

**DIVISION AND BOARD OF WATER  
RESOURCES NAME CHANGE**

2002 GENERAL SESSION

STATE OF UTAH

**Sponsor: Judy Ann Buffmire**

**This act amends the Community and Economic Development Code, the Revenue and Taxation Code, the State Affairs in General Code, the State Lands Code, and the Water and Irrigation Code. The act changes the name of the Division of Water Resources to the Division of Water Resources and Conservation. The act changes the name of the Board of Water Resources to the Board of Water Resources and Conservation. The act makes technical corrections.**

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

**9-4-304**, as last amended by Chapters 242 and 243, Laws of Utah 1996

**59-12-103**, as last amended by Chapter 11, Laws of Utah 2001, First Special Session

**63-28a-3**, as last amended by Chapter 82, Laws of Utah 1997

**63-30-5**, as last amended by Chapter 251, Laws of Utah 1991

**63-30-10**, as last amended by Chapter 185, Laws of Utah 2001

**63-34-3**, as last amended by Chapter 159, Laws of Utah 1996

**65A-4-2**, as enacted by Chapter 121, Laws of Utah 1988

**73-3-16**, as last amended by Chapter 33, Laws of Utah 1998

**73-5a-502**, as last amended by Chapter 264, Laws of Utah 1996

**73-10-1.5**, as enacted by Chapter 176, Laws of Utah 1967

**73-10-2**, as last amended by Chapter 243, Laws of Utah 1996

**73-10-3**, as last amended by Chapter 320, Laws of Utah 1983

**73-10-6**, as last amended by Chapter 169, Laws of Utah 1988

**73-10-15**, as last amended by Chapter 176, Laws of Utah 1967



- 28            **73-10-18**, as last amended by Chapter 198, Laws of Utah 1969
- 29            **73-10-19**, as last amended by Chapter 318, Laws of Utah 1983
- 30            **73-10-22**, as last amended by Chapter 183, Laws of Utah 1995
- 31            **73-10-23**, as last amended by Chapter 234, Laws of Utah 1990
- 32            **73-10-24**, as last amended by Chapter 169, Laws of Utah 1988
- 33            **73-10-25.1**, as last amended by Chapter 199, Laws of Utah 1996
- 34            **73-10-26**, as last amended by Chapter 234, Laws of Utah 1990
- 35            **73-10-27**, as last amended by Chapter 365, Laws of Utah 1999
- 36            **73-10-28**, as enacted by Chapter 22, Laws of Utah 1978
- 37            **73-10-31**, as enacted by Chapter 199, Laws of Utah 1996
- 38            **73-10-32**, as last amended by Chapter 119, Laws of Utah 1999
- 39            **73-10c-2**, as last amended by Chapter 175, Laws of Utah 2001
- 40            **73-10c-3**, as last amended by Chapter 243, Laws of Utah 1996
- 41            **73-10e-1**, as last amended by Chapter 167, Laws of Utah 1986
- 42            **73-10e-4**, as last amended by Chapter 20, Laws of Utah 1995
- 43            **73-10f-1**, as enacted by Chapter 206, Laws of Utah 1990
- 44            **73-15-3**, as last amended by Chapter 250, Laws of Utah 1979
- 45            **73-15-5**, as last amended by Chapter 21, Laws of Utah 1999
- 46            **73-15-6**, as enacted by Chapter 193, Laws of Utah 1973
- 47            **73-20-2**, as last amended by Chapter 12, Laws of Utah 1994
- 48            **73-20-6**, as enacted by Chapter 6, Laws of Utah 1977, First Special Session
- 49            **73-20-7**, as enacted by Chapter 6, Laws of Utah 1977, First Special Session
- 50            **73-23-2**, as enacted by Chapter 6, Laws of Utah 1986, Second Special Session
- 51            **73-23-3**, as enacted by Chapter 6, Laws of Utah 1986, Second Special Session
- 52            **73-23-5**, as enacted by Chapter 232, Laws of Utah 1988
- 53            **73-26-102**, as enacted by Chapter 251, Laws of Utah 1991
- 54            **73-26-103**, as enacted by Chapter 251, Laws of Utah 1991
- 55            **73-27-102**, as enacted by Chapter 124, Laws of Utah 2000

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

57 Section 1. Section **9-4-304** is amended to read:

58 **9-4-304. Permanent Community Impact Fund Board created -- Members -- Terms**

## 59 -- Chair -- Expenses.

60 (1) There is created within the Department of Community and Economic Development the  
61 Permanent Community Impact Fund Board composed of 11 members as follows:

- 62 (a) the chair of the Board of Water Resources and Conservation or the chair's designee;  
63 (b) the chair of the Water Quality Board or the chair's designee;  
64 (c) the director of the department or the director's designee;  
65 (d) the chair of the State Board of Education or the chair's designee;  
66 (e) the chair of the State Board of Regents or the chair's designee;  
67 (f) the state treasurer;  
68 (g) the chair of the Transportation Commission or the chair's designee;  
69 (h) a locally elected official who resides in Carbon, Emery, Grand, or San Juan County;  
70 (i) a locally elected official who resides in Juab, Millard, Sanpete, Sevier, Piute, or Wayne  
71 County;  
72 (j) a locally elected official who resides in Duchesne, Daggett, or Uintah County; and  
73 (k) a locally elected official who resides in Beaver, Iron, Washington, Garfield, or Kane  
74 County.

75 (2) (a) (i) The members specified under Subsections (1)(h) through (1)(k) shall be~~[-(i)]~~  
76 nominated by the Board of Directors of the Southeastern Association of Governments, Central  
77 Utah Association of Governments, Uintah Basin Association of Governments, and Southwestern  
78 Association of Governments, respectively; and ~~[(ii)]~~ appointed by the governor with the advice and  
79 consent of the Senate.

80 ~~[(iii)]~~ (ii) Except as required by Subsection ~~[(iv)]~~ (2)(a)(iii), as terms of current board  
81 members expire, the governor shall appoint each new member or reappointed member to a  
82 four-year term.

83 ~~[(iv)]~~ (iii) Notwithstanding the requirements of Subsection ~~[(iii)]~~ (2)(a)(ii), the governor  
84 shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the  
85 terms of board members are staggered so that approximately half of the board is appointed every  
86 two years.

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

89 (3) The terms of office for the members of the impact board specified under Subsections

90 (1)(a) through (1)(g) shall run concurrently with the terms of office for the councils, boards,  
91 committees, commission, departments, or offices from which the members come.

92 (4) The executive director of the department, or the executive director's designee, shall be  
93 the chair of the impact board.

94 (5) (a) (i) Members who are not government employees shall receive no compensation or  
95 benefits for their services, but may receive per diem and expenses incurred in the performance of  
96 the member's official duties at the rates established by the Division of Finance under Sections  
97 63A-3-106 and 63A-3-107.

98 (ii) Members may decline to receive per diem and expenses for their service.

99 (b) (i) State government officer and employee members who do not receive salary, per  
100 diem, or expenses from their agency for their service may receive per diem and expenses incurred  
101 in the performance of their official duties from the board at the rates established by the Division  
102 of Finance under Sections 63A-3-106 and 63A-3-107.

103 (ii) State government officer and employee members may decline to receive per diem and  
104 expenses for their service.

105 (c) (i) Higher education members who do not receive salary, per diem, or expenses from  
106 the entity that they represent for their service may receive per diem and expenses incurred in the  
107 performance of their official duties from the committee at the rates established by the Division of  
108 Finance under Sections 63A-3-106 and 63A-3-107.

109 (ii) Higher education members may decline to receive per diem and expenses for their  
110 service.

111 (d) (i) Local government members who do not receive salary, per diem, or expenses from  
112 the entity that they represent for their service may receive per diem and expenses incurred in the  
113 performance of their official duties at the rates established by the Division of Finance under  
114 Sections 63A-3-106 and 63A-3-107.

115 (ii) Local government members may decline to receive per diem and expenses for their  
116 service.

117 Section 2. Section **59-12-103** is amended to read:

118 **59-12-103. Sales and use tax base -- Rate -- Use of sales and use tax revenues.**

119 (1) A tax is imposed on the purchaser as provided in this part for amounts paid or charged  
120 for the following transactions:

- 121 (a) retail sales of tangible personal property made within the state;
- 122 (b) amounts paid to common carriers or to telephone corporations or telegraph
- 123 corporations, whether the corporations are municipally or privately owned, for:
  - 124 (i) all transportation;
  - 125 (ii) intrastate telephone service; or
  - 126 (iii) telegraph service;
- 127 (c) sales of the following for commercial use:
  - 128 (i) gas;
  - 129 (ii) electricity;
  - 130 (iii) heat;
  - 131 (iv) coal;
  - 132 (v) fuel oil; or
  - 133 (vi) other fuels;
- 134 (d) sales of the following for residential use:
  - 135 (i) gas;
  - 136 (ii) electricity;
  - 137 (iii) heat;
  - 138 (iv) coal;
  - 139 (v) fuel oil; or
  - 140 (vi) other fuels;
- 141 (e) sales of meals;
- 142 (f) except as provided in Section 59-12-104, amounts paid or charged as admission or user
- 143 fees for theaters, movies, operas, museums, planetariums, shows of any type or nature, exhibitions,
- 144 concerts, carnivals, amusement parks, amusement rides, circuses, menageries, fairs, races, contests,
- 145 sporting events, dances, boxing matches, wrestling matches, closed circuit television broadcasts,
- 146 billiard parlors, pool parlors, bowling lanes, golf, miniature golf, golf driving ranges, batting cages,
- 147 skating rinks, ski lifts, ski runs, ski trails, snowmobile trails, tennis courts, swimming pools, water
- 148 slides, river runs, jeep tours, boat tours, scenic cruises, horseback rides, sports activities, or any
- 149 other amusement, entertainment, recreation, exhibition, cultural, or athletic activity;
- 150 (g) amounts paid or charged for services:
  - 151 (i) for repairs or renovations of tangible personal property; or

152 (ii) to install tangible personal property in connection with other tangible personal  
153 property;

154 (h) except as provided in Subsection 59-12-104(7), amounts paid or charged for cleaning  
155 or washing of tangible personal property;

156 (i) amounts paid or charged for tourist home, hotel, motel, or trailer court accommodations  
157 and services that are regularly rented for less than 30 consecutive days;

158 (j) amounts paid or charged for laundry or dry cleaning services;

159 (k) amounts paid or charged for leases or rentals of tangible personal property if:

160 (i) the tangible personal property's situs is in this state;

161 (ii) the lessee took possession of the tangible personal property in this state; or

162 (iii) within this state the tangible personal property is:

163 (A) stored;

164 (B) used; or

165 (C) otherwise consumed;

166 (l) amounts paid or charged for tangible personal property if within this state the tangible  
167 personal property is:

168 (i) stored;

169 (ii) used; or

170 (iii) consumed; and

171 (m) amounts paid or charged for prepaid telephone calling cards.

172 (2) (a) Except as provided in Subsections (2)(b) and (c), beginning on July 1, 2001, a state  
173 tax and a local tax is imposed on a transaction described in Subsection (1) equal to the sum of:

174 (i) a state tax imposed on the transaction at a rate of 4.75%; and

175 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
176 transaction under this chapter other than this part.

177 (b) Notwithstanding Subsection (2)(a), beginning on July 1, 2001, a state tax and a local  
178 tax is imposed on a transaction described in Subsection (1)(d) equal to the sum of:

179 (i) a state tax imposed on the transaction at a rate of 2%; and

180 (ii) a local tax equal to the sum of the tax rates a county, city, or town imposes on the  
181 transaction under this chapter other than this part.

182 (c) Notwithstanding Subsections (2)(a) and (b), beginning on July 1, 2001, if a vendor

183 collects a tax under Subsection 59-12-107(1)(b) on a transaction described in Subsection (1), a  
184 state tax and a local tax is imposed on the transaction equal to the sum of:

185 (i) a state tax imposed on the transaction at a rate of:

186 (A) 4.75% for a transaction other than a transaction described in Subsection (1)(d); or

187 (B) 2% for a transaction described in Subsection (1)(d); and

188 (ii) except as provided in Subsection (2)(d), a local tax imposed on the transaction at a rate  
189 equal to the sum of the following tax rates:

190 (A) (I) the lowest tax rate imposed by a county, city, or town under Section 59-12-204, but  
191 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-204;

192 or

193 (II) the lowest tax rate imposed by a county, city, or town under Section 59-12-205, but  
194 only if all of the counties, cities, and towns in the state impose the tax under Section 59-12-205;

195 and

196 (B) the tax rate authorized by Section 59-12-1102, but only if all of the counties in the state  
197 impose the tax under Section 59-12-1102.

198 (d) Tax rates authorized under the following do not apply to Subsection (2)(c)(ii):

199 (i) Subsection (2)(a)(i);

200 (ii) Subsection (2)(b)(i);

201 (iii) Subsection (2)(c)(i);

202 (iv) Section 59-12-301;

203 (v) Section 59-12-352;

204 (vi) Section 59-12-353;

205 (vii) Section 59-12-401;

206 (viii) Section 59-12-402;

207 (ix) Section 59-12-501;

208 (x) Section 59-12-502;

209 (xi) Section 59-12-603;

210 (xii) Section 59-12-703;

211 (xiii) Section 59-12-802;

212 (xiv) Section 59-12-804;

213 (xv) Section 59-12-1001;

214 (xvi) Section 59-12-1201; or

215 (xvii) Section 59-12-1302.

216 (3) (a) Except as provided in Subsections (4) through (9), the state taxes described in  
217 Subsections (2)(a)(i), (2)(b)(i), and (2)(c)(i) shall be deposited into the General Fund.

218 (b) The local taxes described in Subsections (2)(a)(ii) and (2)(b)(ii) shall be distributed to  
219 a county, city, or town as provided in this chapter.

220 (c) (i) Notwithstanding any provision of this chapter, each county, city, or town in the state  
221 shall receive the county's, city's, or town's proportionate share of the revenues generated by the  
222 local tax described in Subsection (2)(c)(ii) as provided in Subsection (3)(c)(ii).

223 (ii) The commission shall determine a county's, city's, or town's proportionate share of the  
224 revenues under Subsection (3)(c)(i) by:

225 (A) calculating an amount equal to:

226 (I) the population of the county, city, or town; divided by

227 (II) the total population of the state; and

228 (B) multiplying the amount determined under Subsection (3)(c)(ii)(A) by the total amount  
229 of revenues generated by the local tax under Subsection (2)(c)(ii) for all counties, cities, and towns.

230 (iii) (A) Except as provided in Subsection (3)(c)(iii)(B), population figures for purposes  
231 of this section shall be derived from the most recent official census or census estimate of the  
232 United States Census Bureau.

233 (B) Notwithstanding Subsection (3)(c)(iii)(A), if a needed population estimate is not  
234 available from the United States Census Bureau, population figures shall be derived from the  
235 estimate from the Utah Population Estimates Committee created by executive order of the  
236 governor.

237 (C) For purposes of this section, the population of a county may only include the  
238 population of the unincorporated areas of the county.

239 (4) (a) Notwithstanding Subsection (3)(a), there shall be deposited in an Olympics special  
240 revenue fund or funds as determined by the Division of Finance under Section 51-5-4, for the use  
241 of the Utah Sports Authority created under Title 63A, Chapter 7, Utah Sports Authority Act:

242 (i) from January 1, 1990, through December 31, 1999, the amount of sales and use tax  
243 generated by a 1/64% tax rate on the taxable transactions under Subsection (1);

244 (ii) from January 1, 1990, through June 30, 1999, the amount of revenue generated by a

245 1/64% tax rate under Section 59-12-204 or Section 59-12-205 on the taxable transactions under  
246 Subsection (1); and

247 (iii) interest earned on the amounts under Subsections (4)(a)(i) and (ii).

248 (b) These funds shall be used:

249 (i) by the Utah Sports Authority as follows:

250 (A) to the extent funds are available, to transfer directly to a debt service fund or to  
251 otherwise reimburse to the state any amount expended on debt service or any other cost of any  
252 bonds issued by the state to construct any public sports facility as defined in Section 63A-7-103;

253 (B) to pay for the actual and necessary operating, administrative, legal, and other expenses  
254 of the Utah Sports Authority, but not including protocol expenses for seeking and obtaining the  
255 right to host the Winter Olympic Games;

256 (C) as otherwise appropriated by the Legislature; and

257 (D) unless the Legislature appropriates additional funds from the Olympics Special  
258 Revenue Fund to the Utah Sports Authority, the Utah Sports Authority may not expend, loan, or  
259 pledge in the aggregate more than:

260 (I) \$59,000,000 of sales and use tax deposited into the Olympics Special Revenue Fund  
261 under Subsection (4)(a);

262 (II) the interest earned on the amount described in Subsection (4)(b)(i)(D)(I); and

263 (III) the revenues deposited into the Olympics Special Revenue Fund that are not sales and  
264 use taxes deposited under Subsection (4)(a) or interest on the sales and use taxes;

265 (ii) to pay salary, benefits, or administrative costs associated with the State Olympic  
266 Officer under Subsection 63A-10-103(3), except that the salary, benefits, or administrative costs  
267 may not be paid from the sales and use tax revenues generated by municipalities or counties and  
268 deposited under Subsection (4)(a)(ii).

269 (c) A payment of salary, benefits, or administrative costs under Subsection 63A-10-103(3)  
270 is not considered an expenditure of the Utah Sports Authority.

271 (d) If the Legislature appropriates additional funds under Subsection (4)(b)(i)(D), the  
272 authority may not expend, loan, pledge, or enter into any agreement to expend, loan, or pledge the  
273 appropriated funds unless the authority:

274 (i) contracts in writing for the full reimbursement of the monies to the Olympics Special  
275 Revenue Fund by a public sports entity or other person benefitting from the expenditure; and

276 (ii) obtains a security interest that secures payment or performance of the obligation to  
277 reimburse.

278 (e) A contract or agreement entered into in violation of Subsection (4)(d) is void.

279 (5) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2001, the amount of sales  
280 and use tax generated annually by a 1/16% tax rate on the taxable transactions under Subsection  
281 (1) shall be used as provided in Subsections (5)(b) through (g).

282 (b) (i) Beginning on July 1, 2001, \$2,300,000 each year shall be transferred as dedicated  
283 credits to the Department of Natural Resources to:

284 (A) implement the measures described in Subsections 63-34-14(4)(a) through (d) to protect  
285 sensitive plant and animal species; or

286 (B) award grants, up to the amount authorized by the Legislature in an appropriations act,  
287 to political subdivisions of the state to implement the measures described in Subsections  
288 63-34-14(4)(a) through (d) to protect sensitive plant and animal species.

289 (ii) Money transferred to the Department of Natural Resources under Subsection (5)(b)(i)  
290 may not be used to assist the United States Fish and Wildlife Service or any other person to list or  
291 attempt to have listed a species as threatened or endangered under the Endangered Species Act of  
292 1973, 16 U.S.C. Sec. 1531 et seq.

293 (iii) At the end of each fiscal year:

294 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources  
295 Conservation and Development Fund created in Section 73-10-24;

296 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
297 Program Subaccount created in Section 73-10c-5; and

298 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
299 Program Subaccount created in Section 73-10c-5.

300 (c) Five hundred thousand dollars each year shall be deposited in the Agriculture Resource  
301 Development Fund created in Section 4-18-6.

302 (d) (i) One hundred thousand dollars each year shall be transferred as dedicated credits to  
303 the Division of Water Rights to cover the costs incurred in hiring legal and technical staff for the  
304 adjudication of water rights.

305 (ii) At the end of each fiscal year:

306 (A) 50% of any unexpended dedicated credits shall lapse to the Water Resources

307 Conservation and Development Fund created in Section 73-10-24;

308 (B) 25% of any unexpended dedicated credits shall lapse to the Utah Wastewater Loan  
309 Program Subaccount created in Section 73-10c-5; and

310 (C) 25% of any unexpended dedicated credits shall lapse to the Drinking Water Loan  
311 Program Subaccount created in Section 73-10c-5.

312 (e) Fifty percent of the remaining amount generated by the 1/16% tax rate shall be  
313 deposited in the Water Resources Conservation and Development Fund created in Section  
314 73-10-24 for use by the Division of Water Resources and Conservation. In addition to the uses  
315 allowed of the fund under Section 73-10-24, the fund may also be used to:

316 (i) provide a portion of the local cost share, not to exceed in any fiscal year 50% of the  
317 funds made available to the Division of Water Resources and Conservation under this section, of  
318 potential project features of the Central Utah Project;

319 (ii) conduct hydrologic and geotechnical investigations by the Department of Natural  
320 Resources in a cooperative effort with other state, federal, or local entities, for the purpose of  
321 quantifying surface and ground water resources and describing the hydrologic systems of an area  
322 in sufficient detail so as to enable local and state resource managers to plan for and accommodate  
323 growth in water use without jeopardizing the resource;

324 (iii) fund state required dam safety improvements; and

325 (iv) protect the state's interest in interstate water compact allocations, including the hiring  
326 of technical and legal staff.

327 (f) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be  
328 deposited in the Utah Wastewater Loan Program Subaccount created in Section 73-10c-5 for use  
329 by the Water Quality Board to fund wastewater projects.

330 (g) Twenty-five percent of the remaining amount generated by the 1/16% tax rate shall be  
331 deposited in the Drinking Water Loan Program Subaccount created in Section 73-10c-5 for use  
332 by the Division of Drinking Water to:

333 (i) provide for the installation and repair of collection, treatment, storage, and distribution  
334 facilities for any public water system, as defined in Section 19-4-102;

335 (ii) develop underground sources of water, including springs and wells; and

336 (iii) develop surface water sources.

337 (6) (a) Notwithstanding Subsection (3)(a), beginning on July 1, 2001, the amount of sales

338 and use tax generated annually by a 1/16% tax rate on the taxable transactions under Subsection  
339 (1) shall be used as provided in Subsections (6)(b) through (d).

340 (b) (i) Five hundred thousand dollars each year shall be deposited in the Transportation  
341 Corridor Preservation Revolving Loan Fund created in Section 72-2-117.

342 (ii) At least 50% of the money deposited in the Transportation Corridor Preservation  
343 Revolving Loan Fund under Subsection (6)(b)(i) shall be used to fund loan applications made by  
344 the Department of Transportation at the request of local governments.

345 (c) From July 1, 1997, through June 30, 2006, \$500,000 each year shall be transferred as  
346 nonlapsing dedicated credits to the Department of Transportation for the State Park Access  
347 Highways Improvement Program created in Section 72-3-207.

348 (d) The remaining amount generated by the 1/16% tax rate shall be deposited in the class  
349 B and class C roads account to be expended as provided in Title 72, Chapter 2, Transportation  
350 Finances Act, for the use of class B and C roads.

351 (7) (a) Notwithstanding Subsection (3)(a), beginning on January 1, 2000, the Division of  
352 Finance shall deposit into the Centennial Highway Fund created in Section 72-2-118 a portion of  
353 the state sales and use tax under Subsection (2) equal to the revenues generated by a 1/64% tax rate  
354 on the taxable transactions under Subsection (1).

355 (b) Except for sales and use taxes deposited under Subsection (8), beginning on July 1,  
356 1999, the revenues generated by the 1/64% tax rate:

357 (i) retained under Subsection 59-12-204(7)(a) shall be retained by the counties, cities, or  
358 towns as provided in Section 59-12-204; and

359 (ii) retained under Subsection 59-12-205(4)(a) shall be distributed to each county, city, and  
360 town as provided in Section 59-12-205.

361 (8) Notwithstanding Subsection (3)(a), beginning on July 1, 1999, the commission shall  
362 deposit into the Airport to University of Utah Light Rail Restricted Account created in Section  
363 17A-2-1064 the portion of the sales and use tax under Sections 59-12-204 and 59-12-205 that is:

364 (a) generated by a city or town that will have constructed within its boundaries the Airport  
365 to University of Utah Light Rail described in the Transportation Equity Act for the 21st Century,  
366 Pub. L. No. 105-178, Sec. 3030(c)(2)(B)(i)(II), 112 Stat. 107; and

367 (b) equal to the revenues generated by a 1/64% tax rate on the taxable items and services  
368 under Subsection (1).

369 (9) (a) Notwithstanding Subsection (3)(a), for fiscal years beginning on or after fiscal year  
370 2002-03, the commission shall on or before September 30 of each year deposit the difference  
371 described in Subsection (9)(b) into the Remote Sales Restricted Account created in Section  
372 59-12-103.2 if that difference is greater than \$0.

373 (b) The difference described in Subsection (9)(a) is equal to the difference between:

374 (i) the total amount of revenues under Subsection (2)(c)(i) the commission received from  
375 vendors collecting a tax under Subsection 59-12-107(1)(b) for the fiscal year immediately  
376 preceding the September 30 described in Subsection (9)(a); and

377 (ii) the total amount of revenues under Subsection (2)(c)(i) the commission estimates that  
378 the commission received from vendors described in Subsection 59-12-107(1)(b) for fiscal year  
379 2000-01.

380 (10) (a) For purposes of amounts paid or charged as admission or user fees relating to the  
381 Olympic Winter Games of 2002, the amounts are considered to be paid or charged on the day on  
382 which the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 or a person  
383 designated by the Salt Lake Organizing Committee for the Olympic Winter Games of 2002 sends  
384 a purchaser confirmation of the purchase of an admission or user fee described in Subsection  
385 (1)(f).

386 (b) In accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, the  
387 commission shall make rules defining what constitutes sending a purchaser confirmation under  
388 Subsection (10)(a).

389 Section 3. Section **63-28a-3** is amended to read:

390 **63-28a-3. Membership -- Terms -- Chair -- Expenses.**

391 (1) Membership of the RDCC shall include the state science advisor and representatives  
392 of the following departments and divisions:

393 (a) Department of Agriculture and Food;

394 (b) Department of Community and Economic Development;

395 (c) Department of Environmental Quality;

396 (d) Department of Natural Resources;

397 (e) Department of Transportation;

398 (f) Division of Business and Economic Development;

399 (g) Division of Community Development;

- 400 (h) Division of State History;
- 401 (i) Division of Air Quality;
- 402 (j) Division of Drinking Water;
- 403 (k) Division of Environmental Response and Remediation;
- 404 (l) Division of Radiation;
- 405 (m) Division of Solid and Hazardous Waste;
- 406 (n) Division of Water Quality;
- 407 (o) Division of Oil, Gas, and Mining;
- 408 (p) Division of Parks and Recreation;
- 409 (q) Division of Forestry, Fire and State Lands;
- 410 (r) Utah Geological Survey;
- 411 (s) Division of Water Resources and Conservation;
- 412 (t) Division of Water Rights;
- 413 (u) Division of Wildlife Resources;
- 414 (v) School and Institutional Trust Lands Administration;
- 415 (w) Division of Facilities Construction and Management; and
- 416 (x) Division of Comprehensive Emergency Management.

417 (2) (a) Additional members may be added as considered appropriate by a majority vote of  
418 RDCC members with the concurrence of the state planning coordinator.

419 (b) Terms of additional members shall be four-years each, adjusted to ensure that the terms  
420 are staggered so that approximately half of the additional members are appointed every two years.

421 (3) A chair shall be selected by a majority vote of RDCC members with the concurrence  
422 of the state planning coordinator.

423 (4) (a) (i) Members who are not government employees shall receive no compensation or  
424 benefits for their services, but may receive per diem and expenses incurred in the performance of  
425 the member's official duties at the rates established by the Division of Finance under Sections  
426 63A-3-106 and 63A-3-107.

427 (ii) Members may decline to receive per diem and expenses for their service.

428 (b) (i) State government officer and employee members who do not receive salary, per  
429 diem, or expenses from their agency for their service may receive per diem and expenses incurred  
430 in the performance of their official duties from the council at the rates established by the Division

431 of Finance under Sections 63A-3-106 and 63A-3-107.

432 (ii) State government officer and employee members may decline to receive per diem and  
433 expenses for their service.

434 Section 4. Section **63-30-5** is amended to read:

435 **63-30-5. Waiver of immunity as to contractual obligations.**

436 (1) Immunity from suit of all governmental entities is waived as to any contractual  
437 obligation. Actions arising out of contractual rights or obligations shall not be subject to the  
438 requirements of Sections 63-30-11, 63-30-12, 63-30-13, 63-30-14, 63-30-15, or 63-30-19.

439 (2) Notwithstanding Subsection (1), the Division of Water Resources and Conservation  
440 is not liable for failure to deliver water from a reservoir or associated facility authorized by Title  
441 73, Chapter 26, Bear River Development Act, if the failure to deliver the contractual amount of  
442 water is due to drought, other natural condition, or safety condition that causes a deficiency in the  
443 amount of available water.

444 Section 5. Section **63-30-10** is amended to read:

445 **63-30-10. Waiver of immunity for injury caused by negligent act or omission of**  
446 **employee -- Exceptions.**

447 Immunity from suit of all governmental entities is waived for injury proximately caused  
448 by a negligent act or omission of an employee committed within the scope of employment except  
449 if the injury arises out of, in connection with, or results from:

450 (1) the exercise or performance or the failure to exercise or perform a discretionary  
451 function, whether or not the discretion is abused;

452 (2) assault, battery, false imprisonment, false arrest, malicious prosecution, intentional  
453 trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of  
454 mental anguish, or violation of civil rights;

455 (3) the issuance, denial, suspension, or revocation of or by the failure or refusal to issue,  
456 deny, suspend, or revoke any permit, license, certificate, approval, order, or similar authorization;

457 (4) a failure to make an inspection or by making an inadequate or negligent inspection;

458 (5) the institution or prosecution of any judicial or administrative proceeding, even if  
459 malicious or without probable cause;

460 (6) a misrepresentation by an employee whether or not it is negligent or intentional;

461 (7) riots, unlawful assemblies, public demonstrations, mob violence, and civil disturbances;

- 462 (8) the collection of and assessment of taxes;
- 463 (9) the activities of the Utah National Guard;
- 464 (10) the incarceration of any person in any state prison, county or city jail, or other place
- 465 of legal confinement;
- 466 (11) any natural condition on publicly owned or controlled lands, any condition existing
- 467 in connection with an abandoned mine or mining operation, or any activity authorized by the
- 468 School and Institutional Trust Lands Administration or the Division of Forestry, Fire and State
- 469 Lands;
- 470 (12) research or implementation of cloud management or seeding for the clearing of fog;
- 471 (13) the management of flood waters, earthquakes, or natural disasters;
- 472 (14) the construction, repair, or operation of flood or storm systems;
- 473 (15) the operation of an emergency vehicle, while being driven in accordance with the
- 474 requirements of Section 41-6-14;
- 475 (16) a latent dangerous or latent defective condition of any highway, road, street, alley,
- 476 crosswalk, sidewalk, culvert, tunnel, bridge, viaduct, or other structure located on them;
- 477 (17) a latent dangerous or latent defective condition of any public building, structure, dam,
- 478 reservoir, or other public improvement;
- 479 (18) the activities of:
- 480 (a) providing emergency medical assistance;
- 481 (b) fighting fire;
- 482 (c) regulating, mitigating, or handling hazardous materials or hazardous wastes;
- 483 (d) emergency evacuations;
- 484 (e) transporting or removing injured persons to a place where emergency medical
- 485 assistance can be rendered or where the person can be transported by a licensed ambulance service;
- 486 or
- 487 (f) intervening during dam emergencies; or
- 488 (19) the exercise or performance or the failure to exercise or perform any function pursuant
- 489 to Title 73, Chapter 5a, Dam Safety, or Title 73, Chapter 10, Board of Water Resources and
- 490 Conservation - Division of Water Resources and Conservation, which immunity is in addition to
- 491 all other immunities granted by law.

492 Section 6. Section **63-34-3** is amended to read:

493           **63-34-3. Department of Natural Resources created -- Boards, councils, and divisions**  
494 **within department.**

495           (1) There is created within state government the Department of Natural Resources.

496           (2) The Department of Natural Resources comprises the following boards, councils, and  
497 divisions:

498           (a) Board of Water Resources and Conservation;

499           (b) Forestry, Fire and State Lands Advisory Council;

500           (c) Board of Oil, Gas and Mining;

501           (d) Board of Parks and Recreation;

502           (e) Wildlife Board;

503           (f) Riverway Enhancement Advisory Council;

504           (g) Board of the Utah Geological Survey;

505           (h) Water Development Coordinating Council;

506           (i) Division of Water Rights;

507           (j) Division of Water Resources and Conservation;

508           (k) Division of Forestry, Fire and State Lands;

509           (l) Division of Oil, Gas and Mining;

510           (m) Division of Parks and Recreation;

511           (n) Division of Wildlife Resources; and

512           (o) Utah Geological Survey.

513           Section 7. Section **65A-4-2** is amended to read:

514           **65A-4-2. Central index -- Division to maintain index of lands owned by agencies of**  
515 **the Department of Natural Resources -- Information to be furnished.**

516           (1) The division shall maintain a central index of all lands owned by agencies of the  
517 Department of Natural Resources and shall make that index available for the public.

518           (2) All agencies of the Department of Natural Resources having any right, title, or interest  
519 in lands shall furnish the division with the following information:

520           (a) legal description of the land;

521           (b) when the land was acquired;

522           (c) where the abstracts, deeds, or other indicia of interest in the property may be found;

523           (d) name of agency acquiring or holding the mineral interest;

- 524 (e) name of the grantor; and
- 525 (f) nature of state's interest in the land including whether mineral interests were obtained.
- 526 (3) This section does not apply to Board of Water Resources and Conservation lands that
- 527 are subject to a repurchase agreement by the water project sponsor.

528 Section 8. Section **73-3-16** is amended to read:

529 **73-3-16. Proof of appropriation or permanent change -- Notice -- Manner of proof**  
530 **-- Statements -- Maps, profiles, and drawings -- Verification -- Waiver of filing -- Statement**  
531 **in lieu of proof of appropriation or change.**

532 (1) Sixty days before the date set for the proof of appropriation or proof of change to be  
533 made, the state engineer shall notify the applicant by mail when proof of completion of the works  
534 and application of the water to a beneficial use will be due.

535 (2) On or before the date set for completing the proof in accordance with the application,  
536 the applicant shall file proof with the state engineer on forms furnished by the state engineer.

537 (3) Except as provided in Subsection (4), the applicant shall submit the following  
538 information:

- 539 (a) a description of the works constructed;
- 540 (b) the quantity of water in acre-feet or the flow in second-feet diverted, or both;
- 541 (c) the method of applying the water to beneficial use; and
- 542 (d) (i) detailed measurements of water put to beneficial use;
- 543 (ii) the date the measurements were made; and
- 544 (iii) the name of the person making the measurements.

545 (4) (a) On applications filed for appropriation or permanent change of use of water to  
546 provide a water supply for state projects constructed pursuant to Title 73, Chapter 10, Board of  
547 Water Resources and Conservation - Division of Water Resources and Conservation, or for federal  
548 projects constructed by the United States Bureau of Reclamation for the use and benefit of the  
549 state, any of its agencies, its political subdivisions, public and quasi-municipal corporations, or  
550 water users' associations of which the state, its agencies, political subdivisions, or public and  
551 quasi-municipal corporations are stockholders, the proof shall include:

- 552 (i) a statement indicating construction of the project works has been completed;
- 553 (ii) a description of the major features with appropriate maps, profiles, drawings, and  
554 reservoir area-capacity curves;

- 555 (iii) a description of the point or points of diversion and redirection;
- 556 (iv) project operation data;
- 557 (v) a map showing the place of use of water and a statement of the purpose and method  
558 of use;
- 559 (vi) the project plan for beneficial use of water under the applications and the quantity of  
560 water required; and
- 561 (vii) a statement indicating what type of measuring devices have been installed.
- 562 (b) The director of the Division of Water Resources and Conservation shall sign proofs  
563 for the state projects and an authorized official of the Bureau of Reclamation shall sign proofs for  
564 the federal projects specified in Subsection (4)(a).
- 565 (5) The proof on all applications shall be sworn to by the applicant or the applicant's  
566 appointed representative and proof engineer.
- 567 (6) (a) Except as provided in Subsection (6)(b), when filing proof, the applicant shall  
568 submit maps, profiles, and drawings made by a Utah licensed land surveyor or Utah licensed  
569 professional engineer that show:
- 570 (i) the location of the completed works;
- 571 (ii) the nature and extent of the completed works;
- 572 (iii) the natural stream or source from which and the point where the water is diverted and,  
573 in the case of a nonconsumptive use, the point where the water is returned; and
- 574 (iv) the place of use.
- 575 (b) The state engineer may waive the filing of maps, profiles, and drawings if in the state  
576 engineer's opinion the written proof adequately describes the works and the nature and extent of  
577 beneficial use.
- 578 (7) The completed proof shall conform to rules and standards established by the state  
579 engineer.
- 580 (8) In those areas in which general determination proceedings are pending, or have been  
581 concluded, under Title 73, Chapter 4, Determination of Water Rights, the state engineer may  
582 petition the district court for permission to:
- 583 (a) waive the requirements of this section and Section 73-3-17; and
- 584 (b) permit each owner of an application to file a verified statement to the effect that the  
585 applicant has completed the appropriation or change and elects to file a statement of water users

586 claim in the proposed determination of water rights or any supplement to it in accordance with  
587 Title 73, Chapter 4, Determination of Water Rights, in lieu of proof of appropriation or proof of  
588 change.

589 Section 9. Section **73-5a-502** is amended to read:

590 **73-5a-502. Legislative findings -- Immunity from suit -- State engineer to set**  
591 **minimum standards for existing high hazard dams -- Exceptions -- Investigations and plans**  
592 **for compliance with minimum standards.**

593 (1) The Legislature finds that:

594 (a) it is in the interest of the people of the state to improve the safety of existing dams;

595 (b) mutual irrigation companies and water users associations cannot afford to bring dams  
596 into conformance with the state's current minimum safety standards without financial assistance  
597 from the state;

598 (c) due to limited financial, physical, and human resources, it is necessary to establish  
599 priorities for the upgrade of dams; and

600 (d) the state and its officers and employees are immune from suit for any injury or damage  
601 resulting from the exercise or performance or the failure to exercise or perform any function  
602 pursuant to this chapter.

603 (2) The state engineer shall establish minimum standards for existing high hazard dams  
604 by rule. The standards for existing high hazard dams may differ from the design criteria  
605 established for new construction.

606 (3) No seismic standards shall be established for existing high hazard dams within the  
607 flood control use classification.

608 (4) (a) In implementing this section, the state engineer will develop a priority list of high  
609 hazard dams. The list will be determined by calculating the relative anticipated breach flows in  
610 the event of a dam failure. The dams will be ranked from the largest breach flow to the smallest  
611 for all high hazard dams.

612 (b) The state engineer shall investigate annually 25 dams on the priority list in order of  
613 their ranking to determine in what areas they are deficient or do not meet minimum standards.

614 (c) Once a determination is made, the owner will be notified that the owner will be  
615 required to undertake investigations to determine requirements necessary to bring the dam into  
616 compliance with minimum standards.

617 (d) Once the owner has been informed of the deficiencies of the dam, the owner will be  
618 given 90 days to respond, in writing, as to what steps the owner is taking to investigate the  
619 deficiencies and the time required to complete the investigations.

620 (e) The state engineer will review the proposal, and if it appears reasonable, will approve  
621 it.

622 (5) The state engineer may not require any mutual irrigation company or water users  
623 association to upgrade a dam in conformance with minimum standards, unless a grant to pay for  
624 80% of the costs is made available from the Board of Water Resources and Conservation.

625 Section 10. Section **73-10-1.5** is amended to read:

626 **73-10-1.5. Board of Water Resources and Conservation -- Creation -- Transfer of**  
627 **powers and duties.**

628 There is created within the Department of Natural Resources a Board of Water Resources  
629 and Conservation which, except as otherwise provided in this act, shall assume all of the  
630 [~~policy-making~~] policymaking functions, powers, duties, rights and responsibilities of the Utah  
631 Water and Power Board, together with all functions, powers, duties, rights, and responsibilities  
632 granted to the Board of Water Resources and Conservation by this act. The Board of Water  
633 Resources and Conservation shall be the [~~policy-making~~] policymaking body of the Division of  
634 Water Resources and Conservation. Except as otherwise provided in this act, whenever reference  
635 is made in Title 73, or any other provision of law, to the Utah Water and Power Board, it shall be  
636 construed as referring to the Board of Water Resources and Conservation where such reference  
637 pertains to [~~policy-making~~] policymaking functions, powers, duties, rights, and responsibilities[;],  
638 but in all other instances such reference shall be construed as referring to the Division of Water  
639 Resources and Conservation.

640 Section 11. Section **73-10-2** is amended to read:

641 **73-10-2. Board of Water Resources and Conservation -- Members -- Appointment**  
642 **-- Terms -- Vacancies.**

643 The Board of Water Resources and Conservation shall be comprised of eight members to  
644 be appointed by the governor, with the advice and consent of the senate. Not more than four  
645 members shall be from the same political party. One member of the board shall be appointed from  
646 each of the following districts:

647 (1) Bear River District, comprising the counties of Box Elder, Cache, and Rich;

648 (2) Weber District, comprising the counties of Weber, Davis, Morgan, and Summit;

649 (3) Salt Lake District, comprising the counties of Salt Lake and Tooele;

650 (4) Provo River District, comprising the counties of Juab, Utah, and Wasatch;

651 (5) Sevier River District, comprising the counties of Millard, Sanpete, Sevier, Piute, and

652 Wayne;

653 (6) Green River District, comprising the counties of Daggett, Duchesne, and Uintah;

654 (7) Upper Colorado River District, comprising the counties of Carbon, Emery, Grand, and

655 San Juan; and

656 (8) Lower Colorado River District, comprising the counties of Beaver, Garfield, Iron,  
657 Washington, and Kane.

658 (a) Except as required by Subsection (8)(b), all appointments shall be for terms of four  
659 years.

660 (b) Notwithstanding the requirements of Subsection (8)(a), the governor shall, at the time  
661 of appointment or reappointment, adjust the length of terms to ensure that the terms of board  
662 members are staggered so that approximately half of the board is appointed every two years.

663 (c) When a vacancy occurs in the membership for any reason, the replacement shall be  
664 appointed for the unexpired term with the advice and consent of the Senate and shall be from the  
665 same district as such person.

666 (9) (a) Members shall receive no compensation or benefits for their services, but may  
667 receive per diem and expenses incurred in the performance of the member's official duties at the  
668 rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

669 (b) Members may decline to receive per diem and expenses for their service.

670 Section 12. Section **73-10-3** is amended to read:

671 **73-10-3. Organization of board -- Interstate conferences -- Designation of**  
672 **representative -- Salary -- Compacts -- Ratification required.**

673 The board shall elect a chairman, one or more [~~vice-chairmen~~] vice chairmen, who shall  
674 be members of the board, and shall establish its own rules of organization and procedure.

675 The board, with the approval of the executive director of natural resources and the  
676 governor, shall designate a representative who may be one of its members to represent the state  
677 [~~of Utah~~] in all interstate conferences between the state [~~of Utah~~] and one or more sister states held  
678 for the purpose of entering into compacts between such states for the division of the waters of

679 interstate rivers, lakes, or other sources of water supply, and to represent the state [~~of Utah~~] upon  
680 all commissions or other governing bodies provided for by any compacts which have been or may  
681 hereafter be entered into between the state [~~of Utah~~] and one or more sister states. No such  
682 compact shall, however, become binding upon the state [~~of Utah~~] until it has been ratified and  
683 approved by the Legislature of the state [~~of Utah~~] and the legislatures of other states which are  
684 parties thereto.

685 In acting as such representative of the state [~~of Utah~~], the representative so acting shall act  
686 under the supervision of the governor, through the executive director of natural resources and of  
687 the Board of Water Resources and Conservation. The director of the Division of Finance shall fix  
688 the salary to be paid to the representative while he is acting in this capacity.

689 Section 13. Section **73-10-6** is amended to read:

690 **73-10-6. Making water available to citizens of state -- Assessment of charges against**  
691 **water users -- Water Resources Construction Fund.**

692 The Board of Water Resources and Conservation may make available for the use of the  
693 citizens of the state who are, in its opinion, best able to utilize the same, any or all water and power  
694 conserved by any of the projects to which the state may have title and may enter into contracts for  
695 the use of said water and power with individuals or with organizations composed of citizens of the  
696 state [~~of Utah~~]. The board may assess against any person using such water and power such charges  
697 as, in the opinion of the board, are necessary and reasonable for the maintenance of the project and  
698 return to the state the actual costs of the project over such term of years as the board may deem it  
699 advisable. Any amount collected as charges over and above the amount necessary to maintain any  
700 particular project shall become part of the Water Resources Construction Fund.

701 Section 14. Section **73-10-15** is amended to read:

702 **73-10-15. State water plan -- Agencies to cooperate in formulation of plan.**

703 All other state agencies shall cooperate with the Division of Water Resources and  
704 Conservation in the formulation of a state water plan and the division is to use information,  
705 including water resources data, which has been or will be assembled by other state agencies, the  
706 United States government, various colleges and universities of the state, or any other source which  
707 can profitably contribute to the development of a state water plan.

708 Section 15. Section **73-10-18** is amended to read:

709 **73-10-18. Division of Water Resources and Conservation -- Creation -- Power and**

710 **authority.**

711 There is created the Division of Water Resources and Conservation, which shall be within  
712 the Department of Natural Resources under the administration and general supervision of the  
713 executive director of natural resources and under the policy direction of the Board of Water  
714 Resources and Conservation. The Division of Water Resources and Conservation shall be the  
715 water resource(s) authority for the state [~~of Utah~~], shall assume all of the functions, powers, duties,  
716 rights, and responsibilities of the Utah Water and Power Board except those which are delegated  
717 to the board by this act and is vested with such other functions, powers, duties, rights, and  
718 responsibilities as provided in this act and other law.

719 Section 16. Section **73-10-19** is amended to read:

720 **73-10-19. Director's power and authority.**

721 (1) The director shall be the executive and administrative head of the Division of Water  
722 Resources and Conservation and shall be a person selected with special reference to his training,  
723 experience, and interest in the field of water conservation and development.

724 (2) The director of the Division of Water Resources and Conservation shall administer the  
725 Division of Water Resources and Conservation and shall succeed to all of the powers and duties  
726 conferred upon the executive secretary of the Utah Water and Power Board pursuant to Title 73,  
727 Chapter 10. The director shall have the power within policies established by the Board of Water  
728 Resources and Conservation to:

729 [~~(1)~~] (a) make studies, investigations, and plans for the full development and utilization  
730 and promotion of the water and power resources of the state, including preliminary surveys, stream  
731 gauging, examinations, tests, and other estimates either separately or in consultation with federal,  
732 state, and other agencies;

733 [~~(2)~~] (b) initiate and conduct water resource investigations, surveys, and studies, prepare  
734 plans and estimates, make reports thereon, and perform necessary work to develop an [~~over-all~~]  
735 overall state water plan;

736 [~~(3)~~] (c) file applications in the name of the division for the appropriation of water. All  
737 pending water applications heretofore filed in behalf of the state or any agency thereof for the use  
738 and benefit of the state are transferred to the board, and it is authorized to take such action thereon  
739 as it may deem proper;

740 [~~(4)~~] (d) take all action necessary to acquire or perfect water rights for projects sponsored

741 by the board; and

742 [~~5~~] (e) accept, execute, and deliver deeds and all other conveyances.

743 Section 17. Section **73-10-22** is amended to read:

744 **73-10-22. Water Resources Cities Water Loan Fund -- Annual appropriation --**

745 **Interest.**

746 (1) Beginning with the fiscal year ending June 30, 1978, the Legislature shall provide an  
747 annual appropriation from the General Fund from liquor control profits to the Board of Water  
748 Resources and Conservation to make the loans provided for in Sections 73-10-20, 73-10-21, and  
749 73-10-23. The monies appropriated by the Legislature shall be deposited in a fund known as the  
750 Water Resources Cities Water Loan Fund.

751 (2) All monies deposited into the Water Resources Cities Water Loan Fund shall be  
752 invested by the state treasurer with interest accruing to the Water Resources Cities Water Loan  
753 Fund.

754 Section 18. Section **73-10-23** is amended to read:

755 **73-10-23. Loans for water systems -- Board of Water Resources and Conservation**  
756 **authority -- Procedure.**

757 (1) The Board of Water Resources and Conservation is authorized to make loans to cities,  
758 towns, metropolitan water districts, water conservancy districts, improvement districts, special  
759 improvement districts, or special service districts within the state for the acquisition or  
760 construction of new or existing water systems or the improvement or extension of those systems  
761 from funds appropriated for the purpose of this chapter. Cities, towns, or districts which participate  
762 in this program shall submit an application for funds to the Board of Water Resources and  
763 Conservation. The application may request a loan to cover all or part of the cost of an eligible  
764 project. Requests for loans shall be submitted in a form and shall include information as the board  
765 prescribes. The board shall establish criteria for determining eligibility for loans and shall  
766 determine appropriate priorities among projects. Funds received from the repayment of loans shall  
767 be added to this special fund and be available for additional loans under the administration of the  
768 board.

769 (2) In determining priorities for eligible projects, the board shall consider:

770 (a) probable growth of population due to actual or prospective economic development in  
771 an area;

- 772 (b) possible additional sources of state and local revenue;
- 773 (c) opportunities for expanded employment;
- 774 (d) present or potential health hazards;
- 775 (e) water systems which do not meet minimum state standards;
- 776 (f) cities, towns, or districts which have insufficient water to meet current demands;
- 777 (g) feasibility and practicality of the project;
- 778 (h) per capita cost of the project;
- 779 (i) per capita income of the residents in the area;
- 780 (j) the borrowing capacity of the city, town, or district and its ability to sell bonds in the
- 781 open market; and
- 782 (k) the availability of federal funds for the project.

783 The board shall consult with the Governor's Advisory Council on Community Affairs in  
784 the establishment of priorities but that advice is not binding upon the board. If an application is  
785 rejected, the board shall notify the applicant stating the reasons for the rejection.

786 (3) The Board of Water Resources and Conservation shall review the plans and  
787 specifications for the project prior to approval and may condition approval and the availability of  
788 funds on assurances the board deems necessary to ensure that the proceeds of the loan will be used  
789 to pay the cost of the project and that the project will be completed. Any loan shall specify the  
790 terms for repayment and may be evidenced by general obligation bonds, revenue bonds, special  
791 assessment bonds, or other bonds or obligations legally issued by the appropriate city, town,  
792 metropolitan water district, water conservancy district, improvement district, special improvement  
793 district, or special service district and purchased by the board pursuant to the authority for the  
794 issuance that exists at the time of the loan.

795 (4) Upon approval of an application, the board shall advise the applicant and may provide  
796 funds as a loan to cover all or part of the costs of eligible projects. Costs of an eligible project may  
797 include all costs of acquisition and construction as well as costs incurred for preliminary planning  
798 to determine the economic and engineering feasibility of a proposed project, the engineering,  
799 architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans,  
800 working drawings, specifications, procedures, and other action necessary to the project and its  
801 financing; the cost of erection, building, acquisition, modification, improvement, or extension of  
802 water system facilities and the inspection and supervision of the construction of such facilities.

803 No loan shall include any project costs for which the applicant receives federal financial assistance,  
804 other than federal loans which must be repaid by the applicant.

805 Section 19. Section **73-10-24** is amended to read:

806 **73-10-24. Water Resources Conservation and Development Fund created.**

807 There is created a Water Resources Conservation and Development Fund to further  
808 enhance the state's ability to carry out the policy described in Section 73-10-1. The fund shall be  
809 administered by the Board of Water Resources and Conservation. The fund is a revolving fund  
810 established for the construction, operation, and maintenance of projects considered by the board  
811 to be outside the scope of financing by the Water Resources Construction Fund, as created by  
812 Section 73-10-8, and shall include, but not be limited to, flood control projects.

813 Section 20. Section **73-10-25.1** is amended to read:

814 **73-10-25.1. Credit enhancement and interest buy-down agreements.**

815 (1) The Board of Water Resources and Conservation may enter into credit enhancement  
816 agreements with political subdivisions containing terms and provisions that the board determines  
817 will reasonably improve the security for or marketability of water project obligations financed  
818 using the Water Resources Cities Water Loan Fund created in Section 73-10-22 or the Water  
819 Resources Conservation and Development Fund created in Section 73-10-24. Credit enhancement  
820 agreements may include provisions for loans to political subdivisions to pay the costs of obtaining  
821 letters of credit or other forms of insurance or security to provide security for water project  
822 obligations.

823 (2) The Board of Water Resources and Conservation may make loans or grants from the  
824 Water Resources Cities Water Loan Fund or the Water Resources Conservation and Development  
825 Fund to political subdivisions for interest buy-down agreements for water development projects.

826 Section 21. Section **73-10-26** is amended to read:

827 **73-10-26. Construction of works, facilities, and projects by board -- Ownership and  
828 operation -- Transfer of water rights -- Purchase of bonds from Indian tribes.**

829 (1) The Board of Water Resources and Conservation, through the Division of Water  
830 Resources and Conservation, may construct works and facilities, including hydroelectric  
831 generating works, as are necessary and desirable to conserve and develop the water and power  
832 resources of the state. Any electrical facilities incidental to a hydroelectric project may be  
833 constructed by an electric public utility or a municipality of the state. If the electrical facilities are

834 constructed by the state, the power and energy derived from the hydroelectric generating plant must  
835 first be offered to electric public utilities or municipalities in the state for distribution to electric  
836 consumers.

837 (2) (a) The Board of Water Resources and Conservation, through the Division of Water  
838 Resources and Conservation, may consider any flood control project provided for in Title 4,  
839 Chapter 18, Soil Conservation Commission Act, in the same manner, and apply procedures and  
840 rules, as the board would consider or apply to any other project within its statutory authority.

841 (b) If funds controlled by the Board of Water Resources and Conservation are to be used  
842 for the project, the planning by the Soil Conservation Commission is subject to the review of the  
843 board.

844 (c) If the project is authorized for construction, the plans, specifications, and construction  
845 supervision shall be undertaken as prescribed by the board.

846 (3) The Board of Water Resources and Conservation may enter into an agreement for the  
847 construction of any project financed with monies from the Water Resources Construction and  
848 Development Fund with another state, the federal government, a political subdivision of the state,  
849 an Indian tribe, or a private corporation.

850 (4) (a) Title to all projects, including water rights, constructed with monies from the Water  
851 Resources Construction and Development Fund, is vested in the state. If a project is being  
852 sponsored by an incorporated municipality, metropolitan water district, water conservancy district,  
853 improvement district, special improvement district, special service district, or any other political  
854 subdivision of the state, the Board of Water Resources and Conservation may take revenue bonds,  
855 general obligation bonds, special assessment bonds, or other bonds or obligations legally issued  
856 by the sponsor in lieu of or in addition to taking title to the project and water rights.

857 (b) If an Indian tribe sponsors a project, the Board of Water Resources and Conservation  
858 may take revenue bonds, general obligation bonds, or other bonds or obligations legally issued by  
859 the tribe, to the extent that federal law allows the tribe to issue bonds, in lieu of taking title to the  
860 project and water rights, if the tribe:

861 (i) waives the defense of sovereign immunity regarding the bond issue in any action arising  
862 out of the issuance or default under the bond; and

863 (ii) agrees in writing that it will not challenge state court jurisdiction over any litigation  
864 resulting from default on its obligations in the transaction.

865 (c) Before entering into any agreement with or purchasing any bonds or obligations from  
866 a tribe, the Board of Water Resources and Conservation shall:

867 (i) require that the tribe obtain the written approval of the Secretary of the United States  
868 Department of the Interior or his designee to all aspects of the agreement, bonds, or obligations;

869 (ii) obtain a legal opinion from a recognized bond counsel certifying:

870 (A) that the tribe has legal authority to enter into the agreement or issue the bonds or  
871 obligations;

872 (B) that the pledge of any assets or revenues by the tribe as security for the payments under  
873 the agreement, bonds, or obligations is a valid and legally enforceable pledge; and

874 (C) that the agreement, bonds, or obligations may be enforced in any court of general  
875 jurisdiction in the state; and

876 (iii) determine whether it has sufficient legal recourse against the tribe and against any  
877 security pledged by the tribe in the event of default.

878 (5) (a) The Board of Water Resources and Conservation may own and operate water  
879 conservation and development works and projects, and flood control projects, if:

880 (i) the works and projects are consistent with plans adopted by the board; and

881 (ii) in the opinion of the board the ownership and operation of the projects by the board  
882 is in the best interest of the state.

883 (b) In the ownership and operation of the projects referred to in Subsection (5)(a), the  
884 board shall utilize water rights held in its name under authority of Section 73-10-19.

885 (c) The board may enter into contracts with another state, the federal government, a  
886 political subdivision of the state, an Indian tribe, or a private corporation for operation,  
887 maintenance, and administration of the project. The board may pay the contracting agency a  
888 reasonable sum for operation, maintenance, and administration of the project.

889 (6) (a) The board may also:

890 (i) enter into agreements in which title to projects may be conveyed to cooperating  
891 sponsors after charges assessed against the project have been paid to the state in accordance with  
892 the terms of construction agreements or amendments to those agreements;

893 (ii) make available for the use of the state's citizens who are, in its opinion, best able to  
894 utilize it, all water and power conserved by any of the projects to which the state may have title;

895 (iii) enter into contracts for the use of that water and power with individuals or with

896 organizations composed of the state's citizens; and

897 (iv) assess a reasonable fee against any person using water and power from a project.

898 (b) Any amount collected over the amount to be returned to the state for payment of the  
899 principal, interest, and maintenance of the project shall become part of the Water Resources  
900 Conservation and Development Fund as established by Section 73-10-24.

901 (7) The Board of Water Resources and Conservation shall retain ownership of water rights  
902 used for projects owned and operated by the board except as follows:

903 (a) water rights originally held by cooperating sponsors shall be conveyed to that sponsor  
904 upon payment to the state of charges assessed against the project in accordance with the terms of  
905 construction agreements or amendments to those agreements; and

906 (b) the board may transfer any unperfected water right held by it which is not being utilized  
907 in a state-owned project to a political subdivision of the state, any agency of the federal  
908 government, or a nonprofit water company. Any transfer of the board's water rights shall be made  
909 to the entity that is best able to utilize the water rights for the benefit of the state's citizens.

910 Section 22. Section **73-10-27** is amended to read:

911 **73-10-27. Project priorities -- Considerations -- Determinations of feasibility -- Bids**  
912 **and contracts -- Definitions -- Retainage.**

913 (1) In considering the priorities for projects to be built with funds made available under  
914 Section 73-10-24, the board shall give preference to those projects which:

915 (a) are sponsored by the state or a political subdivision of the state;

916 (b) meet a critical local need;

917 (c) have greater economic feasibility;

918 (d) will yield revenue to the state within a reasonable time or will return a reasonable rate  
919 of interest, based on financial feasibility; and

920 (e) meet other considerations deemed necessary by the board, including, but not limited  
921 to, wildlife management and recreational needs.

922 (2) In determining the economic feasibility the board shall establish a benefit-to-cost ratio  
923 for each project, using a uniform standard of procedure for all projects. In considering whether  
924 a project should be built, the benefit-to-cost ratio for each project shall be weighted based on the  
925 relative cost of the project. A project, when considered in total with all other projects constructed  
926 under this chapter and still the subject of a repayment contract, may not cause the accumulative

927 benefit-to-cost ratio of the projects to be less than one to one.

928 (3) Under no circumstances may a project be built that is not in the public interest as  
929 determined by the Board of Water Resources and Conservation, and no project may be built which  
930 is not adequately designed based on sound engineering and geologic considerations.

931 (4) The board in the preparation of a project for construction shall comply with the  
932 following:

933 (a) All flood control projects involving cities and counties costing in excess of \$35,000,  
934 and all contracts for the construction of a storage reservoir in excess of 100 acre-feet or for the  
935 construction of a hydroelectric generating facility, shall be awarded on the basis of competitive bid.  
936 Advertisement for competitive bids shall be published by the board at least once a week for three  
937 consecutive weeks in a newspaper with general circulation in the state. The advertisement shall  
938 indicate that the board will award the contract to the lowest responsible bidder but that it reserves  
939 to itself the right to reject any and all bids. The date of last publication shall appear at least five  
940 days before the scheduled bid opening.

941 (b) If all initial bids on the project are rejected, the board shall readvertise the project in  
942 the manner specified in Subsection (4)(a). If no satisfactory bid is received by the board upon the  
943 readvertisement of the project, it may proceed to construct the project but only in accordance with  
944 the plans and specifications used to calculate the estimated cost of the project.

945 (c) The board shall keep an accurate record of all facts and representations relied upon in  
946 preparing its estimated cost for any project which is subject to the competitive bidding  
947 requirements of this section.

948 (d) For the purposes of this Subsection (4):

949 (i) "Estimated cost" means the cost of all labor, material, and equipment necessary for  
950 construction of the contemplated project.

951 (ii) "Lowest responsible bidder" means any licensed contractor who submits the lowest  
952 bid, whose bid is in compliance with the invitation for bids, whose bid meets the plans and  
953 specifications, and who furnishes bonds under Sections 14-1-18 and 63-56-38.

954 (5) If any payment on a contract with a private contractor for construction of projects under  
955 this section is retained or withheld, it shall be retained or withheld and released as provided in  
956 Section 13-8-5.

957 Section 23. Section **73-10-28** is amended to read:

958 **73-10-28. Charges for use -- Interest.**

959 Charges for use of water, power, or facilities shall be established on the basis of contractual  
960 agreements approved by the Board of Water Resources and Conservation for projects owned by  
961 the state based on the ability of an individual project to return the investment to the state. Where  
962 the board intends to enter into a contract to finance a project or portion of a project sponsored by  
963 a water conservancy district or other political subdivision of the state, the board shall establish a  
964 rate of interest to be charged based on the repayment ability of the project.

965 Section 24. Section **73-10-31** is amended to read:

966 **73-10-31. Allocation of funds for credit enhancement and interest buy-down**  
967 **agreements.**

968 (1) Of the combined expenditures from the Water Resources Cities Water Loan Fund and  
969 Water Resources Conservation and Development Fund authorized by the Board of Water  
970 Resources and Conservation each year, at least 10% shall be allocated for credit enhancement and  
971 interest buy-down agreements.

972 (2) The requirement specified in Subsection (1) shall apply only so long as sales and use  
973 tax is transferred to the Water Resources Conservation and Development Fund as provided in  
974 Section 59-12-103.

975 Section 25. Section **73-10-32** is amended to read:

976 **73-10-32. Definitions -- Water conservation plan required.**

977 (1) As used in this section:

978 (a) "Board" means the Board of Water Resources and Conservation created under Section  
979 73-10-1.5.

980 (b) "Division" means the Division of Water Resources and Conservation created under  
981 Section 73-10-18.

982 (c) "Retail" means the level of distribution of culinary water that supplies culinary water  
983 directly to the end user.

984 (d) "Retail water provider" means a person who:

985 (i) supplies culinary water to end users; and

986 (ii) has more than 500 service connections.

987 (e) (i) "Water conservation plan" means a written document that contains ideas,  
988 suggestions, or recommendations as to what can be done by state and local governments, retail

989 water providers, and the end user of culinary water to help conserve water and limit or reduce its  
990 use in the state in terms of per capita consumption so that adequate supplies of water are available  
991 for future needs.

992 (ii) Each "water conservation plan" shall contain recommendations for water saving  
993 measures that may include:

994 (A) the installation and use of water efficient fixtures and appliances, including toilets,  
995 shower fixtures, and faucets;

996 (B) residential and commercial landscapes and irrigation that require less water to  
997 maintain;

998 (C) more water efficient industrial and commercial processes involving the use of water;

999 (D) water reuse systems, both potable and not potable;

1000 (E) distribution system leak repair;

1001 (F) dissemination of public information regarding more efficient use of water, including  
1002 public education programs, customer water use audits, and water saving demonstrations;

1003 (G) water rate structures designed to encourage more efficient use of water;

1004 (H) statutes, ordinances, codes, or regulations designed to encourage more efficient use  
1005 of water by means such as water efficient fixtures and landscapes;

1006 (I) incentives to implement water efficient techniques, including rebates to water users to  
1007 encourage the implementation of more water efficient measures; and

1008 (J) other measures designed to conserve water.

1009 (2) (a) Before April 1, 1999, each water conservancy district under Title 17A, Chapter 2,  
1010 Part 14, Water Conservancy Districts, and each retail water provider shall:

1011 (i) (A) prepare or adopt a water conservation plan if one has not already been adopted; or

1012 (B) if the district or provider has already adopted a water conservation plan, review the  
1013 existing water conservation plan to determine if it should be amended and, if so, amend the water  
1014 conservation plan; and

1015 (ii) file a copy of the water conservation plan or amended water conservation plan with the  
1016 division.

1017 (b) Before adopting or amending a water conservation plan, each water conservancy  
1018 district or retail water provider shall hold a public hearing with reasonable, advance public notice.

1019 (3) (a) The board shall:

1020 (i) study ways to implement the water conservation plans of the water conservancy districts  
1021 and the retail water providers;

1022 (ii) develop recommendations on how to implement those plans; and

1023 (iii) report its recommendations to the Natural Resources, Agriculture, and Environment  
1024 Interim Committee of the Legislature at its meeting in November 1999.

1025 (b) The board's report to the Natural Resources, Agriculture, and Environment Interim  
1026 Committee may include a recommendation:

1027 (i) that each water conservancy district and retail water provider devote part of at least one  
1028 regular meeting of its governing body to a discussion of the water conservation plan and allow  
1029 public comment on it;

1030 (ii) to implement a notification procedure that includes the delivery of the water  
1031 conservation plan to the media and to the governing body of each municipality and county served  
1032 by the water conservancy district or retail water provider;

1033 (iii) that certain eligibility requirements, including the adoption of a water conservation  
1034 plan, be met before a water conservancy district or retail water provider may receive any state  
1035 funds for water development;

1036 (iv) for the coordination of conservation and drought management plans; and

1037 (v) regarding any other measure designed to conserve water.

1038 (4) Each water conservancy district and retail water provider specified under Subsection  
1039 (2)(a) shall:

1040 (a) update its water conservation plan no less frequently than every five years; and

1041 (b) follow the procedures required under Subsection (2) when updating the water  
1042 conservation plan.

1043 (5) It is the intent of the Legislature that the water conservation plans, amendments to  
1044 existing water conservation plans, and the study and recommendations by the board be handled  
1045 within the existing budgets of the respective entities or agencies.

1046 Section 26. Section **73-10c-2** is amended to read:

1047 **73-10c-2. Definitions.**

1048 As used in this chapter:

1049 (1) "Board" means the Board of Water Resources and Conservation of the Department of  
1050 Natural Resources.

1051 (2) "Council" means the Water Development Coordinating Council created pursuant to  
1052 Section 63-34-3, and this chapter.

1053 (3) "Credit enhancement agreement" means any agreement entered into under this chapter  
1054 between the Drinking Water Board or Water Quality Board, on behalf of the state, and a political  
1055 subdivision, for the purpose of providing methods and assistance to political subdivisions to  
1056 improve the security for and marketability of drinking water project obligations and wastewater  
1057 project obligations.

1058 (4) "Drinking Water Board" means the Drinking Water Board created in Title 19, Chapter  
1059 4, Safe Drinking Water Act.

1060 (5) "Drinking water or wastewater project obligation" means, as appropriate, any bond,  
1061 note, or other obligation of a political subdivision issued to finance all or part of the cost of  
1062 acquiring, constructing, expanding, upgrading, or improving a drinking water project or  
1063 wastewater project.

1064 (6) "Drinking water project" means any work or facility necessary or desirable to provide  
1065 water for human consumption and other domestic uses, which has at least 15 service connections  
1066 or serves an average of 25 individuals daily for at least 60 days of the year and includes collection,  
1067 treatment, storage, and distribution facilities under the control of the operator and used primarily  
1068 with the system and collection pretreatment or storage facilities used primarily in connection with  
1069 the system but not under its control.

1070 (7) "Financial assistance programs" means the various programs administered by the state  
1071 whereby loans, grants, and other forms of financial assistance are made available to political  
1072 subdivisions of this state to finance the costs of water and wastewater projects.

1073 (8) "Hardship Grant Assessment" means the charge the Water Quality Board or Drinking  
1074 Water Board assesses to recipients of loans under Subsection 73-10c-5(2)(b) or 73-10c-5(3)(b) in  
1075 lieu of or in addition to interest charged on these loans.

1076 (9) "Nonpoint source project" means any facility, system, practice, or mechanism to abate,  
1077 prevent, or reduce pollution of waters of this state caused by nonpoint sources.

1078 (10) "Political subdivision" means any county, city, town, improvement district, water  
1079 conservancy district, special service district, drainage district, metropolitan water district, irrigation  
1080 district, separate legal or administrative entity created under Title 11, Chapter 13, Interlocal  
1081 Cooperation Act, or any other entity constituting a political subdivision under the laws of this state.

1082 (11) "Security fund" means the Water Development Security Fund created by this chapter.

1083 (12) "Wastewater project" means any sewer, storm or sanitary sewage system, sewage  
1084 treatment facility, lagoon, sewage collection facility and system, and related pipelines, and all  
1085 similar systems, and works, and facilities necessary or desirable to collect, hold, cleanse, or purify  
1086 any sewage or other polluted waters of this state.

1087 (13) "Waters of this state" means any stream, lake, pond, marsh, watercourse, waterway,  
1088 well, spring, irrigation system, drainage system, or other body or accumulation of water whether  
1089 surface, underground, natural, artificial, public, private, or other water resource of the state which  
1090 is contained within or flows in or through the state.

1091 (14) "Water Quality Board" means the Water Quality Board created in Title 19, Chapter  
1092 5, Water Quality Act.

1093 Section 27. Section **73-10c-3** is amended to read:

1094 **73-10c-3. Water Development Coordinating Council created -- Purpose -- Members.**

1095 (1) (a) There is created within the Department of Natural Resources a Water Development  
1096 Coordinating Council. The council comprises:

1097 (i) the director of the Division of Water Resources and Conservation;

1098 (ii) the executive secretary of the Water Quality Board;

1099 (iii) the executive secretary of the Drinking Water Board;

1100 (iv) the executive director of the Department of Community and Economic Development  
1101 or his designee; and

1102 (v) the state treasurer or his designee.

1103 (b) The council shall choose a chair and vice chair from among its own members.

1104 (c) (i) State government officer and employee members who do not receive salary, per  
1105 diem, or expenses from their agency for their service may receive per diem and expenses incurred  
1106 in the performance of their official duties from the council at the rates established by the Division  
1107 of Finance under Sections 63A-3-106 and 63A-3-107.

1108 (ii) State government officer and employee members may decline to receive per diem and  
1109 expenses for their service.

1110 (2) The purposes of the council are to:

1111 (a) coordinate the use and application of the funds available to the state to give financial  
1112 assistance to political subdivisions of this state so as to promote the conservation, development,

1113 treatment, restoration, and protection of the waters of this state;

1114 (b) promote the coordination of the financial assistance programs administered by the state  
1115 and the use of the financing alternative most economically advantageous to the state and its  
1116 political subdivisions;

1117 (c) promote the consideration by the Board of Water Resources and Conservation,  
1118 Drinking Water Board, and Water Quality Board of regional solutions to the water and wastewater  
1119 needs of individual political subdivisions of this state; and

1120 (d) assess the adequacy and needs of the state and its political subdivisions with respect  
1121 to water-related infrastructures and advise the governor and the Legislature on those funding needs.

1122 Section 28. Section **73-10e-1** is amended to read:

1123 **73-10e-1. Creation of Water Development and Flood Mitigation Reserve Account**  
1124 **-- Appropriation.**

1125 (1) There is created within the General Fund a restricted account known as the "Water  
1126 Development and Flood Mitigation Reserve Account."

1127 (2) There is appropriated for fiscal year 1984-85 \$55,000,000 from the General Fund and  
1128 \$6,000,000 from certificates of participation to the Water Development and Flood Mitigation  
1129 Reserve Account. This appropriation may not lapse and shall carry over to fiscal year 1985-86.

1130 (3) There is appropriated for fiscal year 1985-86 \$35,000,000 from the General Fund to  
1131 the Water Development and Flood Mitigation Reserve Account.

1132 (4) There is appropriated for fiscal year 1984-85 \$4,050,000 from the Water Development  
1133 and Flood Mitigation Reserve Account to the Division of Water Resources and Conservation to  
1134 use for all of the following:

1135 (a) \$2,000,000 for final engineering studies for west desert pumping;

1136 (b) \$500,000 for implementation of the State Water Plan, including, but not limited to,  
1137 engineering studies on Bear River upstream diversion and storage projects and Hatch Town  
1138 Reservoir;

1139 (c) (i) \$750,000 to prepare final design reports and cost estimates for the following:

1140 (A) Option A - No. Davis WWTP, West Kaysville, Centerville, Bard, West Bountiful, So.  
1141 Davis No. WWTP, Phillips, Woods Cross, Jordan River WWTP, and the Salt Lake International  
1142 Airport; and

1143 (B) Option B - Antelope Island roadway dikes.

1144 (ii) It is the intent of the Legislature to choose between Options A and B after the final  
1145 design reports are completed. The final design reports for Option B shall be completed by  
1146 consultants other than those who prepared the original report. The reports for both Options A and  
1147 B shall clearly indicate the following for each alternative:

1148 (A) estimated construction costs;

1149 (B) estimated costs of operation and maintenance;

1150 (C) estimated time necessary for completion;

1151 (D) benefits with respect to flood control, tourism, recreation, long-term second use, and  
1152 new access to Antelope Island and marsh lands; and

1153 (E) impact on roads and esthetic land features during construction.

1154 (d) \$250,000 to prepare final design reports for the following projects: Corrine-WWTP,  
1155 Plain City-WWTP, Perry-WWTP, and Little Mtn.-WWTP;

1156 (e) \$500,000 to construct the South Shore project; and

1157 (f) \$50,000 to reevaluate inter-island diking between South Shore, Antelope Island,  
1158 Fremont Island, and Promontory Point.

1159 (5) There is appropriated for fiscal year 1984-85 \$16,300,000 from the Water  
1160 Development and Flood Mitigation Reserve Account to the Community Development/Disaster  
1161 Relief Board for the following:

1162 (a) \$4,000,000 to use as a match on diking projects built by the Army Corps of Engineers;  
1163 and

1164 (b) (i) \$12,300,000 to provide grants to appropriate governmental entities to increase the  
1165 carrying capacity of the Jordan River. The grants shall be made without requiring matching funds  
1166 from any other governmental entity and shall only be made if an agreement is entered into by the  
1167 affected governmental entities resolving disputed issues of responsibility. It is the intent of the  
1168 Legislature to consider the distribution of the 1/8% sales and use tax increase as the contribution  
1169 from the affected governmental entities.

1170 (ii) Any portion of the \$12,300,000 appropriated under Subsection (5)(b)(i) which is not  
1171 used for the purposes described in that subsection shall be transferred to the Division of Parks and  
1172 Recreation for the purposes described in Section 63-11-17.5. After this money is transferred to the  
1173 Division of Parks and Recreation, the money is nonlapsing. The money may not be used for any  
1174 project specified by the Division of Parks and Recreation until the political subdivision having

1175 jurisdiction over the appropriate area contributes 50% of the costs of the project to the state. This  
 1176 contribution may be in the form of money, property, or services, or any combination of these,  
 1177 which can be used for the specified project.

1178 (6) Interest accrued on the money appropriated into the Water Development and Flood  
 1179 Mitigation Reserve Account shall be deposited into the Water Resources Conservation and  
 1180 Development Fund as the interest accrues.

1181 (7) All money not appropriated from the Water Development and Flood Mitigation  
 1182 Reserve Account by September 1, 1985, shall be deposited into the Water Resources Conservation  
 1183 and Development Fund.

1184 Section 29. Section **73-10e-4** is amended to read:

1185 **73-10e-4. Authority to transfer funds.**

1186 The Division of Water Resources and Conservation may transfer money to the Department  
 1187 of Transportation, as necessary under this chapter, to construct projects whose purposes are  
 1188 primarily to protect state highways or to study or construct Option B set forth in Subsection  
 1189 73-10e-1(4)(c)(i)(B).

1190 Section 30. Section **73-10f-1** is amended to read:

1191 **73-10f-1. Definitions.**

1192 As used in this chapter:

1193 (1) "Division" means the Division of Water Resources[;] and Conservation.

1194 (2) "Task force" means the Joint Gubernatorial/Legislative Task Force on the Bear River  
 1195 created in Chapter 158, Laws of Utah 1989.

1196 Section 31. Section **73-15-3** is amended to read:

1197 **73-15-3. Cloud seeding to increase precipitation -- Control of Division of Water**  
 1198 **Resources and Conservation -- Powers and authority of division -- "Cloud seeding" and**  
 1199 **"cloud-seeding project" defined.**

1200 The state [~~of Utah~~] through the Division of Water Resources and Conservation shall be the  
 1201 only entity, private or public, that shall have authority to authorize cloud-seeding research,  
 1202 evaluation, or implementation projects to alter precipitation, cloud forms, or meteorological  
 1203 parameters within the state [~~of Utah~~], except cloud seeding for the suppression of fog[; ~~and frost~~].  
 1204 Frost prevention measures for the protection of orchards and crops are excluded from the coverage  
 1205 of this act. The Division of Water Resources and Conservation shall authorize and may sponsor

1206 or develop local or [~~state-wide~~] statewide cloud-seeding projects that conform to [~~over-all~~] overall  
1207 state water planning objectives and are determined to be feasible by the Division of Water  
1208 Resources and Conservation. The Division of Water Resources and Conservation may contract  
1209 with the Utah water research laboratory or any other individual or organization for consultation  
1210 and/or assistance in developing cloud-seeding projects or in furthering necessary research of cloud  
1211 seeding or other factors that may be affected by cloud-seeding activities. Cloud seeding as used  
1212 in this act shall be construed to mean all acts undertaken to artificially distribute or create nuclei  
1213 in cloud masses for the purposes of altering precipitation, cloud forms, or other meteorological  
1214 parameters. A cloud-seeding project as used in this act shall be a planned project to evaluate  
1215 meteorological conditions, perform cloud seeding, and evaluate results.

1216 Section 32. Section **73-15-5** is amended to read:

1217 **73-15-5. Transfer of records and data to division -- Establishment of reporting and**  
1218 **recordkeeping procedures.**

1219 All records and data collected by the department of meteorology of the state school of  
1220 mines and mineral industries of the University of Utah since March 14, 1953, shall be transferred  
1221 to the Division of Water Resources and Conservation, there to be a permanent record. The  
1222 Division of Water Resources and Conservation shall establish forms and/or criteria for reporting  
1223 data and recordkeeping and cause that a permanent record is kept of all pertinent data related to  
1224 cloud-seeding projects, cloud-seeding research projects, or research related to other factors that  
1225 may be affected by cloud-seeding activities.

1226 Section 33. Section **73-15-6** is amended to read:

1227 **73-15-6. Cloud-seeding contractors -- Registration.**

1228 Any individual or organization that would like to become a cloud-seeding contractor in the  
1229 state [~~of Utah~~] shall register with the Division of Water Resources and Conservation. As a part of  
1230 the registration, the applicant shall meet qualifications established by the Division of Water  
1231 Resources and Conservation and submit proof of financial responsibility in order to give  
1232 reasonable assurance of protection to the public in the event it should be established that damages  
1233 were caused to third parties as a result of negligence in carrying out a cloud-seeding project.

1234 Section 34. Section **73-20-2** is amended to read:

1235 **73-20-2. Definitions.**

1236 As used in this act:

1237 (1) "Advisory board" means the Agricultural Advisory Board created by Section 4-2-7.

1238 (2) "Board" means the Board of Water Resources and Conservation created by Section  
1239 73-10-1.5.

1240 (3) "Commercial farm" means a tract or tracts of land with or without improvements  
1241 recognized as a farm or ranch in this state which is owned and operated or leased and operated by  
1242 the applicant, and used in the production and raising of basic livestock.

1243 (4) "Farmer" means any person who owns and operates or leases and operates a  
1244 commercial farm in this state, and includes individuals, partnerships and corporations.

1245 (5) "Basic livestock" means a herd of cattle, sheep, or swine kept and maintained primarily  
1246 for breeding purposes.

1247 Section 35. Section **73-20-6** is amended to read:

1248 **73-20-6. Payment for emergency water resource developments.**

1249 The terms and conditions of payment for emergency water resource developments  
1250 constructed pursuant to this act shall be set forth in a written contract prepared by the Division of  
1251 Water Resources and Conservation under the direction of the board and shall be executed by the  
1252 farmer or rancher benefited. The substantive terms and conditions for payment shall be specified  
1253 in the sole discretion of the board and shall appear in such contract. Title to any emergency water  
1254 resource constructed under this act shall remain in the Division of Water Resources and  
1255 Conservation until the actual cost of the project is paid for in full by the benefited farmer or  
1256 rancher.

1257 Section 36. Section **73-20-7** is amended to read:

1258 **73-20-7. Feasibility study required before approval of assistance.**

1259 Before approval of any application for financial assistance under this act, the board shall  
1260 cause the Division of Water Resources and Conservation to conduct a feasibility study. Such  
1261 cost-efficient study shall include all costs of acquisition and construction as well as costs incurred  
1262 for preliminary planning, engineering, legal, fiscal, and economic investigations and studies,  
1263 surveys, designs, plans, working drawings, specifications, and any other action necessary for the  
1264 construction or improvement of the proposed water resource. The board may assess reasonable  
1265 charges to a farmer or rancher for the cost of a feasibility study.

1266 Section 37. Section **73-23-2** is amended to read:

1267 **73-23-2. Appropriation -- Projects authorized.**

1268 (1) There is appropriated from the Water Resources Conservation and Development Fund  
1269 \$30,000,000 to the following agencies for fiscal year 1985-86 to pay all or any portion of any of  
1270 the following projects, including, but not limited to:

1271 (a) [~~F~~] the Division of Water Resources and Conservation to pay for all or any  
1272 portion of the West Desert Pumping Project, Bare Bones  
1273 West Desert Pumping \$60,000,000

1274 (b) [~~F~~] the Disaster Relief Board for allocation to the appropriate  
1275 entities to pay for all or any portion of any diking or other flood  
1276 damage or mitigation costs as determined by the board with the  
1277 concurrence of the governor, including, but not limited to:  
1278 implementing the finger diking project in Salt Lake County,  
1279 raising the breakwaters around the Great Salt Lake Marina, and  
1280 diking the east side of the parking lot, raising the AMAX North  
1281 dike to protect I-80, raising the American Salt Company dike,  
1282 raising the South Davis WWTP - North Plant dikes, diking the  
1283 Little Mountain WWTP, and diking the Corinne Sewage Lagoon \$10,000,000

1284 (c) [~~F~~] the Division of Water Resources and Conservation for preconstruction design  
1285 studies for a state water plan for upstream water development \$500,000

1286 (d) [~~F~~] the Division of Water Resources and Conservation to pay for the engineering  
1287 and design work for the interisland diking projects (diking from  
1288 Antelope Island to Fremont Island and from Fremont Island to  
1289 Promontory Point) by July 1, 1987. \$1,200,000

1290 (2) All money provided under this chapter shall be nonlapsing and may be used for all  
1291 acquisitions and construction costs, including, without exclusion or limitation, operation and  
1292 maintenance, the cost of acquiring land, interests in land, easements and rights-of-way, the cost  
1293 of improving sites, and of acquiring, constructing, equipping, and furnishing facilities and all  
1294 structures, roads, utilities, and improvements necessary, incidental, or convenient to the facilities  
1295 and all related engineering, architectural, and legal fees.

1296 Section 38. Section **73-23-3** is amended to read:

1297 **73-23-3. Duties and powers of Division of Water Resources and Conservation.**

1298 For purposes of this chapter, the Division of Water Resources and Conservation:

1299 (1) shall provide for the construction, operation, and maintenance of the West Desert  
1300 Pumping Project;

1301 (2) may enter into agreements as necessary to provide for all or any portion of the West  
1302 Desert Pumping Project, including any indemnification agreements required by the federal  
1303 government;

1304 (3) may acquire land or any other property right by any lawful means, including eminent  
1305 domain;

1306 (4) is exempt from Title 63, Chapter 56, [~~the~~] Utah Procurement Code; and

1307 (5) may proceed without obtaining water right approval from the state engineer.

1308 Section 39. Section **73-23-5** is amended to read:

1309 **73-23-5. Interim committee study responsibilities of Division of Water Resources and**  
1310 **Conservation.**

1311 The Division of Water Resources and Conservation shall:

1312 (1) evaluate the first year's operation of the West Desert Pumping Project;

1313 (2) define the operational range and limitations of the West Desert Pumping Project as an  
1314 emergency flood control project;

1315 (3) assess the feasibility of developing a cooperative ownership, operation, and  
1316 maintenance plan for the project with public and private entities;

1317 (4) identify long-term water development opportunities upstream of the Great Salt Lake;  
1318 and

1319 (5) report their findings to the Energy, Natural Resources and Agriculture Interim  
1320 Committee before October 1, 1988.

1321 Section 40. Section **73-26-102** is amended to read:

1322 **73-26-102. Findings.**

1323 (1) The Legislature finds that:

1324 (a) the Board of Water Resources and Conservation has significant filings for water of the  
1325 Bear River that could be developed;

1326 (b) the continued growth and prosperity of communities in the Bear River Basin and the  
1327 Wasatch Front will be enhanced by the development and utilization of the Bear River, one of the  
1328 last major sources of developable water in the state; and

1329 (c) Bear River water developed by the state should be apportioned in an equitable manner

1330 taking into consideration:

1331 (i) the increasing water needs of the state's growing urban population; and

1332 (ii) preservation of future supplies for areas:

1333 (A) where the water originates; or

1334 (B) that are adjacent to the water and can be conveniently supplied by it.

1335 (2) Therefore, it is the purpose of this chapter to:

1336 (a) direct the Division of Water Resources and Conservation to develop the surface waters

1337 of the Bear River and its tributaries covered by filings of the board, filings acquired from the

1338 Bureau of Reclamation, or new filings, as approved by the state engineer;

1339 (b) allocate the developed waters among various regions and entities; and

1340 (c) provide protection for existing rights.

1341 (3) Nothing in this chapter shall:

1342 (a) cover groundwater; or

1343 (b) be construed to prevent any person from developing:

1344 (i) groundwater pursuant to state law; or

1345 (ii) the surface waters of the Bear River or its tributaries at any site including sites studied

1346 by the state.

1347 Section 41. Section **73-26-103** is amended to read:

1348 **73-26-103. Definitions.**

1349 As used in this chapter:

1350 (1) "Board" means the Board of Water Resources and Conservation.

1351 (2) "Construction costs" means all costs related to the development of a project, except the

1352 costs of environmental mitigation. Construction costs include:

1353 (a) planning;

1354 (b) engineering and legal work;

1355 (c) permitting;

1356 (d) acquisition of land and rights-of-way;

1357 (e) rebuilding and relocation of highways or other facilities affected by the project;

1358 (f) compensation for impairment of existing water rights;

1359 (g) construction of the dam, reservoir, and associated facilities; and

1360 (h) expenses of the division related to the project.

1361 (3) "Developed waters" means surface water developed by projects authorized under this  
1362 chapter.

1363 (4) "Division" means the Division of Water Resources and Conservation.

1364 (5) "Environmental mitigation costs" means costs that may be required by federal, state,  
1365 or local governmental agencies for project environmental permitting, including:

1366 (a) planning;

1367 (b) environmental and engineering studies;

1368 (c) permitting;

1369 (d) acquisition of land and rights-of-way; and

1370 (e) operation, maintenance, and repair of facilities associated with project environmental  
1371 mitigation.

1372 (6) "Project costs" include construction costs, environmental mitigation costs, and costs  
1373 of operation, maintenance, repair, and replacement.

1374 (7) "Environmental mitigation team" means the team identified in the environmental  
1375 impact statement (EIS) and chaired by the EIS lead agency.

1376 Section 42. Section **73-27-102** is amended to read:

1377 **73-27-102. State Water Development Commission created.**

1378 (1) The Joint Gubernatorial and Legislative State Water Development Commission is  
1379 created to determine the state's role in the protection, conservation, and development of the state's  
1380 water resources.

1381 (2) The commission membership shall include:

1382 (a) four members of the Senate, of whom no more than one shall represent the same river  
1383 district and no more than two shall be from the same party;

1384 (b) six members of the House of Representatives, of whom no more than two shall  
1385 represent the same river district and no more than four shall be from the same party;

1386 (c) a representative of the Office of the Governor;

1387 (d) a representative of the Green River District;

1388 (e) a representative of the Upper Colorado River District;

1389 (f) a representative of the Lower Colorado River District;

1390 (g) a representative of the Lower Sevier River District;

1391 (h) a representative of the Upper Sevier River District;

- 1392 (i) a representative of the Provo River District;
  - 1393 (j) a representative of the Salt Lake District;
  - 1394 (k) a representative of the Weber River District;
  - 1395 (l) a representative of the Bear River District;
  - 1396 (m) the executive director of the Department of Natural Resources;
  - 1397 (n) the executive director of the Department of Environmental Quality;
  - 1398 (o) the commissioner of agriculture and food;
  - 1399 (p) a member of the Board of Water Resources and Conservation;
  - 1400 (q) a representative of an organized environmental group; and
  - 1401 (r) a representative of agricultural production.
- 1402 (3) The president of the Senate and the speaker of the House of Representatives shall
- 1403 appoint the commission members from the Senate and the House of Representatives, respectively.
- 1404 The governor shall appoint the other commission members.
- 1405 (4) The president of the Senate and the speaker of the House of Representatives shall
- 1406 designate one senator and one representative, respectively, as cochair.
- 1407 (5) Attendance of a majority of the members at a meeting constitutes a quorum for the
- 1408 transaction of the business of the commission.

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**Legislative Review Note**  
**as of 1-10-02 2:25 PM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**