

1 **CONSTITUTIONAL AND FEDERALISM DEFENSE ACT**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ken Ivory**

5 Senate Sponsor: _____

7 **LONG TITLE**

8 **General Description:**

9 This bill recodifies and amends Title 63C, Chapter 4, Constitutional Defense Council,
10 dissolves the Federalism Subcommittee, and creates the Commission on Federalism.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ recodifies Title 63C, Chapter 4, Constitutional Defense Council, and renames it the
15 Constitutional and Federalism Defense Act;
- 16 ▶ adds one member to the Constitutional Defense Council;
- 17 ▶ dissolves the Federalism Subcommittee;
- 18 ▶ amends the duties of the Constitutional Defense Council;
- 19 ▶ creates the Commission on Federalism and describes its duties, which include most
20 of the duties formerly assigned to the Federalism Subcommittee;
- 21 ▶ amends provisions relating to the Constitutional Defense Restricted Account;
- 22 ▶ subjects the provisions of this bill to sunset review before being repealed on July 1,
23 2018; and
- 24 ▶ makes technical changes.

25 **Money Appropriated in this Bill:**

26 This bill appropriates in fiscal year 2013:

- 27 ▶ to the General Fund Restricted - Constitutional Defense Restricted Account as a



28 one-time appropriation, from the General Fund, one-time, (\$79,800);
29 ▶ to the Governor’s Office - Constitutional Defense Council as a one-time
30 appropriation, from the General Fund Restricted - Constitutional Defense,
31 (\$79,800);
32 ▶ to the Legislature - Senate as a one-time appropriation, from the General Fund,
33 one-time, \$34,200; and
34 ▶ to the Legislature - House of Representatives as a one-time appropriation, from the
35 General Fund, one-time, \$45,600.

36 **Other Special Clauses:**

37 None

38 **Utah Code Sections Affected:**

39 **AMENDS:**

- 40 **53C-3-203**, as last amended by Laws of Utah 2012, Chapter 212
- 41 **63I-1-263 (Effective 05/01/13)**, as last amended by Laws of Utah 2012, Chapters 126,
- 42 206, 347, 369, and 395
- 43 **63J-4-401**, as last amended by Laws of Utah 2012, Chapter 189
- 44 **63J-4-603**, as last amended by Laws of Utah 2011, Chapter 252
- 45 **67-5-1**, as last amended by Laws of Utah 2011, Chapter 342

46 **ENACTS:**

- 47 **63C-4a-101**, Utah Code Annotated 1953
- 48 **63C-4a-102**, Utah Code Annotated 1953
- 49 **63C-4a-201**, Utah Code Annotated 1953
- 50 **63C-4a-301**, Utah Code Annotated 1953
- 51 **63C-4a-302**, Utah Code Annotated 1953
- 52 **63C-4a-401**, Utah Code Annotated 1953

53 **RENUMBERS AND AMENDS:**

- 54 **63C-4a-103**, (Renumbered from 63C-4-105, as enacted by Laws of Utah 2001, Chapter
- 55 287)
- 56 **63C-4a-202**, (Renumbered from 63C-4-101, as last amended by Laws of Utah 2011,
- 57 Chapter 252)
- 58 **63C-4a-203**, (Renumbered from 63C-4-102, as last amended by Laws of Utah 2012,

59 Chapters 324 and 377)

60 **63C-4a-303**, (Renumbered from 63C-4-106, as last amended by Laws of Utah 2012,
61 Chapter 369)

62 **63C-4a-304**, (Renumbered from 63C-4-107, as enacted by Laws of Utah 2011, Chapter
63 252)

64 **63C-4a-305**, (Renumbered from 63C-4-108, as enacted by Laws of Utah 2011, Chapter
65 252)

66 **63C-4a-402**, (Renumbered from 63C-4-103, as last amended by Laws of Utah 2012,
67 Chapter 324)

68 **63C-4a-403**, (Renumbered from 63C-4-104, as last amended by Laws of Utah 2011,
69 Chapter 252)

70 **Uncodified Material Affected:**

71 ENACTS UNCODIFIED MATERIAL



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

74 Section 1. Section **53C-3-203** is amended to read:

75 **53C-3-203. Land Exchange Distribution Account.**

76 (1) As used in this section, "account" means the Land Exchange Distribution Account
77 created in Subsection (2)(a).

78 (2) (a) There is created within the General Fund a restricted account known as the Land
79 Exchange Distribution Account.

80 (b) The account shall consist of revenue deposited in the account as required by
81 Section 53C-3-202.

82 (3) (a) The state treasurer shall invest money in the account according to Title 51,
83 Chapter 7, State Money Management Act.

84 (b) The Division of Finance shall deposit interest or other earnings derived from
85 investment of account money into the General Fund.

86 (4) The Legislature shall annually appropriate from the account in the following order:

87 (a) \$1,000,000 to the Constitutional Defense Restricted Account created in Section
88 [~~63C-4-103~~] 63C-4a-402; and

89 (b) from the deposits to the account remaining after the appropriation in Subsection

90 (4)(a), the following amounts:

91 (i) 55% of the deposits to counties in amounts proportionate to the amounts of mineral
92 revenue generated from the acquired land, exchanged land, acquired mineral interests, or
93 exchanged mineral interests located in each county, to be used to mitigate the impacts caused
94 by mineral development;

95 (ii) 25% of the deposits to counties in amounts proportionate to the total surface and
96 mineral acreage within each county that was conveyed to the United States under the agreement
97 or an exchange, to be used to mitigate the loss of mineral development opportunities resulting
98 from the agreement or exchange;

99 (iii) 1.68% of the deposits to the State Board of Education, to be used for education
100 research and experimentation in the use of staff and facilities designed to improve the quality
101 of education in Utah;

102 (iv) 1.66% of the deposits to the Geological Survey, to be used for natural resources
103 development in the state;

104 (v) 1.66% of the deposits to the Water Research Laboratory at Utah State University, to
105 be used for water development in the state;

106 (vi) 11% of the deposits to the Constitutional Defense Restricted Account created in
107 Section [~~63C-4-103~~] 63C-4a-402;

108 (vii) 1% of the deposits to the Geological Survey, to be used for test wells, other
109 hydrologic studies, and air quality monitoring in the West Desert; and

110 (viii) 3% of the deposits to the Permanent Community Impact Fund created in Section
111 35A-8-303, to be used for grants to political subdivisions of the state to mitigate the impacts
112 resulting from the development or use of school and institutional trust lands.

113 (5) The administration shall make recommendations to the Permanent Community
114 Impact Fund Board for its consideration when awarding the grants described in Subsection
115 (4)(b)(viii).

116 Section 2. Section **63C-4a-101** is enacted to read:

117 **CHAPTER 4a. CONSTITUTIONAL AND FEDERALISM DEFENSE ACT**

118 **Part 1. General Provisions**

119 **63C-4a-101. Title.**

120 (1) This chapter is known as the "Constitutional and Federalism Defense Act."

- 121 (2) This part is known as "General Provisions."
122 Section 3. Section **63C-4a-102** is enacted to read:
123 **63C-4a-102. Definitions.**
124 As used in this chapter:
125 (1) "Account" means the Constitutional Defense Restricted Account, created in Section
126 63C-4a-402.
127 (2) "Commission" means the Commission on Federalism, created in Section
128 63C-4a-302.
129 (3) "Constitutional defense plan" means a plan that outlines actions and expenditures to
130 fulfill the duties of the commission and the council.
131 (4) "Council" means the Constitutional Defense Council, created in Section
132 63C-4a-202.
133 (5) "Federal governmental entity" means:
134 (a) the president of the United States;
135 (b) the United States Congress;
136 (c) a United States agency; or
137 (d) an employee or official appointed by the president of the United States.
138 (6) "Federal law" means:
139 (a) an executive order by the president of the United States;
140 (b) a statute passed by the United States Congress;
141 (c) a regulation adopted by a United States agency; or
142 (d) a policy statement, order, guidance, or action by:
143 (i) a United States agency; or
144 (ii) an employee or official appointed by the president of the United States.
145 (7) "R.S. 2477" means Revised Statute 2477, codified as 43 U.S.C. Section 932.
146 (8) "R.S. 2477 plan" means a guiding document that:
147 (a) is developed jointly by the Utah Association of Counties and the state;
148 (b) is approved by the council; and
149 (c) presents the broad framework of a proposed working relationship between the state
150 and participating counties collectively for the purpose of asserting, defending, or litigating state
151 and local government rights under R.S. 2477.

152 (9) "United States agency" means a department, agency, authority, commission,
153 council, board, office, bureau, or other administrative unit of the executive branch of the
154 United States government.

155 Section 4. Section **63C-4a-103**, which is renumbered from Section 63C-4-105 is
156 renumbered and amended to read:

157 ~~[63C-4-105].~~ **63C-4a-103. Policy for public lands within the state.**

158 [(†)] It is the policy of the state to claim and preserve by lawful means the rights of the
159 state and its citizens to determine and affect the disposition and use of federal lands within the
160 state as those rights are granted by the United States Constitution, the Utah Enabling Act, and
161 other applicable law.

162 ~~[(2) The Constitutional Defense Council shall study, formulate, and recommend~~
163 ~~appropriate legal strategies and arguments to further this policy.]~~

164 Section 5. Section **63C-4a-201** is enacted to read:

165 **Part 2. Constitutional Defense Council**

166 **63C-4a-201. Title.**

167 This part is known as "Constitutional Defense Council."

168 Section 6. Section **63C-4a-202**, which is renumbered from Section 63C-4-101 is
169 renumbered and amended to read:

170 ~~[63C-4-101].~~ **63C-4a-202. Creation of Constitutional Defense Council --**
171 **Membership -- Vacancies -- Meetings -- Staff -- Reports -- Per diem, travel expenses, and**
172 **funding.**

173 (1) There is created the Constitutional Defense Council.

174 (2) (a) The council shall consist of the following members:

175 (i) the governor or the lieutenant governor, who shall serve as chair of the council;

176 (ii) the president of the Senate or the president of the Senate's designee who shall serve
177 as vice chair of the council;

178 (iii) the speaker of the House or the speaker of the House's designee who shall serve as
179 vice chair of the council;

180 (iv) another member of the House, appointed by the speaker of the House;

181 ~~[(iv)]~~ (v) the minority leader of the Senate or the minority leader of the Senate's
182 designee;

183 [~~(v)~~] (vi) the minority leader of the House or the minority leader of the House's
184 designee;

185 [~~(vi)~~] (vii) the attorney general or the attorney general's designee, who shall be one of
186 the attorney general's appointees, not a current career service employee;

187 [~~(vii)~~] (viii) the director of the School and Institutional Trust Lands Administration;

188 [~~(viii)~~] (ix) four elected county commissioners, county council members, or county
189 executives from different counties who are selected by the Utah Association of Counties, at
190 least one of whom shall be from a county of the first or second class;

191 [~~(ix)~~] (x) the executive director of the Department of Natural Resources, who may not
192 vote;

193 [~~(x)~~] (xi) the commissioner of the Department of Agriculture and Food, who may not
194 vote;

195 [~~(xi)~~] (xii) the director of the Governor's Office of Economic Development, who may
196 not vote; and

197 [~~(xii)~~] (xiii) two elected county commissioners, county council members, or county
198 executives from different counties appointed by the Utah Association of Counties, who may
199 not vote.

200 (b) The council vice chairs shall conduct a council meeting in the absence of the chair.

201 (c) If both the governor and the lieutenant governor are absent from a meeting of the
202 council, the governor may designate a person to attend the meeting solely for the purpose of
203 casting a vote on any matter on the governor's behalf.

204 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
205 appointed for the unexpired term in the same manner as the original appointment.

206 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the council shall meet at least
207 monthly or more frequently as needed.

208 (ii) The council need not meet monthly if the chair, after polling the members,
209 determines that a majority of the members do not wish to meet.

210 (b) The governor or any six members of the council may call a meeting of the council.

211 (c) Before calling a meeting, the governor or council members shall solicit items for
212 the agenda from other members of the council.

213 (d) (i) The council shall require that any entity, other than the commission, that

214 receives money from the Constitutional Defense Restricted Account provide financial reports
215 and litigation reports to the council.

216 (ii) Nothing in this Subsection (4)(d) prohibits the council from closing a meeting
217 under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the council from
218 complying with Title 63G, Chapter 2, Government Records Access and Management Act.

219 (e) A majority of the voting membership on the council is required for a quorum to
220 conduct council business. A majority vote of the quorum is required for any action taken by
221 the council.

222 (5) (a) The Office of the Attorney General shall advise[~~-(i)~~] the council[~~,-and~~].
223 [~~(ii) the Federalism Subcommittee.~~]

224 (b) The Public Lands Policy Coordinating Office shall provide staff assistance for
225 meetings of the council [~~and Federalism Subcommittee~~].

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

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

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

230 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
231 63A-3-107.

232 [~~(7) (a) The council and Federalism Subcommittee shall be funded from the~~
233 ~~Constitutional Defense Restricted Account created in Section 63C-4-103.~~]

234 [~~(b)~~] (7) Money appropriated for or received by the council may be expended by the
235 governor in consultation with the council.

236 [~~(8) (a) There is created a Federalism Subcommittee of the council.~~]

237 [~~(b) The subcommittee shall consist of members listed in Subsections (2)(a)(i) through~~
238 ~~(vi).~~]

239 [~~(c) (i) The governor or the lieutenant governor shall serve as chair of the~~
240 ~~subcommittee.~~]

241 [~~(ii) The council vice chair shall conduct a subcommittee meeting in the absence of the~~
242 ~~chair.~~]

243 Section 7. Section **63C-4a-203**, which is renumbered from Section 63C-4-102 is
244 renumbered and amended to read:

245 ~~[63C-4-102].~~ 63C-4a-203. **Duties of Constitutional Defense Council.**

246 (1) The Constitutional Defense Council [~~is a council to~~] shall assist the governor and
247 the Legislature on the following types of issues:

248 (a) the constitutionality of federal mandates;

249 (b) when making recommendations to challenge the federal mandates and regulations
250 described in Subsections (1)(f)(i) through (v), the rationale for and effectiveness of those
251 federal mandates or regulations;

252 (c) legal and policy issues surrounding state and local government rights under R.S.
253 2477;

254 (d) legal issues relating to the rights of the School and Institutional Trust Lands
255 Administration and its beneficiaries;

256 (e) a disagreement with another state regarding the use or ownership of water; and

257 (f) the advisability, feasibility, estimated cost, and likelihood of success of challenging:

258 (i) federal court rulings that:

259 (A) hinder the management of the state's prison system and place undue financial
260 hardship on the state's taxpayers;

261 (B) impact a power or a right reserved to the state or its citizens by the United States
262 Constitution, Amendment IX or X; or

263 (C) expand or grant a power to the United States government beyond the limited,
264 enumerated powers granted by the United States Constitution;

265 (ii) federal laws or regulations that reduce or negate water rights or the rights of owners
266 of private property, or the rights and interest of state and local governments, including
267 sovereignty interests and the power to provide for the health, safety, and welfare, and promote
268 the prosperity of their inhabitants;

269 (iii) conflicting federal regulations or policies in land management on federal land;

270 (iv) federal intervention that would damage the state's mining, timber, [~~and~~] or
271 ranching industries;

272 (v) the authority of the Environmental Protection Agency and Congress to mandate
273 local air quality standards and penalties; and

274 (vi) other issues that are relevant to this Subsection (1).

275 (2) The council shall:

276 (a) provide advice to the governor, state planning coordinator, and the public lands
277 policy coordinator concerning coordination of:

- 278 (i) state and local government rights under R.S. 2477; and
- 279 (ii) other public lands issues;

280 (b) approve a plan for R.S. 2477 rights developed in accordance with Section
281 ~~[63C-4-104; and]~~ 63C-4a-403;

282 (c) review, at least quarterly:

- 283 (i) financial statements concerning implementation of the plan for R.S. 2477 rights;
- 284 and

285 (ii) financial and other reports from the Public Lands Policy Coordinating Office
286 concerning its activities[-]; and

287 (d) study, formulate, and recommend appropriate legal strategies and arguments to
288 further the policy described in Section 63C-4a-103.

289 (3) The council chair may require the attorney general or a designee to provide
290 testimony on potential legal actions that would enhance the state's sovereignty or authority on
291 issues affecting Utah and the well-being of its citizens.

292 (4) The council chair may direct the attorney general to initiate and prosecute any
293 action that the council determines will further its purposes, including an action described in
294 Section 67-5-29.

295 (5) (a) Subject to the provisions of this section, the council may select and employ
296 attorneys to implement the purposes and duties of the council.

297 (b) The council chair may, in consultation with the council, direct any council attorney
298 in any manner considered appropriate by the attorney general to best serve the purposes of the
299 council.

300 (c) The attorney general shall negotiate a contract for services with any attorney
301 selected and approved for employment under this section.

302 (6) The council chair may, only with the concurrence of the council, review and
303 approve all claims for payments for:

- 304 (a) legal services that are submitted to the council;
- 305 (b) an action filed in accordance with Section 67-5-29; and
- 306 (c) costs related to a constitutional defense plan approved in accordance with Section

307 ~~[63C-4-104]~~ 63C-4a-403 that are submitted by:

- 308 (i) the Public Lands Policy Coordinating Office;
 309 (ii) the School and Institutional Trust Lands Administration; or
 310 (iii) the Office of the Attorney General.

311 (7) ~~(a) [Within five business days' notice, the]~~ The council chair may, with the
 312 concurrence of the council, order the attorney general or an attorney employed by the council to
 313 cease work ~~[to]~~ that may be charged to the fund.

314 (b) The attorney general or other attorney subject to the order shall comply with the
 315 order no later than five business days after the day on which the order is given.

316 (8) (a) At least 20 calendar days before the state submits comments on the draft
 317 environmental impact statement or environmental assessment for a proposed land management
 318 plan of any federal land management agency, the governor shall make those documents
 319 available to:

- 320 (i) members of the council; and
 321 (ii) any county executive, county council member, or county commissioner of a county
 322 that is covered by the management plan and that has established formal cooperating agency
 323 status with the relevant federal land management agency regarding the proposed plan.

324 (b) (i) ~~[Council members or local government officials receiving]~~ A council member or
 325 local government official who receives the documents described in Subsection (8)(a) may make
 326 recommendations to the governor or the governor's designee concerning changes to the
 327 documents before ~~[they]~~ the documents are submitted to the federal land management agency.

328 (ii) ~~[Council members or local government officials]~~ A council member or local
 329 government official shall submit recommendations to the governor or the governor's designee
 330 no later than 10 calendar days after ~~[receiving]~~ the day on which the council member or local
 331 government official receives the documents ~~[under]~~ described in Subsection (8)(a).

332 (c) Documents transmitted or received under this Subsection (8) are drafts and are
 333 protected records ~~[pursuant to]~~ under Subsection 63G-2-305(21).

334 (9) The council shall submit a report on December 1 of each year to each legislator by
 335 electronic mail that summarizes the council's activities ~~[to each legislator]~~.

336 Section 8. Section ~~63C-4a-301~~ is enacted to read:

337 **Part 3. Commission on Federalism**

338 63C-4a-301. Title.

339 This part is known as "Commission on Federalism."

340 Section 9. Section **63C-4a-302** is enacted to read:

341 63C-4a-302. Creation of Commission on Federalism -- Membership meetings --
342 Staff -- Expenses.

343 (1) There is created the Commission on Federalism, comprised of the following seven
344 members:

345 (a) the president of the Senate or the president of the Senate's designee who shall serve
346 as cochair of the commission;

347 (b) another member of the Senate, appointed by the president of the Senate;

348 (c) the speaker of the House or the speaker of the House's designee who shall serve as
349 cochair of the commission;

350 (d) two other members of the House, appointed by the speaker of the House;

351 (e) the minority leader of the Senate or the minority leader of the Senate's designee;

352 and

353 (f) the minority leader of the House or the minority leader of the House's designee.

354 (2) (a) A majority of the members of the commission constitute a quorum of the
355 commission.

356 (b) Action by a majority of the members of a quorum constitutes action by the
357 commission.

358 (3) The commission shall meet six times each year, unless additional meetings are
359 approved by the Legislative Management Committee.

360 (4) The Office of Legislative Research and General Counsel shall provide staff support
361 to the commission.

362 (5) Salary and expenses of a member of the commission shall be paid in accordance
363 with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and Mileage
364 Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override
365 Sessions.

366 (6) Nothing in this section prohibits the commission from closing a meeting under
367 Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission from
368 complying with Title 63G, Chapter 2, Government Records Access and Management Act.

369 Section 10. Section ~~63C-4a-303~~, which is renumbered from Section 63C-4-106 is
 370 renumbered and amended to read:

371 ~~[63C-4-106].~~ **63C-4a-303. Duties of Commission on Federalism.**

372 ~~[(1) As used in this chapter:]~~

373 ~~[(a) "Federal governmental entity" means:]~~

374 ~~[(i) the President of the United States;]~~

375 ~~[(ii) the United States Congress;]~~

376 ~~[(iii) a United States agency; or]~~

377 ~~[(iv) an employee or official appointed by the President of the United States.]~~

378 ~~[(b) "Federal law" means:]~~

379 ~~[(i) an executive order by the President of the United States;]~~

380 ~~[(ii) a statute passed by the United States Congress;]~~

381 ~~[(iii) a regulation adopted by a United States agency; or]~~

382 ~~[(iv) a policy statement, guidance, or action by:]~~

383 ~~[(A) a United States agency; or]~~

384 ~~[(B) an employee or official appointed by the President of the United States.]~~

385 ~~[(c) "United States agency" means a department, agency, authority, commission,~~
 386 ~~council, board, office, bureau, or other administrative unit of the executive branch of the~~
 387 ~~United States government.]~~

388 ~~[(2)]~~ (1) In accordance with Section ~~[63C-4-107]~~ 63C-4a-304, the ~~[Federalism~~
 389 ~~Subcommittee chair]~~ commission may evaluate a federal law:

390 (a) as agreed by a majority of the commission; or

391 (b) submitted to the [Federalism Subcommittee] commission by a council member.

392 ~~[(3)]~~ (2) The ~~[Federalism Subcommittee]~~ commission may request information
 393 regarding a federal law under evaluation from a United States Senator or representative elected
 394 from the state.

395 ~~[(4)]~~ (3) If the ~~[Federalism Subcommittee]~~ commission finds that a federal law is not
 396 authorized by the United States Constitution or violates the principle of federalism as described
 397 in Subsection ~~[63C-4-107]~~ 63C-4a-304(2), ~~[the Federalism Subcommittee chair]~~ a commission
 398 cochair may:

399 (a) request from a United States senator or representative elected from the state:

- 400 (i) information about the federal law; or
- 401 (ii) assistance in communicating with a federal governmental entity regarding the
- 402 federal law;
- 403 (b) (i) give written notice of ~~[the]~~ an evaluation ~~[required by]~~ made under Subsection
- 404 ~~[(2)]~~ (1) to the federal governmental entity responsible for adopting or administering the
- 405 federal law; and
- 406 (ii) request a response by a specific date to the evaluation from the federal
- 407 governmental entity; and
- 408 (c) request a meeting, conducted in person or by electronic means, with the federal
- 409 governmental entity ~~[and a council member]~~, a representative from another state, or a United
- 410 States Senator or Representative elected from the state to discuss the evaluation of federal law
- 411 and any possible remedy.
- 412 ~~[(5)]~~ (4) The ~~[Federalism Subcommittee]~~ commission may recommend to the governor
- 413 that the governor call a special session of the Legislature to give the Legislature an opportunity
- 414 to respond to the ~~[subcommittee's]~~ commission's evaluation of a federal law.
- 415 ~~[(6)]~~ (5) ~~[The Federalism Subcommittee chair]~~ A commission cochair may coordinate
- 416 the evaluation of and response to federal law with another state as provided in Section
- 417 ~~[63C-4-108]~~ 63C-4a-305.
- 418 ~~[(7)]~~ (6) ~~[The Federalism Subcommittee]~~ On May 20 and October 20 of each year, the
- 419 commission shall submit a report by electronic mail ~~[that summarizes action taken in~~
- 420 accordance with this section] to the Legislative Management Committee and the Government
- 421 Operations Interim Committee ~~[on May 20 and October 20 of each year.]~~ that summarizes:
- 422 (a) action taken by the commission in accordance with this section; and
- 423 (b) action taken by, or communication received from, any of the following in response
- 424 to a request or inquiry made, or other action taken, by the commission:
- 425 (i) a United States senator or representative elected from the state;
- 426 (ii) a representative of another state; or
- 427 (iii) a federal entity, official, or employee.
- 428 (7) The commission shall keep a current list on the Legislature's website of:
- 429 (a) a federal law that the commission evaluates under Subsection (1);
- 430 (b) an action taken by a cochair of the commission under Subsection (3);

431 (c) any coordination undertaken with another state under Section 63C-4a-305; and
432 (d) any response received from a federal government entity that was requested under
433 Subsection (3).

434 Section 11. Section **63C-4a-304**, which is renumbered from Section 63C-4-107 is
435 renumbered and amended to read:

436 ~~[63C-4-107].~~ **63C-4a-304. Standard for evaluation of federal law.**

437 (1) The ~~[Federalism Subcommittee]~~ commission shall evaluate whether a federal law
438 ~~[submitted under Subsection 63C-4-106(2)]~~ evaluated under Section 63C-4a-303 is authorized
439 by:

440 (a) United States Constitution, Article I, Section 2, to provide for the decennial census;

441 (b) United States Constitution, Article I, Section 4, to override state laws regulating the
442 times, places, and manner of congressional elections, other than the place of senatorial
443 elections;

444 (c) United States Constitution, Article I, Section 7, to veto bills, orders, and resolutions
445 by Congress;

446 (d) United States Constitution, Article I, Section 8, to:

447 (i) lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for
448 the common defense and general welfare of the United States, but all duties, imposts, and
449 excises shall be uniform throughout the United States;

450 (ii) borrow money on the credit of the United States;

451 (iii) regulate commerce with foreign nations, among the several states, and with the
452 Indian tribes;

453 (iv) establish a uniform rule of naturalization and uniform laws on the subject of
454 bankruptcies throughout the United States;

455 (v) coin money, regulate the value of coin money and of foreign coin, and fix the
456 standard of weights and measures;

457 (vi) provide for the punishment of counterfeiting the securities and current coin of the
458 United States;

459 (vii) establish post offices and post roads;

460 (viii) promote the progress of science and useful arts, by securing for limited times to
461 authors and inventors the exclusive right to their respective writings and discoveries;

- 462 (ix) constitute tribunals inferior to the supreme court;
- 463 (x) define and punish piracies and felonies committed on the high seas and offences
464 against the law of nations;
- 465 (xi) declare war, grant letters of marque and reprisal, and make rules concerning
466 captures on land and water;
- 467 (xii) raise and support armies, but no appropriation of money to that use shall be for a
468 longer term than two years;
- 469 (xiii) provide and maintain a navy;
- 470 (xiv) make rules for the government and regulation of the land and naval forces;
- 471 (xv) provide for calling forth the militia to execute the laws of the union, suppress
472 insurrections, and repel invasions;
- 473 (xvi) provide for organizing, arming, and disciplining the militia, and for governing the
474 part of the militia that may be employed in the service of the United States, reserving to the
475 states respectively, the appointment of the officers and the authority of training the militia
476 according to the discipline prescribed by Congress;
- 477 (xvii) exercise exclusive legislation in all cases whatsoever, over such district, which
478 may not exceed 10 miles square, as may, by cession of particular states and the acceptance of
479 Congress, become the seat of the government of the United States, and to exercise like
480 authority over all places purchased by the consent of the legislature of the state in which the
481 place shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful
482 buildings; or
- 483 (xviii) make all laws which shall be necessary and proper for carrying into execution
484 the powers listed in this section, and all other powers vested by the United States Constitution
485 in the government of the United States, or in any department or officer of the United States;
- 486 (e) United States Constitution, Article I, Section 9, to authorize a federal officer to
487 receive benefits from a foreign nation;
- 488 (f) United States Constitution, Article I, Section 10, to fix the pay of members of
489 Congress and of federal officers;
- 490 (g) United States Constitution, Article II, Section 1, to:
- 491 (i) set the time for choosing electors; or
- 492 (ii) establish who succeeded to the presidency after the vice president;

- 493 (h) United States Constitution, Article II, Section 2, to:
- 494 (i) serve as Commander-in-Chief of the armed forces;
- 495 (ii) require the written opinions of executive officers;
- 496 (iii) grant reprieves and pardons;
- 497 (iv) make vacancy appointments;
- 498 (v) make treaties, subject to the advice and consent of the United States Senate;
- 499 (vi) appoint foreign affairs officers subject to the advice and consent of the United
- 500 States Senate;
- 501 (vii) appoint domestic affairs officers subject either to the advice and consent of the
- 502 United States Senate or pursuant to law;
- 503 (viii) appoint judges subject to the advice and consent of the United States Senate; or
- 504 (ix) authorize the president to fill designated inferior offices without senatorial
- 505 consent;
- 506 (i) United States Constitution, Article II, Section 3, to:
- 507 (i) receive representatives of foreign powers;
- 508 (ii) execute the laws;
- 509 (iii) commission United States officers;
- 510 (iv) give Congress information;
- 511 (v) make recommendations to Congress;
- 512 (vi) convene Congress on extraordinary occasions; or
- 513 (vii) adjourn Congress if it cannot agree on a time;
- 514 (j) United States Constitution, Article III, Section 1, to:
- 515 (i) create exceptions to the supreme court's appellate jurisdiction;
- 516 (ii) fix the jurisdiction of federal courts inferior to the supreme court; or
- 517 (iii) declare the punishment for treason;
- 518 (k) United States Constitution, Article IV, Section 1, to establish the rules by which the
- 519 records and judgments of states are proved in other states;
- 520 (l) United States Constitution, Article IV, Section 3, to:
- 521 (i) manage federal property;
- 522 (ii) dispose of federal property;
- 523 (iii) govern the federal territories; or

- 524 (iv) consent to admission of new states or the combination of existing states;
- 525 (m) United States Constitution, Article IV, Section 4, to defend states from invasion,
- 526 insurrection, and non-republican forms of government;
- 527 (n) United States Constitution, Article V, Section 1, to propose constitutional
- 528 amendments;
- 529 (o) United States Constitution, Article VI, Section 1, to prescribe the oath for federal
- 530 officers;
- 531 (p) United States Constitution, Amendment XIII, to abolish slavery;
- 532 (q) United States Constitution, Amendment XIV, to guard people from certain state
- 533 abuses;
- 534 (r) United States Constitution, Amendment XVI, to impose taxes on income from any
- 535 source without having to apportion the total dollar amount of tax collected from each state
- 536 according to each state's population in relation to the total national population;
- 537 (s) United States Constitution, Amendment XX, to revise the manner of presidential
- 538 succession;
- 539 (t) United States Constitution, Amendment XV, XIX, XXIII, or XXIV, to extend and
- 540 protect the right to vote; or
- 541 (u) United States Constitution, Amendment XVII, to grant a pay raise to a sitting
- 542 Congress.
- 543 (2) The ~~[Federalism Subcommittee]~~ commission shall evaluate whether a federal law
- 544 ~~[submitted under Subsection 63C-4-106(2)]~~ evaluated under Section 63C-4a-303 violates the
- 545 principle of federalism by:
 - 546 (a) affecting the distribution of power and responsibility among the state and national
 - 547 government;
 - 548 (b) limiting the policymaking discretion of the state;
 - 549 (c) impacting a power or a right reserved to the state or its citizens by the United States
 - 550 Constitution, Amendment IX or X; ~~[and]~~ or
 - 551 (d) impacting the sovereignty rights and interest of the state or a political subdivision to
 - 552 provide for the health, safety, and welfare and promote the prosperity of the state's or political
 - 553 subdivision's inhabitants.
- 554 (3) In the evaluation of a federal law, the ~~[Federalism Subcommittee]~~ commission:

555 (a) shall rely on:

556 (i) the text of the United States Constitution, as amended;

557 (ii) the meaning of the text of the United States Constitution, as amended, at the time
558 of its drafting and ratification; and

559 (iii) a primary source document that is:

560 (A) directly relevant to the drafting, adoption, ratification, or initial implementation of
561 the United States Constitution, as amended; or

562 (B) created by a person directly involved in the drafting, adoption, ratification, or
563 initial implementation of the United States Constitution, as amended;

564 (b) may rely on other relevant sources, including federal court decisions; and

565 (c) is not bound by a holding by a federal court.

566 Section 12. Section **63C-4a-305**, which is renumbered from Section 63C-4-108 is
567 renumbered and amended to read:

568 ~~[63C-4-108].~~ **63C-4a-305. Communication with other states and**
569 **governmental entities.**

570 ~~[(1) The Federalism Subcommittee chair]~~ A commission cochair may correspond with
571 the presiding officer of the legislative branch of another state or an entity of another state that
572 has powers and duties that are similar to the ~~[Federalism Subcommittee]~~ commission to discuss
573 and coordinate the evaluation of and response to federal law as provided in Section
574 ~~[63C-4-106]~~ 63C-4a-303.

575 ~~[(2) The Federalism Subcommittee shall send a copy of this bill and the pages of the~~
576 ~~House and Senate Journal that pertain to Laws of Utah 2011, Chapter 252 to:]~~

577 ~~[(a) the governor of each state;]~~

578 ~~[(b) the presiding officer, the majority leader, and the minority leader of each house, if~~
579 ~~applicable, of each state legislature;]~~

580 ~~[(c) each United States Senator or Representative elected from this state;]~~

581 ~~[(d) the Chief Justice of the United States Supreme Court;]~~

582 ~~[(e) the President of the United States, and]~~

583 ~~[(f) the presiding officer, the majority leader, and the minority leader of each house of~~
584 ~~the United States Congress.]~~

585 Section 13. Section **63C-4a-401** is enacted to read:

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Part 4. Miscellaneous Provisions

63C-4a-401. Title.

This part is known as "Miscellaneous Provisions."

Section 14. Section **63C-4a-402**, which is renumbered from Section 63C-4-103 is renumbered and amended to read:

[63C-4-103]. 63C-4a-402. Creation of Constitutional Defense Restricted Account -- Sources of funds -- Uses of funds -- Reports.

- (1) There is created a restricted account within the General Fund known as the Constitutional Defense Restricted Account.
- (2) The account consists of money from the following revenue sources:
 - (a) money deposited to the account as required by Section 53C-3-203;
 - (b) voluntary contributions;
 - (c) money received by the council from other state agencies; and
 - (d) appropriations made by the Legislature.
- (3) The Legislature may annually appropriate money from the Constitutional Defense Restricted Account to one or more of the following:
 - (a) the commission, to fund the commission and for the commission's duties;
 - ~~[(a)]~~ (b) the council, to fund the council and for the council's ~~[or Federalism Subcommittee's duties established in this chapter]~~ duties;
 - ~~[(b)]~~ (c) the Public Lands Policy Coordinating Office to carry out its duties in Section 63J-4-603;
 - ~~[(c)]~~ (d) the Office of the Governor, to be used only for the purpose of asserting, defending, or litigating:
 - (i) an issue arising with another state regarding the use or ownership of water; or
 - (ii) state and local government rights under R.S. 2477, in accordance with a plan developed and approved as provided in Section ~~[63C-4-104]~~ 63C-4a-403;
 - ~~[(d)]~~ (e) a county or association of counties to assist counties, consistent with the purposes of the council, in pursuing issues affecting the counties; [or]
 - ~~[(e)]~~ (f) the Office of the Attorney General, to be used only:
 - (i) for public lands counsel and assistance and litigation to the state or local governments including asserting, defending, or litigating state and local government rights

617 under R.S. 2477 in accordance with a plan developed and approved as provided in Section
618 ~~[63C-4-104]~~ 63C-4a-403;

619 (ii) for an action filed in accordance with Section 67-5-29;

620 (iii) to advise the council ~~[and Federalism Subcommittee]~~; or

621 (iv) for asserting, defending, or litigating an issue arising with another state regarding
622 the use or ownership of water[-]; or

623 (g) the Office of Legislative Research and General Counsel, to provide staff support to
624 the commission.

625 (4) (a) The council shall require that any entity, other than the commission, that
626 receives money from the ~~[Constitutional Defense Restricted Account]~~ account provide
627 financial reports and litigation reports to the council.

628 (b) Nothing in this Subsection (4) prohibits the commission or the council from closing
629 a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the
630 commission or the council from complying with Title 63G, Chapter 2, Government Records
631 Access and Management Act.

632 Section 15. Section **63C-4a-403**, which is renumbered from Section 63C-4-104 is
633 renumbered and amended to read:

634 ~~[63C-4-104].~~ **63C-4a-403. Plans for R.S. 2477 rights and constitutional**
635 **defense -- Contents.**

636 ~~[(1) As used in this section:]~~

637 ~~[(a) "Constitutional defense plan" means a plan that outlines actions and expenditures~~
638 ~~to fulfill the council's and Federalism Subcommittee's duties established by this chapter.]~~

639 ~~[(b) "R.S. 2477 plan" means a guiding document that:]~~

640 ~~[(i) is developed jointly by the Utah Association of Counties and the state;]~~

641 ~~[(ii) is approved by the Constitutional Defense Council; and]~~

642 ~~[(iii) presents the broad framework of a proposed working relationship between the~~
643 ~~state and participating counties collectively for the purpose of asserting, defending, or litigating~~
644 ~~state and local government rights under R.S. 2477.]~~

645 ~~[(2)]~~ (1) The ~~[Constitutional Defense Council]~~ council may approve [a] an R.S. 2477
646 plan if the R.S. 2477 plan:

647 (a) provides for a good faith, cooperative effort between the state and each

648 participating county;

649 (b) allows a county to formally agree to participate in the R.S. 2477 plan by adopting a
650 resolution;

651 (c) provides that the state and a participating county are equal partners in determining
652 litigation strategy and the expenditure of resources with respect to that county's rights under
653 R.S. 2477; and

654 (d) provides a process for resolving any disagreement between the state and a
655 participating county about litigation strategy or resource expenditure that includes the
656 following requirements:

657 (i) the governor or the governor's designee and a representative of the Utah Association
658 of Counties shall first attempt to resolve the disagreement;

659 (ii) if the county and the state continue to disagree, the county, the governor, and the
660 Utah Association of Counties shall present their recommendations to the [~~Constitutional~~
661 ~~Defense Council~~] council for a final decision about the strategy or expenditure in question; and

662 (iii) the county may pursue a strategy or make an expenditure contrary to the final
663 decision of the [~~Constitutional Defense Council~~] council only if the county does not claim
664 resources provided to fund the R.S. 2477 plan.

665 [~~(3)~~] (2) The [~~Constitutional Defense Council~~] council shall ensure that the R.S. 2477
666 plan contains:

667 (a) provisions identifying which expenditure types require approval of the R.S. 2477
668 plan committee and which expenditure types may be made without the R.S. 2477 plan
669 committee approval;

670 (b) provisions requiring that financial statements be provided to members of the R.S.
671 2477 plan committee and members of the [~~Constitutional Defense Council~~] council, and the
672 frequency with which those financial statements must be provided; and

673 (c) provisions identifying those decisions or types of decisions that may be made by the
674 R.S. 2477 plan committee and those decisions or types of decisions that must be referred to the
675 [~~Constitutional Defense Council~~] council for decision.

676 [~~(4)~~] (3) (a) The Public Lands Policy Coordinating Office, in consultation with the
677 committee, the Office of the Attorney General and the School and Institutional Trust Lands,
678 shall prepare and submit a constitutional defense plan to the [~~Constitutional Defense Council~~]

679 council for the council's approval.

680 (b) The constitutional defense plan shall contain proposed action and expenditure for:

681 (i) the council's or the [~~subcommittee's~~] commission's duties [~~established by this~~
682 ~~chapter~~]; or

683 (ii) an action filed in accordance with Section 67-5-29.

684 [~~(5)~~] (4) The [~~Constitutional Defense Council~~] council shall:

685 (a) review expenditures, at least quarterly, made to further a plan approved under this
686 section;

687 (b) approve an update to a plan under this section at least annually, or more often, if
688 necessary; and

689 (c) jointly, with the Public Lands Policy Coordinating Office, present a R.S. 2477 plan
690 approved under this section, with any updates, to:

691 (i) the Legislature's Natural Resources, Agriculture, and Environment Interim
692 Committee by July 1 of each calendar year, after providing the R.S. 2477 plan to the committee
693 at least seven days before the presentation; [~~and~~]

694 (ii) the commission, which may be by mail; and

695 [~~(ii)~~] (iii) the president of the Senate and the speaker of the House of Representatives,
696 which may be by mail.

697 Section 16. Section **63I-1-263 (Effective 05/01/13)** is amended to read:

698 **63I-1-263 (Effective 05/01/13). Repeal dates, Titles 63A to 63M.**

699 (1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to
700 any public school district which chooses to participate, is repealed July 1, 2016.

701 (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

702 (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July
703 1, 2018.

704 [~~(3)~~] (4) Section 63C-8-106, rural residency training program, is repealed July 1, 2015.

705 [~~(4)~~] (5) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is
706 repealed July 1, 2014.

707 [~~(5)~~] (6) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to
708 award a contract for a design-build transportation project in certain circumstances, is repealed
709 July 1, 2015.

710 ~~[(6)]~~ (7) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed
711 July 1, 2020.

712 ~~[(7)]~~ (8) The Resource Development Coordinating Committee, created in Section
713 63J-4-501, is repealed July 1, 2015.

714 ~~[(8)]~~ (9) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

715 ~~[(9)]~~ (10) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act,
716 is repealed January 1, 2021.

717 (b) Subject to Subsection ~~[(9)]~~ (10)(c), Sections 59-7-610 and 59-10-1007 regarding
718 tax credits for certain persons in recycling market development zones, are repealed for taxable
719 years beginning on or after January 1, 2021.

720 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

721 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
722 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

723 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
724 the expenditure is made on or after January 1, 2021.

725 (d) Notwithstanding Subsections ~~[(9)]~~ (10)(b) and (c), a person may carry forward a tax
726 credit in accordance with Section 59-7-610 or 59-10-1007 if:

727 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

728 (ii) (A) for the purchase price of machinery or equipment described in Section
729 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
730 2020; or

731 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
732 expenditure is made on or before December 31, 2020.

733 ~~[(10)]~~ (11) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

734 (b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

735 (A) direct the Health System Reform Task Force to evaluate the issues listed in
736 Subsection ~~[(10)]~~ (11)(b)(ii), and by January 1, 2013, develop and recommend criteria for the
737 Legislature to use to negotiate the terms of the Health Care Compact; and

738 (B) prior to July 1, 2014, seek amendments to the Health Care Compact among the
739 member states that the Legislature determines are appropriate after considering the
740 recommendations of the Health System Reform Task Force.

741 (ii) The Health System Reform Task Force shall evaluate and develop criteria for the
742 Legislature regarding:

743 (A) the impact of the Supreme Court ruling on the Affordable Care Act;

744 (B) whether Utah is likely to be required to implement any part of the Affordable Care
745 Act prior to negotiating the compact with the federal government, such as Medicaid expansion
746 in 2014;

747 (C) whether the compact's current funding formula, based on adjusted 2010 state
748 expenditures, is the best formula for Utah and other state compact members to use for
749 establishing the block grants from the federal government;

750 (D) whether the compact's calculation of current year inflation adjustment factor,
751 without consideration of the regional medical inflation rate in the current year, is adequate to
752 protect the state from increased costs associated with administering a state based Medicaid and
753 a state based Medicare program;

754 (E) whether the state has the flexibility it needs under the compact to implement and
755 fund state based initiatives, or whether the compact requires uniformity across member states
756 that does not benefit Utah;

757 (F) whether the state has the option under the compact to refuse to take over the federal
758 Medicare program;

759 (G) whether a state based Medicare program would provide better benefits to the
760 elderly and disabled citizens of the state than a federally run Medicare program;

761 (H) whether the state has the infrastructure necessary to implement and administer a
762 better state based Medicare program;

763 (I) whether the compact appropriately delegates policy decisions between the
764 legislative and executive branches of government regarding the development and
765 implementation of the compact with other states and the federal government; and

766 (J) the impact on public health activities, including communicable disease surveillance
767 and epidemiology.

768 [~~(H)~~] (12) The Crime Victim Reparations and Assistance Board, created in Section
769 63M-7-504, is repealed July 1, 2017.

770 [~~(H2)~~] (13) Title 63M, Chapter 9, Families, Agencies, and Communities Together for
771 Children and Youth At Risk Act, is repealed July 1, 2016.

772 [~~(13)~~] (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
773 2017.

774 Section 17. Section **63J-4-401** is amended to read:

775 **63J-4-401. Planning duties of the planning coordinator and office.**

776 (1) The state planning coordinator shall:

777 (a) act as the governor's adviser on state, regional, metropolitan, and local
778 governmental planning matters relating to public improvements and land use;

779 (b) counsel with the authorized representatives of the Department of Transportation,
780 the State Building Board, the Department of Health, the Department of Workforce Services,
781 the Labor Commission, the Department of Natural Resources, the School and Institutional
782 Trust Lands Administration, and other proper persons concerning all state planning matters;

783 (c) when designated to do so by the governor, receive funds made available to Utah by
784 the federal government;

785 (d) receive and review plans of the various state agencies and political subdivisions
786 relating to public improvements and programs;

787 (e) when conflicts occur between the plans and proposals of state agencies, prepare
788 specific recommendations for the resolution of the conflicts and submit the recommendations
789 to the governor for a decision resolving the conflict;

790 (f) when conflicts occur between the plans and proposals of a state agency and a
791 political subdivision or between two or more political subdivisions, advise these entities of the
792 conflict and make specific recommendations for the resolution of the conflict;

793 (g) act as the governor's planning agent in planning public improvements and land use
794 and, in this capacity, undertake special studies and investigations;

795 (h) provide information and cooperate with the Legislature or any of its committees in
796 conducting planning studies;

797 (i) cooperate and exchange information with federal agencies and local, metropolitan,
798 or regional agencies as necessary to assist with federal, state, regional, metropolitan, and local
799 programs;

800 (j) make recommendations to the governor that the planning coordinator considers
801 advisable for the proper development and coordination of plans for state government and
802 political subdivisions; and

803 (k) oversee and supervise the activities and duties of the public lands policy
804 coordinator.

805 (2) The state planning coordinator may:

806 (a) perform regional and state planning and assist state government planning agencies
807 in performing state planning;

808 (b) provide planning assistance to Indian tribes regarding planning for Indian
809 reservations; and

810 (c) assist city, county, metropolitan, and regional planning agencies in performing
811 local, metropolitan, and regional planning, provided that the state planning coordinator and the
812 state planning coordinator's agents and designees recognize and promote the plans, policies,
813 programs, processes, and desired outcomes of each planning agency whenever possible.

814 (3) When preparing or assisting in the preparation of plans, policies, programs, or
815 processes related to the management or use of federal lands or natural resources on federal
816 lands in Utah, the state planning coordinator shall:

817 (a) incorporate the plans, policies, programs, processes, and desired outcomes of the
818 counties where the federal lands or natural resources are located, to the maximum extent
819 consistent with state and federal law, provided that this requirement shall not be interpreted to
820 infringe upon the authority of the governor;

821 (b) identify inconsistencies or conflicts between the plans, policies, programs,
822 processes, and desired outcomes prepared under Subsection (3)(a) and the plans, programs,
823 processes, and desired outcomes of local government as early in the preparation process as
824 possible, and seek resolution of the inconsistencies through meetings or other conflict
825 resolution mechanisms involving the necessary and immediate parties to the inconsistency or
826 conflict;

827 (c) present to the governor the nature and scope of any inconsistency or other conflict
828 that is not resolved under the procedures in Subsection (3)(b) for the governor's decision about
829 the position of the state concerning the inconsistency or conflict;

830 (d) develop, research, and use factual information, legal analysis, and statements of
831 desired future condition for the state, or subregion of the state, as necessary to support the
832 plans, policies, programs, processes, and desired outcomes of the state and the counties where
833 the federal lands or natural resources are located;

834 (e) establish and coordinate agreements between the state and federal land management
835 agencies, federal natural resource management agencies, and federal natural resource
836 regulatory agencies to facilitate state and local participation in the development, revision, and
837 implementation of land use plans, guidelines, regulations, other instructional memoranda, or
838 similar documents proposed or promulgated for lands and natural resources administered by
839 federal agencies; and

840 (f) work in conjunction with political subdivisions to establish agreements with federal
841 land management agencies, federal natural resource management agencies, and federal natural
842 resource regulatory agencies to provide a process for state and local participation in the
843 preparation of, or coordinated state and local response to, environmental impact analysis
844 documents and similar documents prepared pursuant to law by state or federal agencies.

845 (4) The state planning coordinator shall comply with the requirements of Subsection
846 [~~63C-4-102~~] 63C-4a-203(8) before submitting any comments on a draft environmental impact
847 statement or on an environmental assessment for a proposed land management plan, if the
848 governor would be subject to Subsection [~~63C-4-102~~] 63C-4a-203(8) if the governor were
849 submitting the material.

850 (5) The state planning coordinator shall cooperate with and work in conjunction with
851 appropriate state agencies and political subdivisions to develop policies, plans, programs,
852 processes, and desired outcomes authorized by this section by coordinating the development of
853 positions:

854 (a) through the Resource Development Coordinating Committee;

855 (b) in conjunction with local government officials concerning general local government
856 plans;

857 (c) by soliciting public comment through the Resource Development Coordinating
858 Committee; and

859 (d) by working with the Public Lands Policy Coordinating Office.

860 (6) The state planning coordinator shall recognize and promote the following principles
861 when preparing any policies, plans, programs, processes, or desired outcomes relating to
862 federal lands and natural resources on federal lands pursuant to this section:

863 (a) (i) the citizens of the state are best served by applying multiple-use and
864 sustained-yield principles in public land use planning and management; and

- 865 (ii) multiple-use and sustained-yield management means that federal agencies should
866 develop and implement management plans and make other resource-use decisions that:
- 867 (A) achieve and maintain in perpetuity a high-level annual or regular periodic output of
868 mineral and various renewable resources from public lands;
- 869 (B) support valid existing transportation, mineral, and grazing privileges at the highest
870 reasonably sustainable levels;
- 871 (C) support the specific plans, programs, processes, and policies of state agencies and
872 local governments;
- 873 (D) are designed to produce and provide the desired vegetation for the watersheds,
874 timber, food, fiber, livestock forage, and wildlife forage, and minerals that are necessary to
875 meet present needs and future economic growth and community expansion without permanent
876 impairment of the productivity of the land;
- 877 (E) meet the recreational needs and the personal and business-related transportation
878 needs of the citizens of the state by providing access throughout the state;
- 879 (F) meet the recreational needs of the citizens of the state;
- 880 (G) meet the needs of wildlife;
- 881 (H) provide for the preservation of cultural resources, both historical and
882 archaeological;
- 883 (I) meet the needs of economic development;
- 884 (J) meet the needs of community development; and
- 885 (K) provide for the protection of water rights;
- 886 (b) managing public lands for "wilderness characteristics" circumvents the statutory
887 wilderness process and is inconsistent with the multiple-use and sustained-yield management
888 standard that applies to all Bureau of Land Management and U.S. Forest Service lands that are
889 not wilderness areas or wilderness study areas;
- 890 (c) all waters of the state are:
- 891 (i) owned exclusively by the state in trust for its citizens;
- 892 (ii) are subject to appropriation for beneficial use; and
- 893 (iii) are essential to the future prosperity of the state and the quality of life within the
894 state;
- 895 (d) the state has the right to develop and use its entitlement to interstate rivers;

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

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

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

903 (h) the state should foster and support industries that take advantage of the state's
904 outstanding opportunities for outdoor recreation;

905 (i) wildlife constitutes an important resource and provides recreational and economic
906 opportunities for the state's citizens;

907 (j) proper stewardship of the land and natural resources is necessary to ensure the
908 health of the watersheds, timber, forage, and wildlife resources to provide for a continuous
909 supply of resources for the people of the state and the people of the local communities who
910 depend on these resources for a sustainable economy;

911 (k) forests, rangelands, timber, and other vegetative resources:

912 (i) provide forage for livestock;

913 (ii) provide forage and habitat for wildlife;

914 (iii) provide resources for the state's timber and logging industries;

915 (iv) contribute to the state's economic stability and growth; and

916 (v) are important for a wide variety of recreational pursuits;

917 (l) management programs and initiatives that improve watersheds, forests, and increase
918 forage for the mutual benefit of wildlife species and livestock, logging, and other agricultural
919 industries by utilizing proven techniques and tools are vital to the state's economy and the
920 quality of life in Utah; and

921 (m) (i) land management plans, programs, and initiatives should provide that the
922 amount of domestic livestock forage, expressed in animal unit months, for permitted, active
923 use as well as the wildlife forage included in that amount, be no less than the maximum
924 number of animal unit months sustainable by range conditions in grazing allotments and
925 districts, based on an on-the-ground and scientific analysis;

926 (ii) the state opposes the relinquishment or retirement of grazing animal unit months in

927 favor of conservation, wildlife, and other uses;

928 (iii) (A) the state favors the best management practices that are jointly sponsored by
929 cattlemen's, sportsmen's, and wildlife management groups such as chaining, logging, seeding,
930 burning, and other direct soil and vegetation prescriptions that are demonstrated to restore
931 forest and rangeland health, increase forage, and improve watersheds in grazing districts and
932 allotments for the mutual benefit of domestic livestock and wildlife;

933 (B) when practices described in Subsection (6)(m)(iii)(A) increase a grazing
934 allotment's forage beyond the total permitted forage use that was allocated to that allotment in
935 the last federal land use plan or allotment management plan still in existence as of January 1,
936 2005, a reasonable and fair portion of the increase in forage beyond the previously allocated
937 total permitted use should be allocated to wildlife as recommended by a joint, evenly balanced
938 committee of livestock and wildlife representatives that is appointed and constituted by the
939 governor for that purpose;

940 (C) the state favors quickly and effectively adjusting wildlife population goals and
941 population census numbers in response to variations in the amount of available forage caused
942 by drought or other climatic adjustments, and state agencies responsible for managing wildlife
943 population goals and population census numbers will give due regard to both the needs of the
944 livestock industry and the need to prevent the decline of species to a point where listing under
945 the terms of the Endangered Species Act when making such adjustments;

946 (iv) the state opposes the transfer of grazing animal unit months to wildlife for
947 supposed reasons of rangeland health;

948 (v) reductions in domestic livestock animal unit months must be temporary and
949 scientifically based upon rangeland conditions;

950 (vi) policies, plans, programs, initiatives, resource management plans, and forest plans
951 may not allow the placement of grazing animal unit months in a suspended use category unless
952 there is a rational and scientific determination that the condition of the rangeland allotment or
953 district in question will not sustain the animal unit months sought to be placed in suspended
954 use;

955 (vii) any grazing animal unit months that are placed in a suspended use category should
956 be returned to active use when range conditions improve;

957 (viii) policies, plans, programs, and initiatives related to vegetation management

958 should recognize and uphold the preference for domestic grazing over alternate forage uses in
959 established grazing districts while upholding management practices that optimize and expand
960 forage for grazing and wildlife in conjunction with state wildlife management plans and
961 programs in order to provide maximum available forage for all uses; and

962 (ix) in established grazing districts, animal unit months that have been reduced due to
963 rangeland health concerns should be restored to livestock when rangeland conditions improve,
964 and should not be converted to wildlife use.

965 (7) The state planning coordinator shall recognize and promote the following findings
966 in the preparation of any policies, plans, programs, processes, or desired outcomes relating to
967 federal lands and natural resources on federal lands under this section:

968 (a) as a coholder of R.S. 2477 rights-of-way with the counties, the state supports its
969 recognition by the federal government and the public use of R.S. 2477 rights-of-way and urges
970 the federal government to fully recognize the rights-of-way and their use by the public as
971 expeditiously as possible;

972 (b) it is the policy of the state to use reasonable administrative and legal measures to
973 protect and preserve valid existing rights-of-way granted by Congress under R.S. 2477, and to
974 support and work in conjunction with counties to redress cases where R.S. 2477 rights-of-way
975 are not recognized or are impaired; and

976 (c) transportation and access routes to and across federal lands, including all
977 rights-of-way vested under R.S. 2477, are vital to the state's economy and to the quality of life
978 in the state, and must provide, at a minimum, a network of roads throughout the resource
979 planning area that provides for:

980 (i) movement of people, goods, and services across public lands;

981 (ii) reasonable access to a broad range of resources and opportunities throughout the
982 resource planning area, including:

983 (A) livestock operations and improvements;

984 (B) solid, fluid, and gaseous mineral operations;

985 (C) recreational opportunities and operations, including motorized and nonmotorized
986 recreation;

987 (D) search and rescue needs;

988 (E) public safety needs; and

989 (F) access for transportation of wood products to market;
990 (iii) access to federal lands for people with disabilities and the elderly; and
991 (iv) access to state lands and school and institutional trust lands to accomplish the
992 purposes of those lands.

993 (8) The state planning coordinator shall recognize and promote the following findings
994 in the preparation of any plans, policies, programs, processes, or desired outcomes relating to
995 federal lands and natural resources on federal lands pursuant to this section:

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

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

999 (ii) it is clearly demonstrated that the required water-related value is considered
1000 outstandingly remarkable within a region of comparison consisting of one of the three
1001 physiographic provinces in the state, and that the rationale and justification for the conclusions
1002 are disclosed;

1003 (iii) it is clearly demonstrated that the inclusion of each river segment is consistent
1004 with the plans and policies of the state and the county or counties where the river segment is
1005 located as those plans and policies are developed according to Subsection (3);

1006 (iv) the effects of the addition upon the local and state economies, agricultural and
1007 industrial operations and interests, outdoor recreation, water rights, water quality, water
1008 resource planning, and access to and across river corridors in both upstream and downstream
1009 directions from the proposed river segment have been evaluated in detail by the relevant federal
1010 agency;

1011 (v) it is clearly demonstrated that the provisions and terms of the process for review of
1012 potential additions have been applied in a consistent manner by all federal agencies;

1013 (vi) the rationale and justification for the proposed addition, including a comparison
1014 with protections offered by other management tools, is clearly analyzed within the multiple-use
1015 mandate, and the results disclosed;

1016 (vii) it is clearly demonstrated that the federal agency with management authority over
1017 the river segment, and which is proposing the segment for inclusion in the National Wild and
1018 Scenic River System will not use the actual or proposed designation as a basis to impose
1019 management standards outside of the federal land management plan;

1020 (viii) it is clearly demonstrated that the terms and conditions of the federal land and
1021 resource management plan containing a recommendation for inclusion in the National Wild
1022 and Scenic River System:

1023 (A) evaluates all eligible river segments in the resource planning area completely and
1024 fully for suitability for inclusion in the National Wild and Scenic River System;

1025 (B) does not suspend or terminate any studies for inclusion in the National Wild and
1026 Scenic River System at the eligibility phase;

1027 (C) fully disclaims any interest in water rights for the recommended segment as a result
1028 of the adoption of the plan; and

1029 (D) fully disclaims the use of the recommendation for inclusion in the National Wild
1030 and Scenic River System as a reason or rationale for an evaluation of impacts by proposals for
1031 projects upstream, downstream, or within the recommended segment;

1032 (ix) it is clearly demonstrated that the agency with management authority over the river
1033 segment commits not to use an actual or proposed designation as a basis to impose Visual
1034 Resource Management Class I or II management prescriptions that do not comply with the
1035 provisions of Subsection (8)(t); and

1036 (x) it is clearly demonstrated that including the river segment and the terms and
1037 conditions for managing the river segment as part of the National Wild and Scenic River
1038 System will not prevent, reduce, impair, or otherwise interfere with:

1039 (A) the state and its citizens' enjoyment of complete and exclusive water rights in and
1040 to the rivers of the state as determined by the laws of the state; or

1041 (B) local, state, regional, or interstate water compacts to which the state or any county
1042 is a party;

1043 (b) the conclusions of all studies related to potential additions to the National Wild and
1044 Scenic River System, 16 U.S.C. Sec. 1271 et seq., are submitted to the state for review and
1045 action by the Legislature and governor, and the results, in support of or in opposition to, are
1046 included in any planning documents or other proposals for addition and are forwarded to the
1047 United States Congress;

1048 (c) the state's support for designation of an Area of Critical Environmental Concern
1049 (ACEC), as defined in 43 U.S.C. Sec. 1702, within federal land management plans will be
1050 withheld until:

- 1051 (i) it is clearly demonstrated that the proposed area satisfies all the definitional
1052 requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec.
1053 1702(a);
- 1054 (ii) it is clearly demonstrated that the area proposed for designation as an ACEC is
1055 limited in geographic size and that the proposed management prescriptions are limited in scope
1056 to the minimum necessary to specifically protect and prevent irreparable damage to the relevant
1057 and important values identified, or limited in geographic size and management prescriptions to
1058 the minimum required to specifically protect human life or safety from natural hazards;
- 1059 (iii) it is clearly demonstrated that the proposed area is limited only to areas that are
1060 already developed or used or to areas where no development is required;
- 1061 (iv) it is clearly demonstrated that the proposed area contains relevant and important
1062 historic, cultural or scenic values, fish or wildlife resources, or natural processes which are
1063 unique or substantially significant on a regional basis, or contain natural hazards which
1064 significantly threaten human life or safety;
- 1065 (v) the federal agency has analyzed regional values, resources, processes, or hazards for
1066 irreparable damage and its potential causes resulting from potential actions which are
1067 consistent with the multiple-use, sustained-yield principles, and the analysis describes the
1068 rationale for any special management attention required to protect, or prevent irreparable
1069 damage to the values, resources, processes, or hazards;
- 1070 (vi) it is clearly demonstrated that the proposed designation is consistent with the plans
1071 and policies of the state and of the county where the proposed designation is located as those
1072 plans and policies are developed according to Subsection (3);
- 1073 (vii) it is clearly demonstrated that the proposed ACEC designation will not be applied
1074 redundantly over existing protections provided by other state and federal laws for federal lands
1075 or resources on federal lands, and that the federal statutory requirement for special management
1076 attention for a proposed ACEC will discuss and justify any management requirements needed
1077 in addition to those specified by the other state and federal laws;
- 1078 (viii) the difference between special management attention required for an ACEC and
1079 normal multiple-use management has been identified and justified, and that any determination
1080 of irreparable damage has been analyzed and justified for short and long-term horizons;
- 1081 (ix) it is clearly demonstrated that the proposed designation:

- 1082 (A) is not a substitute for a wilderness suitability recommendation;
- 1083 (B) is not a substitute for managing areas inventoried for wilderness characteristics
1084 after 1993 under the BLM interim management plan for valid wilderness study areas; and
- 1085 (C) it is not an excuse or justification to apply de facto wilderness management
1086 standards; and
- 1087 (x) the conclusions of all studies are submitted to the state, as a cooperating agency, for
1088 review, and the results, in support of or in opposition to, are included in all planning
1089 documents;
- 1090 (d) sufficient federal lands are made available for government-to-government
1091 exchanges of school and institutional trust lands and federal lands without regard for a
1092 resource-to-resource correspondence between the surface or mineral characteristics of the
1093 offered trust lands and the offered federal lands;
- 1094 (e) federal agencies should support government-to-government exchanges of land with
1095 the state based on a fair process of valuation which meets the fiduciary obligations of both the
1096 state and federal governments toward trust lands management, and which assures that revenue
1097 authorized by federal statute to the state from mineral or timber production, present or future, is
1098 not diminished in any manner during valuation, negotiation, or implementation processes;
- 1099 (f) agricultural and grazing lands should continue to produce the food and fiber needed
1100 by the citizens of the state and the nation, and the rural character and open landscape of rural
1101 Utah should be preserved through a healthy and active agricultural and grazing industry,
1102 consistent with private property rights and state fiduciary duties;
- 1103 (g) the resources of the forests and rangelands of the state should be integrated as part
1104 of viable, robust, and sustainable state and local economies, and available forage should be
1105 evaluated for the full complement of herbivores the rangelands can support in a sustainable
1106 manner, and forests should contain a diversity of timber species, and disease or insect
1107 infestations in forests should be controlled using logging or other best management practices;
- 1108 (h) the state opposes any additional evaluation of national forest service lands as
1109 "roadless" or "unroaded" beyond the forest service's second roadless area review evaluation and
1110 opposes efforts by agencies to specially manage those areas in a way that:
- 1111 (i) closes or declassifies existing roads unless multiple side by side roads exist running
1112 to the same destination and state and local governments consent to close or declassify the extra

- 1113 roads;
- 1114 (ii) permanently bars travel on existing roads;
- 1115 (iii) excludes or diminishes traditional multiple-use activities, including grazing and
- 1116 proper forest harvesting;
- 1117 (iv) interferes with the enjoyment and use of valid, existing rights, including water
- 1118 rights, local transportation plan rights, R.S. 2477 rights, grazing allotment rights, and mineral
- 1119 leasing rights; or
- 1120 (v) prohibits development of additional roads reasonably necessary to pursue
- 1121 traditional multiple-use activities;
- 1122 (i) the state's support for any forest plan revision or amendment will be withheld until
- 1123 the appropriate plan revision or plan amendment clearly demonstrates that:
- 1124 (i) established roads are not referred to as unclassified roads or a similar classification;
- 1125 (ii) lands in the vicinity of established roads are managed under the multiple-use,
- 1126 sustained-yield management standard; and
- 1127 (iii) no roadless or unroaded evaluations or inventories are recognized or upheld
- 1128 beyond those that were recognized or upheld in the forest service's second roadless area review
- 1129 evaluation;
- 1130 (j) the state's support for any recommendations made under the statutory requirement to
- 1131 examine the wilderness option during the revision of land and resource management plans by
- 1132 the U.S. Forest Service will be withheld until it is clearly demonstrated that:
- 1133 (i) the duly adopted transportation plans of the state and county or counties within the
- 1134 planning area are fully and completely incorporated into the baseline inventory of information
- 1135 from which plan provisions are derived;
- 1136 (ii) valid state or local roads and rights-of-way are recognized and not impaired in any
- 1137 way by the recommendations;
- 1138 (iii) the development of mineral resources by underground mining is not affected by
- 1139 the recommendations;
- 1140 (iv) the need for additional administrative or public roads necessary for the full use of
- 1141 the various multiple-uses, including recreation, mineral exploration and development, forest
- 1142 health activities, and grazing operations is not unduly affected by the recommendations;
- 1143 (v) analysis and full disclosure is made concerning the balance of multiple-use

1144 management in the proposed areas, and that the analysis compares the full benefit of
1145 multiple-use management to the recreational, forest health, and economic needs of the state and
1146 the counties to the benefits of the requirements of wilderness management; and

1147 (vi) the conclusions of all studies related to the requirement to examine the wilderness
1148 option are submitted to the state for review and action by the Legislature and governor, and the
1149 results, in support of or in opposition to, are included in any planning documents or other
1150 proposals that are forwarded to the United States Congress;

1151 (k) the invasion of noxious weeds and undesirable invasive plant species into the state
1152 should be reversed, their presence eliminated, and their return prevented;

1153 (l) management and resource-use decisions by federal land management and regulatory
1154 agencies concerning the vegetative resources within the state should reflect serious
1155 consideration of the proper optimization of the yield of water within the watersheds of the
1156 state;

1157 (m) (i) it is the policy of the state that:

1158 (A) mineral and energy production and environmental protection are not mutually
1159 exclusive;

1160 (B) it is technically feasible to permit appropriate access to mineral and energy
1161 resources while preserving nonmineral and nonenergy resources;

1162 (C) resource management planning should seriously consider all available mineral and
1163 energy resources;

1164 (D) the development of the solid, fluid, and gaseous mineral resources of the state and
1165 the renewable resources of the state should be encouraged;

1166 (E) the waste of fluid and gaseous minerals within developed areas should be
1167 prohibited; and

1168 (F) requirements to mitigate or reclaim mineral development projects should be based
1169 on credible evidence of significant impacts to natural or cultural resources;

1170 (ii) the state's support for mineral development provisions within federal land
1171 management plans will be withheld until the appropriate land management plan environmental
1172 impact statement clearly demonstrates:

1173 (A) that the authorized planning agency has:

1174 (I) considered and evaluated the mineral and energy potential in all areas of the

1175 planning area as if the areas were open to mineral development under standard lease
1176 agreements; and

1177 (II) evaluated any management plan prescription for its impact on the area's baseline
1178 mineral and energy potential;

1179 (B) that the development provisions do not unduly restrict access to public lands for
1180 energy exploration and development;

1181 (C) that the authorized planning agency has supported any closure of additional areas
1182 to mineral leasing and development or any increase of acres subject to no surface occupancy
1183 restrictions by adhering to:

1184 (I) the relevant provisions of the Federal Land Policy and Management Act of 1976, 43
1185 U.S.C. Sec. 1701 et seq.;

1186 (II) other controlling mineral development laws; and

1187 (III) the controlling withdrawal and reporting procedures set forth in the Federal Land
1188 Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;

1189 (D) that the authorized planning agency evaluated whether to repeal any moratorium
1190 that may exist on the issuance of additional mining patents and oil and gas leases;

1191 (E) that the authorized planning agency analyzed all proposed mineral lease
1192 stipulations and considered adopting the least restrictive necessary to protect against damage to
1193 other significant resource values;

1194 (F) that the authorized planning agency evaluated mineral lease restrictions to
1195 determine whether to waive, modify, or make exceptions to the restrictions on the basis that
1196 they are no longer necessary or effective;

1197 (G) that the authorized federal agency analyzed all areas proposed for no surface
1198 occupancy restrictions, and that the analysis evaluated:

1199 (I) whether directional drilling is economically feasible and ecologically necessary for
1200 each proposed no surface occupancy area;

1201 (II) whether the directional drilling feasibility analysis, or analysis of other
1202 management prescriptions, demonstrates that the proposed no surface occupancy prescription,
1203 in effect, sterilizes the mineral and energy resources beneath the area; and

1204 (III) whether, if the minerals are effectively sterilized, the area must be reported as
1205 withdrawn under the provisions of the Federal Land Policy and Management Act; and

1206 (H) that the authorized planning agency has evaluated all directional drilling
1207 requirements in no surface occupancy areas to determine whether directional drilling is feasible
1208 from an economic, ecological, and engineering standpoint;

1209 (n) motorized, human, and animal-powered outdoor recreation should be integrated
1210 into a fair and balanced allocation of resources within the historical and cultural framework of
1211 multiple-uses in rural Utah, and outdoor recreation should be supported as part of a balanced
1212 plan of state and local economic support and growth;

1213 (o) off-highway vehicles should be used responsibly, the management of off-highway
1214 vehicles should be uniform across all jurisdictions, and laws related to the use of off-highway
1215 vehicles should be uniformly applied across all jurisdictions;

1216 (p) (i) rights-of-way granted and vested under the provisions of R.S. 2477 should be
1217 preserved and acknowledged;

1218 (ii) land use management plans, programs, and initiatives should be consistent with
1219 both state and county transportation plans developed according to Subsection (3) in order to
1220 provide a network of roads throughout the planning area that provides for:

1221 (A) movement of people, goods, and services across public lands;

1222 (B) reasonable access to a broad range of resources and opportunities throughout the
1223 planning area, including access to livestock, water, and minerals;

1224 (C) economic and business needs;

1225 (D) public safety;

1226 (E) search and rescue;

1227 (F) access for people with disabilities and the elderly;

1228 (G) access to state lands; and

1229 (H) recreational opportunities;

1230 (q) transportation and access provisions for all other existing routes, roads, and trails
1231 across federal, state, and school trust lands within the state should be determined and
1232 identified, and agreements should be executed and implemented, as necessary to fully authorize
1233 and determine responsibility for maintenance of all routes, roads, and trails;

1234 (r) the reasonable development of new routes and trails for motorized, human, and
1235 animal-powered recreation should be implemented;

1236 (s) (i) forests, rangelands, and watersheds, in a healthy condition, are necessary and

1237 beneficial for wildlife, livestock grazing, and other multiple-uses;

1238 (ii) management programs and initiatives that are implemented to increase forage for
1239 the mutual benefit of the agricultural industry, livestock operations, and wildlife species should
1240 utilize all proven techniques and tools;

1241 (iii) the continued viability of livestock operations and the livestock industry should be
1242 supported on the federal lands within the state by management of the lands and forage
1243 resources, by the proper optimization of animal unit months for livestock, in accordance with
1244 the multiple-use provisions of the Federal Land Policy and Management Act of 1976, 43
1245 U.S.C. 1701 et seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C. 315 et seq.,
1246 and the provisions of the Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et seq.;

1247 (iv) provisions for predator control initiatives or programs under the direction of state
1248 and local authorities should be implemented; and

1249 (v) resource-use and management decisions by federal land management and
1250 regulatory agencies should support state-sponsored initiatives or programs designed to stabilize
1251 wildlife populations that may be experiencing a scientifically demonstrated decline in those
1252 populations; and

1253 (t) management and resource use decisions by federal land management and regulatory
1254 agencies concerning the scenic resources of the state must balance the protection of scenery
1255 with the full management requirements of the other authorized uses of the land under
1256 multiple-use management, and should carefully consider using Visual Resource Management
1257 Class I protection only for areas of inventoried Class A scenery or equivalent.

1258 (9) Notwithstanding any provision of Section 63J-8-105.5, the state is committed to
1259 establishing and administering an effective statewide conservation strategy for greater sage
1260 grouse.

1261 (10) Nothing contained in this section may be construed to restrict or supersede the
1262 planning powers conferred upon state departments, agencies, instrumentalities, or advisory
1263 councils of the state or the planning powers conferred upon political subdivisions by any other
1264 existing law.

1265 (11) Nothing in this section may be construed to affect any lands withdrawn from the
1266 public domain for military purposes, which are administered by the United States Army, Air
1267 Force, or Navy.

1268 Section 18. Section **63J-4-603** is amended to read:
1269 **63J-4-603. Powers and duties of coordinator and office.**
1270 (1) The coordinator and the office shall:
1271 (a) make a report to the Constitutional Defense Council created under Section
1272 [~~63C-4-101~~] 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title
1273 63C, Chapter [~~4~~] 4a, Constitutional and Federalism Defense [~~Council~~] Act;
1274 (b) provide staff assistance to the Constitutional Defense Council created under Section
1275 [~~63C-4-101~~] 63C-4a-202 for meetings of the council [~~and Federalism Subcommittee~~];
1276 (c) (i) prepare and submit a constitutional defense plan under Section [~~63C-4-104~~]
1277 63C-4a-403; and
1278 (ii) execute any action assigned in a constitutional defense plan;
1279 (d) under the direction of the state planning coordinator, assist in fulfilling the state
1280 planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the
1281 development of public lands policies by:
1282 (i) developing cooperative contracts and agreements between the state, political
1283 subdivisions, and agencies of the federal government for involvement in the development of
1284 public lands policies;
1285 (ii) producing research, documents, maps, studies, analysis, or other information that
1286 supports the state's participation in the development of public lands policy;
1287 (iii) preparing comments to ensure that the positions of the state and political
1288 subdivisions are considered in the development of public lands policy;
1289 (iv) partnering with state agencies and political subdivisions in an effort to:
1290 (A) prepare coordinated public lands policies;
1291 (B) develop consistency reviews and responses to public lands policies;
1292 (C) develop management plans that relate to public lands policies; and
1293 (D) develop and maintain a statewide land use plan that is based on cooperation and in
1294 conjunction with political subdivisions; and
1295 (v) providing other information or services related to public lands policies as requested
1296 by the state planning coordinator;
1297 (e) facilitate and coordinate the exchange of information, comments, and
1298 recommendations on public lands policies between and among:

- 1299 (i) state agencies;
- 1300 (ii) political subdivisions;
- 1301 (iii) the Office of Rural Development created under Section 63M-1-1602;
- 1302 (iv) the Resource Development Coordinating Committee created under Section
- 1303 63J-4-501;
- 1304 (v) School and Institutional Trust Lands Administration created under Section
- 1305 53C-1-201;
- 1306 (vi) the committee created under Section 63F-1-508 to award grants to counties to
- 1307 inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and
- 1308 (vii) the Constitutional Defense Council created under Section [~~63C-4-101~~]
- 1309 63C-4a-202;
- 1310 (f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9,
- 1311 Chapter 8, Part 4, Historic Sites;
- 1312 (g) consistent with other statutory duties, encourage agencies to responsibly preserve
- 1313 archaeological resources;
- 1314 (h) maintain information concerning grants made under Subsection (1)(j), if available;
- 1315 (i) report annually, or more often if necessary or requested, concerning the office's
- 1316 activities and expenditures to:
- 1317 (i) the Constitutional Defense Council; and
- 1318 (ii) the Legislature's Natural Resources, Agriculture, and Environment Interim
- 1319 Committee jointly with the Constitutional Defense Council;
- 1320 (j) make grants of up to 16% of the office's total annual appropriations from the
- 1321 Constitutional Defense Restricted Account to a county or statewide association of counties to
- 1322 be used by the county or association of counties for public lands matters if the coordinator,
- 1323 with the advice of the Constitutional Defense Council, determines that the action provides a
- 1324 state benefit;
- 1325 (k) provide staff services to the Snake Valley Aquifer Advisory Council created in
- 1326 Section 63C-12-103; and
- 1327 (l) coordinate and direct the Snake Valley Aquifer Research Team created in Section
- 1328 63C-12-107.
- 1329 (2) The coordinator and office shall comply with Subsection [~~63C-4-102~~]

1330 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be
1331 subject to Subsection [~~63C-4-102~~] 63C-4a-203(8) if the governor were submitting the material.

1332 (3) The office may enter into a contract or other agreement with another state agency to
1333 provide information and services related to:

1334 (a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and
1335 Classification Act;

1336 (b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and
1337 Classification Act, or R.S. 2477 matters; or

1338 (c) any other matter within the office's responsibility.

1339 Section 19. Section **67-5-1** is amended to read:

1340 **67-5-1. General duties.**

1341 The attorney general shall:

1342 (1) perform all duties in a manner consistent with the attorney-client relationship under
1343 Section 67-5-17;

1344 (2) except as provided in Sections 10-3-928 and 17-18-1, attend the Supreme Court
1345 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
1346 defend all causes to which the state, or any officer, board, or commission of the state in an
1347 official capacity is a party; and take charge, as attorney, of all civil legal matters in which the
1348 state is interested;

1349 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
1350 process as necessary to execute the judgment;

1351 (4) account for, and pay over to the proper officer, all money that comes into the
1352 attorney general's possession that belongs to the state;

1353 (5) keep a file of all cases in which the attorney general is required to appear, including
1354 any documents and papers showing the court in which the cases have been instituted and tried,
1355 and whether they are civil or criminal, and:

1356 (a) if civil, the nature of the demand, the stage of proceedings, and when prosecuted to
1357 judgment, a memorandum of the judgment and of any process issued whether satisfied, and if
1358 not satisfied, the return of the sheriff;

1359 (b) if criminal, the nature of the crime, the mode of prosecution, the stage of
1360 proceedings, and when prosecuted to sentence, a memorandum of the sentence and of the

1361 execution, if the sentence has been executed, if not executed, of the reason of the delay or
1362 prevention; and

1363 (c) deliver this information to the attorney general's successor in office;

1364 (6) exercise supervisory powers over the district and county attorneys of the state in all
1365 matters pertaining to the duties of their offices, and from time to time require of them reports of
1366 the condition of public business entrusted to their charge;

1367 (7) give the attorney general's opinion in writing and without fee to the Legislature or
1368 either house, and to any state officer, board, or commission, and to any county attorney or
1369 district attorney, when required, upon any question of law relating to their respective offices;

1370 (8) when required by the public service or directed by the governor, assist any county,
1371 district, or city attorney in the discharge of his duties;

1372 (9) purchase in the name of the state, under the direction of the state Board of
1373 Examiners, any property offered for sale under execution issued upon judgments in favor of or
1374 for the use of the state, and enter satisfaction in whole or in part of the judgments as the
1375 consideration of the purchases;

1376 (10) when the property of a judgment debtor in any judgment mentioned in Subsection
1377 (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
1378 taking precedence of the judgment in favor of the state, redeem the property, under the
1379 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
1380 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
1381 out of any money appropriated for these purposes;

1382 (11) when in his opinion it is necessary for the collection or enforcement of any
1383 judgment, institute and prosecute on behalf of the state any action or proceeding necessary to
1384 set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the
1385 cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any
1386 money not otherwise appropriated;

1387 (12) discharge the duties of a member of all official boards of which the attorney
1388 general is or may be made a member by the Utah Constitution or by the laws of the state, and
1389 other duties prescribed by law;

1390 (13) institute and prosecute proper proceedings in any court of the state or of the
1391 United States, to restrain and enjoin corporations organized under the laws of this or any other

1392 state or territory from acting illegally or in excess of their corporate powers or contrary to
1393 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
1394 and wind up their affairs;

1395 (14) institute investigations for the recovery of all real or personal property that may
1396 have escheated or should escheat to the state, and for that purpose, subpoena any persons
1397 before any of the district courts to answer inquiries and render accounts concerning any
1398 property, examine all books and papers of any corporations, and when any real or personal
1399 property is discovered that should escheat to the state, institute suit in the district court of the
1400 county where the property is situated for its recovery, and escheat that property to the state;

1401 (15) administer the Children's Justice Center as a program to be implemented in
1402 various counties pursuant to Sections 67-5b-101 through 67-5b-107;

1403 (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter [4] 4a,
1404 Constitutional and Federalism Defense [~~Council~~] Act;

1405 (17) pursue any appropriate legal action to implement the state's public lands policy
1406 established in [~~Subsection 63C-4-105(1)~~] Section 63C-4a-103;

1407 (18) investigate and prosecute violations of all applicable state laws relating to fraud in
1408 connection with the state Medicaid program and any other medical assistance program
1409 administered by the state, including violations of Title 26, Chapter 20, False Claims Act;

1410 (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients
1411 at:

1412 (a) health care facilities that receive payments under the state Medicaid program; and

1413 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.
1414 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

1415 (20) (a) report at least twice per year to the Legislative Management Committee on any
1416 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

1417 (i) cost the state more than \$500,000; or

1418 (ii) require the state to take legally binding action that would cost more than \$500,000
1419 to implement; and

1420 (b) if the meeting is closed, include an estimate of the state's potential financial or other
1421 legal exposure in that report.

1422 Section 20. **Dissolution of Federalism Subcommittee.**

1423	<u>(1) The Federalism Subcommittee is dissolved on the effective date of this bill.</u>	
1424	<u>(2) All appointments to the Federalism Subcommittee end on the effective date of this</u>	
1425	<u>bill.</u>	
1426	<u>(3) This Section 20 of this bill is repealed on December 31, 2013.</u>	
1427	Section 21. Appropriation.	
1428	<u>Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for</u>	
1429	<u>the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following sums of money</u>	
1430	<u>are appropriated from resources not otherwise appropriated, or reduced from amounts</u>	
1431	<u>previously appropriated, out of the funds or accounts indicated. These sums of money are in</u>	
1432	<u>addition to any amounts previously appropriated for fiscal year 2013.</u>	
1433	<u>ITEM 1 To General Fund Restricted - Constitutional Defense Restricted Account</u>	
1434	<u>From General Fund, One-time</u>	<u>(\$79,800)</u>
1435	<u>Schedule of Programs:</u>	
1436	<u>Constitutional Defense Restricted Account</u>	<u>(\$79,800)</u>
1437	<u>ITEM 2 To Governor's Office - Constitutional Defense Council</u>	
1438	<u>From General Fund Restricted - Constitutional Defense</u>	<u>(\$79,800)</u>
1439	<u>Schedule of Programs:</u>	
1440	<u>Constitutional Defense Council</u>	<u>(\$79,800)</u>
1441	<u>ITEM 3 To Legislature - Senate</u>	
1442	<u>From General Fund, One-time</u>	<u>\$34,200</u>
1443	<u>Schedule of Programs:</u>	
1444	<u>Administration</u>	<u>\$34,200</u>
1445	<u>ITEM 4 To Legislature - House of Representatives</u>	
1446	<u>From General Fund, One-time</u>	<u>\$45,600</u>
1447	<u>Schedule of Programs:</u>	
1448	<u>Administration</u>	<u>\$45,600</u>

Legislative Review Note
as of 2-8-13 4:04 PM

Office of Legislative Research and General Counsel