

**STATE LAND USE MANAGEMENT PLANS**

2004 GENERAL SESSION

STATE OF UTAH

**Sponsor: Bradley T. Johnson**

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**LONG TITLE**

**General Description:**

This bill modifies the duties of the state planning coordinator to require the state planning coordinator to consider certain findings when developing state policies, plans, and programs relating to federal lands and natural resources on federal lands.

**Highlighted Provisions:**

This bill:

- ▶ establishes certain findings to be considered when developing state policies relating to federal lands and natural resources on federal lands; and
- ▶ establishes considerations for recognition of state and local interests in the federal land use management process.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63-38d-401**, as enacted by Chapter 16, Laws of Utah 2003

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

Section 1. Section **63-38d-401** is amended to read:

**63-38d-401. Planning duties of the planning coordinator and office.**



- 28 (1) The state planning coordinator shall:
- 29 (a) act as the governor's adviser on state, regional, metropolitan, and local
- 30 governmental planning matters relating to public improvements and land use;
- 31 (b) counsel with the authorized representatives of the Department of Transportation,
- 32 the State Building Board, the Department of Health, the Department of Workforce Services,
- 33 the Labor Commission, the Department of Natural Resources, the School and Institutional
- 34 Trust Lands Administration, and other proper persons concerning all state planning matters;
- 35 (c) when designated to do so by the governor, receive funds made available to Utah by
- 36 the federal government;
- 37 (d) receive and review plans of the various state agencies and political subdivisions
- 38 relating to public improvements and programs;
- 39 (e) when conflicts occur between the plans and proposals of state agencies, prepare
- 40 specific recommendations for the resolution of the conflicts and submit the recommendations
- 41 to the governor for a decision resolving the conflict;
- 42 (f) when conflicts occur between the plans and proposals of a state agency and a
- 43 political subdivision or between two or more political subdivisions, advise these entities of the
- 44 conflict and make specific recommendations for the resolution of the conflict;
- 45 (g) act as the governor's planning agent in planning public improvements and land use
- 46 and, in this capacity, undertake special studies and investigations;
- 47 (h) provide information and cooperate with the Legislature or any of its committees in
- 48 conducting planning studies;
- 49 (i) cooperate and exchange information with federal agencies and local, metropolitan,
- 50 or regional agencies as necessary to assist with federal, state, regional, metropolitan, and local
- 51 programs; and
- 52 (j) make recommendations to the governor that the planning coordinator considers
- 53 advisable for the proper development and coordination of plans for state government and
- 54 political subdivisions.
- 55 (2) The state planning coordinator may:
- 56 (a) perform regional and state planning and assist city, county, metropolitan, regional,
- 57 and state government planning agencies in performing local, metropolitan, regional, and state
- 58 planning; and

59 (b) provide planning assistance to Indian tribes regarding planning for Indian  
60 reservations.

61 (3) ~~[(a)]~~ The state planning coordinator may prepare plans, programs, or processes, and

61a **§ SHALL §**

62 coordinate the:

63 (a) development of policies concerning the management and use of [public] federal  
64 lands and natural resources on federal lands in Utah ~~[to]~~ that promote maximum recognition of  
65 state and local interest in the federal land use management process[-];

66 (b) development, research and use of factual information, legal analysis, and statements  
67 of desired future condition for the state, or subregion of the state, as are necessary to support  
68 the plans, programs, processes, or policies;

69 **§ ~~[(c) preparation of the plans, programs, processes, and policies with the general plans of~~**  
70 **~~cities and counties and all state plans or other management authority statements affecting~~**  
71 **~~federal lands or natural resources on federal lands;]~~**

72 ~~[(d)]~~ (c) § establishment of agreements between the state and federal land management  
73 agencies, federal natural resource management agencies, and federal natural resource  
74 regulatory agencies which facilitate state § AND LOCAL § participation in the development, revision, and  
75 implementation of land use plans, guidelines, regulations, other instructional memoranda, or  
76 similar documents proposed or promulgated for lands and natural resources administered by  
77 federal agencies; and

78 **§ ~~[(e)]~~ (d) §** establishment of agreements with federal land management agencies, federal  
79 natural resource management agencies, and federal natural resource regulatory agencies which  
80 provide a process for state § AND LOCAL § participation in the preparation of, or coordinated state  
80a response to,

81 environmental impact analysis documents and similar documents prepared pursuant to law by  
82 state or federal agencies.

82a **§ (e) BEFORE THE STATE SUBMITS ANY COMMENTS ON DRAFT ENVIRONMENTAL IMPACT**  
82b **STATEMENTS OR ENVIRONMENTAL ASSESSMENTS FOR A PROPOSED LAND MANAGEMENT PLAN**  
82c **OF ANY FEDERAL LAND MANAGEMENT AGENCY, THE GOVERNOR SHALL MAKE THOSE**  
82d **DOCUMENTS AVAILABLE TO THE COUNTY EXECUTIVE, COUNTY COUNCIL MEMBERS, OR COUNTY**  
82e **COMMISSIONER OF THE COUNTY THAT IS COVERED BY THE PROPOSED LAND MANAGEMENT**  
82f **PLAN.**

82g **(f) LOCAL GOVERNMENT OFFICIALS RECEIVING THE DOCUMENTS SHALL HAVE FIVE**  
82h **BUSINESS DAYS TO SUBMIT RECOMMENDATIONS TO THE GOVERNOR OR THE GOVERNOR'S**  
82i **DESIGNEE CONCERNING CHANGES TO THE DOCUMENTS BEFORE THEY ARE SUBMITTED TO THE**  
82j **FEDERAL LAND MANAGEMENT AGENCY. §**

83           ~~[(b)]~~ (4) The state planning coordinator shall~~[:(i)]~~ develop ~~[all-state]~~ policies, plans,  
84 programs, or processes authorized by this section in cooperation with appropriate state agencies  
85 and political subdivisions by coordinating the development of positions;

86           (a) through the Resource Development Coordinating Committee; ~~[and]~~

87           (b) in § ~~[(i)]~~ ~~consultation~~ ~~CONJUNCTION~~ ~~]~~ ~~CONJUNCTION~~ § with local government officials  
87a1 concerning general  
87a local  
88 government plans; and

89           ~~[(ii) solicit]~~ (c) by soliciting public comment through the Resource Development

90 Coordinating Committee.

91 (5) The state planning coordinator shall take into consideration the following findings  
92 in the preparation of any policies, plans, programs, or processes relating to federal lands and  
93 natural resources on federal lands pursuant to this section:

94 (a) the citizens of the state are best served by the application of multiple-use and  
95 sustained-yield principles when making decisions concerning the management and use of the  
96 lands administered by the Bureau of Land Management and the U.S. Forest Service;

97 (b) multiple-use and sustained-yield management means that federal agencies should  
98 develop and implement management plans and make other resource-use decisions which  
99 facilitate land and natural resource use allocation which would support the specific plans,  
100 programs, processes, and policies of state agencies and local governments and which are  
101 designed to produce and provide the **h** WATERSHEDS, **h** food, fiber, and minerals necessary to meet  
101a future  
102 economic growth needs, and community expansion, and meet the recreational needs of the  
103 citizens of the state without permanent impairment of the productivity of the land;

104 (c) the waters of the state are the property of the citizens of the state, subject to  
105 appropriation for beneficial use, and are essential to the future prosperity of the state and the  
106 quality of life within the state;

107 (d) the state has the right to develop and use its entitlement to interstate rivers;

108 (e) all water rights desired by the federal government must be obtained through the  
109 state water appropriation system;

110 (f) land management and resource-use decisions which affect federal lands should give  
111 priority to and support the purposes of the compact between the state and the United States  
112 related to school and institutional trust lands;

113 (g) development of the solid, fluid, and gaseous mineral resources of the state is an  
114 important part of the economy of the state, and of local regions within the state;

115 (h) Utah has outstanding opportunities for outdoor recreation;

116 (i) wildlife constitutes an important resource and provides recreational **h** AND ECONOMIC **h**  
116a opportunities  
117 for the state's citizens, and proper stewardship of the land and natural resources is necessary to  
118 ensure a viable wildlife population within the state;

119 (j) forests, rangelands, timber, and other vegetative resources provide forage for  
120 livestock, forage and habitat for wildlife, contribute to the state's economic stability and

121 growth, and are important for a wide variety of recreational pursuits;

122 (k) management programs and initiatives which **h IMPROVE WATERSHEDS AND h** increase  
122a forage for the mutual benefit

123 of the agricultural industry and wildlife species by utilizing proven techniques and tools are  
124 vital to the state's economy and the quality of life in Utah; and

125 (l) transportation and access routes to and across federal lands, including all  
126 rights-of-way vested under R.S. 2477, are vital to the state's economy and to the quality of life  
127 in Utah.

128 (6) The state planning coordinator shall take into consideration the following findings  
129 in the preparation of any policies, plans, programs, or processes relating to federal lands and  
130 natural resources on federal lands pursuant to this section:

131 (a) the state's support for the addition of a river segment to the National Wild and  
132 Scenic Rivers System, 16 U.S.C. Sec. 1271 et seq., will be withheld until:

133 (i) it is clearly demonstrated that water is present and flowing at all times;

134 (ii) it is clearly demonstrated that the required water-related value is considered  
135 outstandingly remarkable within a region of comparison consisting of one of the three  
136 physiographic provinces in the state, and that the rationale and justification for the conclusions  
137 are disclosed;

138 (iii) the effects of the addition upon the local and state economies, agricultural and  
139 industrial operations and interests, tourism, water rights, water quality, water resource  
140 planning, and access to and across river corridors in both upstream and downstream directions  
141 from the proposed river segment have been evaluated in detail by the relevant federal agency;

142 (iv) it is clearly demonstrated that the provisions and terms of the process for review of  
143 potential additions have been applied in a consistent manner by all federal agencies; and

144 (v) the rationale and justification for the proposed addition, including a comparison  
145 with protections offered by other management tools, is clearly analyzed within the multiple-use  
146 mandate, and the results disclosed;

147 (b) the conclusions of all studies related to potential additions to the National Wild and  
148 Scenic River System, 16 U.S.C. Sec. 1271 et seq., are submitted to the state for review and  
149 action by the Legislature and governor, and the results, in support of or in opposition to, are  
150 included in any planning documents or other proposals for addition and are forwarded to the  
151 United States Congress;

152 (c) the state's support for designation of an Area of Critical Environmental Concern  
153 (ACEC), as defined in 43 U.S.C. Sec. 1702, within federal land management plans will be  
154 withheld until:

155 (i) it is clearly demonstrated that the proposed area contains historic, cultural or scenic  
156 values, fish or wildlife resources, or natural processes which are unique or substantially  
157 significant on a regional basis, or contain natural hazards which significantly threaten human  
158 life or safety;

159 (ii) the regional values, resources, processes, or hazards have been analyzed by the  
160 federal agency for impacts resulting from potential actions which are consistent with the  
161 multiple-use, sustained-yield principles, and that this analysis describes the rationale for any  
162 special management attention required to protect, or prevent irreparable damage to the values,  
163 resources, processes or hazards;

164 (iii) the difference between special management attention required for an ACEC and  
165 normal multiple-use management has been identified and justified, and that any determination  
166 of irreparable damage has been analyzed and justified for short and long term horizons;

167 (iv) it is clearly demonstrated that the proposed designation is not a substitute for a  
168 wilderness suitability recommendation; and

169 (v) the conclusions of all studies are submitted to the state for review, and the results,  
170 in support of or in opposition to, are included in all planning documents;

171 (d) sufficient federal lands are made available for government-to-government  
172 exchanges of school and institutional trust lands and federal lands without regard for a  
173 resource-to-resource correspondence between the surface or mineral characteristics of the  
174 offered trust lands and the offered federal lands;

175 (e) federal agencies should support government-to-government exchanges of land with  
176 the state based on a fair process of valuation which meets the fiduciary obligations of both the  
177 state and federal governments toward trust lands management, and which assures that revenue  
178 authorized by federal statute to the state from mineral or timber production, present or future, is  
179 not diminished in any manner during valuation, negotiation, or implementation processes;

180 (f) prime agricultural lands should continue to produce the food and fiber needed by  
181 the citizens of the state and the nation, and the rural character and open landscape of rural Utah  
182 should be preserved through a healthy and active agricultural industry, consistent with private

183 property rights and state fiduciary duties;

184 (g) the resources of the forests and rangelands of the state should be integrated as part  
185 of viable, robust, and sustainable state and local economies, and available forage should be  
186 evaluated for the full complement of herbivores the rangelands can support in a sustainable  
187 manner, and forests should contain a diversity of timber species, and disease or insect  
188 infestations in forests should be controlled using logging or other best management practices;

189 (h) the invasion of noxious weeds and undesirable invasive plant species into Utah  
190 should be reversed, their presence eliminated, and their return prevented;

191 (i) management and resource-use decisions by federal land management and regulatory  
192 agencies concerning the vegetative resources within the state should reflect serious  
193 consideration of the optimization of the yield of water within the watersheds of Utah;

194 (j) the development of the solid, fluid, and gaseous mineral resources of the state  
195 should be encouraged, the waste of fluid and gaseous minerals within developed areas should  
196 be prohibited, and requirements to mitigate or reclaim mineral development projects should be  
197 based on credible evidence of significant impacts to natural or cultural resources;

198 (k) motorized, human and animal-powered outdoor recreation should be integrated into  
199 a fair and balanced allocation of resources within the historical and cultural framework of  
200 multiple-uses in rural Utah, and outdoor recreation should be supported as part of a balanced  
201 plan of state and local economic support and growth;

202 (l) off-highway vehicles should be used responsibly, and the management of  
203 off-highway vehicles should be uniform across all jurisdictions, and laws related to the use of  
204 off-highway vehicles should be uniformly applied across all jurisdictions;

205 (m) rights-of-way granted under the provisions of R. S. 2477 should be preserved and  
206 acknowledged;

207 (n) transportation and access provisions for all other existing routes, roads and trails  
208 across federal, state, and school trust lands within the state should be determined and  
209 identified, and agreements executed and implemented, as necessary to fully authorize and  
210 determine responsibility for maintenance of all routes, roads, and trails;

211 (o) the reasonable development of new routes and trails for motorized, human and  
212 animal-powered recreation should be implemented; and

213 (p) (i) forests, rangelands, and watersheds, in a healthy condition, are necessary and

214 beneficial for wildlife, livestock grazing, and other multiple-uses;

215 (ii) that management programs and initiatives which are implemented to increase  
 216 forage for the mutual benefit of the agricultural industry, livestock operations, and wildlife  
 217 species should utilize all proven techniques and tools;

217a Ĥ (iii) THAT THE CONTINUED VIABILITY OF LIVESTOCK OPERATIONS AND THE LIVESTOCK  
 217b INDUSTRY SHOULD BE SUPPORTED ON THE FEDERAL LANDS WITHIN UTAH BY MANAGEMENT OF  
 217c THE LANDS AND FORAGE RESOURCES, BY THE OPTIMIZATION OF ANIMAL UNIT MONTHS FOR  
 217d LIVESTOCK, IN ACCORDANCE WITH THE MULTIPLE-USE PROVISIONS OF THE FEDERAL LAND  
 217e POLICY AND MANAGEMENT ACT OF 1976, 43 U.S.C. 1701 ET. SEQ., THE PROVISIONS OF THE  
 217f TAYLOR GRAZING ACT OF 1934, 43 U.S.C. 315 ET. SEQ. AND THE PROVISIONS OF THE PUBLIC  
 217g RANGELANDS IMPROVEMENT ACT OF 1978, 43 U.S.C. 1901 ET. SEQ.; Ĥ

218 Ĥ [(iii)] (iv) Ĥ that provisions for predator control initiatives or programs under the direction  
 218a of  
 219 state and local authorities should be implemented; and

220 Ĥ [(iv)] (v) Ĥ that resource-use and management decisions by federal land management and  
 221 regulatory agencies should support state sponsored initiatives or programs designed to stabilize  
 222 wildlife populations that may be experiencing a scientifically-demonstrated decline in those  
 223 populations.

224 [(4)] (7) Nothing contained in this section may be construed to restrict or supersede the  
 225 planning powers conferred upon state departments, agencies, [or] instrumentalities, or advisory  
 226 councils of the state or the planning powers conferred upon political subdivisions by any other  
 227 existing law.

227a § (8) NOTHING IN THIS SECTION MAY BE CONSTRUED TO AFFECT ANY LANDS WITHDRAWN  
 227b FROM THE PUBLIC DOMAIN FOR MILITARY PURPOSES, WHICH ARE ADMINISTERED BY THE  
 227c UNITED STATES ARMY, AIR FORCE, OR NAVY. §

**Legislative Review Note**  
 as of 1-16-04 4:29 PM

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

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0088**

**State Land Use Management Plans**

*23-Jan-04*

*10:31 AM*

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**State Impact**

It is estimated that provisions of this bill can be implemented with existing resources.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**