

**UTAH DEPARTMENT OF AGRICULTURE AND FOOD**

**AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: David P. Hinkins**

House Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill amends provisions relating to the Department of Agriculture and Food.

**Highlighted Provisions:**

This bill:

- ▶ changes the membership of the Agricultural Advisory Board;
- ▶ modifies provisions relating to cooperative agreements;
- ▶ modifies provisions relating to the Invasive Species Mitigation Account;
- ▶ allows the Department of Agriculture and Food to use a portion of the Invasive Species Mitigation Account on department administration or project expenses;
- ▶ modifies provisions relating to the sale and testing of raw milk;
- ▶ amends mattress sale regulations;
- ▶ changes the membership of the State Weed Committee;
- ▶ removes the requirement for:
  - ▶ Senate consent of Utah Horse Racing Commission members; and
  - ▶ gubernatorial appointments of Utah Horse Racing Commission members from each congressional district; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **4-2-7**, as last amended by Laws of Utah 2010, Chapters 118 and 286

33 **4-2-8.6**, as last amended by Laws of Utah 2010, Chapter 278

34 **4-2-8.7**, as last amended by Laws of Utah 2012, Chapter 124

35 **4-3-14**, as last amended by Laws of Utah 2009, Chapter 183

36 **4-10-2**, as last amended by Laws of Utah 2010, Chapter 73

37 **4-10-6**, as enacted by Laws of Utah 1979, Chapter 2

38 **4-10-7**, as last amended by Laws of Utah 2007, Chapter 179

39 **4-10-10**, as last amended by Laws of Utah 2010, Chapter 73

40 **4-17-3.5**, as last amended by Laws of Utah 2010, Chapters 286 and 324

41 **4-38-3**, as last amended by Laws of Utah 2010, Chapter 286

42 ENACTS:

43 **4-10-7.1**, Utah Code Annotated 1953



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

46 Section 1. Section **4-2-7** is amended to read:

47 **4-2-7. Agricultural Advisory Board created -- Composition -- Responsibility --**

48 **Terms of office -- Compensation.**

49 (1) There is created the Agricultural Advisory Board composed of [~~14~~] 16 members,  
50 with each member representing [~~each~~] one of the following:

- 51 (a) Utah Farm Bureau Federation;
- 52 (b) Utah Farmers Union;
- 53 (c) Utah Cattlemen's Association;
- 54 (d) Utah Wool Growers' Association;
- 55 (e) Utah Dairymen's Association;
- 56 (f) Utah Pork Producer's Association;
- 57 (g) egg and poultry producers;
- 58 (h) Utah Veterinary Medical Association;

- 59 (i) Livestock Auction Marketing Association;
- 60 (j) Utah Association of Conservation Districts;
- 61 (k) the Utah horse industry;
- 62 (l) the food processing industry;
- 63 (m) the fruit and vegetable industry;
- 64 (n) the turkey industry;
- 65 [~~(m)~~] (o) manufacturers of food supplements; and
- 66 [~~(n)~~] (p) a consumer affairs group.
- 67 (2) The Agricultural Advisory Board shall advise the commissioner regarding:
- 68 (a) the planning, implementation, and administration of the department's programs; and
- 69 (b) the establishment of standards governing the care of livestock and poultry[, as part
- 70 ~~of which the Agricultural Advisory Board may consider~~], including consideration of:
- 71 (i) food safety;
- 72 (ii) local availability and affordability of food; and
- 73 (iii) acceptable practices for livestock and farm management.
- 74 (3) (a) Except as required by Subsection (3)(c), members are appointed by the
- 75 commissioner to four-year terms of office.
- 76 (b) [~~Representatives~~] The commissioner shall appoint representatives of the
- 77 organizations cited in Subsections (1)(a) through (h) [~~shall be appointed~~] to the Agricultural
- 78 Advisory Board [~~by the commissioner~~] from a list of nominees submitted by each organization.
- 79 (c) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at
- 80 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of
- 81 board members are staggered so that approximately half of the board is appointed every two
- 82 years.
- 83 (d) Members may be removed at the discretion of the commissioner upon the request
- 84 of the group they represent.
- 85 (e) When a vacancy occurs in the membership for any reason, the replacement shall be
- 86 appointed for the unexpired term.
- 87 (4) The board shall elect one member to serve as chair of the Agricultural Advisory
- 88 Board for a term of one year.
- 89 (5) (a) The board shall meet four times annually, but may meet more often at the

90 discretion of the chair.

91 (b) Attendance of [~~seven~~] nine members at a duly called meeting constitutes a quorum  
92 for the transaction of official business.

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

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

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

97 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
98 63A-3-107.

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

100 **4-2-8.6. Cooperative agreements and grants to rehabilitate areas infested with**  
101 **invasive species or prevent wildland fire.**

102 After consulting with the Department of Natural Resources and the Conservation  
103 Commission, the department may:

104 (1) enter into a cooperative agreement with a political subdivision, a state agency, a  
105 federal agency, or a federal, state, tribal, or private landowner to:

106 (a) rehabilitate an area that:

107 (i) is infested with an invasive species; or

108 (ii) has a fuel load that may contribute to a catastrophic wildland fire; or

109 (b) prevent catastrophic wildland fire through land restoration in a watershed that:

110 [~~(a)~~] (i) is impacted by [~~cheatgrass or other~~] an invasive species; or

111 [~~(b)~~] (ii) has a fuel load that may contribute to a catastrophic wildland fire;

112 (2) expend money from the Invasive Species Mitigation Account created in Section  
113 4-2-8.7; and

114 (3) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,  
115 make rules to:

116 (a) administer this section; and

117 (b) give grants from the Invasive Species Mitigation Account.

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

119 **4-2-8.7. Invasive Species Mitigation Account created.**

120 (1) As used in this section, "project" means an undertaking [~~that prevents catastrophic~~

121 ~~wildland fire through land restoration in a watershed or rehabilitation of an area infested with~~  
122 ~~invasive species] that:~~

123 ~~[(a) is impacted by cheatgrass or other invasive species; or]~~

124 ~~[(b) has a fuel load that may contribute to a catastrophic wildland fire;]~~

125 (a) rehabilitates an area that:

126 (i) is infested with an invasive species; or

127 (ii) has a fuel load that may contribute to a catastrophic wildland fire; or

128 (b) prevents catastrophic wildland fire through land restoration in a watershed that:

129 (i) is impacted by an invasive species; or

130 (ii) has a fuel load that may contribute to a catastrophic wildland fire.

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

133 (b) The restricted account shall consist of:

134 (i) money appropriated by the Legislature;

135 (ii) grants from the federal government; and

136 (iii) grants or donations from a person.

137 (3) (a) After consulting with the Department of Natural Resources and the  
138 Conservation Commission, the department may expend money in the restricted account:

139 (i) on a project implemented by:

140 (A) the department; or

141 (B) the Conservation Commission; or

142 (ii) by giving a grant for a project to:

143 (A) a state agency;

144 (B) a federal agency;

145 (C) a federal, state, tribal, or private landowner; or

146 (D) a political subdivision.

147 (b) The department may use up to 10% of restricted account funds expended under  
148 Subsection (3)(a)(i) on:

149 (i) department administration; or

150 (ii) project planning, monitoring, and implementation expenses.

151 (c) A federal landowner that receives restricted account funds for a project shall match

152 the funds received from the restricted account with an amount that is equal to or greater than  
153 the amount received from the restricted account.

154 ~~[(b) A grant to a federal landowner shall be matched with at least an equal amount of~~  
155 ~~money by the federal landowner.]~~

156 ~~[(c) In expending the money authorized by Subsection (3)(a)(i), the department shall~~  
157 ~~use existing infrastructure and employees to plan and implement the project.]~~

158 (4) In giving a grant, the department shall consider the effectiveness of a project in  
159 preventing at least one of the following:

160 ~~[(a) first, the risk to public safety and health from:]~~

161 ~~[(i) air pollution;]~~

162 ~~[(ii) flooding;]~~

163 ~~[(iii) reduced visibility on a highway; or]~~

164 ~~[(iv) increasing encroachment of an invasive species;]~~

165 ~~[(b) second, damage to the environment, including:]~~

166 ~~[(i) soil erosion;]~~

167 ~~[(ii) degraded water quality; and]~~

168 ~~[(iii) release of carbon; and]~~

169 ~~[(c) third, damage to:]~~

170 ~~[(i) a local economy; and]~~

171 ~~[(ii) habitat for wildlife or livestock.]~~

172 (a) encroachment of an invasive species;

173 (b) soil erosion;

174 (c) flooding;

175 (d) the risk of catastrophic wildfire; or

176 (e) damage to habitat for wildlife or livestock.

177 Section 4. Section **4-3-14** is amended to read:

178 **4-3-14. Sale of raw milk -- Suspension of producer's permit -- Severability not**  
179 **permitted.**

180 (1) As used in this section:

181 (a) "Batch" means all the milk emptied from one bulk tank and bottled in a single day.

182 (b) "Self-owned retail store" means a retail store:

183 (i) of which the producer owns at least 51% of the value of the real property and  
184 tangible personal property used in the operations of the retail store; or

185 (ii) for which the producer has the power to vote at least 51% of any class of voting  
186 shares or ownership interest in the business entity that operates the retail store.

187 (2) Raw milk may be ~~sold~~ manufactured, distributed, sold, delivered, held, stored, or  
188 offered for sale if:

189 (a) the producer obtains a permit from the department to produce milk under  
190 Subsection 4-3-8(5);

191 (b) the sale and delivery of the milk is made upon the premises where the milk is  
192 produced, except as provided by Subsection (3);

193 (c) ~~it~~ the raw milk is sold to consumers for household use and not for resale;

194 (d) ~~it~~ the raw milk is bottled or packaged under sanitary conditions and in sanitary  
195 containers on the premises where the raw milk is produced;

196 (e) ~~it~~ the raw milk is labeled "raw milk" and meets the labeling requirements under  
197 21 C.F.R. Parts 101 and 131 and rules established by the department;

198 (f) ~~it~~ the raw milk is:

199 (i) cooled to 50 degrees Fahrenheit or a lower temperature within one hour after being  
200 drawn from the animal;

201 (ii) further cooled to 41 degrees Fahrenheit within two hours of being drawn from the  
202 animal; and

203 (iii) maintained at 41 degrees Fahrenheit or a lower temperature until ~~it~~ the raw milk  
204 is delivered to the consumer;

205 (g) the bacterial count of the raw milk does not exceed 20,000 colony forming units per  
206 milliliter;

207 (h) ~~the bacterial plate count and~~ the coliform count of the raw milk ~~meet the~~  
208 ~~bacterial and coliform enforcement standards for grade A pasteurized milk~~ does not exceed 10  
209 colony forming units per milliliter;

210 (i) the production of the raw milk conforms to departmental rules for the production of  
211 grade A milk;

212 (j) all dairy animals on the premises are:

213 (i) permanently and individually identifiable; and

214 (ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and  
215 (k) any person on the premises performing any work in connection with the production,  
216 bottling, handling, or sale of the raw milk is free from communicable disease.

217 (3) A producer may ~~[sell]~~ distribute, sell, deliver, hold, store, or offer for sale raw  
218 ~~[whole]~~ milk at a self-owned retail store, which is properly staffed, if, in addition to the  
219 requirements of Subsection (2), the producer:

220 (a) transports the raw milk from the premises where the raw milk is produced to the  
221 self-owned retail store in a refrigerated truck where the raw milk is maintained at 41 degrees  
222 Fahrenheit or a lower temperature;

223 (b) retains ownership of the raw milk until it is sold to the final consumer, including  
224 transporting the raw milk from the premises where the raw milk is produced to the self-owned  
225 retail store without any:

226 (i) intervening storage;

227 (ii) change of ownership; or

228 (iii) loss of physical control;

229 (c) stores the raw milk at 41 degrees Fahrenheit or a lower temperature in a display  
230 case equipped with a properly calibrated thermometer at the self-owned retail store;

231 (d) places a sign above the display case at the self-owned retail store that reads, "Raw  
232 Unpasteurized Milk";

233 (e) labels the raw milk with:

234 (i) a date, no more than nine days after the raw milk is produced, by which the raw  
235 milk should be sold;

236 (ii) the statement "Raw milk, no matter how carefully produced, may be unsafe.";

237 (iii) handling instructions to preserve quality and avoid contamination or spoilage; and

238 (iv) any other information required by rule;

239 (f) refrains from offering the raw milk for sale until:

240 (i) each batch of raw milk is tested for standard plate count and coliform count from an  
241 official sample taken ~~[at the self-owned retail store and tested]~~ by the department or a third  
242 party certified by the department; and

243 (ii) the test results meet the minimum standards established for those tests;

244 (g) (i) maintains a database of the raw milk sales; and



245 (ii) makes the database available to the Department of Health during the self-owned  
246 retail store's business hours for purposes of epidemiological investigation;

247 [~~(h) refrains from offering any pasteurized milk at the self-owned retail store;~~]

248 [~~(i)~~ (h) ensures that the plant and retail store complies with Title 4, Chapter 5, Utah  
249 Wholesome Food Act, and the rules governing food establishments enacted under Section  
250 4-5-9; and

251 [~~(j) participates in a hazard analysis critical control point system as established by the  
252 United States Food and Drug Administration;~~]

253 [~~(k) conducts monthly tests on a sample taken from a batch of milk for:~~]

254 [~~(i) Listeria monocytogenes;~~]

255 [~~(ii) Salmonella typhimurium;~~]

256 [~~(iii) Salmonella dublin;~~]

257 [~~(iv) Campylobacter jejuni; and~~]

258 [~~(v) E. Coli 0157:H7; and~~]

259 [(H) (i) complies with all applicable rules adopted as authorized by this chapter.

260 (4) [The] A person [conducting the tests] who conducts a test required by Subsection  
261 (3) shall send a copy of the test results to the department as soon as the test results are  
262 available.

263 (5) (a) The department shall adopt rules, as authorized by Section 4-3-2, governing the  
264 sale of raw [~~whole~~] milk at a self-owned retail store.

265 (b) The rules adopted by the department shall include rules regarding:

266 (i) permits;

267 (ii) building and premises requirements;

268 (iii) sanitation and operating requirements, including bulk milk tanks requirements;

269 (iv) additional tests[, including a test for pathogens];

270 (v) frequency of inspections, including random cooler checks;

271 (vi) recordkeeping; and

272 (vii) packaging and labeling.

273 (c) (i) The department shall establish and collect a fee for the tests and inspections  
274 required by this section and by rule [~~by following the procedures and requirements of~~] in  
275 accordance with Section 63J-1-504.

276 (ii) Notwithstanding Section 63J-1-504, the department shall retain the fees as  
277 dedicated credits and may only use the fees to administer and enforce this section.

278 (6) (a) The department shall suspend a permit issued under Section 4-3-8 if:

279 (i) two out of four consecutive samples or two samples in a 30-day period violate  
280 sample limits established under this section; or

281 (ii) a producer violates [~~any~~] a provision of this section or [~~any rules~~] a rule adopted as  
282 authorized by this section.

283 (b) The department may reissue a permit that has been suspended under Subsection  
284 (6)(a) if the producer has complied with all of the requirements of this section and rules  
285 adopted as authorized by this section.

286 [~~(7) For 2008 and 2009, the Department of Health and the Department of Agriculture~~  
287 ~~and Food shall report on or before November 30th to the Natural Resources, Agriculture, and~~  
288 ~~Environment Interim Committee and the Health and Human Services Interim Committee on~~  
289 ~~any health problems resulting from the sale of raw whole milk at self-owned retail stores.]~~

290 [(8)] (7) (a) If any subsection of this section or the application of any subsection to any  
291 person or circumstance is held invalid by a final decision of a court of competent jurisdiction,  
292 the remainder of the section may not be given effect without the invalid subsection or  
293 application.

294 (b) The provisions of this section may not be severed.

295 Section 5. Section 4-10-2 is amended to read:

296 **4-10-2. Definitions.**

297 As used in this chapter:

298 (1) "Article" means any bedding, upholstered furniture, quilted clothing, or filling  
299 material.

300 (2) "Bedding" means any:

301 (a) quilted, packing, mattress or hammock pad; or

302 (b) mattress, boxsprings, comforter, quilt, sleeping bag, studio couch, pillow or  
303 cushion made with any filling material that can be used for sleeping or reclining.

304 (3) "Filling material" means any cotton, wool, kapok, feathers, down, hair or other  
305 material, or any combination of material, whether loose or in bags, bales, batting, pads, or other  
306 prefabricated form that is, or can be, used in bedding, upholstered furniture or quilted clothing.

307 (4) "Label" means the display of written, printed, or graphic matter upon a tag or upon  
308 the immediate container of any bedding, upholstered furniture, quilted clothing, or filling  
309 material.

310 (5) (a) "Manufacture" means to make, process, or prepare from new or secondhand  
311 material, in whole or in part, any bedding, upholstered furniture, quilted clothing, or filling  
312 material for sale.

313 (b) "Manufacture" does not include isolated sales of such articles by persons who are  
314 not primarily engaged in the making, processing, or preparation of such articles.

315 (6) (a) "New material" means material that has not previously been used in the  
316 manufacture of another article used for any purpose.

317 (b) "New material" includes by-products from a textile mill using only new raw  
318 material synthesized from a product that has been melted, liquified, and re-extruded.

319 (7) "Owner's own material" means an article owned or in the possession of a person for  
320 the person's own or a tenant's use that is sent to another person for manufacture or repair.

321 (8) "Quilted clothing" means a quilted garment or apparel, exclusive of trim used for  
322 aesthetic effect, or a stiffener, shoulder pads, interfacing, or other material that is made in  
323 whole or in part from filling material and sold or offered for sale.

324 (9) "Repair" means to restore, recover, alter, or renew bedding, upholstered furniture,  
325 or quilted clothing for a consideration.

326 (10) "Retailer" means a person who sells bedding, upholstered furniture, quilted  
327 clothing, or filling material to a consumer for use primarily for personal, family, household, or  
328 business purposes.

329 (11) (a) "Sale" or "sell" means to offer or expose for sale, barter, trade, deliver,  
330 consign, lease, or give away any bedding, upholstered furniture, quilted clothing, or filling  
331 material.

332 (b) "Sale" or "sell" does not include any judicial, executor's, administrator's, or  
333 guardian's sale of such items.

334 (12) "Secondhand material" means any filling material that has previously been used in  
335 an article.

336 (13) "Tag" means a card, flap, or strip attached to an article for the purpose of  
337 displaying information required by this chapter or under rule made pursuant to it.

338 (14) "Upholstered furniture" means any portable or fixed furniture, except fixed seats  
 339 in motor vehicles, boats, or aircraft, that is made in whole or in part with filling material,  
 340 exclusive of trim used for aesthetic effect.

341 (15) "Used mattress" means bedding that has been previously sold by a retailer.

342 [~~15~~] (16) "Wholesaler" means a person who offers an article for [~~resale~~] sale  
 343 primarily to retailers.

344 Section 6. Section **4-10-6** is amended to read:

345 **4-10-6. Unlawful acts specified.**

346 It is unlawful for any person to:

347 (1) sell bedding, upholstered furniture, quilted clothing, or filling material as new  
 348 unless it is made from new material and properly tagged;

349 (2) sell bedding, upholstered furniture, quilted clothing or filling material made from  
 350 secondhand material which is not properly tagged;

351 (3) use burlap or other material which has been used for packing or baling, or to use  
 352 any unsanitary, filthy, or vermin or insect infected filling material in the manufacture or repair  
 353 of any article;

354 (4) sell bedding, upholstered furniture, quilted clothing or filling material which is not  
 355 properly tagged regardless of point of origin;

356 (5) use any false or misleading statement, term, or designation on any tag; [~~or~~]

357 (6) use any false or misleading label[~~;~~]; or

358 (7) sell a used mattress that is not tagged in accordance with Section 4-10-7.

359 Section 7. Section **4-10-7** is amended to read:

360 **4-10-7. Tagging requirements for bedding, upholstered furniture, and filling**  
 361 **material.**

362 (1) (a) All bedding, upholstered furniture, and filling material shall be securely tagged  
 363 by the manufacturer or repairer.

364 (b) Tags shall be at least six square inches and plainly and indelibly labeled with:

365 (i) information as the department requires by rule; [~~and~~]

366 (ii) according to the filling material type, the words "All New Material," "Secondhand  
 367 Material," or "Owner's Material," stamped or printed on the label[~~;~~]; and

368 (iii) if the article is a used mattress, the word "USED."

369 (c) Each label shall be placed on the article in such a position as to facilitate ease of  
370 examination.

371 (2) (a) If more than one type of filling material is used, its component parts shall be  
372 listed in descending order by weight or by percentages.

373 (b) If descriptive statements are made about the frame, cover, or style of the article,  
374 such statements shall, in fact, be true.

375 (c) All quilted clothing shall be tagged and labeled in conformity with the Federal  
376 Textile Fiber Products Identification Act, 15 U.S.C. Sec. 70 through 70k.

377 (3) No person, except the purchaser, may remove, deface, or alter a tag attached  
378 according to this chapter.

379 (4) A retailer of a used mattress shall display the mattress so that the "USED" tag  
380 required by Subsection (1)(b)(iii) is clearly visible to customers.

381 Section 8. Section **4-10-7.1** is enacted to read:

382 **4-10-7.1. Records required.**

383 A manufacturer, repairer, wholesaler, or retailer of a mattress shall retain a shipping  
384 invoice, bill of lading, or other bedding article record at the manufacturer, repairer, wholesaler,  
385 or retailer place of business for a minimum of one year.

386 Section 9. Section **4-10-10** is amended to read:

387 **4-10-10. Enforcement -- Inspection authorized -- Samples -- Reimbursement for**  
388 **samples -- Warrants.**

389 (1) (a) The department may access public and private premises where articles subject to  
390 this chapter are manufactured, repaired, stored, or sold for the purpose of determining  
391 compliance with this chapter.

392 (b) For purposes of determining compliance, the department may:

393 (i) open any upholstered furniture, bedding, or quilted clothing to obtain a sample for  
394 inspection and analysis of filling material; or

395 (ii) if considered appropriate by the department, take the entire article for inspection  
396 and analysis.

397 (c) Upon request, the department shall reimburse the owner or person from whom a  
398 sample or article is taken in accordance with this Subsection (1) for the actual cost of the  
399 sample or article.

400           (2) The department may review and copy a record described in Section 4-10-7.1.

401           ~~[(2)]~~ (3) The department may proceed immediately, if admittance is refused or access  
402 to a record described in Section 4-10-7.1 is denied, to obtain an ex parte warrant from the  
403 nearest court of competent jurisdiction to allow entry upon the premises for the purpose of  
404 making inspections and taking samples or articles.

405           Section 10. Section ~~4-17-3.5~~ is amended to read:

406           **4-17-3.5. Creation of State Weed Committee -- Membership -- Powers and duties**  
407 **-- Expenses.**

408           (1) There is created a State Weed Committee composed of [~~five~~] eight members, [~~one~~]  
409 with each member representing [~~each~~] one of the following:

- 410           (a) the Department of Agriculture and Food;
- 411           (b) the Department of Natural Resources;
- 412           ~~[(b)]~~ (c) the Utah State University Agricultural Experiment Station;
- 413           ~~[(c)]~~ (d) the Utah State University Extension Service;
- 414           ~~[(d)]~~ (e) the Utah Association of Counties; [~~and~~]
- 415           ~~[(e)]~~ (f) private agricultural industry[?];
- 416           (g) the Utah Weed Control Association; and
- 417           (h) the Utah Weed Supervisors Association.

418           (2) The commissioner shall select the members of the committee from those nominated  
419 by each of the respective groups or agencies following approval by the Agricultural Advisory  
420 Board.

421           (3) (a) Except as required by Subsection (3)(b), as terms of current committee members  
422 expire, the commissioner shall appoint each new member or reappointed member to a four-year  
423 term.

424           (b) Notwithstanding the requirements of Subsection (3)(a), the commissioner shall, at  
425 the time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
426 committee members are staggered so that approximately half of the committee is appointed  
427 every two years.

428           (4) (a) Members may be removed by the commissioner for cause.

429           (b) When a vacancy occurs in the membership for any reason, the replacement shall be  
430 appointed for the unexpired term.

431 (5) The State Weed Committee shall:

432 (a) confer and advise on matters pertaining to the planning, implementation, and  
433 administration of the state noxious weed program;

434 (b) recommend names for membership on the committee; and

435 (c) serve as members of the executive committee of the Utah Weed Control  
436 Association.

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

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

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

441 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
442 63A-3-107.

443 Section 11. Section ~~4-38-3~~ is amended to read:

444 **4-38-3. Utah Horse Racing Commission.**

445 (1) (a) There is created within the Department the Utah Horse Racing Commission.

446 (b) (i) The commission shall consist of five members who shall be U.S. citizens, Utah  
447 residents, and qualified voters of Utah.

448 (ii) Each member shall have an interest in horse racing.

449 (c) (i) The governor shall appoint the members of the commission [~~shall be appointed~~  
450 ~~by the governor with the consent of the Senate~~].

451 (ii) The governor shall appoint commission members from a list of nominees submitted  
452 by the commissioner of agriculture and food.

453 (d) (i) The members of the commission shall be appointed to four-year terms[~~, except~~  
454 ~~that the original members shall be appointed within 30 days after the effective date of this~~  
455 ~~chapter, two of whom shall be appointed for terms expiring December 31, 1992, two for terms~~  
456 ~~expiring December 31, 1994, and one for a term expiring December 31, 1996~~].

457 (ii) A commission member may not serve more than two consecutive terms.

458 [~~(e) The governor shall make the appointments so that a resident of each of Utah's three~~  
459 ~~congressional districts is a member of the commission at all times.~~]

460 [(~~f~~) (e)] Each member shall hold office until his or her successor is appointed and  
461 qualified.

462           ~~[(g)]~~ (f) Vacancies on the commission shall be filled by appointment by the governor  
463 ~~[with the consent of the Senate]~~ for the unexpired term.

464           ~~[(h) Any]~~ (g) (i) A member may be removed from office by the governor for cause  
465 after a public hearing.

466           (ii) Notice of the hearing shall fix the time and place of the hearing and shall specify  
467 the charges.

468           (iii) Copies of the notice of the hearing shall be served on the member by mailing it to  
469 the member at his last known address at least 10 days before the date fixed for the hearing.

470           (iv) The governor may designate a hearing officer to preside over the hearing and  
471 report his findings to the governor.

472           (2) (a) The members of the commission shall annually elect a ~~[chairperson]~~  
473 commission chair.

474           (b) Three members of the commission shall constitute a quorum for the transaction of  
475 any business of the commission.

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

478           (a) Section 63A-3-106;

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

480           (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
481 63A-3-107.

482           (4) All claims and expenditures made under this chapter shall be first audited and  
483 passed upon by the commission and when approved shall be paid in the manner provided by  
484 law for payment of claims against the state.

485           (5) Any member of the commission who has a personal or private interest in any matter  
486 proposed or pending before the commission shall publicly disclose this fact to the commission  
487 and may not vote on the matter.

488           (6) Any member of the commission who owns or who has any interest or whose spouse  
489 or member of his immediate family has any interest in a horse participating in a race shall  
490 disclose that interest and may not participate in any commission decision involving that race.



**Legislative Review Note**  
as of 2-25-13 1:44 PM

**Office of Legislative Research and General Counsel**