Senator Luz Escamilla proposes the following substitute bill:

1 # ENVIRONMENTAL QUALITY MONITORING AMENDMENTS

2 ## 2019 GENERAL SESSION

3 ### STATE OF UTAH

4 **Chief Sponsor: Luz Escamilla**

5 House Sponsor: Francis D. Gibson

6

7 **LONG TITLE**

8 **General Description:**

9   This bill modifies provisions relating to the duties of the Department of Environmental

10 Quality.

11 **Highlighted Provisions:**

12   This bill:

13   ▸   directs the Department of Environmental Quality to establish and maintain

14 monitoring facilities to measure environmental impacts from inland port

15 development and to report the results of the monitoring.

16 **Money Appropriated in this Bill:**

17   None

18 **Other Special Clauses:**

19   None

20 **Utah Code Sections Affected:**

21 AMENDS:

22   **19-1-201**, as last amended by Laws of Utah 2018, Chapter 200

23

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

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

26   **19-1-201. Powers and duties of department -- Rulemaking authority --**

27   **Committee.**

28   (1) The department shall:

29   (a) enter into cooperative agreements with the Department of Health to delineate

30   specific responsibilities to assure that assessment and management of risk to human health

31   from the environment are properly administered;

32   (b) consult with the Department of Health and enter into cooperative agreements, as

33   needed, to ensure efficient use of resources and effective response to potential health and safety

34   threats from the environment, and to prevent gaps in protection from potential risks from the

35   environment to specific individuals or population groups;

36   (c) coordinate implementation of environmental programs to maximize efficient use of

37   resources by developing, in consultation with local health departments, a Comprehensive

38   Environmental Service Delivery Plan that:

39   (i) recognizes that the department and local health departments are the foundation for

40   providing environmental health programs in the state;

41   (ii) delineates the responsibilities of the department and each local health department

42   for the efficient delivery of environmental programs using federal, state, and local authorities,

43   responsibilities, and resources;

44   (iii) provides for the delegation of authority and pass through of funding to local health

45   departments for environmental programs, to the extent allowed by applicable law, identified in

46   the plan, and requested by the local health department; and

47   (iv) is reviewed and updated annually;

48   (d) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative

49   Rulemaking Act, as follows:

50   (i) for a board created in Section 19-1-106, rules regarding:

51   (A) board meeting attendance; and

52   (B) conflicts of interest procedures; and

53   (ii) procedural rules that govern:

54   (A) an adjudicative proceeding, consistent with Section 19-1-301; and

55   (B) a special adjudicative proceeding, consistent with Section 19-1-301.5; and

56   (e) ensure that any training or certification required of a public official or public

57   employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter

58   22, State Training and Certification Requirements, if the training or certification is required:

59   (i) under this title;

60   (ii) by the department; or

61   (iii) by an agency or division within the department.

62   (2) The department shall establish a committee that consists of:

63   (a) the executive director or the executive director's designee;

64   (b) two representatives of the department appointed by the executive director; and

65   (c) three representatives of local health departments appointed by a group of all the

66   local health departments in the state.

67   (3) The committee established in Subsection (2) shall:

68   (a) review the allocation of environmental quality resources between the department

69   and the local health departments;

70   (b) evaluate department policies that affect local health departments;

71   (c) consider policy changes proposed by the department or by local health departments;

72   (d) coordinate the implementation of environmental quality programs to maximize

73   environmental quality resources; and

74   (e) review each department application for any grant from the federal government that

75   affects a local health department before the department submits the application.

76   (4) The committee shall create bylaws to govern the committee's operations.

77   (5) The department may:

78   (a) investigate matters affecting the environment;

79   (b) investigate and control matters affecting the public health when caused by

80   environmental hazards;

81   (c) prepare, publish, and disseminate information to inform the public concerning

82   issues involving environmental quality;

83   (d) establish and operate programs, as authorized by this title, necessary for protection

84   of the environment and public health from environmental hazards;

85   (e) use local health departments in the delivery of environmental health programs to

86   the extent provided by law;

87   (f) enter into contracts with local health departments or others to meet responsibilities

88   established under this title;

89   (g) acquire real and personal property by purchase, gift, devise, and other lawful

90   means;

91   (h) prepare and submit to the governor a proposed budget to be included in the budget

92   submitted by the governor to the Legislature;

93   (i) (i) establish a schedule of fees that may be assessed for actions and services of the

94   department according to the procedures and requirements of Section 63J-1-504; and

95   (ii) in accordance with Section 63J-1-504, all fees shall be reasonable, fair, and reflect

96   the cost of services provided;

97   (j) prescribe by rule reasonable requirements not inconsistent with law relating to

98   environmental quality for local health departments;

99   (k) perform the administrative functions of the boards established by Section 19-1-106,

100   including the acceptance and administration of grants from the federal government and from

101   other sources, public or private, to carry out the board's functions;

102   (l) upon the request of any board or a division director, provide professional, technical,

103   and clerical staff and field and laboratory services, the extent of which are limited by the funds

104   available to the department for the staff and services; and

105   (m) establish a supplementary fee, not subject to Section 63J-1-504, to provide service

106   that the person paying the fee agrees by contract to be charged for the service in order to

107   efficiently utilize department resources, protect department permitting processes, address

108   extraordinary or unanticipated stress on permitting processes, or make use of specialized

109   expertise.

110   (6) In providing service under Subsection (5)(m), the department may not provide

111   service in a manner that impairs any other person's service from the department.

112   (7) (a) As used in this Subsection (7):

113   (i) "Environmental impacts" means:

114   (A) impacts on air quality, including impacts associated with air emissions; and

115   (B) impacts on water quality, including impacts associated with storm water runoff.

116   (ii) "Inland port" means the same as that term is defined in Section 11-58-102.

117   (iii) "Inland port area" means the area in and around the inland port that bears the

118   environmental impacts of destruction, construction, development, and operational activities

119   within the inland port.
120   (iv) "Monitoring facilities" means:
121   (A) for monitoring air quality, a sensor system consisting of monitors to measure levels
122   of research-grade particulate matter, ozone, and oxides of nitrogen, and data logging equipment
123   with internal data storage which are interconnected at all times to capture air quality readings
124   and store data; and
125   (B) for monitoring water quality, facilities to collect groundwater samples, including in
126   existing conveyances and outfalls, to evaluate sediment, metals, organics, and nutrients due to
127   storm water.
128   (b) The department shall:
129   (i) develop and implement a sampling and analysis plan to:
130   (A) characterize the environmental baseline for air quality and water quality in the
131   inland port area;
132   (B) characterize the environmental baseline for only air quality for the Salt Lake
133   International Airport; and
134   (C) define the frequency, parameters, and locations for monitoring;
135   (ii) establish and maintain monitoring facilities to measure the environmental impacts
136   in the inland port area arising from destruction, construction, development, and operational
137   activities within the inland port;
138   (iii) publish the monitoring data on the department's website; and
139   (iv) provide at least annually before November 30 a written report summarizing the
140   monitoring data to:
141   (A) the Utah Inland Port Authority board, established under Title 11, Chapter 58, Part
142   3, Port Authority Board; and
143   (B) the Legislative Management Committee.