7985            (iv) evaluate the cost effectiveness of implementing a specific traffic management  
7986 system on a highway considering:  
7987            (A) existing traffic volume in the area;  
7988            (B) the necessity and potential of reducing vehicle emissions in the area;  
7989            (C) the feasibility of the traffic management system on the highway; and  
7990            (D) whether traffic congestion will be reduced by the system.  
7991            (c) The committee shall annually elect a chair and a vice chair from its members.  
7992            (d) When a vacancy occurs in the membership for any reason, the replacement shall be  
7993 appointed.  
7994            (e) The committee shall meet as it determines necessary to accomplish its duties.  
7995            (f) Reasonable notice shall be given to each member of the committee prior to any  
7996 meeting.  
7997            (g) A majority of the committee constitutes a quorum for the transaction of business.  
7998            (h) A member may not receive compensation or benefits for the member's service, but  
7999 may receive per diem and travel expenses in accordance with:

8000 (i) Section 63A-3-106;  
8001 (ii) Section 63A-3-107; and  
8002 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
8003 63A-3-107.

8004 (3) (a) The Department of Transportation shall implement and administer traffic  
8005 management systems to facilitate the efficient flow of motor vehicle traffic on state highways  
8006 to improve regional mobility, and to reduce motor vehicle emissions where those  
8007 improvements are cost effective, as determined by the committee in accordance with criteria  
8008 under Subsection (2)(b).

8009 (b) A traffic management system shall be designed to allow safe, efficient, and  
8010 effective:

- 8011 (i) integration of existing traffic management systems;
- 8012 (ii) additions of highways and intersections under county and city administrative  
8013 jurisdiction;
- 8014 (iii) incorporation of other traffic management systems; and
- 8015 (iv) adaptation to future traffic needs.

8016 (4) (a) The cost of implementing and administering a traffic management system shall  
8017 be shared pro rata by the department and the counties and municipalities using it.

8018 (b) The department shall enter into an agreement or contract under Title 11, Chapter  
8019 13, Interlocal Cooperation Act, with a county or municipality to share costs incurred under this  
8020 section.

8021 (5) Additional highways and intersections under the administrative jurisdiction of a  
8022 county or municipality may be added to a traffic management system upon application of the  
8023 county or municipality after:

- 8024 (a) a recommendation of the committee;
- 8025 (b) approval by the department;
- 8026 (c) determination of the appropriate cost share of the addition under Subsection (4)(a);

8027 and

8028 (d) an agreement under Subsection (4)(b).

8029 (6) The committee may establish technical advisory committees as needed to assist in  
8030 accomplishing its duties under this section.

8031 Section 133. Section **73-1-4.5** is amended to read:

8032 **73-1-4.5. Authorization for water companies to allocate water rights lost by**  
8033 **forfeiture or nonuse -- Redemption and retirement of water shares.**

8034 (1) (a) If a water right, to which a mutual water company holds title, ceases or is lost  
8035 due to forfeiture or abandonment for lack of beneficial use, in whole or in part, the water  
8036 company shall, through procedures consistent with this section, and as defined in the  
8037 company's articles of incorporation or bylaws, apportion the loss to each stockholder whose  
8038 failure to make beneficial use caused the loss of the water right.

8039 (b) The water company shall make an apportionment if the [~~Utah Division of Water~~  
8040 ~~Rights~~] state engineer or a court of proper jurisdiction makes a final decision that a loss has  
8041 occurred.

8042 (c) The water company shall also reduce the amount of water provided to the  
8043 shareholder in proportion to the amount of the lost water right during an appeal of a decision  
8044 that reduced the company water rights, unless otherwise ordered by a court of proper  
8045 jurisdiction.

8046 (d) The water company may take any action under this Subsection (1), whether the loss  
8047 occurred:

8048 (i) under Utah Code Annotated Section 73-1-4, including losses that occur as part of a  
8049 general determination under Title 73, Chapter 4, Determination of Water Rights; or

8050 (ii) through any other decision by a court of proper jurisdiction.

8051 (2) (a) If the water company apportions a water right under Subsection (1), a sufficient  
8052 number of shares to account for the water right lost, including necessary transport or "carrier  
8053 water" losses, shall be treated by the water company as shares redeemed by the company from  
8054 the stockholder responsible for the loss.

8055 (b) The number of shares owned by that shareholder shall be reduced accordingly on  
8056 the records of the company.

8057 (c) Upon the redemption, the authorized shares of the company shall be reduced by the  
8058 amount of shares that were redeemed under this Subsection (2).

8059 (3) The redemption and retirement under this section of shares belonging to a  
8060 stockholder does not relieve the stockholder of liability for unpaid assessments on the stock or  
8061 debts the shareholder may owe to the water company.

8062 Section 134. Section **73-2-1** is amended to read:

8063 **73-2-1. State engineer -- Term -- Powers and duties -- Qualification for duties.**

8064 (1) There shall be a state engineer within the Division of Water Resources.

8065 (2) The state engineer shall:

8066 (a) be appointed by the governor with the consent of the Senate;

8067 (b) hold office for the term of four years and until a successor is appointed; and

8068 (c) have five years experience as a practical engineer or the theoretical knowledge,  
8069 practical experience, and skill necessary for the position.

8070 (3) (a) The state engineer shall be responsible for the general administrative  
8071 supervision of the waters of the state and the measurement, appropriation, apportionment, and  
8072 distribution of those waters.

8073 (b) The state engineer may secure the equitable apportionment and distribution of the  
8074 water according to the respective rights of appropriators.

8075 (4) The state engineer shall make rules, in accordance with Title 63G, Chapter 3, Utah  
8076 Administrative Rulemaking Act, consistent with the purposes and provisions of this title,  
8077 regarding:

8078 (a) reports of water right conveyances;

8079 (b) the construction of water wells and the licensing of water well drillers;

8080 (c) dam construction and safety;

8081 (d) the alteration of natural streams;

8082 (e) sewage effluent reuse;

8083 (f) geothermal resource conservation; and

8084 (g) enforcement orders and the imposition of fines and penalties.

8085 (5) The state engineer may make rules, in accordance with Title 63G, Chapter 3, Utah  
8086 Administrative Rulemaking Act, consistent with the purposes and provisions of this title,  
8087 governing:

8088 (a) water distribution systems and water commissioners;

8089 (b) water measurement and reporting;

8090 (c) ground-water recharge and recovery;

8091 (d) the determination of water rights; and

8092 (e) the form and content of applications and related documents, maps, and reports.

- 8093 (6) The state engineer may bring suit in courts of competent jurisdiction to:
- 8094 (a) enjoin the unlawful appropriation, diversion, and use of surface and underground
- 8095 water without first seeking redress through the administrative process;
- 8096 (b) prevent theft, waste, loss, or pollution of those waters;
- 8097 (c) enable him to carry out the duties of the state engineer's office; and
- 8098 (d) enforce administrative orders and collect fines and penalties.
- 8099 (7) The state engineer may:
- 8100 (a) upon request from the board of trustees of an irrigation district under Title 17B,
- 8101 Chapter 2a, Part 5, Irrigation District Act, or another local district under Title 17B, Limited
- 8102 Purpose Local Government Entities - Local Districts, or a special service district under Title
- 8103 17D, Chapter 1, Special Service District Act, that operates an irrigation water system, cause a
- 8104 water survey to be made of all lands proposed to be annexed to the district in order to
- 8105 determine and allot the maximum amount of water that could be beneficially used on the land,
- 8106 with a separate survey and allotment being made for each 40-acre or smaller tract in separate
- 8107 ownership; and
- 8108 (b) upon completion of the survey and allotment under Subsection (7)(a), file with the
- 8109 district board a return of the survey and report of the allotment.
- 8110 (8) (a) The state engineer may establish water distribution systems and define their
- 8111 boundaries.
- 8112 (b) The water distribution systems shall be formed in a manner that:
- 8113 (i) secures the best protection to the water claimants; and
- 8114 (ii) is the most economical for the state to supervise.
- 8115 Section 135. Section **73-2-1.5** is amended to read:
- 8116 **73-2-1.5. Procedures -- Adjudicative proceedings.**
- 8117 Except as provided in Sections 63G-4-102 and 73-2-25, the state engineer [~~and the~~
- 8118 ~~Division of Water Rights~~] shall comply with the procedures and requirements of Title 63G,
- 8119 Chapter 4, Administrative Procedures Act, in [~~their~~] adjudicative proceedings.
- 8120 Section 136. Section **73-2-14** is amended to read:
- 8121 **73-2-14. Fees of state engineer -- Deposited as a dedicated credit.**
- 8122 (1) The [~~state engineer~~] Division of Water Resources shall charge fees pursuant to
- 8123 Section 63J-1-504 for the following:

- 8124 (a) applications to appropriate water;
- 8125 (b) applications to temporarily appropriate water;
- 8126 (c) applications for permanent or temporary change;
- 8127 (d) applications for exchange;
- 8128 (e) applications for an extension of time in which to resume use of water;
- 8129 (f) applications to appropriate water, or make a permanent or temporary change, for use
- 8130 outside the state filed pursuant to Title 73, Chapter 3a, Water Exports;
- 8131 (g) groundwater recovery permits;
- 8132 (h) diligence claims for surface or underground water filed pursuant to Section
- 8133 73-5-13;
- 8134 (i) republication of notice to water users after amendment of application where
- 8135 required by this title;
- 8136 (j) applications to segregate;
- 8137 (k) requests for an extension of time in which to submit proof of appropriation not to
- 8138 exceed 14 years after the date of approval of the application;
- 8139 (l) requests for an extension of time in which to submit proof of appropriation 14 years
- 8140 or more after the date of approval of the application;
- 8141 (m) groundwater recharge permits;
- 8142 (n) applications for a well driller's license, annual renewal of a well driller's license,
- 8143 and late annual renewal of a well driller's license;
- 8144 (o) certification of copies;
- 8145 (p) preparing copies of documents;
- 8146 (q) reports of water right conveyance; and
- 8147 (r) requests for a livestock water use certificate under Section 73-3-31.
- 8148 (2) Fees for the services specified in Subsections (1)(a) through (i) shall be based upon
- 8149 the rate of flow or volume of water. If it is proposed to appropriate by both direct flow and
- 8150 storage, the fee shall be based upon either the rate of flow or annual volume of water stored,
- 8151 whichever fee is greater.
- 8152 (3) Fees collected under this section:
- 8153 (a) shall be deposited in the General Fund as a dedicated credit to be used by the
- 8154 Division of Water ~~[Rights]~~ Resources; and



8155 (b) may only be used by the Division of Water [~~Rights~~] Resources only to:

8156 (i) meet the publication of notice requirements under this title;

8157 (ii) process reports of water right conveyance;

8158 (iii) process a request for a livestock water use certificate; and

8159 (iv) hire an employee to assist with processing an application.

8160 Section 137. Section **73-2-26** is amended to read:

8161 **73-2-26. Administrative penalties.**

8162 (1) (a) As part of a final order issued under Section 73-2-25, the state engineer may

8163 order that a person to whom an order is issued:

8164 (i) pay an administrative fine not to exceed:

8165 (A) \$5,000 for each knowing violation; or

8166 (B) \$1,000 for each violation that is not knowing;

8167 (ii) replace up to 200% of water taken; and

8168 (iii) be liable for any expense incurred by the state engineer or division in investigating

8169 and stopping the violation.

8170 (b) The definition of "knowingly" under Subsection 76-2-103(2) shall apply to

8171 determinations under Subsection (1)(a)(i).

8172 (c) The penalties described in Subsection (1)(a) shall be in addition to:

8173 (i) any criminal penalty established for a violation described in Subsection (1); and

8174 (ii) any private right of action.

8175 (d) (i) Each day of a continuing violation of the provisions described in Subsection

8176 73-2-25(2)(a) or an initial or final order issued under Section 73-2-25 is a separate violation.

8177 (ii) A penalty may not be imposed for a violation of the provisions listed in Subsection

8178 73-2-25(2)(a) or an initial or a final order issued under Section 73-2-25 for a violation

8179 occurring more than 12 months before the day on which a notice of violation is issued.

8180 (e) Separate violations under Subsection (1)(d) may be consolidated for resolution in

8181 one enforcement proceeding under Section 73-2-25.

8182 (f) The state engineer has discretion to pursue an administrative fine, order requiring

8183 replacement, or both.

8184 (2) Before imposing a fine or ordering replacement under Subsection (1), the state

8185 engineer shall consider:

8186 (a) the value or quantity of water unlawfully taken, including the cost or difficulty of  
8187 replacing the water;

8188 (b) the gravity of the violation, including the economic injury or impact to others;

8189 (c) whether the person subject to fine or replacement attempted to comply with the  
8190 state engineer's orders; and

8191 (d) the violator's economic benefit from the violation.

8192 (3) (a) The state engineer may require that the water unlawfully taken be replaced after:

8193 (i) a person fails to request judicial review of a final order issued under Section

8194 73-2-25; or

8195 (ii) the completion of judicial review, including any appeals.

8196 (b) The state engineer's order shall require that replacement of water begin within one  
8197 year of the day on which:

8198 (i) the time period for requesting judicial review of a final order issued under Section

8199 73-2-25 expires without a person requesting judicial review of the final order; or

8200 (ii) the completion of judicial review, including any appeals.

8201 (4) Water replaced under Subsection (3) shall be taken from water that the person  
8202 subject to the order requiring replacement would be entitled to use during the replacement  
8203 period.

8204 (5) (a) If the state engineer issues an order requiring replacement, a copy of the order  
8205 shall be placed in the Division of Water ~~[Rights<sup>2</sup>]~~ Resources' water rights records.

8206 (b) The order requiring replacement shall constitute a lien upon the water right affected  
8207 if the state engineer files a notice of lien in the office of the county recorder in the county  
8208 where the place of use of the water right is located.

8209 (c) A notice of lien under Subsection (5)(b) shall include a legal description of the  
8210 place of use of the water right.

8211 (6) Any money collected under this section shall be deposited into the General Fund.

8212 Section 138. Section **73-2-29** is amended to read:

8213 **73-2-29. Agreement with another state -- Regulation, distribution, and**

8214 **administration of interstate water.**

8215 (1) The state engineer, after receiving approval from the executive director of the

8216 Department of Natural Resources and Environment and the governor, may enter into an

8217 agreement with another state to regulate, distribute, and administer the water from an interstate  
8218 surface water source that is not otherwise subject to an interstate compact.

8219 (2) The state engineer may coordinate with another state to implement:

8220 (a) the terms of an agreement entered into according to Subsection (1); and

8221 (b) an interstate compact that regulates, distributes, or administers an interstate surface  
8222 water source.

8223 Section 139. Section **73-3-25** is amended to read:

8224 **73-3-25. Well driller's license -- Enforcement.**

8225 (1) As used in this section:

8226 (a) "Well" means an open or cased excavation or borehole for diverting, using, or  
8227 monitoring underground water made by any construction method.

8228 (b) "Well driller" means a person with a license to engage in well drilling for  
8229 compensation or otherwise.

8230 (c) "Well drilling" means the act of:

8231 (i) drilling, constructing, repairing, renovating, deepening, cleaning, developing, or  
8232 abandoning a well; or

8233 (ii) installing or repairing a pump in a well.

8234 (2) (a) Notwithstanding Subsection (3), a person who installs or repairs a pump in a  
8235 well on the person's own property for the person's own use is not required to obtain a license  
8236 under this section.

8237 (b) Except as provided in Subsection (2)(c), a person who installs or repairs a pump in  
8238 a well for compensation:

8239 (i) shall obtain a license as required by Subsection (3); and

8240 (ii) is subject to all of this section's provisions.

8241 (c) Notwithstanding the requirements of Subsection (2)(b), a person who performs  
8242 electrical repairs on a pump in a well is not required to obtain a license as required by  
8243 Subsection (3).

8244 (3) (a) (i) A person shall obtain a license as provided in this section before engaging in  
8245 well drilling.

8246 (ii) The state engineer may enforce Subsection (3)(a)(i) in accordance with Sections  
8247 73-2-25 and 73-2-26.

- 8248 (b) A person applying for a well driller license shall file a well driller bond:
- 8249 (i) with the state engineer; and
- 8250 (ii) payable to the Division of Water ~~[Rights]~~ Resources.
- 8251 (c) (i) Compliance with this section and the rules authorized by this section is required
- 8252 to obtain or renew a well driller license.
- 8253 (ii) The state engineer may refuse to issue a license if it appears an applicant violates a
- 8254 rule authorized by this section.
- 8255 (d) A well driller license is not transferable.
- 8256 (4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
- 8257 state engineer may make rules establishing:
- 8258 (a) the amount, form, and general administrative requirements of a well driller bond;
- 8259 (b) the amount of a well driller fine;
- 8260 (c) minimum well drilling standards;
- 8261 (d) well driller reporting requirements;
- 8262 (e) the requirements for obtaining a well driller license, including:
- 8263 (i) a well driller license application form;
- 8264 (ii) the license expiration date; and
- 8265 (iii) the license renewal cycle; and
- 8266 (f) a procedure to enforce a well drilling standard or other well drilling requirement.
- 8267 (5) (a) A well driller shall submit a report to the state engineer:
- 8268 (i) containing data relating to each well;
- 8269 (ii) within 30 days after the completion or abandonment of the well drilling;
- 8270 (iii) on forms furnished by the state engineer; and
- 8271 (iv) containing information required by the state engineer.
- 8272 (b) In accordance with Sections 73-2-25 and 73-2-26, the state engineer may
- 8273 commence an enforcement action against a person who fails to submit a report required by
- 8274 Subsection (5)(a) within 90 days of the day on which the well driller license lapses.
- 8275 (6) (a) A well driller shall comply with the rules authorized by this section.
- 8276 (b) If the state engineer determines that a well driller has failed to comply with a rule,
- 8277 the state engineer may, in accordance with the procedures established in rule:
- 8278 (i) (A) order that a well driller pay a fine; or

8279 (B) revoke or suspend the well driller's license; and

8280 (ii) exact the bond.

8281 (7) (a) The state engineer shall retain the money from a fine or exacting a bond as a  
8282 dedicated credit.

8283 (b) The state engineer may expend:

8284 (i) money retained from a fine for:

8285 (A) well drilling inspection;

8286 (B) well drilling enforcement; or

8287 (C) well driller education; and

8288 (ii) money retained from exacting a bond to investigate or correct a deficiency by a  
8289 well driller that could adversely affect the public interest resulting from noncompliance with a  
8290 rule authorized by this section.

8291 Section 140. Section **73-3-29** is amended to read:

8292 **73-3-29. Relocation of natural streams -- Written permit required -- Emergency**  
8293 **work -- Violations.**

8294 (1) Except as provided in Subsection (2), a state agency, county, city, corporation, or  
8295 person may not relocate any natural stream channel or alter the beds and banks of any natural  
8296 stream without first obtaining the written approval of the state engineer.

8297 (2) (a) The state engineer may issue an emergency permit or order to relocate a natural  
8298 stream channel or alter the beds and banks of a natural stream as provided by this Subsection  
8299 (2) and Section 63G-4-502.

8300 (b) If an emergency situation arises which involves immediate or actual flooding and  
8301 threatens injury or damage to persons or property, steps reasonably necessary to alleviate or  
8302 mitigate the threat may be taken before a written permit is issued subject to the requirements of  
8303 this section.

8304 (c) (i) If the threat occurs during normal working hours, the state engineer or the state  
8305 engineer's representative must be notified immediately of the threat. After receiving  
8306 notification of the threat, the state engineer or the state engineer's representative may orally  
8307 approve action to alleviate or mitigate the threat.

8308 (ii) If the threat does not occur during normal working hours, action may be taken to  
8309 alleviate or mitigate the threat and the state engineer or the state engineer's representative shall

8310 be notified of the action taken on the first working day following the work.

8311 (d) A written application outlining the action taken or the action proposed to be taken  
8312 to alleviate or mitigate the threat shall be submitted to the state engineer within two working  
8313 days following notification of the threat to the state engineer or the state engineer's  
8314 representative.

8315 (e) (i) The state engineer shall inspect in a timely manner the site where the emergency  
8316 action was taken.

8317 (ii) After inspection, additional requirements, including mitigation measures, may be  
8318 imposed.

8319 (f) Adjudicative proceedings following the emergency work shall be informal unless  
8320 otherwise designated by the state engineer.

8321 (3) An application to relocate any natural stream channel or alter the beds and banks of  
8322 any natural stream shall be in writing and shall contain the following:

8323 (a) the name and address of the applicant;

8324 (b) a complete and detailed statement of the location, nature, and type of relocation or  
8325 alteration;

8326 (c) the methods to be employed;

8327 (d) the purposes of the application; and

8328 (e) any additional information that the state engineer considers necessary, including,  
8329 but not limited to, plans and specifications of the proposed construction of works.

8330 (4) (a) The state engineer shall, without undue delay, conduct investigations that may  
8331 be reasonably necessary to determine whether the proposed relocation or alteration will:

8332 (i) impair vested water rights;

8333 (ii) unreasonably or unnecessarily affect any recreational use or the natural stream  
8334 environment;

8335 (iii) unreasonably or unnecessarily endanger aquatic wildlife; or

8336 (iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct  
8337 high flows.

8338 (b) The application shall be approved unless the proposed relocation or alteration will:

8339 (i) impair vested water rights;

8340 (ii) unreasonably or unnecessarily adversely affect any public recreational use or the

8341 natural stream environment;

8342 (iii) unreasonably or unnecessarily endanger aquatic wildlife; or

8343 (iv) unreasonably or unnecessarily diminish the natural channel's ability to conduct  
8344 high flows.

8345 (c) The state engineer may approve the application, in whole or in part, with any  
8346 reasonable terms to protect vested water rights, any public recreational use, the natural stream  
8347 environment, or aquatic wildlife.

8348 (5) No cost incurred by the applicant, including any cost incurred to comply with the  
8349 terms imposed by the state engineer, is reimbursable by the Division of Water [~~Rights~~]  
8350 Resources.

8351 (6) Except as provided in Subsection (2), a person who knowingly or intentionally  
8352 relocates any natural stream channel, or alters the bed or bank of any natural stream channel  
8353 without first obtaining the written approval of the state engineer is guilty of a crime punishable  
8354 under Section 73-2-27.

8355 Section 141. Section **73-3b-102** is amended to read:

8356 **73-3b-102. Definitions.**

8357 As used in this chapter:

8358 (1) "Artificially recharge" means to place water in an aquifer:

8359 (a) by means of:

8360 (i) injection;

8361 (ii) surface infiltration; or

8362 (iii) another method; and

8363 (b) for the purposes of:

8364 (i) storing the water; and

8365 (ii) recovering the water.

8366 (2) "Division" means Division of Water [~~Rights~~] Resources.

8367 (3) "Recharge permit" means a permit issued by the state engineer to construct and  
8368 operate a recharge project.

8369 (4) "Recharge project" means to artificially recharge water into an aquifer.

8370 (5) "Recovery permit" means a permit issued by the state engineer to construct and  
8371 operate a recovery project.

8372 (6) "Recovery project" means to withdraw from an aquifer water that has been  
8373 artificially recharged pursuant to a recharge permit.

8374 Section 142. Section **73-4-1** is amended to read:

8375 **73-4-1. By engineer on petition of users -- Upon request of Department of Natural**  
8376 **Resources and Environment.**

8377 (1) (a) Upon a verified petition to the state engineer, signed by five or more or a  
8378 majority of water users upon any stream or water source, requesting the investigation of the  
8379 relative rights of the various claimants to the waters of such stream or water source, it shall be  
8380 the duty of the state engineer, if upon such investigation he finds the facts and conditions are  
8381 such as to justify a determination of said rights, to file in the district court an action to  
8382 determine the various rights.

8383 (b) In any suit involving water rights the court may order an investigation and survey  
8384 by the state engineer of all the water rights on the source or system involved.

8385 (2) (a) As used in this section, "executive director" means the executive director of the  
8386 Department of [~~Environmental Quality~~] Natural Resources and Environment.

8387 (b) The executive director, with the concurrence of the governor, may request that the  
8388 state engineer file in the district court an action to determine the various water rights in the  
8389 stream, water source, or basin for an area within the exterior boundaries of the state for which  
8390 any person or organization or the federal government is actively pursuing or processing a  
8391 license application for a storage facility or transfer facility for high-level nuclear waste or  
8392 greater than class C radioactive waste.

8393 (c) Upon receipt of a request made under Subsection (2)(b), the state engineer shall file  
8394 the action in the district court.

8395 (d) If a general adjudication has been filed in the state district court regarding the area  
8396 requested pursuant to Subsection (2)(b), the state engineer and the state attorney general shall  
8397 join the United States as a party to the action.

8398 Section 143. Section **73-10-1.5** is amended to read:

8399 **73-10-1.5. Board of Water Resources -- Creation -- Transfer of powers and**  
8400 **duties.**

8401 (1) There is created within the Department of Natural Resources and Environment a  
8402 Board of Water Resources which, except as otherwise provided in this act, shall assume all of



8403 the policy-making functions, powers, duties, rights and responsibilities of the Utah water and  
 8404 power board, together with all functions, powers, duties, rights and responsibilities granted to  
 8405 the Board of Water Resources by this act.

8406 (2) The Board of Water Resources shall be the policy-making body of the Division of  
 8407 Water Resources except as provided in Title 19, Chapter 4, Safe Drinking Water Act, and  
 8408 Chapter 5, Water Quality Act.

8409 (3) Except as otherwise provided in this act, whenever reference is made in Title 73,  
 8410 Water and Irrigation, or any other provision of law, to the Utah Water and Power Board, it shall  
 8411 be construed as referring to the Board of Water Resources where such reference pertains to  
 8412 policy-making functions, powers, duties, rights and responsibilities; but in all other instances  
 8413 such reference shall be construed as referring to the Division of Water Resources.

8414 Section 144. Section **73-10-18** is amended to read:

8415 **73-10-18. Division of Water Resources -- Creation -- Power and authority.**

8416 (1) There is created the Division of Water Resources, which shall be within the  
 8417 Department of Natural Resources and Environment under the administration and general  
 8418 supervision of the executive director of natural resources and under the policy direction of the  
 8419 Board of Water Resources, the Drinking Water Board, and the Water Quality Board.

8420 (2) The Division of Water Resources shall be the water [~~resource(s)~~] resource authority  
 8421 for the state [~~of Utah~~], shall assume all of the functions, powers, duties, rights and  
 8422 responsibilities of the Utah water and power board except those which are delegated to the  
 8423 board by this act and is vested with such other functions, powers, duties, rights and  
 8424 responsibilities as provided in this act and other law.

8425 (3) The Division of Water Resources shall administer Title 19, Chapter 4, Safe  
 8426 Drinking Water Act, and Chapter 5, Water Quality Act.

8427 Section 145. Section **73-10c-3** is amended to read:

8428 **73-10c-3. Water Development Coordinating Council created -- Purpose --**  
 8429 **Members.**

8430 (1) (a) There is created within the Department of Natural Resources and Environment a  
 8431 Water Development Coordinating Council. The council comprises:

8432 (i) the director of the Division of Water Resources;

8433 [~~(ii) the executive secretary of the Water Quality Board;~~]

8434 ~~[(iii) the executive secretary of the Drinking Water Board;]~~  
8435 ~~[(iv)]~~ (ii) the executive director of the Department of Community and Culture or the  
8436 executive director's designee; and  
8437 ~~[(v)]~~ (iii) the state treasurer or the treasurer's designee.  
8438 (b) The council shall choose a chair and vice chair from among its own members.  
8439 (c) A member may not receive compensation or benefits for the member's service, but  
8440 may receive per diem and travel expenses in accordance with:  
8441 (i) Section 63A-3-106;  
8442 (ii) Section 63A-3-107; and  
8443 (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
8444 63A-3-107.  
8445 (2) The purposes of the council are to:  
8446 (a) coordinate the use and application of the funds available to the state to give  
8447 financial assistance to political subdivisions of this state so as to promote the conservation,  
8448 development, treatment, restoration, and protection of the waters of this state;  
8449 (b) promote the coordination of the financial assistance programs administered by the  
8450 state and the use of the financing alternative most economically advantageous to the state and  
8451 its political subdivisions;  
8452 (c) promote the consideration by the Board of Water Resources, Drinking Water  
8453 Board, and Water Quality Board of regional solutions to the water and wastewater needs of  
8454 individual political subdivisions of this state; and  
8455 (d) assess the adequacy and needs of the state and its political subdivisions with respect  
8456 to water-related infrastructures and advise the governor and the Legislature on those funding  
8457 needs.  
8458 Section 146. Section **73-10c-6** is amended to read:  
8459 **73-10c-6. Credit enhancement agreement -- Provisions for use of funds.**  
8460 (1) (a) A credit enhancement agreement may be made for the purpose of facilitating  
8461 financing for political subdivisions.  
8462 (b) A credit enhancement agreement may provide for the use of funds from the security  
8463 fund to accomplish the purposes specified in Section 73-10c-4.  
8464 (2) (a) The political subdivision, ~~[prior to]~~ before the sale or issuance of a drinking

8465 water or a wastewater project obligation, shall:

8466 (i) apply to the Drinking Water Board or Water Quality Board to have its drinking  
8467 water or wastewater project obligation or both, as desired, designated as covered by a credit  
8468 enhancement agreement; and

8469 (ii) have entered into a credit enhancement agreement with the Drinking Water Board  
8470 or Water Quality Board setting forth the terms and conditions of the security or other forms of  
8471 assistance provided by the agreement.

8472 (b) The Drinking Water Board and Water Quality Board may not designate any  
8473 drinking water or wastewater project obligation as covered by the credit enhancement  
8474 agreement:

8475 (i) unless immediately after the designation there is on deposit in the security fund,  
8476 based on the purchase or then market price of the investments therein, whichever is lower, an  
8477 amount determined by the Drinking Water Board or Water Quality Board to be sufficient to:

8478 (A) reasonably improve the security for and marketability of the drinking water or  
8479 wastewater project obligation, or both; and

8480 (B) comply with the terms and provisions of all existing credit enhancement  
8481 agreements; and

8482 (ii) while held by the state, any agency of the state, the federal government, or any  
8483 agency of the federal government.

8484 (c) A drinking water project obligation may not be designated as covered by a credit  
8485 enhancement agreement unless the drinking water project for which it was issued by the  
8486 political subdivision has been approved by the Department of [~~Environmental Quality~~] Natural  
8487 Resources and Environment, acting through the Drinking Water Board.

8488 (d) A wastewater project obligation may not be designated as secured by a credit  
8489 enhancement unless the wastewater project for which it was issued by the political subdivision  
8490 has been approved by the Department of [~~Environmental Quality~~] Natural Resources and  
8491 Environment, acting through the Water Quality Board.

8492 (3) (a) A credit enhancement agreement must provide that the security provided under  
8493 this chapter and the credit enhancement agreement:

8494 (i) is limited to the money available in the security fund; and

8495 (ii) does not constitute a pledge of or charge against the general revenues, credit, or

8496 taxing powers of the state or any political subdivision.

8497 (b) A credit enhancement agreement which obligates the state to pay principal of or  
8498 interest on any drinking water or wastewater project obligation, including any credit  
8499 enhancement agreement entered into under Section 73-10c-4, may provide that:

8500 (i) the political subdivision or its agent will notify the council whenever it is not able to  
8501 pay principal of or interest on the drinking water or wastewater project obligation covered by  
8502 the credit enhancement agreement and request payment from the security fund; and

8503 (ii) money in the security fund needed to make the payment requested by the political  
8504 subdivision may be segregated within the security fund and held until the requested payment is  
8505 made.

8506 (c) A default of the political subdivision under the drinking water or wastewater project  
8507 obligation may not alter, in any manner, the obligations of the state as provided in the credit  
8508 enhancement agreement.

8509 (d) [~~Any~~] A drinking water or wastewater project obligation covered by the credit  
8510 enhancement agreement which is represented by a bond, note, or other written instrument shall  
8511 bear a legend which states these provisions and makes reference to this chapter and the credit  
8512 enhancement agreement pursuant to which the obligation is secured.

8513 (4) [~~Any~~] A credit enhancement agreement for a drinking water or wastewater project  
8514 obligation may provide that the Drinking Water Board or Water Quality Board:

8515 (a) purchase from the money in the security fund the obligation which the political  
8516 subdivision is unable to pay, whereupon the Drinking Water Board or Water Quality Board, on  
8517 behalf of the state, will become the holder of the obligation and entitled to all rights of a holder  
8518 under the terms of the obligation;

8519 (b) pay, as a loan to the political subdivision from the money in the security fund, to  
8520 the holder of the obligation the principal or interest, or both, due or to become due on the  
8521 obligation which the political subdivision is unable to pay;

8522 (c) take both actions referred to in Subsections (4)(a) and (b) relating to [~~any~~] an issue  
8523 of obligations; or

8524 (d) take any other action specified in or contemplated by the credit enhancement  
8525 agreement.

8526 (5) (a) [~~Any~~] A credit enhancement agreement [~~must~~] shall require that the political

8527 subdivision repay to the state any loan of money made from the security fund to make any  
8528 payments specified in the credit enhancement agreement, which repayment obligation may also  
8529 be evidenced by bonds or notes of the political subdivision, as the Drinking Water Board or  
8530 Water Quality Board may determine.

8531 (b) The loan may be for a term, may bear interest at a rate or rates or may bear no  
8532 interest, as the Drinking Water Board or Water Quality Board may determine, and may be  
8533 secured by any security the Drinking Water Board or Water Quality Board may determine.

8534 (c) The interest rate for ~~[any]~~ a loan contemplated by, but not made at the time the  
8535 credit enhancement agreement is executed, may be specified in relationship to a prime rate or  
8536 other identifiable rate existing at the time the loan is made.

8537 (d) The term of the loan may be specified in the credit enhancement agreement as a  
8538 maximum term and the actual term stated when the loan is made.

8539 (e) ~~[Any security]~~ Security for the loan may include:

8540 (i) a pledge of the revenues from the particular drinking water project or wastewater  
8541 project;

8542 (ii) an assignment from the holder or holders of the drinking water or wastewater  
8543 project obligation of the holders' interest in any security for the obligation in the amount  
8544 needed to service the indebtedness represented by the loan; or

8545 (iii) ~~[any other]~~ another security device.

8546 (f) The Drinking Water Board or Water Quality Board, on behalf of the state, is  
8547 subrogated to all rights of the holder of the drinking water or wastewater project obligation  
8548 against the political subdivision ~~[which]~~ that issued the obligation with respect to the collection  
8549 of the amount of the loan, but the state is not relieved by this subrogation from its obligation to  
8550 make payments from the security fund as provided in its credit enhancement agreement with  
8551 the political subdivision.

8552 (6) ~~[Prior to]~~ Before entering into a credit enhancement agreement, the Drinking Water  
8553 Board or Water Quality Board shall obtain an opinion of counsel experienced in bond matters  
8554 to the effect that the drinking water or wastewater project obligation to be purchased or with  
8555 respect to which a loan is to be made, is a valid and binding obligation of the political  
8556 subdivision ~~[which]~~ that issued it.

8557 (7) ~~[Prior to]~~ Before making ~~[any]~~ a payment under the credit enhancement agreement,

8558 the Drinking Water Board or Water Quality Board shall:

8559 (a) verify the correctness of the information in any notification referred to in  
8560 Subsection (3); and

8561 (b) determine that funds in the security fund are adequate to purchase the drinking  
8562 water or wastewater project obligations or to make any loan of funds provided by the credit  
8563 enhancement agreement.

8564 Section 147. Section **73-15-4** is amended to read:

8565 **73-15-4. Water from cloud seeding part of natural water supply -- Notice of**  
8566 **intent prior to cloud-seeding project.**

8567 (1) All water derived as a result of cloud seeding shall be considered a part of the  
8568 natural water supply of the basin in the same sense as if no cloud seeding operations had been  
8569 conducted, and any water so derived shall not be subject to new appropriations but shall be  
8570 administered and distributed to users on the stream system in accordance with existing water  
8571 rights.

8572 (2) A notice of intent shall be filed with the Division of Water ~~[Rights]~~ Resources prior  
8573 to the commencement of a cloud-seeding project.

8574 Section 148. Section **73-18a-5** is amended to read:

8575 **73-18a-5. Chemical treatment of marine toilet contents -- Rules established by**  
8576 **board and Department of Natural Resources and Environment.**

8577 The board shall establish by rule, in accordance with Title 63G, Chapter 3, Utah  
8578 Administrative Rulemaking Act, with approval by the Department of ~~[Environmental Quality]~~  
8579 Natural Resources and Environment, as provided in this chapter, standards relating to chemical  
8580 treatment of marine toilet contents.

8581 Section 149. Section **73-18a-12** is amended to read:

8582 **73-18a-12. Rules adopted by board -- Subject to approval by Department of**  
8583 **Natural Resources and Environment.**

8584 (1) The board may ~~[promulgate]~~ make rules under Title 63G, Chapter 3, Utah  
8585 Administrative Rulemaking Act, ~~[which are]~~ as necessary for the carrying out of duties,  
8586 obligations, and powers conferred on the division by this chapter.

8587 (2) These rules ~~[shall be]~~ are subject to review and approval by the Department of  
8588 ~~[Environmental Quality. This]~~ Natural Resources and Environment.

8589 (3) The approval described in Subsection (2) shall be recorded as part of the rules.

8590 Section 150. Section **73-22-3** is amended to read:

8591 **73-22-3. Definitions.**

8592 As used in this chapter:

8593 (1) "Correlative rights" mean the rights of each geothermal owner in a geothermal area  
8594 to produce without waste his just and equitable share of the geothermal resource underlying the  
8595 geothermal area.

8596 (2) "Division" means the Division of Water [~~Rights, Department of Natural Resources~~]  
8597 Resources.

8598 (3) "Geothermal area" means the general land area which is underlain or reasonably  
8599 appears to be underlain by geothermal resources.

8600 (4) "Geothermal fluid" means water and steam at temperatures greater than 120 degrees  
8601 centigrade naturally present in a geothermal system.

8602 (5) "Geothermal resource" means: (a) the natural heat of the earth at temperatures  
8603 greater than 120 degrees centigrade; and (b) the energy, in whatever form, including pressure,  
8604 present in, resulting from, created by, or which may be extracted from that natural heat, directly  
8605 or through a material medium. Geothermal resource does not include geothermal fluids.

8606 (6) "Geothermal system" means any strata, pool, reservoir, or other geologic formation  
8607 containing geothermal resources.

8608 (7) "Material medium" means geothermal fluids, or water and other substances  
8609 artificially introduced into a geothermal system to serve as a heat transfer medium.

8610 (8) "Operator" means any person drilling, maintaining, operating, producing, or in  
8611 control of any well.

8612 (9) "Owner" means a person who has the right to drill into, produce, and make use of  
8613 the geothermal resource.

8614 (10) "Person" means any individual, business entity (corporate or otherwise), or  
8615 political subdivision of this or any other state.

8616 (11) "Waste" means any inefficient, excessive, or improper production, use, or  
8617 dissipation of geothermal resources. Wasteful practices include, but are not limited to: (a)  
8618 transporting or storage methods that cause or tend to cause unnecessary surface loss of  
8619 geothermal resources; or (b) locating, spacing, constructing, equipping, operating, producing,

8620 or venting of any well in a manner that results or tends to result in unnecessary surface loss or  
8621 in reducing the ultimate economic recovery of geothermal resources.

8622 (12) "Well" means any well drilled, converted, or reactivated for the discovery, testing,  
8623 production, or subsurface injection of geothermal resources.

8624 Section 151. Section **73-22-5** is amended to read:

8625 **73-22-5. Jurisdiction of division -- Hearings -- Subpoena power -- Restraining**  
8626 **violations -- Actions for damages against violators unaffected.**

8627 (1) The division has jurisdiction and authority over all persons and property, public and  
8628 private, necessary to enforce the provisions of this chapter and may enact, issue, and enforce  
8629 necessary rules and orders to carry out the requirements of this chapter.

8630 (2) (a) Any affected person may apply for a hearing before the division, or the division  
8631 may initiate proceedings upon any question relating to the administration of this chapter by  
8632 following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures  
8633 Act.

8634 (b) The [~~Division of Water Rights~~] division shall comply with the procedures and  
8635 requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its adjudicative  
8636 proceedings.

8637 (3) The division shall have the power to summon witnesses, to administer oaths, and to  
8638 require the production of records, books, and documents for examination at any hearing or  
8639 investigation conducted by it.

8640 (4) (a) If any person fails or refuses to comply with a subpoena issued by the division,  
8641 or if any witness fails or refuses to testify about any matter regarding which the witness may be  
8642 interrogated, the division may petition any district court in the state to issue an order  
8643 compelling the person to:

- 8644 (i) comply with the subpoena and attend before the division;
- 8645 (ii) produce any records, books, and documents covered by the subpoena; or
- 8646 (iii) to give testimony.

8647 (b) The court may punish failure to comply with the order as contempt.

8648 (5) (a) Whenever it appears that any person is violating or threatening to violate any  
8649 provision of this chapter, or any rule or order made under this chapter, the division may file suit  
8650 in the name of the state to restrain that person from continuing the violation or from carrying



8651 out the threat of violation.

8652 (b) Venue for the action is in the district court in the county where any defendant  
8653 resides or in the county where the violation is alleged to have occurred.

8654 (6) (a) Nothing in this chapter, no suit by or against the division, and no violation  
8655 charged or asserted against any person under this chapter, or any rule or order issued under it,  
8656 shall impair, abridge, or delay any cause of action for damages that any person may have or  
8657 assert against any person violating this chapter, or any rule or order issued under it.

8658 (b) Any person so damaged by the violation may sue for and recover whatever damages  
8659 that the person is otherwise entitled to receive.

8660 Section 152. Section **73-27-102** is amended to read:

8661 **73-27-102. State Water Development Commission created.**

8662 (1) The Joint Gubernatorial and Legislative State Water Development Commission is  
8663 created to determine the state's role in the protection, conservation, and development of the  
8664 state's water resources.

8665 (2) The commission membership shall include:

8666 (a) four members of the Senate, of whom:

8667 (i) no more than one shall represent the same river district; and

8668 (ii) no more than two shall be from the same party, except the president of the Senate  
8669 may appoint up to three senators from the same party if the appointment is necessary to comply  
8670 with Subsection (2)(a)(i);

8671 (b) six members of the House of Representatives, of whom no more than two shall  
8672 represent the same river district and no more than four shall be from the same party;

8673 (c) a representative of the Office of the Governor;

8674 (d) a representative of the Green River District;

8675 (e) a representative of the Upper Colorado River District;

8676 (f) a representative of the Lower Colorado River District;

8677 (g) a representative of the Lower Sevier River District;

8678 (h) a representative of the Upper Sevier River District;

8679 (i) a representative of the Provo River District;

8680 (j) a representative of the Salt Lake District;

8681 (k) a representative of the Weber River District;

- 8682 (l) a representative of the Bear River District;
- 8683 (m) the executive director of the Department of Natural Resources and Environment;
- 8684 [~~(n) the executive director of the Department of Environmental Quality;~~]
- 8685 [~~(o)~~ (n) the commissioner of agriculture and food;
- 8686 [~~(p)~~ (o) a member of the Board of Water Resources;
- 8687 [~~(q)~~ (p) a representative of an organized environmental group; and
- 8688 [~~(r)~~ (q) a representative of agricultural production.

8689 (3) (a) The president of the Senate and the speaker of the House shall appoint the  
8690 commission members from the Senate and the House, respectively.

8691 (b) The governor shall appoint the other commission members.

8692 (4) The president of the Senate and the speaker of the House shall designate one  
8693 senator and one representative, respectively, as cochair.

8694 (5) Attendance of a majority of the members at a meeting constitutes a quorum for the  
8695 transaction of the business of the commission.

8696 Section 153. Section **73-30-201** is amended to read:

8697 **73-30-201. Advisory council created -- Staffing.**

8698 (1) There is created an advisory council known as the "Great Salt Lake Advisory  
8699 Council" consisting of 11 members listed in Subsection (2).

8700 (2) (a) The governor shall appoint the following members, with the consent of the  
8701 Senate:

8702 (i) one representative of industry representing the extractive industry;

8703 (ii) one representative of industry representing aquaculture;

8704 (iii) one representative of conservation interests;

8705 (iv) one representative of a migratory bird protection area as defined in Section  
8706 23-28-102;

8707 (v) one representative who is an elected official from municipal government, or the  
8708 elected official's designee;

8709 (vi) five representatives who are elected officials from county government, or the  
8710 elected official's designee, one each representing:

8711 (A) Box Elder County;

8712 (B) Davis County;

- 8713 (C) Salt Lake County;
- 8714 (D) Tooele County; and
- 8715 (E) Weber County; and
- 8716 (vii) one representative of a publicly owned treatment works.
- 8717 (3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year
- 8718 term.
- 8719 (b) Notwithstanding Subsection (3)(a), at the time of appointment or reappointment,
- 8720 the governor shall adjust the length of terms of voting members to ensure that the terms of
- 8721 council members are staggered so that approximately half of the council is appointed every two
- 8722 years.
- 8723 (c) When a vacancy occurs in the membership for any reason, the governor shall
- 8724 appoint a replacement for the unexpired term with the consent of the Senate.
- 8725 (d) A member shall hold office until the member's successor is appointed and qualified.
- 8726 (4) The council shall determine:
- 8727 (a) the time and place of meetings; and
- 8728 (b) any other procedural matter not specified in this chapter.
- 8729 (5) (a) Attendance of six members at a meeting of the council constitutes a quorum.
- 8730 (b) A vote of the majority of the members present at a meeting when a quorum is
- 8731 present constitutes an action of the council.
- 8732 (6) (a) (i) A member who is not a government employee may not receive compensation
- 8733 or benefits for the member's services, but may receive per diem and expenses incurred in the
- 8734 performance of the member's official duties at the rates established by the Division of Finance
- 8735 under Sections 63A-3-106 and 63A-3-107.
- 8736 (ii) A member who is not a government employee may decline to receive per diem and
- 8737 expenses for the member's service.
- 8738 (b) (i) A state government officer or employee member who does not receive salary,
- 8739 per diem, or expenses from the member's agency for the member's service may receive per
- 8740 diem and expenses incurred in the performance of the official duties from the council at the
- 8741 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 8742 (ii) A state government officer or employee member may decline to receive per diem
- 8743 and expenses for the member's service.

8744 (c) (i) A local government member who does not receive salary, per diem, or expenses  
8745 from the entity that the member represents for the member's service may receive per diem and  
8746 expenses incurred in the performance of the member's official duties at the rates established by  
8747 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

8748 (ii) A local government member may decline to receive per diem and expenses for the  
8749 member's service.

8750 (7) The Department of Natural Resources and [~~the Department of Environmental~~  
8751 ~~Quality shall coordinate and~~] Environment shall provide necessary staff assistance to the  
8752 council.

8753 Section 154. Section **73-30-202** is amended to read:

8754 **73-30-202. Duties of the council.**

8755 (1) (a) The council shall advise the persons listed in Subsection (1)(b) on the  
8756 sustainable use, protection, and development of the Great Salt Lake in terms of balancing:

8757 (i) sustainable use;

8758 (ii) environmental health; and

8759 (iii) reasonable access for existing and future development.

8760 (b) The council shall advise, as provided in Subsection (1)(a):

8761 (i) the governor; and

8762 (ii) the Department of Natural Resources[~~; and~~] and Environment.

8763 [~~(iii) the Department of Environmental Quality.~~]

8764 (2) The council shall assist the Division of Forestry, Fire, and State Lands in its  
8765 responsibilities for the Great Salt Lake described in Section 65A-10-8.

8766 (3) The council:

8767 (a) may recommend appointments to the Great Salt Lake technical team created by the  
8768 Division of Forestry, Fire, and State Lands; and

8769 (b) shall receive and utilize technical support from the Great Salt Lake technical team.

8770 (4) The council shall assist the Department of Natural Resources[~~, the Department of~~  
8771 ~~Environmental Quality, and their~~] and Environment and its applicable boards in accomplishing  
8772 their responsibilities for the Great Salt Lake.

8773 (5) The council shall report annually to the Natural Resources Appropriations  
8774 Subcommittee on the council's activities.

8775 Section 155. Section **78A-3-102** is amended to read:

8776 **78A-3-102. Supreme Court jurisdiction.**

8777 (1) The Supreme Court has original jurisdiction to answer questions of state law  
8778 certified by a court of the United States.

8779 (2) The Supreme Court has original jurisdiction to issue all extraordinary writs and  
8780 authority to issue all writs and process necessary to carry into effect its orders, judgments, and  
8781 decrees or in aid of its jurisdiction.

8782 (3) The Supreme Court has appellate jurisdiction, including jurisdiction of  
8783 interlocutory appeals, over:

8784 (a) a judgment of the Court of Appeals;

8785 (b) cases certified to the Supreme Court by the Court of Appeals prior to final  
8786 judgment by the Court of Appeals;

8787 (c) discipline of lawyers;

8788 (d) final orders of the Judicial Conduct Commission;

8789 (e) final orders and decrees in formal adjudicative proceedings originating with:

8790 (i) the Public Service Commission;

8791 (ii) the State Tax Commission;

8792 (iii) the School and Institutional Trust Lands Board of Trustees;

8793 (iv) the Board of Oil, Gas, and Mining;

8794 (v) the state engineer; or

8795 (vi) the executive director of the Department of Natural Resources and Environment  
8796 reviewing actions of the Division of Forestry, Fire, and State Lands;

8797 (f) final orders and decrees of the district court review of informal adjudicative  
8798 proceedings of agencies under Subsection (3)(e);

8799 (g) a final judgment or decree of any court of record holding a statute of the United  
8800 States or this state unconstitutional on its face under the Constitution of the United States or the  
8801 Utah Constitution;

8802 (h) interlocutory appeals from any court of record involving a charge of a first degree  
8803 or capital felony;

8804 (i) appeals from the district court involving a conviction or charge of a first degree  
8805 felony or capital felony;

8806 (j) orders, judgments, and decrees of any court of record over which the Court of  
8807 Appeals does not have original appellate jurisdiction; and

8808 (k) appeals from the district court of orders, judgments, or decrees ruling on legislative  
8809 subpoenas.

8810 (4) The Supreme Court may transfer to the Court of Appeals any of the matters over  
8811 which the Supreme Court has original appellate jurisdiction, except:

8812 (a) capital felony convictions or an appeal of an interlocutory order of a court of record  
8813 involving a charge of a capital felony;

8814 (b) election and voting contests;

8815 (c) reapportionment of election districts;

8816 (d) retention or removal of public officers;

8817 (e) matters involving legislative subpoenas; and

8818 (f) those matters described in Subsections (3)(a) through (d).

8819 (5) The Supreme Court has sole discretion in granting or denying a petition for writ of  
8820 certiorari for the review of a Court of Appeals adjudication, but the Supreme Court shall  
8821 review those cases certified to it by the Court of Appeals under Subsection (3)(b).

8822 (6) The Supreme Court shall comply with the requirements of Title 63G, Chapter 4,  
8823 Administrative Procedures Act, in its review of agency adjudicative proceedings.

8824 Section 156. Section **78A-4-103** is amended to read:

8825 **78A-4-103. Court of Appeals jurisdiction.**

8826 (1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue  
8827 all writs and process necessary:

8828 (a) to carry into effect its judgments, orders, and decrees; or

8829 (b) in aid of its jurisdiction.

8830 (2) The Court of Appeals has appellate jurisdiction, including jurisdiction of  
8831 interlocutory appeals, over:

8832 (a) the final orders and decrees resulting from formal adjudicative proceedings of state  
8833 agencies or appeals from the district court review of informal adjudicative proceedings of the  
8834 agencies, except the Public Service Commission, State Tax Commission, School and  
8835 Institutional Trust Lands Board of Trustees, Division of Forestry, Fire, and State Lands actions  
8836 reviewed by the executive director of the Department of Natural Resources and Environment,

8837 Board of Oil, Gas, and Mining, and the state engineer;  
8838 (b) appeals from the district court review of:  
8839 (i) adjudicative proceedings of agencies of political subdivisions of the state or other  
8840 local agencies; and  
8841 (ii) a challenge to agency action under Section 63G-3-602;  
8842 (c) appeals from the juvenile courts;  
8843 (d) interlocutory appeals from any court of record in criminal cases, except those  
8844 involving a charge of a first degree or capital felony;  
8845 (e) appeals from a court of record in criminal cases, except those involving a  
8846 conviction or charge of a first degree felony or capital felony;  
8847 (f) appeals from orders on petitions for extraordinary writs sought by persons who are  
8848 incarcerated or serving any other criminal sentence, except petitions constituting a challenge to  
8849 a conviction of or the sentence for a first degree or capital felony;  
8850 (g) appeals from the orders on petitions for extraordinary writs challenging the  
8851 decisions of the Board of Pardons and Parole except in cases involving a first degree or capital  
8852 felony;  
8853 (h) appeals from district court involving domestic relations cases, including, but not  
8854 limited to, divorce, annulment, property division, child custody, support, parent-time,  
8855 visitation, adoption, and paternity;  
8856 (i) appeals from the Utah Military Court; and  
8857 (j) cases transferred to the Court of Appeals from the Supreme Court.  
8858 (3) The Court of Appeals upon its own motion only and by the vote of four judges of  
8859 the court may certify to the Supreme Court for original appellate review and determination any  
8860 matter over which the Court of Appeals has original appellate jurisdiction.  
8861 (4) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4,  
8862 Administrative Procedures Act, in its review of agency adjudicative proceedings.  
8863 Section 157. Section **78B-6-909** is amended to read:  
8864 **78B-6-909. Environmental impairment to real property security interest --**  
8865 **Remedies of lender.**  
8866 (1) As used in this section:  
8867 (a) "Borrower" means:

8868 (i) the trustor under a deed of trust, or a mortgagor under a mortgage, when the deed of  
8869 trust or mortgage encumbers real property security and secures the performance of the trustor  
8870 or mortgagor under a loan, extension of credit, guaranty, or other obligation; and

8871 (ii) includes any successor-in-interest of the trustor or mortgagor to the real property  
8872 security before the deed of trust or mortgage has been discharged, reconveyed, or foreclosed  
8873 upon.

8874 (b) "Environmentally impaired" means the estimated costs to clean up and remediate a  
8875 past or present release of any hazardous matter into, onto, beneath, or from the real property  
8876 security exceed 25% of the higher of the aggregate fair market value of all security for the loan  
8877 or extension of credit at the time:

8878 (i) of the making of the loan or extension of credit;

8879 (ii) of the discovery of the release or threatened release by the secured lender; or

8880 (iii) an action is brought under this section.

8881 (c) "Hazardous matter" means:

8882 (i) any hazardous substance or hazardous material as defined in Section 19-6-302; or

8883 (ii) any waste or pollutant as defined in Section 19-5-102.

8884 (d) "Real property security" means any real property and improvements other than real  
8885 property that contains only one but not more than four dwelling units, and is solely used for  
8886 either:

8887 (i) residential purposes; or

8888 (ii) if reasonably contemplated by the parties to the deed of trust or mortgage,  
8889 residential purposes as well as limited agricultural or commercial purposes incidental to the  
8890 residential purposes.

8891 (e) "Release" has the same meaning as in Section 19-6-302.

8892 (f) "Secured lender" means:

8893 (i) the trustee, the beneficiary, or both under a deed of trust against the real property  
8894 security;

8895 (ii) the mortgagee under a mortgage against the real property security; and

8896 (iii) any successor-in-interest of the trustee, beneficiary, or mortgagee under the deed  
8897 of trust or mortgage.

8898 (2) Under this section:



8899 (a) Estimated costs to clean up and remediate the contamination caused by the release  
8900 include only those costs that would be incurred reasonably and in good faith.

8901 (b) Fair market value is determined without giving consideration to the release, and is  
8902 exclusive of the amount of all liens and encumbrances against the security that are senior in  
8903 priority to the lien of the secured lender.

8904 (c) Any real property security for any loan or extension of credit secured by a single  
8905 parcel of real property is considered environmentally impaired if the property is:

8906 (i) included in or proposed for the National Priorities List under Section 42 U.S.C.  
8907 9605;

8908 (ii) any list identifying leaking underground storage tanks under 42 U.S.C. 6991 et  
8909 seq.; or

8910 (iii) in any list published by the Department of [~~Environmental Quality~~] Natural  
8911 Resources and Environment under Section 19-6-311.

8912 (3) A secured lender may elect between the following when the real property security is  
8913 environmentally impaired and the borrower's obligations to the secured lender are in default:

8914 (a) (i) waiver of its lien against:

8915 (A) any parcel of real property security or any portion of that parcel that is  
8916 environmentally impaired; and

8917 (B) all or any portion of the fixtures and personal property attached to the parcels; and

8918 (ii) exercise of:

8919 (A) the rights and remedies of an unsecured creditor, including reduction of its claim  
8920 against the borrower to judgment; and

8921 (B) any other rights and remedies permitted by law; or

8922 (b) exercise of:

8923 (i) the rights and remedies of a creditor secured by a deed of trust or mortgage and, if  
8924 applicable, a lien against fixtures or personal property attached to the real property security;  
8925 and

8926 (ii) any other rights and remedies permitted by law, including the right to obtain a  
8927 deficiency judgment.

8928 (c) The provisions of this subsection take precedence over Section 78B-6-901.

8929 (4) (a) Subsection (3) is applicable only if in conjunction with and at the time of the

8930 making, renewal, or modification of the loan, extension of credit, guaranty, or other obligation  
8931 secured by the real property security, the secured lender:

8932 (i) did not know or have reason to know of a release of any hazardous matter into,  
8933 onto, beneath, or from the real property security; and

8934 (ii) undertook all appropriate inquiry into the previous ownership and uses of the real  
8935 property security consistent with good commercial or customary practice in an effort to  
8936 minimize liability.

8937 (b) For the purposes of Subsection (4)(a)(ii), the court shall take into account:

8938 (i) any specialized knowledge or experience of the secured lender;

8939 (ii) the relationship of the purchase price to the value of the real property security if  
8940 uncontaminated;

8941 (iii) commonly known or reasonably ascertainable information about the real property  
8942 security;

8943 (iv) the obviousness of the presence or likely presence of contamination at the real  
8944 property security; and

8945 (v) the ability to detect the contamination by appropriate inspection.

8946 (5) (a) Before the secured lender may waive its lien against any real property security  
8947 under Subsection (3)(a) on the basis of environmental impairment the secured lender shall:

8948 (i) provide written notice of the default to the borrower; and

8949 (ii) bring a valuation and confirmation action against the borrower in a court of  
8950 competent jurisdiction and obtain an order establishing the value of the subject real property  
8951 security.

8952 (b) The complaint in an action under Subsection (5)(a)(ii) may include causes of action  
8953 for a money judgment for all or part of the secured obligation, in which case the waiver of the  
8954 secured lender's liens under Subsection (3)(a) may result only if a final money judgment is  
8955 obtained against the borrower.

8956 (6) (a) If a secured lender elects the rights and remedies under Subsection (3)(a) and  
8957 the borrower's obligations are also secured by other real property security, fixtures, or personal  
8958 property, the secured lender shall first foreclose against the additional collateral to the extent  
8959 required by applicable law.

8960 (b) Under this subsection the amount of the judgment of the secured lender under

8961 Subsection (3)(a) is limited to the remaining balance of the borrower's obligations after the  
8962 application of the proceeds of the additional collateral.

8963 (c) The borrower may waive or modify the foreclosure requirements of this Subsection  
8964 (6) if the waiver or modification is in writing and signed by the borrower after default.

8965 (7) This section does not affect any rights or obligations arising under contracts  
8966 existing before July 1, 1993, and applies only to loans, extensions of credit, guaranties, or other  
8967 obligations secured by real property security made, renewed, or modified on or after July 1,  
8968 1993.

8969 Section 158. Section **79-1-102** is amended to read:

8970 **79-1-102. Definitions.**

8971 As used in this title:

8972 (1) "Department" means the Department of Natural Resources and Environment  
8973 created in Section 79-2-201.

8974 (2) "Executive director" means the executive director of the department who is  
8975 appointed under Section 79-2-202.

8976 Section 159. Section **79-2-101** is amended to read:

8977 **CHAPTER 2. DEPARTMENT OF NATURAL RESOURCES AND ENVIRONMENT**

8978 **79-2-101. Title.**

8979 This chapter is known as the "Department of Natural Resources and Environment."

8980 Section 160. Section **79-2-201** is amended to read:

8981 **79-2-201. Department of Natural Resources and Environment created.**

8982 (1) There is created the Department of Natural Resources and Environment.

8983 (2) The department comprises the following:

8984 (a) Board of Water Resources, created in Section 73-10-1.5;

8985 (b) Forestry, Fire, and State Lands Advisory Council, created in Section 65A-1-2;

8986 (c) Board of Oil, Gas, and Mining, created in Section 40-6-4;

8987 (d) Board of Parks and Recreation, created in Section 79-4-301;

8988 (e) Wildlife Board, created in Section 23-14-2;

8989 (f) Board of the Utah Geological Survey, created in Section 79-3-301;

8990 (g) Water Development Coordinating Council, created in Section 73-10c-3;

8991 [~~(h) Division of Water Rights, created in Section 73-2-1.1;~~]

- 8992            ~~[(h)]~~ (h) Division of Water Resources, created in Section 73-10-18;
- 8993            ~~[(i)]~~ (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
- 8994            ~~[(k)]~~ (j) Division of ~~[Oil, Gas, and Mining]~~ Energy, created in Section 40-6-15;
- 8995            ~~[(l)]~~ (k) Division of Parks and Recreation, created in Section 79-4-201;
- 8996            ~~[(m)]~~ (l) Division of Wildlife Resources, created in Section 23-14-1;
- 8997            ~~[(n)]~~ (m) Utah Geological Survey, created in Section 79-3-201;
- 8998            ~~[(o)]~~ (n) Heritage Trees Advisory Committee, created in Section 65A-8-306;
- 8999            ~~[(p)]~~ (o) Recreational Trails Advisory Council, authorized by Section 79-5-201;
- 9000            ~~[(q)]~~ (p) Boating Advisory Council, authorized by Section 73-18-3.5;
- 9001            ~~[(r)]~~ (q) Wildlife Board Nominating Committee, created in Section 23-14-2.5; ~~[and]~~
- 9002            ~~[(s)]~~ (r) Wildlife Regional Advisory Councils, created in Section 23-14-2.6~~[-]~~;
- 9003            (s) the Division of Air Quality, to administer Title 19, Chapter 2, Air Conservation
- 9004            Act;
- 9005            (t) the Division of Radiation, to administer Title 19, Chapter 3, Radiation Control Act;
- 9006            (u) the Division of Solid and Hazardous Waste, to administer Title 19, Chapter 6,
- 9007            Hazardous Substances;
- 9008            (v) the Air Quality Board, appointed under Section 19-2-103;
- 9009            (w) the Radiation Control Board, appointed under Section 19-3-103;
- 9010            (x) the Drinking Water Board, appointed under Section 19-4-103;
- 9011            (y) the Water Quality Board, appointed under Section 19-5-103; and
- 9012            (z) the Solid and Hazardous Waste Control Board, appointed under Section 19-6-103.
- 9013            Section 161. Section **79-2-201.5** is enacted to read:
- 9014            **79-2-201.5. Creation of Office of Energy.**
- 9015            (1) In addition to the divisions, boards, and offices created within the department under
- 9016            Section 79-2-201, there is created within the department the Office of Energy.
- 9017            (2) The Office of Energy shall supervise the following:
- 9018            (a) the Board of Oil, Gas, and Mining, created in Section 40-60-4;
- 9019            (b) the Division of Oil, Gas, and Mining, created in Section 40-6-15;
- 9020            (c) the duties of the state energy advisor under Chapter 6, Utah Energy Act; and
- 9021            (d) other energy and mineral development issues:
- 9022            (i) that are part of the divisions, offices or boards in Section 79-2-201; and

9023 (ii) that are assigned to the energy office by the transition directors who are  
9024 coordinating the consolidation of the Department of Environmental Quality with the  
9025 Department of Natural Resources.

9026 Section 162. Section **79-2-204** is amended to read:

9027 **79-2-204. Division directors -- Appointment -- Removal -- Jurisdiction of**  
9028 **executive director -- Deputy directors.**

9029 (1) (a) The chief administrative officer of a division within the department is a director  
9030 appointed by the executive director with the concurrence of the board having policy authority  
9031 for the division.

9032 (b) The director of a division may be removed from office by the executive director.

9033 (c) The appointment and term of office of the state engineer, notwithstanding anything  
9034 to the contrary contained in this section, shall be in accordance with Section 73-2-1.

9035 (2) (a) The executive director has administrative jurisdiction over a division director  
9036 for the purpose of implementing department policy as established by the division's board.

9037 (b) The executive director may:

9038 (i) consolidate personnel and service functions in the divisions to effectuate efficiency  
9039 and economy in the operations of the department;

9040 (ii) establish a departmental services division to perform service functions; and

9041 (iii) employ law enforcement officers and special function officers within the  
9042 department that have all of the powers of a conservation officer and law enforcement officer,  
9043 with the exception of the power to serve civil process.

9044 (3) Subject to available resources, the executive director may hire one or more deputy  
9045 directors, at least one of whom shall have expertise in environmental regulation.

9046 Section 163. Section **79-2-206** is enacted to read:

9047 **79-2-206. Department legal advice.**

9048 (1) The attorney general is the legal adviser for the department and the executive  
9049 director and shall defend the department and director in all actions and proceedings brought  
9050 against either of them.

9051 (2) The attorney general or the county attorney of the county in which a cause of action  
9052 arises or a public offense occurs shall bring any civil or criminal action requested by the  
9053 executive director or any board listed in Section 79-2-201 to abate a condition which exists in

9054 violation of, or to prosecute for the violation of or for the enforcement of, the laws or  
9055 standards, orders, and rules of the department.

9056 Section 164. Section **79-2-404** is amended to read:

9057 **79-2-404. Contracting powers of department -- Health insurance coverage.**

9058 (1) For purposes of this section:

9059 (a) "Employee" means an "employee," "worker," or "operative" as defined in Section  
9060 34A-2-104 who:

9061 (i) works at least 30 hours per calendar week; and

9062 (ii) meets employer eligibility waiting requirements for health care insurance which  
9063 may not exceed the first day of the calendar month following 90 days from the date of hire.

9064 (b) "Health benefit plan" has the same meaning as provided in Section 31A-1-301.

9065 (c) "Qualified health insurance coverage" means at the time the contract is entered into  
9066 or renewed:

9067 (i) a health benefit plan and employer contribution level with a combined actuarial  
9068 value at least actuarially equivalent to the combined actuarial value of the benchmark plan  
9069 determined by the Children's Health Insurance Program under Subsection 26-40-106(2)(a), and  
9070 a contribution level of 50% of the premium for the employee and the dependents of the  
9071 employee who reside or work in the state, in which:

9072 (A) the employer pays at least 50% of the premium for the employee and the  
9073 dependents of the employee who reside or work in the state; and

9074 (B) for purposes of calculating actuarial equivalency under this Subsection (1)(c)(i):

9075 (I) rather than the benchmark plan's deductible, and the benchmark plan's out-of-pocket  
9076 maximum based on income levels:

9077 (Aa) the deductible is \$750 per individual and \$2,250 per family; and

9078 (Bb) the out-of-pocket maximum is \$3,000 per individual and \$9,000 per family;

9079 (II) dental coverage is not required; and

9080 (III) other than Subsection 26-40-106(2)(a), the provisions of Section 26-40-106 do not  
9081 apply; or

9082 (ii) (A) is a federally qualified high deductible health plan that, at a minimum, has a  
9083 deductible that is either:

9084 (I) the lowest deductible permitted for a federally qualified high deductible health plan;

9085 or

9086 (II) a deductible that is higher than the lowest deductible permitted for a federally  
9087 qualified high deductible health plan, but includes an employer contribution to a health savings  
9088 account in a dollar amount at least equal to the dollar amount difference between the lowest  
9089 deductible permitted for a federally qualified high deductible plan and the deductible for the  
9090 employer offered federally qualified high deductible plan;

9091 (B) an out-of-pocket maximum that does not exceed three times the amount of the  
9092 annual deductible; and

9093 (C) under which the employer pays 75% of the premium for the employee and the  
9094 dependents of the employee who work or reside in the state.

9095 (d) "Subcontractor" has the same meaning provided for in Section 63A-5-208.

9096 (2) (a) Except as provided in Subsection (3), this section applies a design or  
9097 construction contract entered into by, or delegated to, the department or a division, board, or  
9098 council of the department on or after July 1, 2009, and to a prime contractor or to a  
9099 subcontractor in accordance with Subsection (2)(b).

9100 (b) (i) A prime contractor is subject to this section if the prime contract is in the  
9101 amount of \$1,500,000 or greater.

9102 (ii) A subcontractor is subject to this section if a subcontract is in the amount of  
9103 \$750,000 or greater.

9104 (3) This section does not apply to contracts entered into by the department or a  
9105 division, board, or council of the department if:

9106 (a) the application of this section jeopardizes the receipt of federal funds;

9107 (b) the contract or agreement is between:

9108 (i) the department or a division, board, or council of the department; and

9109 (ii) (A) another agency of the state;

9110 (B) the federal government;

9111 (C) another state;

9112 (D) an interstate agency;

9113 (E) a political subdivision of this state; or

9114 (F) a political subdivision of another state; or

9115 (c) the contract or agreement is:

9116 (i) for the purpose of disbursing grants or loans authorized by statute;

9117 (ii) a sole source contract; or

9118 (iii) an emergency procurement.

9119 (4) (a) This section does not apply to a change order as defined in Section 63G-6-102,  
9120 or a modification to a contract, when the contract does not meet the initial threshold required  
9121 by Subsection (2).

9122 (b) A person who intentionally uses change orders or contract modifications to  
9123 circumvent the requirements of Subsection (2) is guilty of an infraction.

9124 (5) (a) A contractor subject to Subsection (2)(b)(i) shall demonstrate to the department  
9125 that the contractor has and will maintain an offer of qualified health insurance coverage for the  
9126 contractor's employees and the employees' dependents during the duration of the contract.

9127 (b) If a subcontractor of the contractor is subject to Subsection (2)(b)(ii), the contractor  
9128 shall demonstrate to the department that the subcontractor has and will maintain an offer of  
9129 qualified health insurance coverage for the subcontractor's employees and the employees'  
9130 dependents during the duration of the contract.

9131 (c) (i) (A) A contractor who fails to meet the requirements of Subsection (5)(a) during  
9132 the duration of the contract is subject to penalties in accordance with administrative rules  
9133 adopted by the department under Subsection (6).

9134 (B) A contractor is not subject to penalties for the failure of a subcontractor to meet the  
9135 requirements of Subsection (5)(b).

9136 (ii) (A) A subcontractor who fails to meet the requirements of Subsection (5)(b) during  
9137 the duration of the contract is subject to penalties in accordance with administrative rules  
9138 adopted by the department under Subsection (6).

9139 (B) A subcontractor is not subject to penalties for the failure of a contractor to meet the  
9140 requirements of Subsection (5)(a).

9141 (6) The department shall adopt administrative rules:

9142 (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

9143 (b) in coordination with:

9144 (i) the Department of Environmental Quality in accordance with Section 19-1-206;

9145 (ii) a public transit district in accordance with Section 17B-2a-818.5;

9146 (iii) the State Building Board in accordance with Section 63A-5-205;



- 9147 (iv) the State Capitol Preservation Board in accordance with Section 63C-9-403;
- 9148 (v) the Department of Transportation in accordance with Section 72-6-107.5; and
- 9149 (vi) the Legislature's Administrative Rules Review Committee; and
- 9150 (c) which establish:
- 9151 (i) the requirements and procedures a contractor must follow to demonstrate
- 9152 compliance with this section to the department which shall include:
- 9153 (A) that a contractor will not have to demonstrate compliance with Subsection (5)(a) or
- 9154 (b) more than twice in any 12-month period; and
- 9155 (B) that the actuarially equivalent determination required in Subsection (1) is met by
- 9156 the contractor if the contractor provides the department or division with a written statement of
- 9157 actuarial equivalency from either:
- 9158 (I) the Utah Insurance Department;
- 9159 (II) an actuary selected by the contractor or the contractor's insurer; or
- 9160 (III) an underwriter who is responsible for developing the employer group's premium
- 9161 rates;
- 9162 (ii) the penalties that may be imposed if a contractor or subcontractor intentionally
- 9163 violates the provisions of this section, which may include:
- 9164 (A) a three-month suspension of the contractor or subcontractor from entering into
- 9165 future contracts with the state upon the first violation;
- 9166 (B) a six-month suspension of the contractor or subcontractor from entering into future
- 9167 contracts with the state upon the second violation;
- 9168 (C) an action for debarment of the contractor or subcontractor in accordance with
- 9169 Section 63G-6-804 upon the third or subsequent violation; and
- 9170 (D) monetary penalties which may not exceed 50% of the amount necessary to
- 9171 purchase qualified health insurance coverage for an employee and a dependent of an employee
- 9172 of the contractor or subcontractor who was not offered qualified health insurance coverage
- 9173 during the duration of the contract; and
- 9174 (iii) a website on which the department shall post the benchmark for the qualified
- 9175 health insurance coverage identified in Subsection (1)(c)(i).
- 9176 (7) (a) (i) In addition to the penalties imposed under Subsection (6), a contractor or
- 9177 subcontractor who intentionally violates the provisions of this section shall be liable to the

9178 employee for health care costs that would have been covered by qualified health insurance  
9179 coverage.

9180 (ii) An employer has an affirmative defense to a cause of action under Subsection  
9181 (7)(a)(i) if:

9182 (A) the employer relied in good faith on a written statement of actuarial equivalency  
9183 provided by:

9184 (I) an actuary; or

9185 (II) an underwriter who is responsible for developing the employer group's premium  
9186 rates; or

9187 (B) the department determines that compliance with this section is not required under  
9188 the provisions of Subsection (3) or (4).

9189 (b) An employee has a private right of action only against the employee's employer to  
9190 enforce the provisions of this Subsection (7).

9191 (8) Any penalties imposed and collected under this section shall be deposited into the  
9192 Medicaid Restricted Account created in Section 26-18-402.

9193 (9) The failure of a contractor or subcontractor to provide qualified health insurance  
9194 coverage as required by this section:

9195 (a) may not be the basis for a protest or other action from a prospective bidder, offeror,  
9196 or contractor under Section 63G-6-801 or any other provision in Title 63G, Chapter 6, Part 8,  
9197 Legal and Contractual Remedies; and

9198 (b) may not be used by the procurement entity or a prospective bidder, offeror, or  
9199 contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design  
9200 or construction.

9201 Section 165. Section **79-3-102** is amended to read:

9202 **79-3-102. Definitions.**

9203 As used in this chapter:

9204 (1) "Agency" means a department, division, office, bureau, board, commission, or  
9205 other administrative unit of the state.

9206 (2) "Board" means the Board of the Utah Geological Survey.

9207 (3) "Collection" means a specimen and the associated records documenting the  
9208 specimen and its recovery.

9209 (4) "Critical paleontological resources" means vertebrate fossils and other exceptional  
 9210 fossils that are designated state paleontological landmarks as provided for in Section 79-3-505.

9211 (5) "Curation" means:

9212 (a) management and care of collections according to standard professional museum  
 9213 practice, which may include inventorying, accessioning, labeling, cataloging, identifying,  
 9214 evaluating, documenting, storing, maintaining, periodically inspecting, cleaning, stabilizing,  
 9215 conserving, exhibiting, exchanging, or otherwise disposing of original collections or  
 9216 reproductions; and

9217 (b) providing access to and facilities for studying collections.

9218 (6) "Curation facility" is as defined in Section 53B-17-603.

9219 [~~(7)~~] "Director" means the director of the survey.]

9220 [~~(8)~~] (7) "Excavate" means the recovery of critical paleontological resources.

9221 [~~(9)~~] (8) "Museum" means the Utah Museum of Natural History.

9222 [~~(10)~~] (9) "Paleontological resources" means remains of prehistoric life pertaining to  
 9223 the natural history of the state.

9224 [~~(11)~~] (10) "Repository" is defined as provided in Section 53B-17-603.

9225 [~~(12)~~] (11) "School and institutional land grants" means the transfer of properties  
 9226 pursuant to Sections 6 and 8 of the Utah Enabling Act and Utah Constitution Article XX.

9227 [~~(13)~~] (12) "School and institutional trust lands" are those properties defined in Section  
 9228 53C-1-103.

9229 [~~(14)~~] (13) "Site" means any paleontological deposit or other location that is the source  
 9230 of a specimen.

9231 [~~(15)~~] (14) "Specimen" means remains of a critical paleontological nature found on or  
 9232 below the surface of the earth.

9233 [~~(16)~~] (15) "State Paleontological Register" means a register of paleontological sites  
 9234 and localities.

9235 [~~(17)~~] (16) "Survey" means the Utah Geological Survey.

9236 Section 166. Section **79-3-204** is amended to read:

9237 **79-3-204. Personnel of survey -- Employment -- Restrictions -- Salaries and**  
 9238 **benefits.**

9239 (1) The [~~director, after consultation with the board and approval by the~~] executive

9240 director[-] shall select, employ, or contract for qualified individuals and services required to  
9241 carry out the provisions of this chapter within the authorized programs and within the allocated  
9242 and budgeted funds.

9243 (2) (a) Persons retained on a contract basis act in the capacity of independent  
9244 contractors and are not subject to the Utah State Personnel Management Act.

9245 (b) Each contract written for the services described in Subsection (1) shall include the  
9246 information in this Subsection (2).

9247 (3) (a) An employee of the survey may not:

9248 (i) have an interest in lands within the state that creates a conflict of interest harmful to  
9249 the goals and objectives of the survey; or

9250 (ii) obtain financial gain by reason of information obtained through work as an  
9251 employee of the survey.

9252 (b) The board shall resolve questions regarding potential conflicts and financial gain.

9253 (c) For permanent employees, the restriction in Subsection (3)(a) is terminated at the  
9254 end of a two-year period following termination of service or, with respect to information  
9255 [~~which~~] that is confidential and not a public record, for however long the information is  
9256 classified as confidential and not a public record, whichever period of time is longer.

9257 (d) The time periods established in Subsection (3)(c), which can be modified only after  
9258 publication of the data, apply to contractors or consultants employed on special problems.

9259 (4) (a) A survey employee may not engage in outside or private work [~~which~~] that is or  
9260 can be in conflict with the operations, goals, and objectives of the survey.

9261 (b) The board shall resolve issues regarding outside or private work by a survey  
9262 employee.

9263 (5) Survey personnel are paid in accordance with state salary schedules and are subject  
9264 to state benefit and retirement programs.

9265 Section 167. Section **79-3-303** is amended to read:

9266 **79-3-303. Responsibilities of board.**

9267 The board has the following responsibilities:

9268 (1) establish and review policies, programs, and priorities;

9269 (2) review and recommend budgets;

9270 (3) assess the needs of the community with regard to development and use of geologic

- 9271 resources;
- 9272 (4) keep the executive director advised concerning survey policies; and
- 9273 (5) enact rules in accordance with Title 63G, Chapter 3, the Utah Administrative
- 9274 Rulemaking Act, that are necessary to carry out the purposes of this chapter.
- 9275 Section 168. Section **79-3-402** is amended to read:
- 9276 **79-3-402. Utah Geological Survey Sample Library Fund.**
- 9277 (1) There is created a restricted special revenue fund known as the "Utah Geological
- 9278 Survey Sample Library Fund."
- 9279 (2) The fund consists of money from the following revenue sources:
- 9280 (a) donations or contributions from individuals, companies, organizations, or
- 9281 government entities; and
- 9282 (b) interest generated by the fund.
- 9283 (3) The executive director shall administer the fund.
- 9284 (4) (a) Donations and other contributions to the fund and unallocated interest as
- 9285 provided in Subsection (5)(c) shall constitute the fund's principal.
- 9286 (b) The principal may be expended only with the concurrence of the board.
- 9287 (5) (a) Interest generated by the fund may be expended to support the sample library as
- 9288 provided in Subsections (5)(b) and (c).
- 9289 (b) An amount of money equal to or less than the interest generated by the fund in the
- 9290 previous fiscal year may be expended annually in support of the sample library.
- 9291 (c) Funds that are eligible to be spent, but remain unallocated at the end of any fiscal
- 9292 year, revert to the fund and become part of the fund's principle.
- 9293 Section 169. Section **79-3-501** is amended to read:
- 9294 **79-3-501. Permit required to excavate critical paleontological resources on state**
- 9295 **lands -- Removal of specimen or site.**
- 9296 (1) (a) Before excavating for critical paleontological resources on lands owned or
- 9297 controlled by the state or its subdivisions, except as provided in Section 79-3-502, a person
- 9298 must obtain a permit from the survey.
- 9299 (b) Application for a permit shall be made on a form furnished by the survey.
- 9300 (c) The survey shall make rules for the issuance of permits specifying or requiring:
- 9301 (i) the minimum permittee qualifications;

- 9302 (ii) the duration of the permit;
- 9303 (iii) proof of permission from the land owner that the permittee may enter the property
- 9304 for purposes specified in the permit;
- 9305 (iv) research designs that provide for the maximum recovery of scientific,
- 9306 paleontological, and educational information, in addition to the physical recovery of specimens
- 9307 and the reporting of paleontological information meeting current standards of scientific rigor;
- 9308 (v) the need, if any, to submit data obtained in the course of field investigations to the
- 9309 survey;
- 9310 (vi) proof of consultation with the designated museum representative regarding
- 9311 curation of collections;
- 9312 (vii) proof of consultation with other agencies that may manage other legal interests in
- 9313 the land; and
- 9314 (viii) other information the survey considers necessary.
- 9315 (2) All paleontological work shall be carried out under the supervision of [~~the director;~~
- 9316 ~~or assigned~~] survey staff.
- 9317 (3) A person may not remove from the state, prior to placement in a repository or
- 9318 curation facility, a specimen, site, or portion of a specimen or site from lands owned or
- 9319 controlled by the state or its subdivisions, except as provided in Section 79-3-502, without
- 9320 permission from the survey, and without prior consultation with the landowner or other
- 9321 agencies managing other interests in the land.
- 9322 Section 170. Section **79-3-502** is amended to read:
- 9323 **79-3-502. Permit required to excavate critical paleontological resources on school**
- 9324 **and institutional trust lands -- Removal of specimen or site.**
- 9325 (1) (a) Before excavating for critical paleontological resources on school or
- 9326 institutional trust lands, a person must obtain a permit from the School and Institutional Trust
- 9327 Lands Administration.
- 9328 (b) The School and Institutional Trust Lands Administration may, by rule, delegate the
- 9329 authority to issue excavation permits for critical paleontological resources to the survey.
- 9330 (c) Application for a permit shall be made on a form furnished by the School and
- 9331 Institutional Trust Lands Administration.
- 9332 (d) Prior to issuing a permit, the school and institutional trust lands administration shall

9333 consult with the survey [~~director, or assigned staff~~], pursuant to Section 79-3-508.

9334 (e) The School and Institutional Trust Lands Administration shall enact rules for the  
9335 issuance of permits specifying or requiring:

9336 (i) the minimum permittee qualifications;

9337 (ii) the duration of the permit;

9338 (iii) the need, if any, to submit data obtained in the course of field investigations to the  
9339 administration;

9340 (iv) proof of consultation with the designated museum representative regarding  
9341 curation of collections; and

9342 (v) other information the School and Institutional Trust Lands Administration  
9343 considers necessary.

9344 (2) A person may not remove from the state, prior to placement in a repository or  
9345 curation facility, a specimen, site, or portion of a specimen or site from school and institutional  
9346 trust lands without permission from the School and Institutional Trust Lands Administration,  
9347 granted after consultation with the survey.

9348 Section 171. Section **79-3-508** is amended to read:

9349 **79-3-508. Survey responsibilities -- Allowing survey reasonable opportunity to**  
9350 **comment.**

9351 (1) Before expending state funds or approving an undertaking, each state agency shall:

9352 (a) take into account the effect of the undertaking on a specimen that is included in or  
9353 eligible for inclusion in the State Paleontological Register; and

9354 (b) allow the [~~director or assigned staff~~] survey a reasonable opportunity to comment  
9355 regarding the undertaking or expenditure.

9356 (2) The [~~director or assigned staff~~] survey shall advise on ways to maximize the  
9357 amount of scientific, paleontological, and educational information recovered, in addition to the  
9358 physical recovery of specimens and the reporting of paleontological information, at current  
9359 standards of scientific rigor.

9360 Section 172. Section **79-3-509** is amended to read:

9361 **79-3-509. Curriculum and materials for the training of volunteers who assist**  
9362 **paleontologists.**

9363 (1) The survey shall develop a curriculum and materials for the training of volunteers

9364 who assist paleontologists in the field and laboratory.

9365 (2) The executive director shall appoint a qualified survey employee to develop the  
9366 curriculum and materials under this section.

9367 (3) The survey may request input and assistance from any interested organization in  
9368 developing the curriculum and materials.

9369 (4) The survey may collect fees to cover the costs of the materials and updating of the  
9370 curriculum.

9371 Section 173. Section **79-4-501** is amended to read:

9372 **79-4-501. Peace officer authority of park rangers.**

9373 (1) The division has the duty to:

9374 (a) protect state parks and park property from misuse or damage; and

9375 (b) preserve the peace within state parks.

9376 (2) Employees of the [~~division~~] Department of Natural Resources and Environment  
9377 who are POST certified peace officers and who are designated as park rangers by the executive  
9378 director and division director, are law enforcement officers under Section 53-13-103 and have  
9379 all the powers of law enforcement officers in the state, with the exception of the power to serve  
9380 civil process.

9381 (3) The division has the authority to deputize persons who are peace officers or special  
9382 function officers to assist park rangers on a seasonal temporary basis.

9383 Section 174. Section **79-6-101**, which is renumbered from Section 63M-4-101 is  
9384 renumbered and amended to read:

9385 **CHAPTER 6. UTAH ENERGY ACT**

9386 **Part 1. General Provisions**

9387 [~~63M-4-101~~]. **79-6-101. Title.**

9388 This chapter is known as the "Utah Energy Act."

9389 Section 175. Section **79-6-102**, which is renumbered from Section 63M-4-102 is  
9390 renumbered and amended to read:

9391 [~~63M-4-102~~]. **79-6-102. Definitions.**

9392 As used in this chapter, "state agency" means an executive branch:

9393 (1) department;

9394 (2) agency;



- 9395 (3) board;  
 9396 (4) commission;  
 9397 (5) division; or  
 9398 (6) state educational institution.

9399 Section 176. Section **79-6-201**, which is renumbered from Section 63M-4-201 is  
 9400 renumbered and amended to read:

9401 **Part 2. Energy Advisor**

9402 ~~[63M-4-201]~~. **79-6-201. Energy advisor -- Duties.**

9403 (1) (a) The [governor] executive director shall appoint an energy advisor within the  
 9404 Division of Energy.

9405 (b) The [governor's] energy advisor serves at the pleasure of the [governor] executive  
 9406 director.

9407 (2) The [governor's] energy advisor shall:

9408 (a) advise [~~the governor~~] state agencies on energy-related matters;

9409 (b) annually review and propose updates to the state's energy policy, as contained in  
 9410 Section [~~63M-4-301~~] 79-6-301;

9411 (c) promote as the [governor's] energy advisor considers necessary:

9412 (i) the development of cost-effective energy resources both renewable and  
 9413 nonrenewable; and

9414 (ii) educational programs, including programs supporting conservation and energy  
 9415 efficiency measures;

9416 (d) coordinate across state agencies to assure consistency with state energy policy,  
 9417 including:

9418 (i) working with the State Energy Program to promote access to federal assistance for  
 9419 energy-related projects for state agencies and members of the public;

9420 (ii) working with the Division of Homeland Security to assist the governor in carrying  
 9421 out the governor's energy emergency powers under Title 63K, Chapter 2, Energy Emergency  
 9422 Powers of the Governor Act;

9423 (iii) participating in the annual review of the energy emergency plan and the  
 9424 maintenance of the energy emergency plan and a current list of contact persons required by  
 9425 Section 53-2-110; and

9426 (iv) identifying and proposing measures necessary to facilitate low-income consumers'  
9427 access to energy services;

9428 (e) coordinate with the Division of Homeland Security ongoing activities designed to  
9429 test an energy emergency plan to ensure coordination and information sharing among state  
9430 agencies and political subdivisions in the state, public utilities and other energy suppliers, and  
9431 other relevant public sector persons as required by Sections 53-2-110, 63K-2-201, 63K-2-205,  
9432 and 63K-2-301;

9433 (f) coordinate with requisite state agencies to study:

9434 (i) the creation of a centralized state repository for energy-related information;

9435 (ii) methods for streamlining state review and approval processes for energy-related  
9436 projects; and

9437 (iii) the development of multistate energy transmission and transportation  
9438 infrastructure;

9439 (g) coordinate energy-related regulatory processes within the state;

9440 (h) compile, and make available to the public, information about federal, state, and  
9441 local approval requirements for energy-related projects;

9442 (i) act as the state's advocate before federal and local authorities for energy-related  
9443 infrastructure projects or coordinate with the appropriate state agency; and

9444 (j) help promote the Division of Facilities Construction and Management's measures to  
9445 improve energy efficiency in state buildings.

9446 Section 177. Section **79-6-202**, which is renumbered from Section 63M-4-202 is  
9447 renumbered and amended to read:

9448 ~~[63M-4-202]~~. **79-6-202. Agency cooperation.**

9449 A state agency shall provide the state energy officer with any energy-related  
9450 information requested by the [governor's] energy advisor if the [governor's] energy advisor's  
9451 request is consistent with other law.

9452 Section 178. Section **79-6-203**, which is renumbered from Section 63M-4-203 is  
9453 renumbered and amended to read:

9454 ~~[63M-4-203]~~. **79-6-203. Reports.**

9455 (1) The [governor's] energy advisor shall report annually to:

9456 (a) the [governor] executive director;

- 9457 (b) the Natural Resources, Agriculture, and Environment Interim Committee; and  
 9458 (c) the Public Utilities and Technology Interim Committee.  
 9459 (2) The report required in Subsection (1) shall:  
 9460 (a) summarize the status and development of the state's energy resources;  
 9461 (b) address the [governor's] energy advisor's activities under this part; and  
 9462 (c) recommend any energy-related executive or legislative action the [governor's]  
 9463 energy advisor considers beneficial to the state, including updates to the state energy policy  
 9464 under Section [~~63M-4-301~~] 79-6-301.

9465 Section 179. Section **79-6-301**, which is renumbered from Section 63M-4-301 is  
 9466 renumbered and amended to read:

9467 **Part 3. State Energy Policy**

9468 [~~63M-4-301~~]. **79-6-301. State energy policy.**

- 9469 (1) It is the policy of the state that:  
 9470 (a) Utah have adequate, reliable, affordable, sustainable, and clean energy resources;  
 9471 (b) Utah will promote the development of:  
 9472 (i) nonrenewable energy resources, including natural gas, coal, oil, oil shale, and tar  
 9473 sands; and  
 9474 (ii) renewable energy resources, including geothermal, solar, wind, biomass, biodiesel,  
 9475 hydroelectric, and ethanol;  
 9476 (c) Utah will promote the study of nuclear power generation;  
 9477 (d) Utah will promote the development of resources and infrastructure sufficient to  
 9478 meet the state's growing demand, while contributing to the regional and national energy supply,  
 9479 thus reducing dependence on international energy sources;  
 9480 (e) Utah will allow market forces to drive prudent use of energy resources, although  
 9481 incentives and other methods may be used to ensure the state's optimal development and use of  
 9482 energy resources in the short- and long-term;  
 9483 (f) Utah will pursue energy conservation, energy efficiency, and environmental quality;  
 9484 (g) (i) state regulatory processes should be streamlined to balance economic costs with  
 9485 the level of review necessary to ensure protection of the state's various interests; and  
 9486 (ii) where federal action is required, Utah will encourage expedited federal action and  
 9487 will collaborate with federal agencies to expedite review;

9488 (h) Utah will maintain an environment that provides for stable consumer prices that are  
9489 as low as possible while providing producers and suppliers a fair return on investment,  
9490 recognizing that:

9491 (i) economic prosperity is linked to the availability, reliability, and affordability of  
9492 consumer energy supplies; and

9493 (ii) investment will occur only when adequate financial returns can be realized; and

9494 (i) Utah will promote training and education programs focused on developing a  
9495 comprehensive understanding of energy, including programs addressing:

9496 (i) energy conservation;

9497 (ii) energy efficiency;

9498 (iii) supply and demand; and

9499 (iv) energy related workforce development.

9500 (2) State agencies are encouraged to conduct agency activities consistent with  
9501 Subsection (1).

9502 (3) A person may not file suit to challenge a state agency's action that is inconsistent  
9503 with Subsection (1).

9504 Section 180. Section **79-6-302**, which is renumbered from Section 63M-4-302 is  
9505 renumbered and amended to read:

9506 **[63M-4-302]. 79-6-302. Legislative committee review.**

9507 The Natural Resources, Agriculture, and Environment Interim Committee and the  
9508 Public Utilities and Technology Interim Committee shall review the state energy policy  
9509 annually and propose any changes to the Legislature.

9510 Section 181. **Transition of departments and divisions.**

9511 (1) The Legislature finds that the consolidation of the Department of Natural Resources  
9512 and the Department of Environmental Quality is in the best interest of the state, will improve  
9513 the efficiency of government, reduce the cost of government, better focus the state and its'  
9514 employees on protecting the environment and on the proper development of Utah's mineral  
9515 resources and energy needs, enhance the development of alternate and green energy, allow for  
9516 better protection of the health of Utahns, and improve the protection, preservation, use, and  
9517 management of Utah's resources, parks, wildlife, and recreation.

9518 (2) The Legislature directs the Department of Environmental Quality and the

9519 Department of Natural Resources to consolidate into one department for the purpose of  
9520 preserving the state's natural resources, preserving the state's environment, improving the  
9521 quality of life and the environment, and appropriately developing the state's natural resources.  
9522 The implementation of the department consolidation should be structured so that the state  
9523 experiences reduced administrative costs associated with running one rather than two  
9524 departments, increased governmental efficiencies through each division, department, office,  
9525 and board within the consolidated department, and the redirection of resources from  
9526 administrative functions of two departments to environmental and natural resource services in  
9527 the state.

9528 (3) The executive director of the Department of Environmental Quality and the  
9529 Executive Director of the Department of Natural Resources will serve as transition directors for  
9530 the consolidation of the departments into the Department of Natural Resources and  
9531 Environment by July 1, 2012.

9532 (b) The transition directors:

9533 (i) shall consolidate the departments in a manner that promotes the efficient  
9534 administration of the departments into a single department and shall make internal  
9535 organizational changes as necessary to complete the re-alignment of responsibilities required  
9536 by this bill; and

9537 (ii) may remove or appoint employees and officials as necessary to effectuate the  
9538 changes made by this bill.

9539 (c) The transition directors shall jointly identify the employees and functions that will  
9540 transfer to the new department and organize the offices, boards, and division within the new  
9541 department in accordance with the consolidation plan described in Subsection (6).

9542 (d) If the transition directors are unable to agree on the position to be transferred, or the  
9543 organization of the consolidated departments, each transition director shall submit a  
9544 recommendation to the governor and to the Legislature's Natural Resources, Agriculture, and  
9545 Environment Interim Committee. The governor shall determine which position or function to  
9546 transfer to the consolidated department and the organization of the department.

9547 (e) The transition directors shall involve stakeholders in the transition discussions and  
9548 meetings and solicit input as to the proper realignment of divisions, functions, and programs.  
9549 The directors shall include at least the following stakeholder groups in discussions:

- 9550 (i) mineral resources;  
9551 (ii) energy;  
9552 (iii) environmental;  
9553 (iv) recreation;  
9554 (v) wildlife and sportsmen;  
9555 (vi) environmentally regulated companies; and  
9556 (vi) water companies and users.  
9557 (4) The transition directors and other individuals identified by the governor may:  
9558 (a) request the assistance of any executive branch agency with respect to personnel,  
9559 budgeting, procurement, and other management related functions, and the executive branch  
9560 agency shall provide the requested assistance;  
9561 (b) within existing budgets, temporarily hire or retain contractors, subcontractors, or  
9562 advisors as the transition directors determine are necessary for the strategic planning and  
9563 implementation of the transition; and  
9564 (c) request assistance, support and involvement from local government, private  
9565 business, and legislative staff.  
9566 (5) After consultation with the transition directors and the governor, the state budget  
9567 director shall:  
9568 (a) determine the most efficient process necessary for transitioning budgets of the  
9569 division, boards, and programs within the Department of Environmental Quality into the  
9570 Department of Natural Resources and Environment;  
9571 (b) submit a supplemental budget request, and if needed, a 2012-2013 budget  
9572 recommendation to the Legislature prior to the 2012 General Session detailing the steps  
9573 necessary to transition employees, activities, assets, liabilities, budgets, and other authorities of  
9574 appropriated functions into the department; and  
9575 (c) handle the financial transactions and records in the state's financial management  
9576 and record system during the period of transition.  
9577 (6) The plan of consolidation for the Department of Environmental Quality into the  
9578 Department of Natural Resources shall:  
9579 (a) create a combined agency called the Department of Natural Resources and  
9580 Environment;

- 9581 (b) create one executive director for the department who shall supervise:  
9582 (i) the deputy director for state resources;  
9583 (ii) the chief environmental officer;  
9584 (iii) administrative support for the department, including:  
9585 (A) law enforcement;  
9586 (B) finance;  
9587 (C) auditing;  
9588 (D) paleontology;  
9589 (E) geo hazards;  
9590 (F) geographic imaging services;  
9591 (G) mapping;  
9592 (H) bookstore;  
9593 (I) geological survey;  
9594 (J) human resources and payroll; and  
9595 (K) legal; and  
9596 (iv) offices and boards related to the new State Energy Office that is created in this bill  
9597 and effective July 1, 2011, and energy resources in the state, including:  
9598 (A) oil;  
9599 (B) gas;  
9600 (C) mining;  
9601 (D) the state energy program;  
9602 (E) energy and minerals;  
9603 (F) resources;  
9604 (G) renewable energy;  
9605 (H) the state energy officer; and  
9606 (I) energy and sustainability; and  
9607 (c) create a State Resource Director who shall supervise:  
9608 (i) the Division of Water, including:  
9609 (A) drinking water;  
9610 (B) water quality;  
9611 (C) water resources; and

- 9612 (D) water rights;  
9613 (ii) the Division of Forestry, Fire, and State Lands;  
9614 (iii) the Division of Parks and Recreation; and  
9615 (iv) the Wildlife Division; and  
9616 (d) create the Chief Utah Environmental Officer who:  
9617 (i) shall serve as the chief mediator and appellate person in the department for  
9618 environmental issues; and  
9619 (ii) shall supervise:  
9620 (A) a manager for permits, appeals, and regulatory affairs related to air quality,  
9621 radiation, and response and waste;  
9622 (B) a division of air quality;  
9623 (C) a division of radiation, including solid waste and hazardous waste; and  
9624 (D) the division of response and waste, including solid waste and hazardous waste.  
9625 (7) All administrative rules, orders, contracts, grants, and agreements relating to the  
9626 functions of the Department of Environmental Quality, its boards or offices, adopted prior to  
9627 July 1, 2012, remain in effect until revised, amended, or rescinded and shall be administered by  
9628 the appropriate board or division in accordance with this bill.  
9629 (8) Any suit, action, or other proceeding lawfully commenced by, against, or before  
9630 any entity affected by this chapter shall not be abated by reason of this bill or the reorganization  
9631 of the departments.  
9632 (9) The Department of Natural Resources and Environment and its divisions and  
9633 boards shall amend administrative rules on or after July 1, 2012, to the extent necessary to  
9634 reflect the changes in authority and responsibility made by this bill.  
9635 (10) The transition directors shall report to the Legislature's Natural Resources,  
9636 Agriculture, and Environment Interim Committee on or before July 20, 2011, and October 19,  
9637 2011, and to the Legislative Management Committee on or before December 15, 2011,  
9638 concerning the department's implementation of the department consolidation, including the  
9639 costs and savings, stakeholder recommendations, management changes, and statutory or  
9640 administrative rule changes necessary to implement the consolidation.  
9641 **Section 182. Effective date.**  
9642 (1) The following sections in this bill take effect on May 10, 2011:



- 9643 (a) the amendments to Section 63I-1-219;  
9644 (b) the amendments to Section 63I-1-273;  
9645 (c) the enactment of Section 63I-1-279; and  
9646 (d) uncodified Section 182, Transition of departments and divisions.  
9647 (2) Amendments to the following sections take effect on July 1, 2011:  
9648 (a) Section 79-2-201.5;  
9649 (b) Section 79-6-101;  
9650 (c) Section 79-6-102;  
9651 (d) Section 79-6-201;  
9652 (e) Section 79-6-202;  
9653 (f) Section 79-6-203;  
9654 (g) Section 79-6-301; and  
9655 (h) Section 79-6-302.  
9656 (3) Except as provided in Subsections (1) and (2), this bill takes effect on July 1, 2012.  
9657 Section 183. **Revisor instructions.**  
9658 It is the intent of the Legislature that, in preparing the Utah Code database for  
9659 publication, the Office of Legislative Research and General Counsel shall replace the words  
9660 "this bill" in Section 182, Transition of departments and divisions, with the bill's designated  
9661 chapter number in the Laws of Utah.

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**Legislative Review Note**  
as of 1-27-11 1:20 PM

**Office of Legislative Research and General Counsel**

# FISCAL NOTE

H.B. 97

SHORT TITLE: Consolidation of the Department of Environmental Quality with the Department of Natural Resources

SPONSOR: Harper, W.

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill will facilitate \$747,900 in budget reductions and elimination of 10 FTE. Those budget actions are presumed in Natural Resources, Agriculture, and Environmental Quality Base Budget (S.B. 8, 2011 General Session). Enactment of this bill will reallocate approximately \$1,250,000 in administrative costs between the Department of Environmental Quality and the new Department of Natural Resources and Environment beginning in FY 2013.

### STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue	\$0	\$0	\$0
Expenditure:			
General Fund	\$0	\$0	\$1,250,000
General Fund	\$0	\$0	(\$1,250,000)
Total Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	\$0	\$0
Net Impact, General/Education Funds	\$0	\$0	\$0

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.