

1 DEPARTMENT OF AGRICULTURE

2 AMENDMENTS

3 2007 GENERAL SESSION

4 STATE OF UTAH

5 Chief Sponsor: Margaret Dayton

6 House Sponsor: Patrick Painter

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8 LONG TITLE

9 General Description:

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

11 Highlighted Provisions:

12 This bill:

- 13 ▶ changes the membership of the Soil Conservation Commission;
- 14 ▶ changes the name of the Soil Conservation Commission;
- 15 ▶ requires the Department of Agriculture and Food to follow the fee statute;
- 16 ▶ removes references to the agricultural development division;
- 17 ▶ clarifies the definition of a producer;
- 18 ▶ repeals the chapter regarding the regulation of flour and cereal;
- 19 ▶ repeals several sections regarding the conservation corps; and
- 20 ▶ makes technical changes.

21 Monies Appropriated in this Bill:

22 None

23 Other Special Clauses:

24 None

25 Utah Code Sections Affected:

26 AMENDS:

27 4-1-4, as last amended by Chapter 82, Laws of Utah 1997

28 4-2-2, as last amended by Chapter 139, Laws of Utah 2003

29 4-2-10, as enacted by Chapter 2, Laws of Utah 1979

- 30           **4-3-1**, as enacted by Chapter 2, Laws of Utah 1979  
31           **4-3-4**, as enacted by Chapter 2, Laws of Utah 1979  
32           **4-3-7**, as enacted by Chapter 2, Laws of Utah 1979  
33           **4-3-8**, as last amended by Chapter 87, Laws of Utah 2001  
34           **4-3-10**, as enacted by Chapter 2, Laws of Utah 1979  
35           **4-3-14**, as last amended by Chapter 358, Laws of Utah 2004  
36           **4-4-4**, as enacted by Chapter 2, Laws of Utah 1979  
37           **4-5-6**, as enacted by Chapter 2, Laws of Utah 1979  
38           **4-5-7**, as last amended by Chapter 20, Laws of Utah 1995  
39           **4-5-10**, as enacted by Chapter 2, Laws of Utah 1979  
40           **4-5-15**, as enacted by Chapter 2, Laws of Utah 1979  
41           **4-5-17**, as enacted by Chapter 2, Laws of Utah 1979  
42           **4-8-7**, as enacted by Chapter 2, Laws of Utah 1979  
43           **4-10-2**, as enacted by Chapter 2, Laws of Utah 1979  
44           **4-10-7**, as enacted by Chapter 2, Laws of Utah 1979  
45           **4-11-15**, as enacted by Chapter 2, Laws of Utah 1979  
46           **4-12-2**, as enacted by Chapter 2, Laws of Utah 1979  
47           **4-12-5**, as enacted by Chapter 2, Laws of Utah 1979  
48           **4-13-2**, as last amended by Chapter 30, Laws of Utah 1992  
49           **4-13-4**, as enacted by Chapter 2, Laws of Utah 1979  
50           **4-13-6**, as last amended by Chapter 3, Laws of Utah 1981  
51           **4-14-3**, as last amended by Chapter 130, Laws of Utah 1985  
52           **4-14-9**, as enacted by Chapter 2, Laws of Utah 1979  
53           **4-15-5**, as last amended by Chapter 130, Laws of Utah 1985  
54           **4-15-6**, as enacted by Chapter 126, Laws of Utah 1981  
55           **4-17-6**, as enacted by Chapter 126, Laws of Utah 1981  
56           **4-18-1**, as last amended by Chapter 122, Laws of Utah 1992  
57           **4-18-3**, as last amended by Chapter 326, Laws of Utah 2001

- 58           **4-18-4**, as last amended by Chapter 176, Laws of Utah 2002
- 59           **4-18-5**, as last amended by Chapter 244, Laws of Utah 1993
- 60           **4-18-6**, as last amended by Chapter 316, Laws of Utah 2003
- 61           **4-19-1**, as last amended by Chapter 82, Laws of Utah 1997
- 62           **4-19-2**, as enacted by Chapter 2, Laws of Utah 1979
- 63           **4-19-3**, as enacted by Chapter 2, Laws of Utah 1979
- 64           **4-19-4**, as enacted by Chapter 2, Laws of Utah 1979
- 65           **4-20-1.5**, as enacted by Chapter 294, Laws of Utah 2006
- 66           **4-20-1.6**, as enacted by Chapter 294, Laws of Utah 2006
- 67           **4-30-6**, as enacted by Chapter 2, Laws of Utah 1979
- 68           **4-31-3**, as enacted by Chapter 2, Laws of Utah 1979
- 69           **4-31-10**, as enacted by Chapter 2, Laws of Utah 1979
- 70           **4-31-13**, as enacted by Chapter 2, Laws of Utah 1979
- 71           **4-31-16**, as last amended by Chapter 79, Laws of Utah 1996
- 72           **4-32-3**, as last amended by Chapter 302, Laws of Utah 1997
- 73           **4-32-5**, as last amended by Chapter 130, Laws of Utah 1985
- 74           **4-32-13**, as enacted by Chapter 2, Laws of Utah 1979
- 75           **4-32-18**, as enacted by Chapter 2, Laws of Utah 1979
- 76           **4-32-20**, as enacted by Chapter 2, Laws of Utah 1979
- 77           **4-32-22**, as enacted by Chapter 2, Laws of Utah 1979
- 78           **17-41-201**, as last amended by Chapter 194, Laws of Utah 2006
- 79           **17A-1-301**, as last amended by Chapters 131 and 184, Laws of Utah 2003
- 80           **17A-3-800**, as last amended by Chapter 82, Laws of Utah 1997
- 81           **41-1a-422**, as last amended by Chapter 69, Laws of Utah 2004
- 82           **54-3-25**, as enacted by Chapter 123, Laws of Utah 1990
- 83           **63-38-2**, as last amended by Chapters 213 and 316, Laws of Utah 2006
- 84           **73-5-15**, as enacted by Chapter 193, Laws of Utah 2006
- 85           **73-10-26**, as last amended by Chapter 234, Laws of Utah 1990

86 REPEALS:

- 87 **4-6-1**, as enacted by Chapter 2, Laws of Utah 1979
- 88 **4-6-2**, as enacted by Chapter 2, Laws of Utah 1979
- 89 **4-6-3**, as last amended by Chapter 20, Laws of Utah 1995
- 90 **4-6-4**, as enacted by Chapter 2, Laws of Utah 1979
- 91 **4-18-14**, as last amended by Chapter 244, Laws of Utah 1993
- 92 **4-18-15**, as enacted by Chapter 205, Laws of Utah 1990
- 93 **4-18-16**, as enacted by Chapter 205, Laws of Utah 1990
- 94 **4-18-17**, as enacted by Chapter 205, Laws of Utah 1990
- 95 **4-18-18**, as enacted by Chapter 205, Laws of Utah 1990
- 96 **4-18-19**, as enacted by Chapter 205, Laws of Utah 1990
- 97 **4-18-20**, as enacted by Chapter 205, Laws of Utah 1990
- 98 **4-18-21**, as enacted by Chapter 205, Laws of Utah 1990
- 99 **4-18-22**, as enacted by Chapter 205, Laws of Utah 1990
- 100 **4-18-23**, as enacted by Chapter 205, Laws of Utah 1990
- 101 **4-18-24**, as enacted by Chapter 205, Laws of Utah 1990
- 102 **4-18-25**, as enacted by Chapter 205, Laws of Utah 1990
- 103 **4-18-26**, as enacted by Chapter 205, Laws of Utah 1990
- 104 **4-18-27**, as enacted by Chapter 205, Laws of Utah 1990

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

107 Section 1. Section **4-1-4** is amended to read:

108 **4-1-4. Code enforcement -- Inspection authorized -- Condemnation or seizure --**  
 109 **Injunctive relief -- Costs awarded -- County or district attorney to represent state --**  
 110 **Criminal actions -- Witness fee.**

111 (1) For the purpose of enforcing any provision [~~of this code, the Department of~~  
112 ~~Agriculture and Food~~] in this title, the department may:

113 (a) enter, at reasonable times, [for the purpose of inspection,] and inspect any public or

114 private premises where agricultural products are located; and ~~[may]~~

115 (b) obtain samples of products at no charge to the department, unless otherwise  
116 specified ~~[within a particular chapter in this code]~~ in this title.

117 (2) The department may proceed immediately, if admittance is refused, to obtain an ex  
118 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises  
119 for the purpose of making inspections and obtaining samples.

120 (3) (a) The department is authorized in any court of competent jurisdiction to:

121 (i) seek an order of seizure or condemnation of any agricultural product ~~[which]~~ that  
122 violates ~~[any chapter contained within this code]~~ this title; or~~;~~

123 (ii) upon proper grounds, ~~[to]~~ obtain a temporary restraining order or temporary or  
124 permanent injunction to prevent violation of ~~[any such chapter]~~ this title.

125 (b) No bond shall be required of the department in any injunctive proceeding brought  
126 under this section.

127 (4) (a) If the court orders condemnation ~~[is ordered]~~, the department shall dispose of  
128 the agricultural product ~~[shall be disposed of]~~ as the court directs~~;~~ ~~provided, that in no event~~  
129 ~~shall it~~.

130 (b) The court may not order condemnation without giving the claimant of the  
131 agricultural product an opportunity to apply to the court for permission to bring the product  
132 into conformance or for permission to remove it from the state.

133 (5) If the court orders condemnation, the court shall award court costs, fees, storage,  
134 and other costs ~~[shall be awarded against the claimant]~~ to the department.

135 (6) Unless otherwise specifically provided within the particular chapter governing the  
136 product sought to be seized or condemned or the conduct sought to be enjoined, the county  
137 attorney of the county in which the product is located or the act committed shall represent the  
138 department in any action commenced under authority of this section.

139 (7) (a) In any criminal action brought by the department for violation of ~~[any provision~~  
140 ~~contained within a chapter in]~~ this ~~[code]~~ title, the county attorney or district attorney in the  
141 county in which the alleged criminal activity occurred shall represent the state~~;~~ ~~provided, that~~

142 before].

143 (b) Before the department pursues any criminal action [~~is commenced by the~~  
144 ~~department~~], it shall first give written notice of its intent to file criminal charges to the person it  
145 intends to charge and [~~afford such~~] give the person an opportunity to present, personally or  
146 through counsel, [~~such~~] the person's views with respect to the contemplated action.

147 (8) Any witness subpoenaed by the department for whatever purpose[;] is entitled to:

148 (a) a witness fee for each day of required attendance at proceedings initiated by the  
149 department; and [to]

150 (b) mileage in accordance with the fees and mileage allowed witnesses appearing in the  
151 district courts of this state.

152 Section 2. Section 4-2-2 is amended to read:

153 **4-2-2. Functions, powers, and duties of department -- Fees for services --**  
154 **Marketing orders -- Procedure.**

155 (1) The department [~~has and shall exercise the following functions, powers, and duties~~]  
156 shall:

157 (a) [to] inquire into and promote the interests and products of agriculture and its allied  
158 industries;

159 (b) [to] promote methods for increasing the production and facilitating the distribution  
160 of the agricultural products of the state;

161 (c) (i) [to] inquire into the cause of contagious, infectious, and communicable diseases  
162 among livestock and the means for their prevention and cure; and

163 (ii) [to] initiate, implement, and administer plans and programs to prevent the spread of  
164 diseases among livestock;

165 (d) [to] encourage experiments designed to determine the best means and methods for  
166 the control of diseases among domestic and wild animals;

167 (e) [to] issue marketing orders for any designated agricultural product to:

168 (i) promote orderly market conditions for any product;

169 (ii) give the producer a fair return on the producer's investment at the marketplace; and

170 (iii) only promote and not restrict or restrain the marketing of Utah agricultural  
171 commodities;

172 (f) [to] administer and enforce all laws assigned to the department by the Legislature;

173 (g) [to] establish standards and grades for agricultural products and fix and collect  
174 reasonable fees for services performed by the department in conjunction with the grading of  
175 agricultural products;

176 (h) [to] establish operational standards for any establishment [~~which~~] that  
177 manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural  
178 product;

179 (i) [~~to promulgate, subject to~~] adopt, according to Title 63, Chapter 46a, Utah  
180 Administrative Rulemaking Act, rules necessary for the effective administration of the  
181 agricultural laws of the state;

182 (j) [to] when necessary, make investigations, subpoena witnesses and records, conduct  
183 hearings, issue orders, and make recommendations concerning all matters related to  
184 agriculture;

185 (k) (i) [to] inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or  
186 any private or public place [~~which~~] that may become infested or infected with harmful insects,  
187 plant diseases, noxious or poisonous weeds, or other agricultural pests;

188 (ii) [to] establish and enforce quarantines;

189 (iii) [to] issue and enforce orders and [~~regulations~~] rules for the control and eradication  
190 of pests, wherever they may exist within the state; and

191 (iv) [to] perform other duties relating to plants and plant products considered advisable  
192 and not contrary to law;

193 (l) [to] inspect apiaries for diseases inimical to bees and beekeeping;

194 (m) [to] take charge of any agricultural exhibit within the state, if considered necessary  
195 by the department, and award premiums at that exhibit;

196 (n) [to] assist the [~~Soit~~] Conservation Commission in the administration of Title 4,  
197 Chapter 18, [~~Soit~~] Conservation Commission Act, and administer and disburse any funds

198 [~~which are~~] available [~~for the purpose of assisting soil~~] to assist conservation districts in the  
 199 state in the conservation of the state's soil and water resources; and

200 (o) [~~to~~] perform any additional functions, powers, and duties provided by law.

201 (2) [~~Unless otherwise provided by statute, the~~] The department , by following the  
 202 procedures and requirements of Section 63-38-3.2, may adopt a schedule of fees assessed for  
 203 services provided by the department. [~~The fee shall be reasonable and fair, and shall be~~  
 204 ~~submitted to and approved by the Legislature as part of the department's annual appropriations~~  
 205 ~~request. The department may not charge or collect any fee proposed in this manner without~~  
 206 ~~approval by the Legislature.~~]

207 (3) (a) No marketing order issued under Subsection (1)(e) [~~is effective~~] shall take effect  
 208 until:

209 (i) the department gives notice of the proposed order [~~is given~~] to the producers and  
 210 handlers of the affected product;

211 (ii) [~~a hearing conducted by~~] the commissioner [~~is held~~] conducts a hearing on the  
 212 proposed order; and

213 (iii) at least 50% of the registered producers and handlers of the affected products vote  
 214 in favor of the proposed order.

215 (b) (i) The department may establish boards of control to administer marketing orders  
 216 and the proceeds derived from any order. [~~It shall be the responsibility of a~~]

217 (ii) The board of control [~~to~~] shall:

218 [(~~+~~)] (A) ensure that all proceeds are placed in an account in the board of control's name  
 219 [~~of the board of control~~] in a depository institution; and

220 [(~~+~~)] (B) ensure that the account is annually audited by an accountant approved by the  
 221 commissioner.

222 (4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be  
 223 deposited in the General Fund as nonlapsing dedicated credits for the grain grading program.

224 Section 3. Section **4-2-10** is amended to read:

225 **4-2-10. State chemist responsibilities.**

226 (1) The state chemist shall:  
227 (a) serve as the chief administrative officer of the Division of Laboratories [~~and shall~~  
228 ~~be responsible for the supervision and administration of~~]; and

229 (b) supervise and administer all analytical tests required to be performed under this  
230 [~~code~~] title or under any [~~regulations promulgated pursuant to~~] rule authorized by it.

231 (2) The state chemist may perform analytical tests for other state agencies, federal  
232 agencies, units of local government, and private persons if [~~such~~]:

233 (a) the tests and analytical work do not interfere with, or impede, the work required by  
234 the department[~~;~~]; and [~~if~~]

235 (b) a charge commensurate with the work involved is made and collected.

236 (3) The state chemist shall perform any other official duties assigned by the  
237 commissioner.

238 Section 4. Section **4-3-1** is amended to read:

239 **4-3-1. Definitions.**

240 As used in this chapter:

241 (1) "Adulterated" means any dairy product [~~which~~] that:

242 (a) contains any poisonous or deleterious substance that may render it injurious to  
243 health;

244 (b) has been produced, prepared, packaged, or held;

245 (i) under unsanitary conditions[~~;~~~~or~~];

246 (ii) where it may have become contaminated; or

247 (iii) where it may have become diseased or injurious to health;

248 (c) contains any food additive that is unsafe within the meaning of [~~Section 409 of the~~  
249 ~~Federal Food, Drug and Cosmetic Act~~] 21 U.S.C. Sec. 348;

250 (d) contains:

251 (i) any filthy, putrid, or decomposed substance[~~;~~~~or~~];

252 (ii) fresh fluid milk [~~which contains~~] with a lactic acid level at or above [~~the level of~~  
253 ~~.18 of 1%;~~] .0018; or

- 254            (iii) cream with a lactic acid level at or above [~~.8 of 1%, or which~~] .008 or that is  
 255 otherwise unfit for human food;
- 256            (e) is the product of:
- 257            (i) a diseased animal [~~or~~];
- 258            (ii) an animal [~~which~~] that died otherwise than by slaughter[~~;~~]; or
- 259            (iii) an animal fed upon uncooked offal;
- 260            (f) has intentionally been subjected to radiation, unless the use of the radiation is in  
 261 conformity with a [~~regulation~~] rule or exemption promulgated by the department; or
- 262            (g) (i) has any valuable constituent omitted or abstracted[~~;~~ ~~or which~~];
- 263            (ii) has any substance substituted in whole or in part [~~therefor, or which~~];
- 264            (iii) has damage or inferiority concealed in any manner[~~;~~ ~~or which~~]; or
- 265            (iv) has any substance added, mixed, or packed with the product to:
- 266            (A) increase its bulk or weight[~~;~~ ~~or~~];
- 267            (B) reduce its quality or strength[~~;~~]; or
- 268            (C) make it appear better or of greater value.
- 269            (2) "Dairy product" means any product derived from raw or pasteurized milk.
- 270            (3) "Distributor" means any person who distributes a dairy product.
- 271            (4) (a) "Filled milk" means any milk, cream, or skimmed milk, whether condensed,  
 272 evaporated, concentrated, powdered, dried, or desiccated, [~~which~~] that has fat or oil other than  
 273 milk fat added, blended, or compounded with it so that the resultant product is an imitation or  
 274 semblance of milk, cream, or skimmed milk. [~~It~~]
- 275            (b) "Filled milk" does not include any distinctive proprietary food compound [~~which~~];
- 276            (i) that is prepared and designated for feeding infants and young children, which is  
 277 customarily used upon the order of a licensed physician; [~~provided, that~~]
- 278            (ii) whose product name and label does not contain the word "milk" [~~does not appear in~~  
 279 ~~the product name or in any statement on the label;~~]; and [~~that the~~]
- 280            (iii) whose label conforms with the food labeling requirements.
- 281            (5) "Frozen dairy products" mean dairy products normally served to the consumer in a

282 frozen or semifrozen state.

283 (6) "Grade A milk," "grade A milk products," and "milk" [~~for the purposes of this~~  
 284 ~~chapter~~] have the same meaning that is accorded [~~such~~] the terms in the federal standards for  
 285 grade A milk and grade A milk products unless modified by [~~regulations~~] rules of the  
 286 department.

287 (7) "License" means a document allowing a person or plant to process, manufacture,  
 288 supply, test, haul, or pasteurize milk or milk products or conduct [~~such~~] other activity [~~as~~]  
 289 specified by the license.

290 (8) "Manufacturer" means any person who processes milk in [~~such~~] a way that [~~its~~]  
 291 changes the milk's character [~~is changed~~].

292 (9) "Manufacturing milk" means milk used in the production of non-grade A dairy  
 293 products.

294 (10) "Misbranded" means:

295 (a) any dairy product whose label is false or misleading in any particular, or whose  
 296 label or package fails to conform to any federal regulation adopted by the department [~~which~~]  
 297 that pertains to packaging and labeling [~~It also means:~~];

298 [~~(a)~~] (b) any dairy product in final packaged form manufactured in this state [~~which~~]  
 299 that does not bear:

300 (i) the manufacturer's, packer's, or distributor's name, address, and plant number, if  
 301 applicable; [~~and;~~]

302 (ii) a clear statement of the product's common or usual name, quantity, and ingredients,  
 303 if applicable[;]; and

304 (iii) any other information required by [~~regulation~~] rule of the department;

305 [~~(b)~~] (c) any butter in consumer package form that is not at least B grade, or that does  
 306 not meet the grade claimed on the package, measured by U.S.D.A. butter grade standards;

307 [~~(c)~~] (d) any imitation butter made in whole or in part from material other than  
 308 wholesome milk or cream, except clearly labeled "margarine";

309 [~~(d)~~] (e) renovated butter unless the words "renovated butter," in letters not less than

310 1/2-inch in height appear on each package, roll, square, or container of such butter; or  
311 ~~[(e)]~~ (f) any dairy product in final packaged form ~~[which]~~ that makes nutritional claims  
312 or adds or adjusts nutrients that are not so labeled.

313 (11) "Pasteurization" means any process ~~[which]~~ that renders dairy products practically  
314 free of disease organisms and is accepted by federal standards.

315 (12) "Permit or certificate" means a document allowing a person to market milk.

316 (13) "Plant" means any facility where milk is processed or manufactured.

317 (14) "Processor" means any person who subjects milk to a process.

318 (15) "Producer" means a person who owns ~~[cows]~~ a cow or other milk producing  
319 hoofed mammal that ~~[produce]~~ produces milk for consumption by persons other than the  
320 producer's family, employees, or nonpaying guests.

321 (16) "Raw milk" means unpasteurized milk.

322 (17) "Renovated butter" means butter that is reduced to a liquid state by melting and  
323 drawing off such liquid or butter oil and churning or otherwise manipulating it in connection  
324 with milk or any product of milk.

325 (18) "Retailer" means any person who sells or distributes dairy products directly to the  
326 consumer.

327 Section 5. Section **4-3-4** is amended to read:

328 **4-3-4. Authority to inspect premises.**

329 (1) The department may inspect any premises where dairy products are produced,  
330 manufactured, processed, stored, or held for distribution, at reasonable times and places, to  
331 determine whether ~~[such]~~ the premises are in compliance with this chapter and the ~~[regulations~~  
332 ~~promulgated pursuant]~~ rules adopted according to it.

333 (2) If the department is denied access ~~[is denied the department]~~, it may proceed  
334 immediately to the nearest court of competent jurisdiction ~~[and]~~ to seek an ex parte warrant or  
335 its equivalent to permit inspection of the premises.

336 Section 6. Section **4-3-7** is amended to read:

337 **4-3-7. Testing and measuring milk -- Standards prescribed -- Milk quality work**

338 in accordance with rules.

339 ~~[Methods]~~ (1) Milk shall be tested and measured in accordance with ~~[those prescribed~~  
340 ~~in]~~:

341 (a) the latest edition of "Association of Official Analytical Chemists[;]" ~~[or]~~;

342 (b) the latest edition of "Standard Methods for Examination of Dairy Products[;]" ~~[or in~~  
343 ~~accordance with]~~;

344 (c) other publications accepted by the department ~~[, or in accordance with]~~; or

345 (d) methods prescribed by the department ~~[shall be used for testing and measuring~~  
346 ~~milk]~~.

347 ~~[Milk]~~ (2) A processor or manufacturer shall perform quality work ~~[shall be performed~~  
348 ~~by the processor or manufacturer]~~ in accordance with the rules ~~[and regulations]~~ adopted by the  
349 department.

350 Section 7. Section **4-3-8** is amended to read:

351 **4-3-8. Licenses and permits -- Application -- Fee -- Expiration -- Renewal.**

352 (1) Application for a license to operate a plant ~~[or to]~~, manufacture butter or cheese,  
353 pasteurize milk, test milk for payment, haul milk in bulk, or for the wholesale distribution of  
354 dairy products[;] shall be made to the department upon forms prescribed and furnished by it.

355 (2) Upon receipt of a proper application, compliance with all applicable ~~[regulations]~~  
356 rules, and payment of a license fee determined by the department ~~[pursuant]~~ according to  
357 Subsection 4-2-2(2), the commissioner, if satisfied that the public convenience and necessity  
358 and the industry will be served, shall issue an appropriate license to the applicant subject to  
359 suspension or revocation for cause.

360 (3) Each license issued under this section expires at midnight on December 31 of each  
361 year.

362 (4) A license to operate a plant ~~[or to]~~, manufacture butter or cheese, pasteurize milk,  
363 test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products, is  
364 renewable for a period of one year upon the payment of an annual license renewal fee  
365 determined by the department ~~[pursuant]~~ according to Subsection 4-2-2(2) on or before

366 December 31 of each year.

367 ~~[(2)]~~ (5) Application for a permit or certificate to produce milk shall be made to the  
368 department on forms prescribed and furnished by it.

369 (6) (a) Upon receipt of a proper application and compliance with all applicable  
370 ~~[regulations]~~ rules, the commissioner shall issue a permit entitling the applicant to engage in  
371 the business of producer, subject to suspension or revocation for cause.

372 (b) No fee may be charged by the department for issuance of a permit or certificate.

373 Section 8. Section 4-3-10 is amended to read:

374 **4-3-10. Unlawful acts specified.**

375 It is unlawful for any person in this state to:

376 (1) operate a plant without a license issued by the department;

377 (2) market milk without a permit or certificate issued by the department;

378 (3) manufacture butter or cheese, pasteurize milk, test milk for payment, or haul milk  
379 in bulk without a special license to perform the particular activity designated in this Subsection  
380 ~~(3); [provided, that]~~ unless if more than one person working in a plant is engaged in the  
381 performance of a single activity designated in this Subsection (3), ~~[it is sufficient if]~~ the person  
382 who directs the activity is licensed[-];

383 (4) manufacture, distribute, sell, deliver, hold, store, or offer for sale any adulterated or  
384 misbranded dairy product;

385 (5) manufacture, distribute, sell, deliver, hold, store, or offer for sale any dairy product  
386 without a license, permit, or certificate required by this chapter;

387 (6) sell or offer for sale any milk not intended for human consumption unless it is  
388 denatured or decharacterized in accordance with the ~~[regulations]~~ rules of the department;

389 (7) manufacture, distribute, sell, or offer for sale any filled milk labeled as milk or as a  
390 dairy product;

391 (8) keep any animals with brucellosis, tuberculosis, or other infectious or contagious  
392 diseases communicable to humans in any place where they may come in contact with cows or  
393 other milking animals;

394 (9) draw milk for human food from cows or other milking animals that are infected  
395 with tuberculosis, running sores, communicable diseases, or from animals that are fed feed that  
396 will produce milk that is adulterated;

397 (10) accept[;] or process milk from any producer without verification that the producer  
398 holds a valid permit or certification or, if milk is accepted from out of the state, without  
399 verification that the producer holds a permit or certification from the appropriate regulatory  
400 agency of that state;

401 (11) use any contaminated or unclean equipment or container to process, manufacture,  
402 distribute, deliver, or sell a dairy product;

403 (12) remove, change, conceal, erase, or obliterate any mark or tag placed upon any  
404 equipment, tank, or container by the department[;] except[; ~~for the purpose of cleaning and~~  
405 ~~sanitizing~~] to clean and sanitize it;

406 (13) use any tank or container used for the transportation of milk or other dairy  
407 products [~~which~~] that is unclean or contaminated;

408 (14) refuse to allow the department to take samples for testing; or

409 (15) prohibit adding vitamin compounds in the processing of milk and dairy products  
410 in accordance with [~~regulations~~] rules of the department.

411 Section 9. Section **4-3-14** is amended to read:

412 **4-3-14. Sale of raw milk -- Suspension of producer's permit.**

413 (1) Raw milk may be sold if:

414 (a) the producer obtains a permit from the department to produce milk under  
415 Subsection [~~4-3-8(2)~~] 4-3-8(5);

416 (b) the sale and delivery of the milk is made upon the premises where the milk is  
417 produced;

418 (c) it is sold to consumers for household use and not for resale;

419 (d) it is bottled or packaged under sanitary conditions and in sanitary containers on the  
420 premises where the milk is produced;

421 (e) it is labeled "raw milk" and meets the labeling requirements under 21 C.F.R. Parts

422 101 and 131 and rules established by the department;

423 (f) it is:

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

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

428 (iii) maintained at 41 degrees Fahrenheit or a lower temperature until it is delivered to  
429 the consumer;

430 (g) the bacterial count of the milk does not exceed~~[-(i)]~~ 20,000 colony forming units  
431 per milliliter~~[-, or if individual colonies are counted, a direct microscopic count in excess of~~  
432 ~~20,000 colony forming units per milliliter, or];~~

433 ~~[(ii) if individual organisms are counted, 80,000 bacteria per milliliter;]~~

434 (h) the bacterial plate count and the coliform count of the milk meet the bacterial and  
435 coliform enforcement standards for grade A pasteurized milk;

436 (i) the production of the milk conforms to departmental rules for the production of  
437 grade A milk;

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

439 (i) permanently and individually identifiable; and

440 (ii) free of tuberculosis, brucellosis, and other diseases carried through milk; and

441 (k) any person on the premises performing any work in connection with the production,  
442 bottling, handling, or sale of the raw milk is free from communicable disease.

443 (2) (a) The department shall suspend a permit to produce raw milk issued under  
444 Subsection ~~[4-3-8(2)]~~ 4-3-8(5) if a milk producer violates any provision of Subsection (1).

445 (b) The department may reissue a permit to produce raw milk ~~[which]~~ that has been  
446 suspended under Subsection (2)(a) if the producer has complied with all of the requirements of  
447 Subsection (1).

448 Section 10. Section ~~4-4-4~~ is amended to read:

449 **4-4-4. Unlawful acts specified.**

450 (1) It is unlawful for any person to ~~to~~ ~~(1) Sell,~~ sell, offer, or expose any egg for sale for  
451 human consumption ~~[which]~~:

452 (a) that is addled or mouldy~~;~~ or ~~[which]~~ that contains black spot, black rot, white rot,  
453 blood ring, adherent yolk, or a bloody or green white ~~[(albumen)]~~, also called albumen; or

454 ~~[(2) Sell, offer, or expose any egg for sale for human consumption]~~

455 (b) without a sign or label ~~[which]~~ that conforms to the standards for display and grade  
456 adopted by the department.

457 (2) Nothing in this section~~[-however,]~~ shall prohibit the sale of denatured eggs.

458 Section 11. Section **4-5-6** is amended to read:

459 **4-5-6. Definitions and standards of identity, quality, and fill of container -- Rules**  
460 **-- Temporary and special permits.**

461 (1) (a) Definitions and standards of identity, quality and fill of container, now or  
462 hereafter adopted under authority of the ~~[federal act]~~ Federal Food, Drug, and Cosmetic Act, 21  
463 U.S.C. Sec. 301 et seq., are the definitions and standards of identity, quality and fill of  
464 container in this state. ~~[However, the]~~

465 (b) The department may ~~[promulgate regulations]~~ adopt rules establishing definitions  
466 and standards of identity, quality and fill of container for foods where no federal regulations  
467 exist and may promulgate amendments to any federal regulations or state ~~[regulations which]~~  
468 rules that set definitions and standards of identity, quality and fill of container for foods.

469 (2) (a) Temporary permits now or hereafter granted for interstate shipment of  
470 experimental packs of food varying from the requirements of federal definitions and standards  
471 of identity are automatically effective in this state under the conditions provided in ~~[such]~~ the  
472 permits. ~~[In addition, the]~~

473 (b) The department may issue additional permits where they are necessary ~~[to]~~ for the  
474 completion or conclusiveness of an otherwise adequate investigation and where the interests of  
475 consumers are safeguarded. ~~[Such permits]~~

476 (c) Permits are subject to the terms and conditions the department may prescribe by  
477 ~~[regulation]~~ rule.

478 Section 12. Section ~~4-5-7~~ is amended to read:

479 **4-5-7. Adulterated food specified.**

480 A food [~~shall be deemed to be~~] is adulterated:

481 (1) (a) if it bears or contains any poisonous or deleterious substance [~~which~~] that may  
482 render it injurious to health; but in case the substance is not an added substance [~~such~~] the food  
483 shall not be considered adulterated under this [~~clause~~] Subsection (1)(a) if the quantity of  
484 [~~such~~] the substance in such food does not ordinarily render it injurious to health;

485 (b) (i) if it bears or contains any added poisonous or added deleterious substance other  
486 than one [~~which~~] that is:

487 (A) a pesticide chemical in or on a raw agricultural commodity;

488 (B) a food additive; or

489 (C) a color additive[~~, which~~] that is unsafe within the meaning of Subsection 4-5-11(1);

490 or

491 (ii) if it is a raw agricultural commodity and it bears or contains a pesticide chemical  
492 [~~which~~] that is unsafe within the meaning of [~~Section 408 (a) of the federal act;~~] 21 U.S.C. Sec.  
493 346a; or

494 (iii) if it is or it bears or contains any food additive [~~which~~] that is unsafe within the  
495 meaning of [~~Section 409 of the federal act~~] 21 U.S.C. Sec. 348; provided that where a pesticide  
496 chemical has been used in or on a raw agricultural commodity in conformity with an exemption  
497 granted or tolerance prescribed under [~~Section 408~~] 21 U.S.C. 346a [~~of the federal act~~] and  
498 [~~such~~] the raw agricultural commodity has been subjected to processing such as canning,  
499 cooking, freezing, dehydrating, or milling the residue of such pesticide chemical remaining in  
500 or on such processed food shall, notwithstanding the provisions of Section 4-5-11 and this  
501 Subsection (1)(b)(iii), not be [~~deemed~~] considered unsafe if such residue in or on the raw  
502 agricultural commodity has been removed to the extent possible in good manufacturing  
503 practice, and the concentration of such residue in the processed food when ready to eat is not  
504 greater than the tolerance prescribed for the raw agricultural commodity;

505 (c) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or

506 decomposed substance, or if it is otherwise unfit for food;

507 (d) if it has been produced, prepared, packed, or held under unsanitary conditions  
508 whereby it may have become contaminated with filth, or whereby it may have been rendered  
509 diseased, unwholesome, or injurious to health;

510 (e) if it is, in whole or in part, the product of a diseased animal or an animal [~~which~~]  
511 that has died otherwise than by slaughter, or of an animal that has been fed upon the uncooked  
512 offal from a slaughterhouse;

513 (f) if its container is composed, in whole or in part, of any poisonous or deleterious  
514 substance [~~which~~] that may render the contents injurious to health;

515 (g) if it has been intentionally subjected to radiation, unless the use of the radiation was  
516 in conformity with a [~~regulation~~] rule or exemption in effect pursuant to Section 4-5-11, or  
517 [~~Section 409 of the federal act~~] 21 U.S.C. Sec. 348; or

518 (h) in meat or meat products are adulterated[;];

519 (i) if such products are in casings, packages, or wrappers through which any part of  
520 their contents can be seen and which, or the markings of which, are colored red or any other  
521 color so as to be misleading or deceptive with respect to the color, quality, or kind of such  
522 products to which they are applied[;]; or

523 (ii) if such products contain or bear any color additive;

524 (2) (a) if any valuable constituent has been in whole or in part omitted or abstracted  
525 therefrom;

526 (b) if any substance has been substituted wholly or in part therefor;

527 (c) if damage or inferiority has been concealed in any manner; or

528 (d) if any substance has been added or mixed or packed therewith so as to increase its  
529 bulk or weight, or reduce its quality or strength or make it appear better or of greater value than  
530 it is; or

531 (3) if it is confectionery, and:

532 (a) has partially or completely imbedded therein any nonnutritive object; provided that  
533 this [~~clause~~] Subsection (3)(a) shall not apply in the case of any nonnutritive objective if, in the

534 judgment of the department such object is of practical functional value to the confectionery  
535 product and would not render the product injurious or hazardous to health;

536 (b) bears or contains any alcohol other than alcohol not in excess of [~~one-half of 1~~  
537 ~~percent~~] .05% by volume derived solely from the use of flavoring extracts; or

538 (c) bears or contains any nonnutritive substance; provided, that this [~~clause~~] Subsection  
539 (3)(c) shall not apply to a safe nonnutritive substance [~~which~~] that is in or on confectionery by  
540 reason of its use for some practical functional purpose in the manufacture, packaging, or  
541 storing of such confectionery if the use of the substance does not promote deception of the  
542 consumer or otherwise result in adulteration or misbranding in violation of this [~~act. And~~  
543 ~~provided further, that the~~] chapter.

544 (4) The department may, for the purpose of avoiding or resolving uncertainty as to the  
545 application of [~~this clause~~] Subsection (3)(c), issue [~~regulations~~] rules allowing or prohibiting  
546 the use of particular nonnutritive substances.

547 Section 13. Section **4-5-10** is amended to read:

548 **4-5-10. Food processed, labeled, or repacked at another location -- Exemption**  
549 **from labeling requirements by rule.**

550 (1) The department shall [~~promulgate regulations~~] adopt rules exempting food from  
551 any labeling requirement of this [~~act food which~~] chapter that is, in accordance with the  
552 practice of the trade, to be processed, labeled or repacked in substantial quantities at  
553 establishments other than those where originally processed or packed, on condition that [~~such~~]  
554 the food is not adulterated or misbranded under this [~~act~~] chapter upon removal from such  
555 processing, labeling or repacking establishment.

556 (2) (a) Regulations now or hereafter adopted under authority of the [~~federal act~~]  
557 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., relating to [~~such~~] the  
558 exemptions described in Subsection (1) are automatically effective in this state. [~~However, the~~]

559 (b) The department may [~~promulgate~~] adopt additional [~~regulations~~] rules or  
560 amendments to existing [~~regulations~~] rules concerning exemptions.

561 Section 14. Section **4-5-15** is amended to read:

562 **4-5-15. Consumer commodities -- Labeling and packaging.**

563 (1) All labels of consumer commodities, as defined by this ~~[act]~~ chapter, shall conform  
564 with the requirements for the declaration of net quantity of contents of ~~[section 4 of the Fair~~  
565 ~~Packaging and Labeling Act]~~ 15 U.S.C. Sec. 1453 and the regulations promulgated pursuant  
566 thereto: provided, that consumer commodities exempted from ~~[section 4 of the Fair Packaging~~  
567 ~~and Labeling Act]~~ 15 U.S.C. Sec. 1453(4) shall also be exempt from this Subsection (1).

568 (2) The label of any package of a consumer commodity ~~[which]~~ that bears a  
569 representation as to the number of servings of ~~[such]~~ the commodity contained in ~~[such]~~ the  
570 package shall bear a statement of the net quantity ~~[(in terms of weight, measure, or numerical~~  
571 ~~count)]~~ of for each serving.

572 (3) (a) No person shall distribute or cause to be distributed in commerce any packaged  
573 consumer commodity if any qualifying words or phrases appear in conjunction with the  
574 separate statement of the net quantity of contents required by Subsection (1), but nothing in this  
575 section shall prohibit supplemental statements, at other places on the package, describing in  
576 nondeceptive terms the net quantity of contents. ~~[Such supplemental]~~

577 (b) Supplemental statements of net quantity of contents ~~[shall]~~ may not include any  
578 term qualifying a unit of weight, measure, or count that tends to exaggerate the amount of the  
579 commodity contained in the package.

580 (4) (a) Whenever the department determines that ~~[regulations]~~ rules other than those  
581 prescribed by Subsection ~~[4-5-15]~~(1) are necessary to prevent the deception of consumers or to  
582 facilitate value comparisons as to any consumer commodity, the department shall promulgate  
583 ~~[regulations]~~ rules effective to: ~~[(a)]~~

584 (i) establish and define standards for the characterization of the size of a package  
585 enclosing any consumer commodity, which may be used to supplement the label statement of  
586 net quantity of contents of packages containing ~~[such]~~ the commodity, but this Subsection (4)  
587 shall not be construed as authorizing any limitation on the size, shape, weight, dimensions, or  
588 number of packages ~~[which]~~ that may be used to enclose any commodity; ~~[(b)]~~

589 (ii) regulate the placement upon any package containing any commodity, or upon any

590 label affixed to ~~[such]~~ a commodity, of any printed matter stating or representing by  
591 implication that ~~[such]~~ the commodity is offered for retail sale at a price lower than the  
592 ordinary and customary retail sale price or that a retail sale price advantage is accorded to  
593 purchasers by reason of the size of that package or the quantity of its contents; ~~[(c)]~~

594 (iii) require that the label on each package of a consumer commodity bear:

595 (A) the common or usual name of such consumer commodity, if any~~[-]~~; and

596 (B) ~~[in case such]~~ if the consumer commodity consists of two or more ingredients, the  
597 common or usual name of each such ingredient listed in order of decreasing predominance, but  
598 nothing in this ~~[clause]~~ Subsection (4) shall be ~~[deemed]~~ considered to require that any trade  
599 secret be divulged; or ~~[(d)]~~

600 (iv) prevent the nonfunctional slack-fill of packages containing consumer  
601 commodities.

602 (b) For the purposes of ~~[clause (d) of this subsection]~~ Subsection (4)(a)(iv), a package  
603 ~~[shall be deemed to be]~~ is nonfunctionally slack-filled if it is filled to substantially less than its  
604 capacity for reasons other than ~~[(A)]~~:

605 (i) protection of the contents of such package; or ~~[(B)]~~

606 (ii) the requirements of machines used for enclosing the contents in such package;  
607 provided, that the department may adopt any ~~[regulations]~~ rules promulgated ~~[pursuant]~~  
608 according to the Fair Packaging and Labeling Act, 15 U.S.C. Sec. 1453.

609 Section 15. Section **4-5-17** is amended to read:

610 **4-5-17. Authority to make and enforce rules.**

611 ~~[(1) The authority to promulgate regulations for the efficient enforcement of this act is~~  
612 ~~vested in the department. The department is hereby authorized to make the regulations~~  
613 ~~promulgated under this act conform, in so far as practicable, with those promulgated under the~~  
614 ~~federal act.]~~

615 (1) The department may adopt rules to efficiently enforce this chapter, and if  
616 practicable, adopt rules that conform to the regulations adopted under the Federal Food, Drug,  
617 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

618 (2) Hearings authorized or required by this ~~[act]~~ chapter shall be conducted by the  
 619 department or by ~~[such]~~ an officer, agent, or employee ~~[as the]~~ designated by the department  
 620 ~~[may designate for the purpose]~~.

621 (3) ~~[AH]~~ (a) Except as provided by Subsection (3)(b), all pesticide chemical  
 622 regulations and their amendments now or hereafter adopted under authority of the Federal  
 623 Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the pesticide chemical  
 624 regulations in this state. ~~[However, the]~~

625 (b) The department may adopt a ~~[regulation which]~~ rule that prescribes tolerance for  
 626 pesticides in finished foods in this state whether or not in accordance with regulations  
 627 promulgated under the federal act.

628 (4) ~~[AH]~~ (a) Except as provided by Subsection (4)(b), all food additive regulations and  
 629 their amendments now or hereafter adopted under authority of the Federal Food, Drug, and  
 630 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the food additive regulations in this state.  
 631 ~~[However, the]~~

632 (b) The department may adopt a ~~[regulation which]~~ rule that prescribes conditions  
 633 under which a food additive may be used in this state whether or not in accordance with  
 634 regulations promulgated under the federal act.

635 (5) All color additive regulations adopted under authority of the Federal Food, Drug,  
 636 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the color additive ~~[regulations]~~ rules in this  
 637 state.

638 (6) ~~[AH]~~ (a) Except as provided by Subsection (6)(b), all special dietary use  
 639 regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.  
 640 Sec. 301 et seq., are the special dietary use ~~[regulations]~~ rules in this state. ~~[However, the]~~

641 (b) The department may, if it finds it necessary to inform purchasers of the value of a  
 642 food for special dietary use, prescribe special dietary use ~~[regulations]~~ rules whether or not in  
 643 accordance with regulations promulgated under the federal act.

644 (7) ~~[AH]~~ (a) Except as provided by Subsection (7)(b), all regulations adopted under the  
 645 Fair Packaging and Labeling Act, 15 U.S.C. Sec. 1453 et seq., shall be the ~~[regulations]~~ rules in

646 this state. [~~However, the~~]

647 (b) Except as provided by Subsection (7)(c), the department may, if it finds it necessary  
648 in the interest of consumers, prescribe package and labeling [regulations] rules for consumer  
649 commodities, whether or not in accordance with regulations promulgated under the federal  
650 act[; ~~provided, that no such regulations shall be promulgated which~~].

651 (c) The department may not adopt rules that are contrary to the labeling requirements  
652 for the net quantity of contents required [pursuant to section 4 of the Fair Packaging and  
653 Labeling Act] according to 15 U.S.C. Sec. 1453(4).

654 (8) (a) A federal regulation automatically adopted [pursuant] according to this [act]  
655 chapter takes effect in this state on the date it becomes effective as a federal regulation.

656 (b) The department shall publish all other proposed [regulations] rules in publications  
657 prescribed by the department.

658 (c) (i) A person who may be adversely affected by a [regulation] rule may, within 30  
659 days after a federal regulation is automatically adopted, or within 30 days after publication of  
660 any other [regulation] rule, file with the department, in writing, objections and a request for a  
661 hearing.

662 (ii) The timely filing of substantial objections to a federal regulation automatically  
663 adopted stays the effect of the [regulation] rule.

664 (d) (i) If no substantial objections are received and no hearing is requested within 30  
665 days after publication of a proposed [regulation] rule, it shall take effect on a date set by the  
666 department.

667 (ii) The effective date shall be at least 60 days after the time for filing objections has  
668 expired.

669 (e) (i) If timely substantial objections are made to a federal regulation within 30 days  
670 after it is automatically adopted or to a proposed [regulation] rule within 30 days after it is  
671 published, the department, after notice, shall conduct a public hearing to receive evidence on  
672 the issues raised by the objections.

673 (ii) Any interested person or his representative may be heard.

674 (f) (i) The department shall act upon objections by order and shall mail the order to  
675 objectors by certified mail as soon after the hearing as practicable.

676 (ii) The order shall be based on substantial evidence in the record of the hearing.

677 (g) (i) If the order concerns a proposed ~~[regulation]~~ rule, it may withdraw it or set an  
678 effective date for the ~~[regulation]~~ rule as published or as modified by the order.

679 (ii) The effective date shall be at least 60 days after publication of the order.

680 (9) Whenever a regulation is promulgated under authority of the Federal Food, Drug,  
681 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., establishing standards for food, the tolerances  
682 established by the department under this ~~[act]~~ chapter shall immediately conform to the  
683 standards ~~[so]~~ established by the Federal Food and Drug Administration as herein provided and  
684 shall remain the same until ~~[such time as]~~ the department ~~[shall determine]~~ determines that for  
685 reasons peculiar to Utah a different ~~[regulation]~~ rule should ~~[be made to]~~ apply.

686 Section 16. Section **4-8-7** is amended to read:

687 **4-8-7. Defense to claim of illegal activity.**

688 No person who acts in compliance with any ~~[regulation promulgated]~~ rule adopted  
689 under authority of this chapter shall be ~~[deemed]~~ considered to be engaged in any illegal  
690 conspiracy or combination in restraint of trade or to be acting in furtherance of any illegal  
691 purpose.

692 Section 17. Section **4-10-2** is amended to read:

693 **4-10-2. Definitions.**

694 As used in this chapter:

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

697 (2) "Bedding" means any:

698 (a) quilted, packing, mattress or hammock pad; or ~~[any]~~

699 (b) mattress, boxsprings, comforter, quilt, sleeping bag, studio couch, pillow or  
700 cushion made with any filling material ~~[which]~~ that can be used for sleeping or reclining.

701 (3) "Filling material" means any cotton, wool, kapok, feathers, down, hair or other

702 material, or any combination of [~~such~~] material, whether loose or in bags, bales, batting, pads,  
703 or other prefabricated form [~~which~~] that is, or can be, used in bedding, upholstered furniture or  
704 quilted clothing.

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

708 (5) (a) "Manufacture" means to make, process, or prepare from new or secondhand  
709 material, in whole or in part, any bedding, upholstered furniture, quilted clothing, or filling  
710 material for sale[~~;~~~~but~~].

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

713 (6) "New material" means any article not previously used for any purpose.

714 (7) "Owner's own material" means any article owned or in the possession of a person  
715 for such person's own or a tenant's use [~~which~~] that is sent to another person for manufacture or  
716 repair.

717 (8) "Quilted clothing" means any quilted garment or apparel, exclusive of trim used for  
718 aesthetic effect, or any stiffener, shoulder pads, interfacing, or other material [~~which~~] that is  
719 made in whole or in part from filling material and sold or offered for sale.

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

722 (10) "Retailer" means a person who sells bedding, upholstered furniture, quilted  
723 clothing, or filling material to consumers for use primarily for personal, family, household, or  
724 business purposes.

725 (11) (a) "Sale" or "sell" means to offer or expose for sale, barter, trade, deliver,  
726 consign, lease, or give away any bedding, upholstered furniture, quilted clothing, or filling  
727 material[~~;~~~~but~~].

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

730 (12) "Secondhand material" means any filling material which has previously been used  
731 in an article.

732 (13) "Tag" means a card, flap, or strip attached to any article for the purpose of  
733 displaying information required by this chapter or under [~~regulations~~] rule promulgated  
734 pursuant to it.

735 (14) "Upholstered furniture" means any portable or fixed furniture, except fixed seats  
736 in motor vehicles, boats, or aircraft, [~~which~~] that is made in whole or in part with filling  
737 material, exclusive of trim used for aesthetic effect.

738 (15) "Wholesaler" means a person who offers any article for resale.

739 Section 18. Section **4-10-7** is amended to read:

740 **4-10-7. Tagging requirements for bedding, upholstered furniture, and filling**  
741 **material.**

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

744 (b) Tags shall be at least six square inches and plainly and indelibly labeled with  
745 [~~such~~]:

746 (i) information as the department requires by [~~regulation together with~~] rule; and

747 (ii) according to the filling material type, the words "All New Material," "Secondhand  
748 Material," or "Owner's Material," [~~(depending upon the type filling material used)~~] stamped or  
749 printed on the label.

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

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

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

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

758 (3) No person, except the purchaser, may remove, deface, or alter a tag attached  
 759 [pursuant] according to this chapter.

760 Section 19. Section **4-11-15** is amended to read:

761 **4-11-15. Wax-salvage operations -- County bee inspector to supervise compliance**  
 762 **with rules -- Salvage procedures specified.**

763 (1) All wax-salvage operations with respect to wax, hives, apiary equipment, and  
 764 appliances shall be performed under the direction and supervision of the county bee inspector  
 765 according to procedures established by [~~regulations~~] rules of the department in an enclosure  
 766 tightly double-screened with screens not less than two inches apart.

767 (2) Entrance to the enclosure shall be through a vestibule double-screened in the same  
 768 manner as the enclosure with tight-fitting doors at each end.

769 (3) All boiling or melting of any noncontaminated apiary equipment, such as cappings,  
 770 honey supers, hives, or frames shall be done in a bee tight enclosure.

771 Section 20. Section **4-12-2** is amended to read:

772 **4-12-2. Definitions.**

773 As used in this chapter:

774 (1) "Adulterated commercial feed" means any commercial feed:

775 (a) (i) [~~which~~] that contains any poisonous or deleterious substance [~~which~~] that may  
 776 render it injurious to health;

777 (ii) [~~which~~] that contains any added poisonous, added deleterious, or added  
 778 nonnutritive substance [~~which~~] that is unsafe within the meaning of [~~Section 406 of the Federal~~  
 779 ~~Food, Drug and Cosmetic Act~~] (21 U.S.C. Sec. 346, other than [~~one which is~~] a pesticide  
 780 chemical in or on a raw agricultural commodity[;] or a food additive[;]);

781 (iii) [~~which~~] that contains any food additive or color additive [~~which~~] that is unsafe  
 782 within the meaning of [~~Section 409 or Section 706, respectively, of the Federal Food, Drug and~~  
 783 ~~Cosmetic Act~~] (21 U.S.C. Sec. 348 or 379e;

784 (iv) [~~which~~] that contains a pesticide chemical in or on a raw agricultural commodity  
 785 which is unsafe within the meaning of [~~Section 408 (a) of the Federal Food, Drug and~~

786 ~~Cosmetic Act]~~ 21 U.S.C. Sec. 346a unless it is used in or on the raw agricultural commodity in  
787 conformity with an exemption or tolerance prescribed under [~~Section 408 of the Federal Food,~~  
788 ~~Drug and Cosmetic Act]~~ 21 U.S.C. Sec. 346a and is subjected to processing such as canning,  
789 cooking, freezing, dehydrating, or milling, so that the residue, if any, of the pesticide chemical  
790 in or on such processed feed is removed to the extent possible through good manufacturing  
791 practices as prescribed by [~~regulations]~~ rules of the department so that the concentration of  
792 [~~such]~~ the residue in the processed feed is not greater than the tolerance prescribed for the raw  
793 agricultural commodity in [~~Section 408 of the Federal Food, Drug and Cosmetic Act]~~ 21  
794 U.S.C. Sec. 346a;

795 (v) [~~which]~~ that contains viable weed seeds in amounts exceeding limits established by  
796 [~~regulation]~~ rule of the department; or

797 (vi) [~~which]~~ that contains a drug [~~which]~~ that does not conform to good manufacturing  
798 practice as prescribed by federal regulations promulgated under authority of the Federal Food,  
799 Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., for medicated feed premixes and for  
800 medicated feeds unless the department determines that such regulations are not appropriate to  
801 the conditions [~~which]~~ that exist in this state; or

802 (b) [~~which]~~ that has a valuable constituent omitted or abstracted from it, in whole or in  
803 part, or its composition or quality falls below or differs from that represented on its label or in  
804 labeling.

805 (2) "Brand name" means any word, name, symbol, or device that identifies the  
806 distributor or registrant of a commercial feed.

807 (3) "Commercial feed" means all materials, except unadulterated whole unmixed seeds  
808 or unadulterated physically altered entire unmixed seeds, [~~which]~~ that are distributed for use as  
809 feed or for mixing in feed; provided, that the department may exempt from this definition by  
810 [~~regulation]~~ rule, or from specific [~~provisos]~~ sections of this chapter, commodities such as hay,  
811 straw, stover, silage, cobs, husks, hulls, and individual chemical compounds or substances if  
812 [~~such]~~ the commodities, compounds, or substances are not inter-mixed or mixed with other  
813 materials, and are not adulterated within the meaning of Subsection (1)(a) [~~of this section]~~.

814 (4) "Customer-formula feed" means commercial feed [~~which~~] that consists of a mixture  
815 of commercial feeds or feed ingredients manufactured according to the specific instructions of  
816 the final purchaser.

817 (5) "Distribute" means to:

818 (a) offer for sale, sell, exchange, or barter commercial feed; or [~~to~~]

819 (b) supply, furnish, or otherwise provide commercial feed to a contract feeder.

820 (6) "Drug" means any article intended for use in the diagnosis, cure, mitigation,  
821 treatment, or prevention of disease in animals other than man and articles other than feed  
822 intended to affect the structure or any function of the animal body.

823 (7) "Feed ingredient" means each constituent material in a commercial feed.

824 (8) "Label" means any written, printed, or graphic matter upon or accompanying a  
825 commercial feed.

826 (9) "Manufacture" means to grind, mix, blend, or otherwise process a commercial feed  
827 for distribution.

828 (10) "Mineral feed" means a commercial feed intended to supply primarily mineral  
829 elements or inorganic nutrients.

830 (11) "Misbranded" means any commercial feed, whether in a container or in bulk,  
831 [~~which~~] that bears a label that is false or misleading in any particular, or that bears a label that  
832 does not strictly conform to the labeling requirements of Section 4-12-5.

833 (12) "Official sample" means a sample of commercial feed taken by the department  
834 and designated as "official."

835 (13) "Percent" or "percentage" means percentage by weight.

836 (14) "Ton" means a net weight of two thousand pounds avoirdupois.

837 Section 21. Section **4-12-5** is amended to read:

838 **4-12-5. Labeling requirements for commercial and customer-formula feed**  
839 **specified.**

840 (1) Each container of commercial feed, except customer-formula feed, distributed in  
841 this state shall bear a label setting forth:

- 842 (a) the name and principal address of the registrant;
- 843 (b) the product or brand name, if any, under which it is distributed;
- 844 (c) the feed ingredients stated in the manner prescribed by [~~regulation~~] rule of the  
845 department;
- 846 (d) the net cumulative weight of the container and contents;
- 847 (e) the lot number or some other means of lot identification; and
- 848 (f) any information prescribed by [~~regulation~~] rule of the department [~~deemed~~]  
849 considered necessary for the safe and effective use of the feed.

850 (2) (a) Each bulk shipment of commercial feed, except customer-formula feed,  
851 distributed in this state shall be accompanied with a printed or written statement specifying the  
852 information in Subsection (1)(a) through (f) of this section.

853 (b) The statement shall be delivered to the purchaser at the time the bulk feed is  
854 delivered.

855 (3) Each container or bulk shipment of customer-formula feed distributed in this state  
856 shall bear a label or be accompanied with an invoice setting forth:

- 857 (a) the name and principal address of the manufacturer;
- 858 (b) the name and principal address of the purchaser;
- 859 (c) the date of delivery;
- 860 (d) the net weight of each registered commercial feed used in the mixture and the net  
861 weight of each other ingredient used; and
- 862 (e) any information prescribed by [~~regulation~~] rule of the department [~~deemed~~]  
863 considered necessary for the safe and effective use of the customer-formula feed.

864 Section 22. Section **4-13-2** is amended to read:

865 **4-13-2. Definitions.**

866 As used in this chapter:

- 867 (1) "Adulterated fertilizer" means any commercial fertilizer [~~which~~] that contains an  
868 ingredient that renders it injurious to beneficial plant life when applied in accordance with the  
869 directions on the label, or contains crop or weed seed, or is inadequately labeled to protect

870 plant life.

871 (2) "Brand" means any term, design, or trade mark used in connection with one or  
872 several grades of commercial fertilizer or soil amendment.

873 (3) "Commercial fertilizer" means any substance [~~which~~] that contains one or more  
874 recognized plant nutrients [~~which~~] that is used for its plant nutrient content and is designed for  
875 use or claimed to have value in promoting plant growth, exclusive of unmanipulated animal  
876 and vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products  
877 exempted by [~~regulation~~] rule of the department.

878 (4) "Distributor" means any person who:

879 (a) imports, consigns, manufactures, produces, compounds, mixes, or blends  
880 commercial fertilizer[~~, or a person who~~];

881 (b) imports, consigns, manufactures, produces, compounds, sizes, or blends a soil  
882 amendment; or [~~who~~]

883 (c) offers for sale, sells, barter, or otherwise supplies commercial fertilizer or a soil  
884 amendment in this state.

885 (5) "Fertilizer material" means a commercial fertilizer [~~which~~] that contains either:

886 (a) quantities of no more than one of the primary plant nutrients (nitrogen, phosphoric  
887 acid and potash);

888 (b) approximately 85% plant nutrients in the form of a single chemical compound; or

889 (c) plant or animal residues or by-products, or a natural material deposit that is  
890 processed so that its primary plant nutrients have not been materially changed, except through  
891 purification and concentration.

892 (6) "Grade" means the percentage of total nitrogen, available phosphorus or phosphoric  
893 acid, and soluble potassium or soluble potash stated in whole numbers in the same terms,  
894 order, and percentages as in the guaranteed analysis; provided, that specialty fertilizers may be  
895 guaranteed in fractional units of less than one percent of total nitrogen, available phosphorus or  
896 phosphoric acid, and soluble potassium or soluble potash and that fertilizer materials such as  
897 bone meal, manures, and similar raw materials may be guaranteed in fractional units.

898 (7) (a) "Guaranteed analysis" means the minimum percentage by weight of plant  
899 nutrients claimed in the following order and form:

- 900 Total nitrogen (N) \_\_\_\_\_ percent
- 901 Available phosphoric acid (P0) \_\_\_\_\_ percent
- 902 Soluble potash (K0) \_\_\_\_\_ percent

903 (b) For unacidulated mineral phosphatic materials and basic slag, bone, tankage, and  
904 other organic phosphate materials, it means the total phosphoric acid [~~and/or~~] or degree of  
905 fineness[~~±~~].

906 (c) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in  
907 multiples of one hundred pounds per ton, when required by [~~regulation~~] rule.

908 (d) (i) Guarantees for plant nutrients other than nitrogen, phosphorus, and potassium  
909 may be permitted or required by [~~regulation~~] rule of the department.

910 (ii) The guarantees for such other nutrients shall be expressed in the form of the  
911 element.

912 (iii) The sources of such other nutrients [~~†~~, such as oxides, salt, chelates, [~~etc.~~)] may be  
913 required to be stated on the application for registration and may be included as a parenthetical  
914 statement on the label.

915 (iv) Other beneficial substances or compounds, determinable by laboratory methods,  
916 also may be guaranteed by permission of the department.

917 (v) Any plant nutrients or other substances or compounds guaranteed are subject to  
918 inspection and analysis in accord with the methods and [~~regulations~~] rules prescribed by the  
919 department.

920 (8) "Investigational allowance" means an allowance for variations inherent in the  
921 taking, preparation, and analysis of an official sample of commercial fertilizer or soil  
922 amendment.

923 (9) "Label" means the display of all written, printed, or graphic matter upon the  
924 immediate container or statement accompanying a commercial fertilizer or soil amendment.

925 (10) "Labeling" means all written, printed, or graphic matter upon or accompanying

926 any commercial fertilizer or soil amendment, or advertisements, brochures, posters, television  
927 and radio announcements used in promoting the sale of such commercial fertilizers or soil  
928 amendments.

929 (11) "Mixed fertilizer" means a commercial fertilizer containing any combination of  
930 fertilizer materials.

931 (12) "Official sample" means any sample of commercial fertilizer or soil amendment  
932 taken by the department and designated as "official."

933 (13) "Percent" or "percentage" means the percentage by weight.

934 (14) "Registrant" means any person who registers a commercial fertilizer or a soil  
935 amendment under the provisions of this chapter.

936 (15) (a) "Soil amendment" means any substance that is intended to improve the  
937 physical characteristics of soil~~[; except,]~~.

938 (b) "Soil amendment" does not include any commercial fertilizer, agriculture liming  
939 materials, unmanipulated animal manure, unmanipulated vegetable manure, pesticides, or other  
940 material ~~[exempted by regulation]~~ exempt by rule of the department.

941 (16) "Specialty fertilizer" means any commercial fertilizer distributed primarily for  
942 non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal parks,  
943 cemeteries, greenhouses, and nurseries.

944 (17) "Ton" means a net weight of two thousand pounds avoirdupois.

945 Section 23. Section **4-13-4** is amended to read:

946 **4-13-4. Labeling requirements for specialty fertilizer, bulk commercial fertilizer,**  
947 **packaged mixed fertilizer, and soil amendments specified.**

948 (1) Each container of specialty commercial fertilizer distributed in this state shall bear  
949 a label setting forth:

950 (a) its net weight;

951 (b) brand and grade;

952 (c) guaranteed analysis;

953 (d) the name and address of the registrant; and

954 (e) the lot number.

955 (2) (a) Each bulk shipment of commercial fertilizer distributed in this state shall be  
956 accompanied by a printed or written statement setting forth the information specified in  
957 Subsections (1)(a) through [~~(d) of this section~~] (e).

958 (b) The statement shall be delivered to the purchaser at the time the bulk fertilizer is  
959 delivered.

960 (3) Each sale of packaged mixed fertilizer shall be labeled, or labeling furnished the  
961 consumer, to show its net weight, guaranteed analysis, lot number, and the name and address of  
962 the distributor.

963 (4) (a) Each container of soil amendment shall conform to the requirements of  
964 Subsection (1) [~~of this section~~], and if distributed in bulk, with Subsection (2) [~~of this section~~].  
965 ~~In addition, the~~].

966 (b) The name or chemical designation and content of the soil amending ingredient or  
967 any other information prescribed by [~~regulation~~] rule of the department shall appear whether  
968 distributed in a container or in bulk.

969 Section 24. Section **4-13-6** is amended to read:

970 **4-13-6. Distribution of fertilizers not complying with labeling requirements**  
971 **prohibited -- Guaranteed analysis deficient -- Penalty assessed -- Time for payment --**  
972 **Court action to vacate or amend finding authorized.**

973 (1) No person shall distribute in this state a commercial fertilizer, fertilizer material,  
974 soil amendment or specialty fertilizer if the official sample thereof establishes that the  
975 commercial fertilizer, fertilizer material, soil amendment or specialty fertilizer is deficient in  
976 the nutrients guaranteed on the label by an amount exceeding the values established by  
977 [~~regulation~~] rule or if the overall index value of the official sample is below the level  
978 established by [~~regulation~~] rule.

979 (2) If an official sample, after analysis, demonstrates the guaranteed analysis is  
980 deficient in one or more of its primary plant foods (NPK) beyond the investigational allowance  
981 prescribed by [~~regulation~~] rule, or if the over-all index value of the official sample is below the

982 level established by [regulation] rule, a penalty of three times the commercial value of the  
983 deficiency or deficiencies of the lot represented by the official sample may be assessed against  
984 the registrant.

985 (3) All penalties assessed under this section shall be paid to the department within  
986 three months after notice from the department.

987 (4) Any registrant aggrieved by the finding of an official sample deficiency may file a  
988 complaint with a court of competent jurisdiction to vacate or amend the finding of the  
989 department.

990 Section 25. Section **4-14-3** is amended to read:

991 **4-14-3. Registration required for distribution -- Application -- Fees -- Renewal --**  
992 **Local needs registration -- Distributor or applicator license -- Fees -- Renewal.**

993 (1) No person may distribute a pesticide in this state which is not registered with the  
994 department. Application for registration shall be made to the department upon forms  
995 prescribed and furnished by it accompanied with an annual registration fee determined by the  
996 department pursuant to Subsection 4-2-2(2) for each pesticide registered. Upon receipt by the  
997 department of a proper application and payment of the appropriate fee, the commissioner shall  
998 issue a registration to the applicant allowing distribution of the registered pesticide in this state  
999 through June 30 of each year, subject to suspension or revocation for cause. Each registration  
1000 is renewable for a period of one year upon the payment of an annual registration renewal fee in  
1001 an amount equal to the current applicable original registration fee. Each renewal fee shall be  
1002 paid on or before June 30 of each year.

1003 (2) The application shall include the following information:

1004 (a) the name and address of the applicant and the name and address of the person  
1005 whose name will appear on the label, if other than the applicant's name;

1006 (b) the name of the pesticide;

1007 (c) a complete copy of the label which will appear on the pesticide; and

1008 (d) any information prescribed by [regulation] rule of the department [~~deemed~~]  
1009 considered necessary for the safe and effective use of the pesticide.

1010 (3) Forms for the renewal of registration shall be mailed to registrants at least 30 days  
1011 before their registration expires. A registration in effect on June 30 for which a renewal  
1012 application has been filed and the registration fee tendered shall continue in effect until the  
1013 applicant is notified either that the registration is renewed or that it is suspended or revoked  
1014 pursuant to Section 4-14-8.

1015 (4) The department may, before approval of any registration, require the applicant to  
1016 submit the complete formula of any pesticide including active and inert ingredients and may  
1017 also, for any pesticide not registered [~~pursuant to Section (3) of FIFRA~~] according to 7 U.S.C.  
1018 Sec. 136a or for any pesticide on which restrictions are being considered, require a complete  
1019 description of all tests and test results that support the claims made by the applicant or the  
1020 manufacturer of the pesticide.

1021 (5) A registrant who desires to register a pesticide to meet special local needs [~~pursuant~~  
1022 ~~to Section 24(c) of FIFRA~~] according to 7 U.S.C. Sec. 436v(c) shall, in addition to complying  
1023 with Subsections (1) and (2), satisfy the department that:

- 1024 (a) a special local need exists;
- 1025 (b) the pesticide warrants the claims made for it;
- 1026 (c) the pesticide, if used in accordance with commonly accepted practices, will not  
1027 cause unreasonable adverse effects on the environment; and

1028 (d) the proposed classification for use conforms with [~~Section 3(d) of FIFRA~~] 7 U.S.C.  
1029 Sec. 136a(d).

1030 (6) No registration is required for a pesticide distributed in this state pursuant to an  
1031 experimental use permit issued by the EPA or under Section 4-14-5.

1032 (7) No pesticide dealer may distribute a restricted use pesticide in this state without a  
1033 license. No person may apply a pesticide for hire in this state without a license. A license to  
1034 engage in either activity may be obtained upon application from the department upon the  
1035 payment of a license fee determined by the department pursuant to Subsection 4-2-2(2), which  
1036 shall entitle the applicant to engage in the otherwise proscribed activity through December 31  
1037 of the year in which the license is issued. Such a license is annually renewable upon the

1038 payment of an annual license renewal fee determined by the department [~~pursuant~~] according to  
1039 Subsection 4-2-2(2).

1040 Section 26. Section **4-14-9** is amended to read:

1041 **4-14-9. Examination requirements for license to act as applicator may be waived**  
1042 **through reciprocal agreement.**

1043 The department may waive any or all examination requirements [~~which may be~~]  
1044 specified [~~by regulation~~] in rule for noncommercial, commercial, and private applicators  
1045 through a reciprocal agreement with another state whose examination requirements and  
1046 standards for licensure are substantially similar to those of Utah.

1047 Section 27. Section **4-15-5** is amended to read:

1048 **4-15-5. License -- Application -- Fees -- Expiration -- Renewal.**

1049 (1) (a) Application for a license to operate a nursery or nursery outlet or to solicit or  
1050 receive orders of nursery stock for a person regularly engaged in the business of operating a  
1051 nursery or nursery outlet shall be made to the department on forms prescribed and furnished by  
1052 it.

1053 (b) Upon receipt of a proper application and compliance with applicable [~~regulations~~]  
1054 rules, and payment of a license fee determined by the department [~~pursuant~~] according to  
1055 Subsection 4-2-2(2) for each place of business where the applicant intends to offer nursery  
1056 stock for wholesale or retail sale, or the payment of a fee determined by the department  
1057 pursuant to Subsection 4-2-2(2) in the case of an agent, the commissioner, if satisfied the  
1058 convenience and necessity of the industry and the public will be served, shall issue a license to  
1059 engage in the otherwise proscribed activity through December 31 of the year in which the  
1060 license is issued, subject to suspension or revocation for cause.

1061 (2) A license to operate a nursery or nursery outlet or an agent's license is renewable on  
1062 or before December 31 of each year for a period of one year upon the payment of an annual  
1063 license renewal fee determined by the department [~~pursuant~~] according to Subsection 4-2-2(2).

1064 Section 28. Section **4-15-6** is amended to read:

1065 **4-15-6. Nursery stock for wholesale or retail sale -- Graded and sized -- Labels**

1066 **and tags -- Information to appear on label or tag.**

1067 (1) Each type of nursery stock delivered to a nursery or nursery outlet for subsequent  
1068 wholesale or retail sale shall:

1069 (a) be sized and graded in accordance with the applicable [~~regulations~~] rules of the  
1070 department; and [~~shall~~]

1071 (b) bear a tag or label with the name, grade, size, and variety of the stock.

1072 (2) Each bundle, single lot, or single nursery stock sold at retail shall bear a secure tag  
1073 or label with the common or botanical name, grade, size, and variety of the stock legibly  
1074 printed or written on it.

1075 Section 29. Section **4-17-6** is amended to read:

1076 **4-17-6. Weed control supervisor -- Qualification -- Appointment -- Duties.**

1077 (1) (a) Each commission may employ one or more weed control supervisors qualified  
1078 to:

1079 (i) detect and treat noxious weeds; and [~~to~~]

1080 (ii) direct the weed control program for the county weed board.

1081 (b) A person may be a weed control supervisor for more than one county weed board.

1082 (c) Terms and conditions of employment shall be prescribed by the commission. [~~It is~~  
1083 ~~the duty of every]~~

1084 (2) ~~A~~ supervisor, under the direction of the local county weed control board, [~~to~~] shall:

1085 (a) examine all land under the jurisdiction of the county weed control board to  
1086 determine whether this chapter and the [~~regulations of the commissioner~~] rules adopted by the  
1087 department have been met[~~, to~~];

1088 (b) compile data on infested areas[~~, to~~];

1089 (c) consult and advise upon matters pertaining to the best and most practical method of  
1090 noxious weed control and prevention[~~, to~~];

1091 (d) render assistance and direction for the most effective control and prevention[~~, to~~];

1092 (e) investigate violations of this chapter[~~, to~~];

1093 (f) enforce noxious weed controls within the county[~~, and to~~]; and

1094 (g) perform any other duties required by the county weed control board.

1095 Section 30. Section 4-18-1 is amended to read:

1096 **CHAPTER 18. CONSERVATION COMMISSION ACT**

1097 **4-18-1. Title.**

1098 This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "[Soit] Conservation  
1099 Commission Act."

1100 Section 31. Section 4-18-3 is amended to read:

1101 **4-18-3. Definitions.**

1102 As used in this chapter:

1103 (1) "Alternate" means a substitute for a district supervisor if the district supervisor  
1104 cannot attend a meeting.

1105 (2) (a) "Animal feeding operation" means a facility where animals, other than aquatic  
1106 animals, are stabled or confined and fed or maintained for a total of 45 days or more in any  
1107 12-month period. ~~[Animals are not considered to be stabled or confined when they are]~~

1108 (b) "Animal feeding operation" does not include an operation where animals are in  
1109 areas such as pastures or rangeland that sustain crops or forage growth during the entire time  
1110 the animals are present.

1111 (3) "Commission" means the [Soit] Conservation Commission created ~~[by this chapter]~~  
1112 in Section 4-18-4.

1113 (4) "Comprehensive nutrient management plan" means a plan that identifies actions or  
1114 priorities that will be followed to meet clearly defined nutrient management goals at an animal  
1115 feeding operation.

1116 (5) "District" or "[soit] conservation district" means a governmental subdivision of this  
1117 state organized under ~~[Section 17A-3-801]~~ Title 17A, Chapter 3, Part 8, Conservation Districts.

1118 Section 32. Section 4-18-4 is amended to read:

1119 **4-18-4. Conservation Commission created -- Composition -- Appointment --**

1120 **Terms -- Compensation -- Attorney general to provide legal assistance.**

1121 (1) There is ~~[established, to serve as an agency of the state and functioning]~~ created

1122 within the [~~Department of Agriculture and Food~~] department the [~~Soil~~] Conservation  
1123 Commission to perform the functions specified in this chapter.

1124 (2) The [~~Soil~~] Conservation Commission shall be comprised of [~~12~~] 15 members [~~as~~  
1125 ~~follows~~], including:

1126 (a) the director of the Extension Service at Utah State University[;] or [~~his~~] the  
1127 director's designee;

1128 (b) the president of the Utah Association of [~~Soil~~] Conservation Districts[;] or [~~his~~] the  
1129 president's designee;

1130 (c) the commissioner[;] or [~~his~~] the commissioner's designee;

1131 (d) the executive director of the Department of Natural Resources[;] or [~~his~~] the  
1132 executive director's designee;

1133 (e) the executive director of the Department of Environmental Quality[;] or [~~his~~] the  
1134 executive director's designee; [~~and~~]

1135 (f) the chair and the vice chair of the State Grazing Advisory Board created in Section  
1136 4-20-1.5;

1137 (g) the president of the County Weed Supervisors Association; and

1138 [~~(f)~~] (h) seven district supervisors who provide district representation on the  
1139 commission on a multicounty basis.

1140 (3) If a district supervisor is unable to attend a meeting, an alternate may serve in [~~his~~  
1141 ~~place~~] the place of the district supervisor for that meeting.

1142 (4) The members of the commission specified in Subsection (2)[~~(f)~~] (h) shall:

1143 (a) be recommended by the commission to the governor; and

1144 (b) be appointed by the governor with the consent of the Senate.

1145 (5) (a) Except as required by Subsection (5)(b), as terms of current commission  
1146 members expire, the governor shall appoint each new member or reappointed member to a  
1147 four-year term.

1148 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the  
1149 time of appointment or reappointment, adjust the length of terms to ensure that the terms of

1150 commission members are staggered so that approximately half of the commission is appointed  
1151 every two years.

1152 (6) When a vacancy occurs in the membership for any reason, the replacement shall be  
1153 appointed for the unexpired term.

1154 (7) The commissioner is chair of the commission.

1155 (8) Attendance of a majority of the commission members at a meeting constitutes a  
1156 quorum.

1157 (9) (a) (i) [~~Members~~] A member who [~~are~~] is not a government [~~employees shall~~]  
1158 employee may not receive [~~no~~] compensation or benefits for [~~their services~~] the member's  
1159 service, but may receive per diem and expenses incurred in the performance of the member's  
1160 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and  
1161 63A-3-107.

1162 (ii) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the  
1163 member's service.

1164 (b) (i) [~~State~~] A state government officer and employee [~~members~~] member who [~~do~~]  
1165 does not receive salary, per diem, or expenses from [~~their~~] the agency the member represents  
1166 for [~~their~~] the member's service may receive per diem and expenses incurred in the  
1167 performance of [~~their~~] the member's official duties [~~from the commission~~] at the rates  
1168 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1169 (ii) [~~State~~] A state government officer and employee [~~members~~] member may decline  
1170 to receive per diem and expenses for [~~their~~] the member's service.

1171 (c) (i) [~~Higher~~] A higher education [~~members~~] member who [~~do~~] does not receive  
1172 salary, per diem, or expenses from the entity that [~~they represent~~] the member represents for  
1173 [~~their~~] the member's service may receive per diem and expenses incurred in the performance of  
1174 [~~their~~] the member's official duties from the committee at the rates established by the Division  
1175 of Finance under Sections 63A-3-106 and 63A-3-107.

1176 (ii) [~~Higher~~] A higher education [~~members~~] member may decline to receive per diem  
1177 and expenses for [~~their~~] the member's service.

1178 (d) (i) [~~Local~~] A local government [~~members~~] member who [~~do~~] does not receive  
1179 salary, per diem, or expenses from the entity that [~~they represent~~] the member represents for  
1180 [~~their~~] the member's service may receive per diem and expenses incurred in the performance of  
1181 [~~their~~] the member's official duties at the rates established by the Division of Finance under  
1182 Sections 63A-3-106 and 63A-3-107.

1183 (ii) [~~Local~~] A local government [~~members~~] member may decline to receive per diem  
1184 and expenses for [~~their~~] the member's service.

1185 (10) The commission shall keep a record of its actions.

1186 (11) The attorney general shall provide legal services to the commission upon request.  
1187 Section 33. Section **4-18-5** is amended to read:

1188 **4-18-5. Conservation commission -- Functions and duties.**

1189 (1) The commission shall:

1190 (a) facilitate the development and implementation of the strategies and programs  
1191 necessary to protect, conserve, utilize, and develop the soil and water resources of the state;

1192 (b) disseminate information regarding districts' activities and programs;

1193 (c) supervise the formation, reorganization, or dissolution of districts [~~pursuant~~]  
1194 according to the requirements of Title 17A, Chapter 3, Part 8, Conservation Districts;

1195 (d) prescribe uniform accounting and recordkeeping procedures for districts and  
1196 require each district to submit annually an audit of its funds to the commission;

1197 (e) approve and make loans for agricultural purposes, from the Agriculture Resource  
1198 Development Fund for [~~the following~~]:

1199 (i) nonfederal rangeland improvement and management projects;

1200 (ii) watershed protection and flood prevention projects;

1201 (iii) agricultural cropland soil and water conservation projects; and

1202 (iv) programs designed to promote energy efficient farming practices;

1203 (f) administer federal or state funds in accordance with applicable federal or state  
1204 guidelines and make loans or grants from those funds to land occupiers for the conservation of  
1205 soil or water resources;

1206 (g) seek to coordinate soil and water protection, conservation, and development  
1207 activities and programs of state agencies, local governmental units, other states, special interest  
1208 groups, and federal agencies; and

1209 (h) plan watershed and flood control projects in cooperation with appropriate local,  
1210 state, and federal authorities and coordinate flood control projects in the state.

1211 (2) The commission may:

1212 (a) employ, with the approval of the department, an administrator and necessary  
1213 technical experts and employees;

1214 (b) execute contracts or other instruments necessary to exercise its powers;

1215 (c) sue and be sued; and

1216 (d) adopt rules, in accordance with Title 63, Chapter 46a, Utah Administrative  
1217 Rulemaking Act, necessary to carry out the powers and duties specified in Subsections (1)(d),  
1218 (e), (f), and (2)(b).

1219 Section 34. Section **4-18-6** is amended to read:

1220 **4-18-6. Agriculture Resource Development Fund -- Contents -- Use of fund**  
1221 **monies.**

1222 (1) There is created a revolving loan fund known as the Agriculture Resource  
1223 Development Fund.

1224 (2) The Agriculture Resource Development Fund shall consist of:

1225 (a) money appropriated to it by the Legislature;

1226 (b) sales and use tax receipts transferred to the fund pursuant to Section 59-12-103;

1227 (c) money received for the repayment of loans made from the fund;

1228 (d) money made available to the state for agriculture resource development from any  
1229 source; and

1230 (e) interest earned on the fund.

1231 (3) The commission shall make loans from the Agriculture Resource Development  
1232 Fund as provided by Section 4-18-5.

1233 [~~4~~] For fiscal year 2003-04 only, up to \$500,000 in the Agriculture Resource

1234 Development Fund may be appropriated by the Legislature to the Utah Rural Rehabilitation  
1235 Fund created in Section 4-19-4.]

1236 Section 35. Section 4-19-1 is amended to read:

1237 **4-19-1. Department responsible for conduct and administration of rural**  
1238 **rehabilitation program.**

1239 The department [~~through its Agricultural Development Division is responsible for the~~]  
1240 shall conduct and [~~administration of~~] administer the rural rehabilitation program within the  
1241 state in accordance with [~~that certain use~~] the agreement entered into in January 1975, between  
1242 the United States of America through its Farm Home Administration and the state [~~of Utah~~]  
1243 through its commissioner [~~of agriculture and food~~].

1244 Section 36. Section 4-19-2 is amended to read:

1245 **4-19-2. Department authorized to approve and make loans, acquire property, or**  
1246 **lease or operate property.**

1247 The [~~Division of Agricultural Development~~] department, in conjunction with the  
1248 administration of the rural rehabilitation program [~~is authorized to~~], may:

1249 (1) (a) approve and make farm loans subject to Section 4-19-3, [~~take~~] including:

1250 (i) taking security for [~~such~~] the loans through mortgages, trust deeds, pledges, or other  
1251 security devices; [~~purchase~~]

1252 (ii) purchasing promissory notes, real estate contracts, mortgages, trust deeds, or other  
1253 instruments or evidences of indebtedness; and [~~collect, compromise, cancel, or adjust~~]

1254 (iii) collecting, compromising, canceling, or adjusting claims and obligations arising  
1255 out of the administration of the rural rehabilitation program;

1256 (2) purchase or otherwise obtain property in which the division has acquired an interest  
1257 on account of any mortgage, trust deed, lien, pledge, assignment, judgment, or other means at  
1258 any execution or foreclosure sale; and

1259 (3) operate or lease, if necessary to protect its investment, any property in which it has  
1260 an interest or sell or otherwise dispose of [~~such~~] the property.

1261 Section 37. Section 4-19-3 is amended to read:

1262           **4-19-3. Loans -- Not to exceed period of ten years -- Agricultural Advisory Board**  
 1263 **to approve loans and renewals, methods of payments, and interest rates -- Guidelines in**  
 1264 **fixing interest rates declared.**

1265           ~~[No loan shall be made]~~ (1) The department may not make a loan authorized under this  
 1266 chapter for a period to exceed ten years but ~~[any such a]~~ the loan is renewable.

1267           (2) The Agricultural Advisory Board shall approve:

1268           (a) all loans and renewals~~;~~;

1269           (b) the methods of repayment~~;~~; and

1270           (c) the interest rates charged.

1271           (3) In fixing interest rates, the Agricultural Advisory Board shall consider:

1272           (a) the current applicable interest rate or rates being charged by the ~~[Farm Home~~  
 1273 ~~Administration]~~ USDA Farm Service Agency on similar loans~~;~~;

1274           (b) the current prime rate charged by leading lending institutions~~;~~; and

1275           (c) any other pertinent economic data.

1276           (4) The interest rates established shall be compatible with guidelines stated in this  
 1277 section.

1278           Section 38. Section **4-19-4** is amended to read:

1279           **4-19-4. Utah Rural Rehabilitation Fund.**

1280           ~~[AH]~~ (1) The department shall deposit all income generated from the administration of  
 1281 the rural rehabilitation program ~~[shall be deposited]~~ in a separate fund known as the "Utah  
 1282 Rural Rehabilitation Fund."

1283           (2) The state treasurer shall maintain the Utah Rural Rehabilitation Fund and record all  
 1284 debits and credits made to the fund by the ~~[division]~~ department.

1285           Section 39. Section **4-20-1.5** is amended to read:

1286           **4-20-1.5. State Grazing Advisory Board -- Duties.**

1287           (1) (a) There is created within the department the State Grazing Advisory Board.

1288           (b) The commissioner shall appoint the following members:

1289           (i) one member from each regional board;

- 1290 (ii) one member from the [~~Soil~~] Conservation Commission created in Section 4-18-4;
- 1291 (iii) one representative of the Department of Natural Resources;
- 1292 (iv) two livestock producers at-large; and
- 1293 (v) one representative of the oil, gas, or mining industry.

1294 (2) The term of office for a state board member is four years.

1295 (3) Members of the state board shall elect a chair, who shall serve for two years.

1296 (4) (a) (i) [~~Members~~] A member who [~~are~~] is not a government [~~employees of the state~~  
1297 ~~or local government shall~~] employee may not receive [~~no~~] compensation or benefits for [~~their~~  
1298 ~~services~~] the member's service, but may receive per diem and expenses incurred in the  
1299 performance of the member's official duties at the rates established by the Division of Finance  
1300 under Sections 63A-3-106 and 63A-3-107.

1301 (ii) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the  
1302 member's service.

1303 (b) (i) [~~State~~] A state government officer and employee [~~members~~] member who [~~do~~]  
1304 does not receive salary, per diem, or expenses from [~~their~~] the agency the member represents  
1305 for [~~their~~] the member's service may receive per diem and expenses incurred in the  
1306 performance of [~~their~~] the member's official duties [~~from the board~~] at the rates established by  
1307 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1308 (ii) [~~State~~] A state government officer and employee [~~members~~] member may decline  
1309 to receive per diem and expenses for [~~their~~] the member's service.

1310 (c) (i) [~~Local~~] A local government [~~members~~] member who [~~do~~] does not receive  
1311 salary, per diem, or expenses from the entity that [~~they represent~~] the member represents for  
1312 [~~their~~] the member's service may receive per diem and expenses incurred in the performance of  
1313 [~~their~~] the member's official duties at the rates established by the Division of Finance under  
1314 Sections 63A-3-106 and 63A-3-107.

1315 (ii) [~~Local~~] A local government [~~members~~] member may decline to receive per diem  
1316 and expenses for [~~their~~] the member's service.

1317 (5) The state board shall:

- 1318 (a) receive:
- 1319 (i) advice and recommendations from a regional board concerning:
- 1320 (A) management plans for public lands, state lands, and school and institutional trust
- 1321 lands as defined in Section 53C-1-103, within the regional board's region; and
- 1322 (B) any issue that impacts grazing on private lands, public lands, state lands, or school
- 1323 and institutional trust lands as defined in Section 53C-1-103, in its region; and
- 1324 (ii) requests for fund monies from the entities described in Subsections (5)(c)(i)
- 1325 through (iv);
- 1326 (b) recommend state policy positions and cooperative agency participation in federal
- 1327 and state land management plans to the department and to the Public Lands Policy
- 1328 Coordinating Office created under Section 63-38d-602; and
- 1329 (c) advise the department on the requests and recommendations of:
- 1330 (i) regional boards;
- 1331 (ii) county weed control boards created under Section 4-17-4;
- 1332 (iii) cooperative weed management associations; and
- 1333 (iv) [soit] conservation districts created under the authority of Title 17A, Chapter 3,
- 1334 Part 8, [Soit] Conservation Districts.
- 1335 Section 40. Section **4-20-1.6** is amended to read:
- 1336 **4-20-1.6. Regional Grazing Advisory Boards -- Duties.**
- 1337 (1) The commissioner shall appoint members to a regional board for each grazing
- 1338 district from nominations submitted by:
- 1339 (a) the Utah Cattlemen's Association;
- 1340 (b) the Utah Woolgrower's Association;
- 1341 (c) the Utah Farm Bureau Federation; and
- 1342 (d) a [soit] conservation district, if the [soit] conservation district's boundaries include
- 1343 some portion of the grazing district.
- 1344 (2) Regional boards:
- 1345 (a) shall provide advice and recommendations to the state board; and

1346 (b) may receive monies from the Rangeland Improvement Fund created in Section  
1347 4-20-2.

1348 Section 41. Section **4-30-6** is amended to read:

1349 **4-30-6. Livestock Market Committee -- Guidelines delineated for decision on**  
1350 **application.**

1351 (1) The Livestock Market Committee in determining whether to recommend approval  
1352 or denial of the application shall consider:

1353 [~~1~~] (a) the applicant's proven or potential ability to comply with the Packers and  
1354 Stockyards Act, 7 U.S.C. Sec. 221 through 229b;

1355 [~~2~~] (b) the financial stability, business integrity, and fiduciary responsibility of the  
1356 applicant;

1357 [~~3~~] (c) the livestock marketing benefits which potentially will be derived from the  
1358 establishment and operation of the public livestock market proposed;

1359 [~~4~~] (d) the need for livestock market services in the trade area proposed;

1360 [~~5~~] (e) the adequacy of the livestock market location and facilities proposed in the  
1361 application, including facilities for health inspection and testing;

1362 [~~6~~] (f) whether the operation of the proposed livestock market is likely to be  
1363 permanent; and

1364 [~~7~~] (g) the economic feasibility of the proposed livestock market based on competent  
1365 evidence.

1366 (2) Any interested person may appear at the hearing on the application and give an  
1367 opinion or present evidence either for or against granting the application.

1368 Section 42. Section **4-31-3** is amended to read:

1369 **4-31-3. Appraisal of fair market value before destruction.**

1370 (1) Before any livestock or property is condemned and destroyed, an appraisal of the  
1371 fair market value of the livestock or other property shall be forwarded to the commissioner by a  
1372 panel of three qualified appraisers appointed as follows:

1373 [~~1~~] (a) one by the commissioner;

1374           ~~[(2)]~~ (b) one by the owner of the livestock or other property subject to condemnation;  
1375 and

1376           ~~[(3)]~~ (c) one by the appraisers specified in ~~[Subsections]~~ this Subsection (1) and  
1377 Subsection (2) ~~[of this section]~~.

1378           (2) After review, the commissioner shall forward the appraisal to the board of  
1379 examiners together with his recommendation concerning the amount, if any, ~~[which]~~ that  
1380 should be allowed.

1381           (3) Any costs incurred in the appraisal shall be paid by the state.

1382           Section 43. Section **4-31-10** is amended to read:

1383           **4-31-10. Imported swine -- Quarantine period -- Exceptions to quarantine.**

1384           (1) No person shall load swine for shipment to or within this state, except those for  
1385 immediate slaughter, until the car is cleaned and disinfected in accordance with departmental  
1386 ~~[regulations]~~ rules.

1387           (2) All swine shipped into the state, except those for immediate slaughter, shall, upon  
1388 arrival at their final destination in the state, be kept in a clean and disinfected place away from  
1389 other swine for a period of 18 days.

1390           (3) The owner or consignee of such swine shall notify the commissioner of the date of  
1391 their arrival and the place where they are being held.

1392           Section 44. Section **4-31-13** is amended to read:

1393           **4-31-13. Stockyards -- Disinfection.**

1394           All stockyards are considered infectious, and all swine and other livestock, except those  
1395 for immediate slaughter, shall be unloaded in chutes in a section of the yards ~~[which]~~ that is  
1396 cleaned and disinfected in accordance with departmental ~~[regulations]~~ rules.

1397           Section 45. Section **4-31-16** is amended to read:

1398           **4-31-16. Contagious or infectious disease -- Duties of department.**

1399           (1) (a) The department shall investigate and may quarantine any reported case of  
1400 contagious or infectious disease, or any epidemic, or poisoning affecting domestic animals or  
1401 any animal or animals ~~[which]~~ that it believes may jeopardize the health of animals within the

1402 state.

1403           **(b)** The department shall make a prompt and thorough examination of all  
1404 circumstances surrounding the disease, epidemic, or poisoning and may order quarantine, care,  
1405 or any necessary remedies.

1406           **(c)** The department may also order immunization or testing and sanitary measures to  
1407 prevent the spread of disease.

1408           **(d)** Investigations involving fish or wildlife shall be conducted under a cooperative  
1409 agreement with the Division of Wildlife Resources.

1410           **(2) (a)** If the owner or person in possession of such animals, after written notice from  
1411 the department, fails to take the action ordered, the commissioner is authorized to seize and  
1412 hold the animals and take action necessary to prevent the spread of disease, including but not  
1413 limited to: immunization; testing; dipping; or spraying.

1414           **(b)** Animals seized for testing or treatment under this section shall be sold by the  
1415 commissioner at public sale to reimburse the department for all costs incurred in the seizure,  
1416 testing, treatment, maintenance, and sale of such animals unless the owner sooner tenders  
1417 payment for the costs incurred by the department.

1418           **(c) (i)** No seized animal shall be sold, however, until the owner or person in possession  
1419 is served with a notice specifying the itemized costs incurred by the department and the time,  
1420 place, and purpose of sale and the number of animals to be sold.

1421           **(ii)** The notice shall be served at least three days in advance of sale in the manner:

1422           ~~[(1)]~~ **(A)** prescribed for personal service in Rule 4~~[(e)]~~**(d)(1)**, Utah Rules of Civil  
1423 Procedure; or

1424           ~~[(2)]~~ **(B)** if the owner cannot be found after due diligence, in the manner prescribed for  
1425 service by publication in Rule 4~~[(g)]~~**(d)(4)**, Utah Rules of Civil Procedure.

1426           **(3)** Any amount realized from the sale of the animals over the total charges shall be  
1427 paid to the owner of the animals if the owner is known or can by reasonable diligence be found;  
1428 otherwise, the excess shall be paid to the tuberculosis and Bangs Disease Control Account.

1429           Section 46. Section **4-32-3** is amended to read:

1430 **4-32-3. Definitions.**

1431 As used in this chapter:

1432 (1) "Adulterated" means any livestock product or poultry product [~~which~~] that:1433 (a) bears or contains any poisonous or deleterious substance [~~which~~] that may render it  
1434 injurious to health, but, if the substance is not an added substance, the livestock product shall  
1435 not be considered adulterated under this subsection if the quantity of the substance in or on the  
1436 livestock product does not ordinarily render it injurious to health;1437 (b) bears or contains, by reason of the administration of any substance to the livestock  
1438 or poultry or otherwise, any added poisonous or added deleterious substance which in the  
1439 judgment of the commissioner makes the livestock product unfit for human food;1440 (c) contains, in whole or in part, a raw agricultural commodity and such commodity  
1441 bears or contains a pesticide chemical [~~which~~] that is unsafe within the meaning of [~~Section~~  
1442 ~~408 of the Federal Food, Drug and Cosmetic Act~~] 21 U.S.C. Sec. 346a;1443 (d) bears or contains any food additive [~~which~~] that is unsafe within the meaning of  
1444 [~~Section 409 of the Federal Food, Drug and Cosmetic Act~~] 21 U.S.C. Sec. 348;1445 (e) bears or contains any color additive [~~which~~] that is unsafe within the meaning of  
1446 [~~Section 721, Federal Food, Drug and Cosmetic Act,~~] 21 U.S.C. [~~Section~~] Sec. 379e; provided,  
1447 that a livestock product which is not otherwise [~~deemed~~] considered adulterated under  
1448 Subsections (1)(c), (d), or (e) of this section shall nevertheless be [~~deemed~~] considered  
1449 adulterated if use of the pesticide chemical, food additive, or color additive is prohibited in  
1450 official establishments by [~~regulations of the commissioner~~] rules of the department;1451 (f) consists, in whole or in part, of any filthy, putrid, or decomposed substance or is for  
1452 any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;1453 (g) has been prepared, packaged, or held under unsanitary conditions if it may have  
1454 become contaminated with filth, or if it may have been rendered injurious to health;1455 (h) is in whole or in part the product of an animal [~~which~~] that has died otherwise than  
1456 by slaughter;1457 (i) is contained in a container [~~which~~] that is composed, in whole or in part, of any

1458 poisonous or deleterious substance [~~which~~ that] may render the meat product injurious to  
1459 health;

1460 (j) has been intentionally subjected to radiation, unless the use of the radiation was in  
1461 conformity with a regulation or exemption in effect pursuant to [~~Section 409 of the Federal~~  
1462 ~~Food, Drug and Cosmetic Act~~] 21 U.S.C. Sec. 348;

1463 (k) has a valuable constituent in whole or in part omitted, abstracted, or substituted; or  
1464 if damage or inferiority is concealed in any manner; or if any substance has been added, mixed,  
1465 or packed with the meat product to increase its bulk or weight, or reduce its quality or strength,  
1466 or to make it appear better or of greater value; or

1467 (l) is margarine containing animal fat and any of the raw material used in the margarine  
1468 consists in whole or in part of any filthy, putrid, or decomposed substance.

1469 (2) "Animal food manufacturer" means any person engaged in the business of  
1470 preparing animal food derived from livestock carcasses or parts or products of such carcasses.

1471 (3) "Broker" means any person engaged in the business of buying or selling livestock  
1472 or livestock products on commission, or otherwise negotiating purchases or sales of livestock  
1473 or livestock products other than for such person's own account.

1474 (4) "Capable of use as human food" means any livestock carcass, or part or product of  
1475 a carcass, unless it is denatured or otherwise identified as required by [~~regulations~~] rules of the  
1476 department to deter its use as human food, or unless it is naturally inedible by humans.

1477 (5) "Container" or "package" means any box, can, tin, cloth, plastic, or other receptacle,  
1478 wrapper, or cover.

1479 (6) "Director of meat inspection" means a licensed graduate veterinarian whose duties  
1480 and responsibilities are specified by the commissioner.

1481 (7) "Domesticated elk" shall have the meaning as defined in Section 4-39-102.

1482 (8) "Farm custom slaughter" means custom slaughtering of livestock or poultry for an  
1483 owner without inspection.

1484 (9) "Farm custom slaughter permit" means a permit issued by the department to allow  
1485 farm custom slaughter.

1486 (10) "Farm custom slaughter tag" means a tag which specifies the animal's  
1487 identification and certifies its ownership which is issued by the department through a brand  
1488 inspector to the owner of the animal before it is slaughtered.

1489 (11) "Federal Food, Drug and Cosmetic Act" means the act so entitled, approved June  
1490 25, 1938 (52 Stat. 1040) (21 U.S.C. 301[;] et seq.), and any amendments to it.

1491 (12) "Federal Meat Inspection Act" means the act so entitled approved March 4, 1907  
1492 (34 Stat. 1260), as amended by the Wholesome Meat Act [~~(81 Stat. 584)~~], 21 U.S.C. 601[;] et  
1493 seq.[;]; the term "federal Poultry Products Inspection Act" means the act so entitled approved  
1494 August 28, 1957 [~~(71 Stat. 441)~~], as amended by the Wholesome Poultry Products Act [~~(~~ 82  
1495 Stat. 791)~~(~~ 21 U.S.C. 451[;] et seq.[;]); and the term "federal acts" means these two federal  
1496 acts.

1497 (13) "Immediate container" means any consumer package, or any other container in  
1498 which livestock products not consumer packaged, are packed.

1499 (14) "Inspector" means a licensed veterinarian or competent lay person working under  
1500 the supervision of a licensed graduate veterinarian.

1501 (15) "Label" means a display of printed, or graphic matter upon any livestock or  
1502 poultry product or the immediate container, not including package liners, of any such product.

1503 (16) "Labeling" means all labels and other printed, or graphic matter:

1504 (a) upon any livestock product or any of its containers or wrappers; or

1505 (b) accompanying a livestock product.

1506 (17) "Livestock" means any cattle, domesticated elk, sheep, swine, goats, horses, mules  
1507 or other equines, whether living or dead.

1508 (18) "Livestock product" means any carcass, part of a carcass, meat, or meat food  
1509 product of any livestock.

1510 (19) "Meat food product" means any product capable of use as human food [~~which~~  
1511 that is made wholly or in part from any meat or other part of the carcass of any cattle, sheep,  
1512 swine, or goats, excepting products [~~which~~ that contain meat or other parts of such carcasses  
1513 in relatively small proportion or [~~which~~ that historically have not been considered by

1514 consumers as products of the meat food industry, and which are exempted from definition as a  
1515 meat food product by the commissioner. Meat food product as applied to food products of  
1516 equines shall have a meaning comparable to that provided in this subsection with respect to  
1517 cattle, sheep, swine, and goats.

1518 (20) "Misbranded" means any livestock product or poultry product ~~[which]~~ that:

1519 (a) bears a label that is false or misleading in any particular;

1520 (b) is offered for sale under the name of another food;

1521 (c) is an imitation of another food, unless the label bears, in type of uniform size and  
1522 prominence, the word "imitation" followed by the name of the food imitated;

1523 (d) if its container is so made, formed, or filled as to be misleading;

1524 (e) does not bear a label showing:

1525 (i) the name and place of business of the manufacturer, packer, or distributor; and

1526 (ii) an accurate statement of the quantity of the product in terms of weight, measure, or  
1527 numerical count; provided, that under this Subsection (20)(e), exemptions as to livestock

1528 products not in containers may be established by ~~[regulations]~~ rules of the department and that

1529 under ~~[Clause (ii) of]~~ this Subsection (20)(e)(ii), reasonable variations may be permitted, and

1530 exemptions for small packages may be established for livestock or poultry products by

1531 ~~[regulation]~~ rule of the department;

1532 (f) does not bear any word, statement, or other information required by or under  
1533 authority of this chapter to appear on the label or other labeling is not prominently placed with  
1534 such conspicuousness, as compared with other words, statements, designs, or devices, in the  
1535 labeling, and in such terms as to render it likely to be read and understood by the ordinary  
1536 individual under customary conditions of purchase and use;

1537 (g) is a food for which a definition and standard of identity or composition has been  
1538 prescribed by ~~[regulations]~~ rules of the department under Section 4-32-7 if the food does not  
1539 conform to such definition and standard and the label does not bear the name of the food and  
1540 any other information that is required by the ~~[regulation]~~ rule;

1541 (h) is a food for which a standard of fill has been prescribed by ~~[regulation]~~ rule of the

1542 department for the container and the actual fill of the container falls below that prescribed  
1543 unless its label bears, in such manner and form as such [~~regulations~~] rules specify, a statement  
1544 that it falls below such standard;

1545 (i) is a food for which no standard or definition of identity has been prescribed under  
1546 Subsection (20)(g) [~~of this section~~] unless its label bears [~~(i)~~]:

1547 (i) the common or usual name of the food, if [~~any~~] there be[;] any; and [~~(ii) in case~~]

1548 (ii) if it is fabricated from two or more ingredients, the common or usual name of each  
1549 such ingredient; except that spices, flavorings, and colorings may, when authorized by the  
1550 department, be designated as spices, flavorings, and colorings without naming each; provided,  
1551 that to the extent that compliance with the requirements of [~~Clause (ii) of this~~] Subsection  
1552 (20)(i)(ii) is impracticable, or results in deception or unfair competition, exemptions shall be  
1553 established by [~~regulation~~] rule;

1554 (j) is a food [~~which~~] that purports to be or is represented to be for special dietary uses,  
1555 unless its label bears such information concerning its vitamin, mineral, and other dietary  
1556 properties as the department, after consultation with the Secretary of Agriculture of the United  
1557 States, prescribes by [~~regulation~~] rules as necessary to inform purchasers as to its value for such  
1558 uses;

1559 (k) bears or contains any artificial flavoring, artificial coloring, or chemical  
1560 preservative, unless it bears labeling stating that fact; provided, that to the extent that  
1561 compliance with the requirements of this subsection are impracticable, exemptions shall be  
1562 prescribed by [~~regulations~~] rules of the department; or

1563 (l) does not bear directly thereon and on its containers, as the department may prescribe  
1564 by [~~regulation~~] rule, the official inspection legend and establishment number of the official  
1565 establishment where the product was prepared, and, unrestricted by any of the foregoing, such  
1566 other information as the department may require by [~~regulations~~] rules to assure that it will not  
1567 have false or misleading labeling and that the public will be informed of the manner of  
1568 handling required to maintain it in a wholesome condition.

1569 (21) "Official certificate" means any certificate prescribed by [~~regulations~~] rules of the

1570 department for issuance by an inspector or other person performing official functions under this  
1571 chapter.

1572 (22) "Official device" means any device prescribed or authorized by the commissioner  
1573 for use in applying any official mark.

1574 (23) "Official establishment" means any establishment at which inspection of the  
1575 slaughter of livestock or the preparation of livestock products is maintained under the authority  
1576 of this chapter.

1577 (24) "Official inspection legend" means any symbol prescribed by [~~regulations~~] rules of  
1578 the department showing that a livestock product was inspected and passed in accordance with  
1579 this chapter.

1580 (25) "Official mark" means the official legend or any other symbol prescribed by  
1581 [~~regulations~~] rules of the department to identify the status of any livestock or livestock product  
1582 under this chapter.

1583 (26) "Permittee" means a person who holds a valid farm custom slaughter permit.

1584 (27) "Pesticide chemical," "food additive," "color additive," and "raw agricultural  
1585 commodity," have the same meanings for purposes of this chapter as ascribed to them in the  
1586 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

1587 (28) "Poultry" means any domesticated bird, whether living or dead.

1588 (29) "Poultry product" means any product capable of use as human food [~~which~~] that is  
1589 made wholly or in part from any poultry carcass, excepting products [~~which~~] that contain  
1590 poultry ingredients in relatively small proportion or [~~which~~] that historically have not been  
1591 considered by consumers as products of the poultry food industry, and [~~which~~] that are  
1592 exempted from definition as a poultry product by the commissioner.

1593 (30) "Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or  
1594 otherwise manufactured or processed.

1595 (31) "Renderer" means any person engaged in the business of rendering livestock  
1596 carcasses, or parts or products of such carcasses, except rendering conducted under inspection  
1597 or exemption under this chapter.

1598 (32) "Slaughter" means the killing of livestock or poultry in a humane manner  
1599 including skinning, dressing, or the process of performing any of the specified acts in preparing  
1600 livestock or poultry for human consumption.

1601 (33) "Slaughterhouse" or "custom slaughterhouse" means any building, plant, or  
1602 establishment used for the purpose of killing, dressing, or processing, whether such dressing or  
1603 processing is in conjunction with a killing operation or is a separate business, livestock or  
1604 livestock products or poultry or poultry products offered for sale or to be used for human  
1605 consumption.

1606 (34) "Slaughtering of livestock or poultry as a business" means the slaughtering of  
1607 livestock or poultry for the owner or caretaker of the livestock or poultry by a person who is  
1608 not a full-time employee of the owner or caretaker of such livestock or poultry.

1609 Section 47. Section **4-32-5** is amended to read:

1610 **4-32-5. Slaughterhouse licenses and farm custom slaughter permits -- Application**  
1611 **-- Fees -- Expiration -- Renewal.**

1612 (1) (a) Application for a license to operate a slaughterhouse shall be made to the  
1613 department upon forms prescribed and furnished by it.

1614 (b) Upon receipt of a proper application, compliance with all applicable [~~regulations~~]  
1615 rules, and the payment of an annual license fee determined by the department [~~pursuant~~]  
1616 according to Subsection 4-2-2(2), the commissioner, if satisfied that the public convenience  
1617 and necessity will be served, shall issue a license allowing the applicant to operate a  
1618 slaughterhouse through December 31 of the year in which the license is issued, subject to  
1619 suspension or revocation for cause.

1620 (c) A slaughterhouse license is annually renewable on or before December 31 of each  
1621 year, upon the payment of an annual license renewal fee in an amount determined by the  
1622 department [~~pursuant~~] according to Subsection 4-2-2(2).

1623 (2) (a) Application for a farm custom slaughter permit to engage in the business of  
1624 slaughtering livestock shall be made to the department on forms prescribed and furnished by it.

1625 (b) Upon receipt of a proper application, compliance with all applicable [~~regulations~~]

1626 rules, and payment of a permit fee in an amount determined by the department [~~pursuant~~  
1627 according to Subsection 4-2-2(2), the commissioner shall issue a permit allowing the applicant  
1628 to engage in farm custom slaughtering.

1629 (c) A farm custom slaughter permit is annually renewable on or before December 31 of  
1630 each year, upon the payment of an annual renewal permit fee in an amount determined by the  
1631 department [~~pursuant~~] according to Subsection 4-2-2(2).

1632 Section 48. Section **4-32-13** is amended to read:

1633 **4-32-13. Meat or carcasses of horses, mules, or other equines to be marked or**  
1634 **labeled -- Livestock or poultry products not intended for human food -- Dead, dying,**  
1635 **disabled, or diseased animals.**

1636 (1) No person shall sell, transport, offer for sale or transportation, or receive for  
1637 transportation, any carcasses of horses, mules, or other equines or parts of such carcasses, or  
1638 the meat or meat food products, unless they are plainly and conspicuously marked or labeled or  
1639 otherwise identified as required by [~~regulations prescribed by the commissioner~~] rules adopted  
1640 by the department to show the kinds of animals from which they were derived.

1641 (2) No person shall buy, sell, transport, or offer for sale or transportation, or receive for  
1642 transportation any livestock products or poultry products [~~which~~] that are not intended for  
1643 human food unless they are denatured or otherwise identified as required by the [~~regulations of~~  
1644 ~~the commissioner~~] rules of the department or are naturally inedible by humans.

1645 (3) No person engaged in the business of buying, selling, or transporting dead, dying,  
1646 disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise  
1647 than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for  
1648 transportation such animals or parts of carcasses unless such transaction or transportation is  
1649 made in accordance with [~~regulations prescribed by the commissioner~~] rules adopted by the  
1650 department to assure that such animals or parts of carcasses will be prevented from being used  
1651 for human food.

1652 Section 49. Section **4-32-18** is amended to read:

1653 **4-32-18. Rules for the construction and operation of slaughterhouses authorized.**

1654 (1) For the purposes of administering this chapter and qualifying slaughterhouses for  
1655 licenses, the ~~[commissioner]~~ department has authority to adopt sanitary inspection rules and  
1656 regulations, and all other necessary rules ~~[and regulations]~~, including those pertaining to the  
1657 construction, equipment, and facilities of slaughterhouses. ~~[Such]~~

1658 (2) The rules ~~[and regulations]~~ shall, so far as practical, ~~[be in conformity]~~ conform  
1659 with the regulations promulgated under the federal acts.

1660 Section 50. Section **4-32-20** is amended to read:

1661 **4-32-20. Suspension or revocation -- Grounds.**

1662 The department may upon its own motion and shall upon the verified complaint in  
1663 writing of any person, investigate or cause to be investigated the operation of any  
1664 slaughterhouse, and may suspend or revoke the license of ~~[such]~~ the slaughterhouse upon any  
1665 of the following grounds:

1666 (1) the license was obtained by any false or misleading statement;

1667 (2) for slaughtering any livestock or poultry without inspection (antemortem and  
1668 postmortem), or for processing any livestock or poultry or products of either that have not been  
1669 inspected and passed, (or exempted) and so identified;

1670 (3) the advertising or publicizing of any false or misleading statements ~~[which]~~ that  
1671 pertain to the slaughtering, processing, or distribution of livestock or livestock products or  
1672 poultry or poultry products;

1673 (4) the failure to maintain refrigeration, sanitation, or dispose of waste as required by  
1674 ~~[regulations]~~ rules of the department;

1675 (5) the failure to comply with ~~[regulations]~~ rules of the department pertaining to the  
1676 disposal of carcasses or parts of carcasses ~~[which]~~ that have been determined to be unfit for  
1677 human consumption.

1678 Section 51. Section **4-32-22** is amended to read:

1679 **4-32-22. Livestock or poultry slaughtered or the products of either not intended**  
1680 **for human use -- No inspection -- Products to be denatured or otherwise identified.**

1681 Inspection shall not be provided under this chapter at any establishment for the

1682 slaughter of livestock or poultry or the preparation of any livestock products or poultry  
1683 products [~~which~~] that are not intended for use as human food, but such products shall be  
1684 denatured or otherwise identified as prescribed by [~~regulations~~] rules of the department prior to  
1685 their offer for sale or transportation.

1686 Section 52. Section **17-41-201** is amended to read:

1687 **17-41-201. Agriculture protection area or industrial protection area advisory**  
1688 **board.**

1689 (1) (a) (i) Each county legislative body shall appoint no more than five members from  
1690 the county's [~~soil~~] conservation district [~~boards~~] board of supervisors to serve as the  
1691 Agriculture Protection Area Advisory Board.

1692 (ii) Each county legislative body shall appoint an industrial protection area advisory  
1693 board.

1694 (b) A county legislative body may appoint the advisory board before or after a proposal  
1695 to create an agriculture protection area or industrial protection area is filed.

1696 (2) Each member of an advisory board shall serve without salary, but a county  
1697 legislative body may reimburse members for expenses incurred in the performance of their  
1698 duties.

1699 (3) Each advisory board shall:

1700 (a) evaluate proposals for the establishment of agriculture protection areas or industrial  
1701 protection areas and make recommendations to the applicable legislative body about whether or  
1702 not the proposal should be accepted;

1703 (b) provide expert advice to the planning commission and to the applicable legislative  
1704 body about:

1705 (i) the desirability of the proposal;

1706 (ii) the nature of agricultural production or industrial use, as the case may be, within  
1707 the proposed area;

1708 (iii) the relation of agricultural production or industrial use, as the case may be, in the  
1709 area to the county as a whole; and

1710 (iv) which agriculture production or industrial use should be allowed within the  
1711 agriculture protection area or industrial protection area, respectively; and

1712 (c) perform all other duties required by this chapter.

1713 Section 53. Section **17A-1-301** is amended to read:

1714 **17A-1-301. Exemptions.**

1715 This part does not apply to:

1716 (1) public transit districts established under authority of Chapter 2, Part 10, Utah Public  
1717 Transit District Act;

1718 (2) water conservancy districts established under Chapter 2, Part 14, Water  
1719 Conservancy Districts;

1720 (3) [soit] conservation districts created under the authority of Chapter 3, Part 8, [Soit]  
1721 Conservation Districts;

1722 (4) metropolitan water districts established under authority of Chapter 2, Part 8,  
1723 Metropolitan Water District Act; and

1724 (5) any dependent special district established under the authority of Chapter 3,  
1725 Dependent Special Districts.

1726 Section 54. Section **17A-3-800** is amended to read:

1727 **Part 8. Conservation Districts**

1728 **17A-3-800. Definitions.**

1729 As used in this chapter:

1730 (1) "Commission" means the [Soit] Conservation Commission created by Section  
1731 4-18-4.

1732 (2) "Department" means the Department of Agriculture and Food created in Section  
1733 4-2-1.

1734 (3) "District" means a [soit] conservation district created under this chapter.

1735 Section 55. Section **41-1a-422** is amended to read:

1736 **41-1a-422. Support special group license plates -- Contributor -- Voluntary**  
1737 **contribution collection procedures.**

1738 (1) As used in this section:

1739 (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who

1740 has donated or in whose name at least \$25 has been donated to:

1741 (A) a scholastic scholarship fund of a single named institution;

1742 (B) the Division of Veterans' Affairs in the Utah National Guard for veterans'

1743 programs;

1744 (C) the Division of Wildlife Resources for the Wildlife Resources Account created in

1745 Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection,

1746 access, and management of wildlife habitat;

1747 (D) the Department of Agriculture and Food for the benefit of [soil] conservation

1748 districts;

1749 (E) the Division of Parks and Recreation for the benefit of snowmobile programs;

1750 (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with

1751 the donation evenly divided between the two;

1752 (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America

1753 council as specified by the contributor;

1754 (H) No More Homeless Pets in Utah for distribution to organizations or individuals

1755 that provide spay and neuter programs that subsidize the sterilization of domestic animals;

1756 (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth

1757 development programs; or

1758 (J) the Utah Association of Public School Foundations to support public education.

1759 (ii) For a veterans' special group license plate, "contributor" means a person who has

1760 donated or in whose name at least a \$25 donation at the time of application and \$10 annual

1761 donation thereafter has been made.

1762 (b) "Institution" means a state institution of higher education as defined under Section

1763 53B-3-102 or a private institution of higher education in the state accredited by a regional or

1764 national accrediting agency recognized by the United States Department of Education.

1765 (2) (a) An applicant for original or renewal collegiate special group license plates under

1766 Subsection (1)(a)(i) must be a contributor to the institution named in the application and  
1767 present the original contribution verification form under Subsection (2)(b) or make a  
1768 contribution to the division at the time of application under Subsection (3).

1769 (b) An institution with a support special group license plate shall issue to a contributor  
1770 a verification form designed by the commission containing:

1771 (i) the name of the contributor;

1772 (ii) the institution to which a donation was made;

1773 (iii) the date of the donation; and

1774 (iv) an attestation that the donation was for a scholastic scholarship.

1775 (c) The state auditor may audit each institution to verify that the moneys collected by  
1776 the institutions from contributors are used for scholastic scholarships.

1777 (d) After an applicant has been issued collegiate license plates or renewal decals, the  
1778 commission shall charge the institution whose plate was issued, a fee determined in accordance  
1779 with Section 63-38-3.2 for management and administrative expenses incurred in issuing and  
1780 renewing the collegiate license plates.

1781 (e) If the contribution is made at the time of application, the contribution shall be  
1782 collected, treated, and deposited as provided under Subsection (3).

1783 (3) (a) An applicant for original or renewal support special group license plates under  
1784 this section must be a contributor to the sponsoring organization associated with the license  
1785 plate.

1786 (b) This contribution shall be:

1787 (i) unless collected by the named institution under Subsection (2), collected by the  
1788 division;

1789 (ii) considered a voluntary contribution for the funding of the activities specified under  
1790 this section and not a motor vehicle registration fee; and

1791 (iii) deposited into the appropriate account less actual administrative costs associated  
1792 with issuing the license plates.

1793 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to

1794 registration or renewal of registration.

1795 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to  
1796 the division when issuing original:

1797 (i) snowmobile license plates; or

1798 (ii) [~~soil~~] conservation license plates.

1799 (4) Veterans' license plates shall display one of the symbols representing the Army,  
1800 Navy, Air Force, Marines, Coast Guard, or American Legion.

1801 Section 56. Section **54-3-25** is amended to read:

1802 **54-3-25. Telephone corporations -- Publishing special purpose district names and**  
1803 **telephone numbers.**

1804 (1) As used in this section, "special purpose district" includes the following:

1805 (a) Cemetery Maintenance Districts;

1806 (b) County Service Areas;

1807 (c) Drainage Districts;

1808 (d) Fire Protection Districts;

1809 (e) Irrigation Districts;

1810 (f) Metropolitan Water Districts;

1811 (g) Mosquito Abatement Districts;

1812 (h) Public Transit Districts;

1813 (i) Community Redevelopment Agencies;

1814 (j) Neighborhood Redevelopment Agencies;

1815 (k) Special Service Districts;

1816 (l) Water Conservancy Districts;

1817 (m) Airport Authorities;

1818 (n) Great Salt Lake Development Authority;

1819 (o) Hazardous Waste Facilities Management Authorities;

1820 (p) County Improvement Districts;

1821 (q) County Improvement Districts for Water, Sewerage, Flood Control, Electric, Gas;

- 1822 (r) Municipal Improvement Districts;
  - 1823 (s) Parking and Business Improvements Districts;
  - 1824 (t) Local Health Districts;
  - 1825 (u) Local Mental Health Authorities;
  - 1826 (v) Local Substance Abuse Authorities;
  - 1827 (w) [~~Soil~~] Conservation Districts;
  - 1828 (x) Municipal Building Authorities;
  - 1829 (y) Port Authorities;
  - 1830 (z) Pure Sugar Beet Seed Districts;
  - 1831 (aa) Special Road Districts;
  - 1832 (bb) Historic Districts; and
  - 1833 (cc) Sprinkling Districts.
- 1834 (2) (a) Each special purpose district, as defined in Subsection (1), shall:
- 1835 (i) annually provide its name, telephone number, and address to the telephone directory
  - 1836 publisher serving the geographical area within which the special purpose district headquarters
  - 1837 is located; or
  - 1838 (ii) annually provide the general manager's telephone number and address to the
  - 1839 telephone directory publisher within which the special district is located if the special purpose
  - 1840 district does not have its own telephone number and address; and
  - 1841 (iii) request that the special purpose district's or the general manager's name, telephone
  - 1842 number, and address be published in the government or other appropriate government-related
  - 1843 section of the local telephone directory serving the special purpose district.
  - 1844 (b) By June 30 of each year, certify in writing to the county treasurer of the county in
  - 1845 which the special purpose district is located, that its name, telephone number, and address have
  - 1846 been provided to the local telephone directory publisher for inclusion in the government or
  - 1847 other appropriate government-related section of the local telephone directory.
  - 1848 (c) After June 30, 1991, the county treasurer shall withhold the payment of any
  - 1849 property taxes to the special purpose district until the district has certified in writing to the

1850 county treasurer it has provided the required telephone listing information to the appropriate  
1851 telephone directory publisher by June 30 of that year and every year after that.

1852 (d) Any special purpose district that has a total annual budget of \$5,000 or less is  
1853 exempt from this section.

1854 Section 57. Section **63-38-2** is amended to read:

1855 **63-38-2. Governor to submit budget to Legislature -- Contents -- Preparation --**  
1856 **Appropriations based on current tax laws and not to exceed estimated revenues.**

1857 (1) (a) The governor shall, within three days after the convening of the Legislature in  
1858 the annual general session, submit a budget for the ensuing fiscal year by delivering it to the  
1859 presiding officer of each house of the Legislature together with a schedule for all of the  
1860 proposed appropriations of the budget, clearly itemized and classified.

1861 (b) The budget message shall include:

- 1862 (i) a projection of estimated revenues and expenditures for the next fiscal year; and
- 1863 (ii) the source of all direct, indirect, or in-kind matching funds for all federal grants or  
1864 assistance programs included in the budget.

1865 (2) At least 34 days before the submission of any budget, the governor shall deliver a  
1866 confidential draft copy of his proposed budget recommendations to the Office of the  
1867 Legislative Fiscal Analyst.

1868 (3) (a) The budget shall contain a complete plan of proposed expenditures and  
1869 estimated revenues for the next fiscal year based upon the current fiscal year state tax laws and  
1870 rates.

1871 (b) The budget may be accompanied by a separate document showing proposed  
1872 expenditures and estimated revenues based on changes in state tax laws or rates.

1873 (4) The budget shall be accompanied by a statement showing:

- 1874 (a) the revenues and expenditures for the last fiscal year;
- 1875 (b) the current assets, liabilities, and reserves, surplus or deficit, and the debts and  
1876 funds of the state;

1877 (c) an estimate of the state's financial condition as of the beginning and the end of the

1878 period covered by the budget;

1879 (d) a complete analysis of lease with an option to purchase arrangements entered into  
1880 by state agencies;

1881 (e) the recommendations for each state agency for new full-time employees for the next  
1882 fiscal year; which recommendation should be provided also to the State Building Board under  
1883 Subsection 63A-5-103(2);

1884 (f) any explanation the governor may desire to make as to the important features of the  
1885 budget and any suggestion as to methods for the reduction of expenditures or increase of the  
1886 state's revenue; and

1887 (g) the information detailing certain regulatory fee increases required by Section  
1888 63-38-3.2.

1889 (5) The budget shall include an itemized estimate of the appropriations for:

1890 (a) the Legislative Department as certified to the governor by the president of the  
1891 Senate and the speaker of the House;

1892 (b) the Executive Department;

1893 (c) the Judicial Department as certified to the governor by the state court administrator;

1894 (d) payment and discharge of the principal and interest of the indebtedness of the state;

1895 (e) the salaries payable by the state under the Utah Constitution or under law for the  
1896 lease agreements planned for the next fiscal year;

1897 (f) other purposes that are set forth in the Utah Constitution or under law; and

1898 (g) all other appropriations.

1899 (6) Deficits or anticipated deficits shall be included in the budget.

1900 (7) (a) (i) For the purpose of preparing and reporting the budget, the governor shall  
1901 require from the proper state officials, including public and higher education officials, all heads  
1902 of executive and administrative departments and state institutions, bureaus, boards,  
1903 commissions, and agencies expending or supervising the expenditure of the state moneys, and  
1904 all institutions applying for state moneys and appropriations, itemized estimates of revenues  
1905 and expenditures.

1906 (ii) (A) The governor may also require other information under these guidelines and at  
1907 times as the governor may direct.

1908 (B) These guidelines may include a requirement for program productivity and  
1909 performance measures, where appropriate, with emphasis on outcome indicators.

1910 (b) The estimate for the Legislative Department as certified by the presiding officers of  
1911 both houses shall be included in the budget without revision by the governor.

1912 (c) The estimate for the Judicial Department, as certified by the state court  
1913 administrator, shall also be included in the budget without revision, but the governor may make  
1914 separate recommendations on it.

1915 (d) The governor may require the attendance at budget meetings of representatives of  
1916 public and higher education, state departments and institutions, and other institutions or  
1917 individuals applying for state appropriations.

1918 (e) The governor may revise all estimates, except those relating to the Legislative  
1919 Department, the Judicial Department, and those providing for the payment of principal and  
1920 interest to the state debt and for the salaries and expenditures specified by the Utah  
1921 Constitution or under the laws of the state.

1922 (8) The total appropriations requested for expenditures authorized by the budget may  
1923 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing  
1924 fiscal year.

1925 (9) If any item of the budget as enacted is held invalid upon any ground, the invalidity  
1926 does not affect the budget itself or any other item in it.

1927 (10) (a) In submitting the budgets for the Departments of Health and Human Services  
1928 and the Office of the Attorney General, the governor shall consider a separate recommendation  
1929 in his budget for funds to be contracted to:

1930 (i) local mental health authorities under Section 62A-15-110;

1931 (ii) local substance abuse authorities under Section 62A-15-110;

1932 (iii) area agencies under Section 62A-3-104.2;

1933 (iv) programs administered directly by and for operation of the Divisions of Substance

1934 Abuse and Mental Health and Aging and Adult Services;

1935 (v) local health departments under Title 26A, Chapter 1, Local Health Departments;

1936 and

1937 (vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.

1938 (b) In his budget recommendations under Subsections (10)(a)(i), (ii), and (iii), the  
1939 governor shall consider an amount sufficient to grant local health departments, local mental  
1940 health authorities, local substance abuse authorities, and area agencies the same percentage  
1941 increase for wages and benefits that he includes in his budget for persons employed by the  
1942 state.

1943 (c) If the governor does not include in his budget an amount sufficient to grant the  
1944 increase described in Subsection (10)(b), he shall include a message to the Legislature  
1945 regarding his reason for not including that amount.

1946 (11) (a) In submitting the budget for the Department of Agriculture, the governor shall  
1947 consider an amount sufficient to grant local [soil] conservation districts and Utah Association  
1948 of Conservation District employees the same percentage increase for wages and benefits that he  
1949 includes in his budget for persons employed by the state.

1950 (b) If the governor does not include in his budget an amount sufficient to grant the  
1951 increase described in Subsection (11)(a), he shall include a message to the Legislature  
1952 regarding his reason for not including that amount.

1953 (12) (a) In submitting the budget for the Utah State Office of Rehabilitation and the  
1954 Division of Services for People with Disabilities, the Division of Child and Family Services,  
1955 and the Division of Juvenile Justice Services within the Department of Human Services, the  
1956 governor shall consider an amount sufficient to grant employees of corporations that provide  
1957 direct services under contract with those divisions, the same percentage increase for  
1958 cost-of-living that he includes in his budget for persons employed by the state.

1959 (b) If the governor does not include in his budget an amount sufficient to grant the  
1960 increase described in Subsection (12)(a), he shall include a message to the Legislature  
1961 regarding his reason for not including that amount.

1962           (13) (a) The Families, Agencies, and Communities Together Council may propose to  
1963 the governor under Subsection 63-75-4(4)(e) a budget recommendation for collaborative  
1964 service delivery systems operated under Section 63-75-6.5.

1965           (b) The Legislature may, through a specific program schedule, designate funds  
1966 appropriated for collaborative service delivery systems operated under Section 63-75-6.5.

1967           (14) The governor shall include in his budget the state's portion of the budget for the  
1968 Utah Communications Agency Network established in Title 63C, Chapter 7, Utah  
1969 Communications Agency Network Act.

1970           (15) (a) The governor shall include a separate recommendation in the governor's  
1971 budget for funds to maintain the operation and administration of the Utah Comprehensive  
1972 Health Insurance Pool.

1973           (b) In making the recommendation the governor may consider:

1974           (i) actuarial analysis of growth or decline in enrollment projected over a period of at  
1975 least three years;

1976           (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period  
1977 of at least three years;

1978           (iii) the annual Medical Care Consumer Price Index;

1979           (iv) the annual base budget for the pool established by the Commerce and Revenue  
1980 Appropriations Subcommittee for each fiscal year;

1981           (v) the growth or decline in insurance premium taxes and fees collected by the tax  
1982 commission and the insurance department; and

1983           (vi) the availability of surplus General Fund revenue under Section 63-38-2.5 and  
1984 Subsection 59-14-204(5)(b).

1985           (16) In adopting a budget for each fiscal year, the Legislature shall consider an amount  
1986 sufficient to grant local health departments, local mental health authorities, local substance  
1987 abuse authorities, area agencies on aging, [soit] conservation districts, and Utah Association of  
1988 Conservation District employees the same percentage increase for wages and benefits that is  
1989 included in the budget for persons employed by the state.

1990 (17) (a) In adopting a budget each year for the Utah Comprehensive Health Insurance  
1991 Pool, the Legislature shall determine an amount that is sufficient to fund the pool for each  
1992 fiscal year.

1993 (b) When making a determination under Subsection (17)(a), the Legislature shall  
1994 consider factors it determines are appropriate, which may include:

1995 (i) actuarial analysis of growth or decline in enrollment projected over a period of at  
1996 least three years;

1997 (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period  
1998 of at least three years;

1999 (iii) the annual Medical Care Consumer Price Index;

2000 (iv) the annual base budget for the pool established by the Commerce and Revenue  
2001 Appropriations Subcommittee for each fiscal year;

2002 (v) the growth or decline in insurance premium taxes and fees collected by the tax  
2003 commission and the insurance department from the previous fiscal year; and

2004 (vi) the availability of surplus General Fund revenue under Section 63-38-2.5 and  
2005 Subsection 59-14-204(5)(b).

2006 (c) The funds appropriated by the Legislature to fund the Utah Comprehensive Health  
2007 Insurance Pool as determined under Subsection (17)(a):

2008 (i) shall be deposited into the enterprise fund established by Section 31A-29-120; and

2009 (ii) are restricted and are to be used to maintain the operation, administration, and  
2010 management of the Utah Comprehensive Health Insurance Pool created by Section  
2011 31A-29-104.

2012 (18) In considering the factors in Subsections (15)(b)(i), (ii), and (iii) and Subsections  
2013 (17)(b)(i), (ii), and (iii), the governor and the Legislature may consider the actuarial data and  
2014 projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it  
2015 develops its financial statements and projections for each fiscal year.

2016 Section 58. Section **73-5-15** is amended to read:

2017 **73-5-15. Groundwater management plan.**

2018 (1) As used in this section:

2019 (a) "Critical management area" means a groundwater basin in which the groundwater  
2020 withdrawals consistently exceed the safe yield.

2021 (b) "Safe yield" means the amount of groundwater that can be withdrawn from a  
2022 groundwater basin over a period of time without exceeding the long-term recharge of the basin  
2023 or unreasonably affecting the basin's physical and chemical integrity.

2024 (2) (a) The state engineer may regulate groundwater withdrawals within a specific  
2025 groundwater basin by adopting a groundwater management plan in accordance with this section  
2026 for any groundwater basin or aquifer or combination of hydrologically connected groundwater  
2027 basins or aquifers.

2028 (b) The objectives of a groundwater management plan are to:

2029 (i) limit groundwater withdrawals to safe yield;

2030 (ii) protect the physical integrity of the aquifer; and

2031 (iii) protect water quality.

2032 (c) The state engineer shall adopt a groundwater management plan for a groundwater  
2033 basin if more than 1/3 of the water right owners in the groundwater basin request that the state  
2034 engineer adopt a groundwater management plan.

2035 (3) (a) In developing a groundwater management plan, the state engineer may consider:

2036 (i) the hydrology of the groundwater basin;

2037 (ii) the physical characteristics of the groundwater basin;

2038 (iii) the relationship between surface water and groundwater, including whether the  
2039 groundwater should be managed in conjunction with hydrologically connected surface waters;

2040 (iv) the geographic spacing and location of groundwater withdrawals;

2041 (v) water quality;

2042 (vi) local well interference; and

2043 (vii) other relevant factors.

2044 (b) The state engineer shall base the provisions of a groundwater management plan on  
2045 the principles of prior appropriation.

2046 (c) (i) The state engineer shall use the best available scientific method to determine  
2047 safe yield.

2048 (ii) As hydrologic conditions change or additional information becomes available, safe  
2049 yield determinations made by the state engineer may be revised by following the procedures  
2050 listed in Subsection (5).

2051 (4) (a) (i) Except as provided in Subsection (4)(b), the withdrawal of water from a  
2052 groundwater basin shall be limited to the basin's safe yield.

2053 (ii) Before limiting withdrawals in a groundwater basin to safe yield, the state engineer  
2054 shall:

2055 (A) determine the groundwater basin's safe yield; and

2056 (B) adopt a groundwater management plan for the groundwater basin.

2057 (iii) If the state engineer determines that groundwater withdrawals in a groundwater  
2058 basin exceed the safe yield, the state engineer shall regulate groundwater rights in that  
2059 groundwater basin based on the priority date of the water rights under the groundwater  
2060 management plan, unless a voluntary arrangement exists under Subsection (4)(c) that requires a  
2061 different distribution.

2062 (b) When adopting a groundwater management plan for a critical management area, the  
2063 state engineer shall, based on economic and other impacts to an individual water user or a local  
2064 community caused by the implementation of safe yield limits on withdrawals, allow gradual  
2065 implementation of the groundwater management plan.

2066 (c) (i) In consultation with the state engineer, water users in a groundwater basin may  
2067 agree to participate in a voluntary arrangement for managing withdrawals at any time, either  
2068 before or after a determination that groundwater withdrawals exceed the groundwater basin's  
2069 safe yield.

2070 (ii) A voluntary arrangement under Subsection (4)(c)(i) shall be consistent with other  
2071 law.

2072 (iii) The adoption of a voluntary arrangement under this Subsection (4)(c) by less than  
2073 all of the water users in a groundwater basin does not affect the rights of water users who do

2074 not agree to the voluntary arrangement.

2075 (5) To adopt a groundwater management plan, the state engineer shall:

2076 (a) give notice as specified in Subsection (7) at least 30 days before the first public

2077 meeting held in accordance with Subsection (5)(b):

2078 (i) that the state engineer proposes to adopt a groundwater management plan;

2079 (ii) describing generally the land area proposed to be included in the groundwater

2080 management plan; and

2081 (iii) stating the location, date, and time of each public meeting to be held in accordance

2082 with Subsection (5)(b);

2083 (b) hold one or more public meetings in the geographic area proposed to be included

2084 within the groundwater management plan to:

2085 (i) address the need for a groundwater management plan;

2086 (ii) present any data, studies, or reports that the state engineer intends to consider in

2087 preparing the groundwater management plan;

2088 (iii) address safe yield and any other subject that may be included in the groundwater

2089 management plan;

2090 (iv) outline the estimated administrative costs, if any, that groundwater users are likely

2091 to incur if the plan is adopted; and

2092 (v) receive any public comments and other information presented at the public

2093 meeting, including comments from any of the entities listed in Subsection (7)(a)(iii);

2094 (c) receive and consider written comments concerning the proposed groundwater

2095 management plan from any person for a period determined by the state engineer of not less

2096 than 60 days after the day on which the notice required by Subsection (5)(a) is given;

2097 (d) (i) at least 60 days prior to final adoption of the groundwater management plan,

2098 publish notice:

2099 (A) that a draft of the groundwater management plan has been proposed; and

2100 (B) specifying where a copy of the draft plan may be reviewed; and

2101 (ii) promptly provide a copy of the draft plan in printed or electronic form to each of

2102 the entities listed in Subsection (7)(a)(iii) that makes written request for a copy; and  
2103 (e) provide notice of the adoption of the groundwater management plan.  
2104 (6) A groundwater management plan shall become effective on the date notice of  
2105 adoption is completed under Subsection (7), or on a later date if specified in the plan.  
2106 (7) (a) A notice required by this section shall be:  
2107 (i) published once a week for two successive weeks in a newspaper of general  
2108 circulation in each county that encompasses a portion of the land area proposed to be included  
2109 within the groundwater management plan;  
2110 (ii) published conspicuously on the state engineer's Internet website; and  
2111 (iii) mailed to each of the following that has within its boundaries a portion of the land  
2112 area to be included within the proposed groundwater management plan:  
2113 (A) county;  
2114 (B) incorporated city or town;  
2115 (C) any of the following type of independent special districts operating under Title  
2116 17A, Special Districts:  
2117 (I) county improvement district providing water, sewerage, or flood control;  
2118 (II) county service area;  
2119 (III) drainage district;  
2120 (IV) irrigation district;  
2121 (V) metropolitan water district;  
2122 (VI) special service district providing water, sewer, drainage, or flood control services;  
2123 and  
2124 (VII) water conservancy district; and  
2125 (D) [soil] conservation district.  
2126 (b) A notice required by this section is effective upon substantial compliance with  
2127 Subsections (7)(a)(i) through (iii).  
2128 (8) A groundwater management plan may be amended in the same manner as a  
2129 groundwater management plan may be adopted under this section.

2130 (9) The existence of a groundwater management plan does not preclude any otherwise  
2131 eligible person from filing any application or challenging any decision made by the state  
2132 engineer within the affected groundwater basin.

2133 (10) (a) A person aggrieved by a groundwater management plan may challenge any  
2134 aspect of the groundwater management plan by filing a complaint within 60 days after the  
2135 adoption of the groundwater management plan in the district court for any county in which the  
2136 groundwater basin is found.

2137 (b) Notwithstanding Subsection (9), a person may challenge the components of a  
2138 groundwater management plan only in the manner provided by Subsection (10)(a).

2139 (c) An action brought under this Subsection (10) is reviewed de novo by the district  
2140 court.

2141 (d) A person challenging a groundwater management plan under this Subsection (10)  
2142 shall join the state engineer as a defendant in the action challenging the groundwater  
2143 management plan.

2144 (e) (i) Within 30 days after the day on which a person files an action challenging any  
2145 aspect of a groundwater management plan under Subsection (10)(a), the person filing the action  
2146 shall publish notice of the action in a newspaper of general circulation in the county in which  
2147 the district court is located.

2148 (ii) The notice required by Subsection (10)(e)(i) shall be published once a week for two  
2149 consecutive weeks.

2150 (iii) The notice required by Subsection (10)(e)(i) shall:

2151 (A) identify the groundwater management plan the person is challenging;

2152 (B) identify the case number assigned by the district court;

2153 (C) state that a person affected by the groundwater management plan may petition the  
2154 district court to intervene in the action challenging the groundwater management plan; and

2155 (D) list the address for the clerk of the district court in which the action is filed.

2156 (iv) (A) Any person affected by the groundwater management plan may petition to  
2157 intervene in the action within 60 days after the day on which notice is last published under

2158 Subsections (10)(e)(i) and (ii).

2159 (B) The district court's treatment of a petition to intervene under this Subsection  
2160 (10)(e)(iv) is governed by the Utah Rules of Civil Procedure.

2161 (v) A district court in which an action is brought under Subsection (10)(a) shall  
2162 consolidate all actions brought under that subsection and include in the consolidated action any  
2163 person whose petition to intervene is granted.

2164 (11) A groundwater management plan adopted or amended in accordance with this  
2165 section is exempt from the requirements in Title 63, Chapter 46a, Utah Administrative  
2166 Rulemaking Act.

2167 (12) Recharge and recovery projects permitted under Chapter 3b, Groundwater  
2168 Recharge and Recovery Act, are exempted from this section.

2169 (13) Nothing in this section may be interpreted to require the development,  
2170 implementation, or consideration of a groundwater management plan as a prerequisite or  
2171 condition to the exercise of the state engineer's enforcement powers under other law, including  
2172 powers granted under Section 73-2-25.

2173 (14) A groundwater management plan adopted in accordance with this section may not  
2174 apply to the dewatering of a mine.

2175 (15) (a) A groundwater management plan adopted by the state engineer before May 1,  
2176 2006, remains in force and has the same legal effect as it had on the day on which it was  
2177 adopted by the state engineer.

2178 (b) If a groundwater management plan that existed before May 1, 2006, is amended on  
2179 or after May 1, 2006, the amendment is subject to this section's provisions.

2180 Section 59. Section **73-10-26** is amended to read:

2181 **73-10-26. Construction of works, facilities, and projects by board -- Ownership**  
2182 **and operation -- Transfer of water rights -- Purchase of bonds from Indian tribes.**

2183 (1) (a) The Board of Water Resources, through the Division of Water Resources, may  
2184 construct works and facilities, including hydroelectric generating works, [as] that are necessary  
2185 and desirable to conserve and develop the water and power resources of the state. [~~Any~~]

2186           **(b) An electric public utility or a municipality of the state may construct** electrical  
2187 facilities incidental to a hydroelectric project [~~may be constructed by an electric public utility or~~  
2188 ~~a municipality of the state~~].

2189           **(c) If the state constructs the** electrical facilities [~~are constructed by the state~~], the **state**  
2190 **must first offer the** power and energy derived from the hydroelectric generating plant [~~must~~  
2191 ~~first be offered~~] to electric public utilities or municipalities in the state for distribution to  
2192 electric consumers.

2193           (2) (a) The Board of Water Resources, through the Division of Water Resources, may  
2194 consider any flood control project provided for in Title 4, Chapter 18, **Conservation**  
2195 **Commission Act**, in the same manner, and apply procedures and rules, as the board would  
2196 consider or apply to any other project within its statutory authority.

2197           (b) If funds controlled by the Board of Water Resources are to be used for the project,  
2198 the planning by the [~~Soil~~] Conservation Commission is subject to the review of the board.

2199           (c) If the project is authorized for construction, the plans, specifications, and  
2200 construction supervision shall be undertaken as prescribed by the board.

2201           (3) The Board of Water Resources may enter into an agreement for the construction of  
2202 any project financed with monies from the Water Resources Construction and Development  
2203 Fund with another state, the federal government, a political subdivision of the state, an Indian  
2204 tribe, or a private corporation.

2205           (4) (a) **(i)** Title to all projects, including water rights, constructed with monies from the  
2206 Water Resources Construction and Development Fund[;] is vested in the state.

2207           **(ii)** If [~~a project is being sponsored by~~] an incorporated municipality, metropolitan  
2208 water district, water conservancy district, improvement district, special improvement district,  
2209 special service district, or any other political subdivision of the state **sponsors a project**, the  
2210 Board of Water Resources may take revenue bonds, general obligation bonds, special  
2211 assessment bonds, or other bonds or obligations legally issued by the sponsor in lieu of or in  
2212 addition to taking title to the project and water rights.

2213           (b) If an Indian tribe sponsors a project, the Board of Water Resources may take

2214 revenue bonds, general obligation bonds, or other bonds or obligations legally issued by the  
2215 tribe, to the extent that federal law allows the tribe to issue bonds, in lieu of taking title to the  
2216 project and water rights, if the tribe:

2217 (i) waives the defense of sovereign immunity regarding the bond issue in any action  
2218 arising out of the issuance or default under the bond; and

2219 (ii) agrees in writing that it will not challenge state court jurisdiction over any litigation  
2220 resulting from default on its obligations in the transaction.

2221 (c) Before entering into any agreement with or purchasing any bonds or obligations  
2222 from a tribe, the Board of Water Resources shall:

2223 (i) require that the tribe obtain the written approval of the Secretary of the United  
2224 States Department of the Interior or [his] the secretary's designee to all aspects of the  
2225 agreement, bonds, or obligations;

2226 (ii) obtain a legal opinion from a recognized bond counsel certifying:

2227 (A) that the tribe has legal authority to enter into the agreement or issue the bonds or  
2228 obligations;

2229 (B) that the pledge of any assets or revenues by the tribe as security for the payments  
2230 under the agreement, bonds, or obligations is a valid and legally enforceable pledge; and

2231 (C) that the agreement, bonds, or obligations may be enforced in any court of general  
2232 jurisdiction in the state; and

2233 (iii) determine whether it has sufficient legal recourse against the tribe and against any  
2234 security pledged by the tribe in the event of default.

2235 (5) (a) The Board of Water Resources may own and operate water conservation and  
2236 development works and projects[;] and flood control projects, if:

2237 (i) the works and projects are consistent with plans adopted by the board; and

2238 (ii) in the opinion of the board the ownership and operation of the projects by the board  
2239 is in the best interest of the state.

2240 (b) In the ownership and operation of the projects referred to in Subsection (5)(a), the  
2241 board shall [~~utilize~~] use water rights held in its name under authority of Section 73-10-19.

2242 (c) (i) The board may enter into contracts with another state, the federal government, a  
2243 political subdivision of the state, an Indian tribe, or a private corporation for operation,  
2244 maintenance, and administration of the project.

2245 (ii) The board may pay the contracting agency a reasonable sum for operation,  
2246 maintenance, and administration of the project.

2247 (6) (a) The board may also:

2248 (i) enter into agreements in which title to projects may be conveyed to cooperating  
2249 sponsors after charges assessed against the project have been paid to the state in accordance  
2250 with the terms of construction agreements or amendments to those agreements;

2251 (ii) make available for the use of the state's citizens who are, in its opinion, best able to  
2252 utilize it, all water and power conserved by any of the projects to which the state may have  
2253 title;

2254 (iii) enter into contracts for the use of that water and power with individuals or with  
2255 organizations composed of the state's citizens; and

2256 (iv) assess a reasonable fee against any person using water and power from a project.

2257 (b) Any amount collected over the amount to be returned to the state for payment of the  
2258 principal, interest, and maintenance of the project shall become part of the Water Resources  
2259 Conservation and Development Fund as established by Section 73-10-24.

2260 (7) The Board of Water Resources shall retain ownership of water rights used for  
2261 projects owned and operated by the board [~~except as follows~~] unless:

2262 (a) the water rights originally held by cooperating sponsors [~~shall be~~] are conveyed to  
2263 [~~that~~] the sponsor upon payment to the state of charges assessed against the project in  
2264 accordance with the terms of construction agreements or amendments to those agreements;  
2265 [~~and~~] or

2266 (b) the board [~~may transfer~~] transfers any unperfected water right held by it [~~which~~]  
2267 that is not being utilized in a state-owned project to a political subdivision of the state, any  
2268 agency of the federal government, or a nonprofit water company.

2269 (8) Any transfer of the board's water rights shall be made to the entity that is best able to

2270 [~~utilize~~] use the water rights for the benefit of the state's citizens.

2271 Section 60. **Repealer.**

2272 This bill repeals:

2273 Section **4-6-1, Definitions.**

2274 Section **4-6-2, Prohibition against the manufacture, sale, or offer for sale of flour,**  
2275 **cereal, or food product that fails to conform to enrichment or fortification standards.**

2276 Section **4-6-3, Adoption of enrichment and labeling requirements -- Considerations**  
2277 **for adoption.**

2278 Section **4-6-4, Transactions exempt from prohibition -- Form and substance of**  
2279 **certification.**

2280 Section **4-18-14, Adoption of resolution implementing conservation corps.**

2281 Section **4-18-15, Utah Conservation Corps -- Establishment -- Responsibilities.**

2282 Section **4-18-16, Definitions.**

2283 Section **4-18-17, Utah Conservation Corps director.**

2284 Section **4-18-18, Nature of projects.**

2285 Section **4-18-19, Project areas -- Benefits and opportunities.**

2286 Section **4-18-20, Selection criteria.**

2287 Section **4-18-21, Powers of director.**

2288 Section **4-18-22, Retirement benefits.**

2289 Section **4-18-23, Nonresidential programs.**

2290 Section **4-18-24, Contracts with nonprofit agencies.**

2291 Section **4-18-25, Educational component.**

2292 Section **4-18-26, Employment and training.**

2293 Section **4-18-27, Corps member bill of rights.**