

HB0131S01 compared with HB0131

~~deleted text~~ shows text that was in HB0131 but was deleted in HB0131S01.

inserted text shows text that was not in HB0131 but was inserted into HB0131S01.

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Representative Ken Ivory proposes the following substitute bill:

CONSTITUTIONAL AND FEDERALISM DEFENSE ACT

2013 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ recodifies Title 63C, Chapter 4, Constitutional Defense Council, and renames it the Constitutional and Federalism Defense Act;
- ▶ adds one member to the Constitutional Defense Council;
- ▶ dissolves the Federalism Subcommittee;
- ▶ amends the duties of the Constitutional Defense Council;
- ▶ creates the Commission on Federalism and describes its duties, which include most

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of the duties formerly assigned to the Federalism Subcommittee;

- ▶ amends provisions relating to the Constitutional Defense Restricted Account;
- ▶ subjects the provisions of this bill to sunset review before being repealed on July 1, 2018; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2013:

- ▶ to the General Fund Restricted - Constitutional Defense Restricted Account as a one-time appropriation, from the General Fund, one-time, (\$79,800);
- ▶ to the Governor's Office - Constitutional Defense Council as a one-time appropriation, from the General Fund Restricted - Constitutional Defense, (\$79,800);
- ▶ to the Legislature - Senate as a one-time appropriation, from the General Fund, one-time, \$34,200; and
- ▶ to the Legislature - House of Representatives as a one-time appropriation, from the General Fund, one-time, \$45,600.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53C-3-203, as last amended by Laws of Utah 2012, Chapter 212

63I-1-263 (Effective 05/01/13), as last amended by Laws of Utah 2012, Chapters 126, 206, 347, 369, and 395

63J-4-401, as last amended by Laws of Utah 2012, Chapter 189

63J-4-603, as last amended by Laws of Utah 2011, Chapter 252

67-5-1, as last amended by Laws of Utah 2011, Chapter 342

ENACTS:

63C-4a-101, Utah Code Annotated 1953

63C-4a-102, Utah Code Annotated 1953

63C-4a-201, Utah Code Annotated 1953

63C-4a-301, Utah Code Annotated 1953

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63C-4a-302, Utah Code Annotated 1953

63C-4a-401, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

63C-4a-103, (Renumbered from 63C-4-105, as enacted by Laws of Utah 2001, Chapter 287)

63C-4a-202, (Renumbered from 63C-4-101, as last amended by Laws of Utah 2011, Chapter 252)

63C-4a-203, (Renumbered from 63C-4-102, as last amended by Laws of Utah 2012, Chapters 324 and 377)

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

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

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

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

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

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

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

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

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

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

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

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

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

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

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

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

(b) from the deposits to the account remaining after the appropriation in Subsection (4)(a), the following amounts:

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

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

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

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

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

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

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

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

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

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

CHAPTER 4a. CONSTITUTIONAL AND FEDERALISM DEFENSE ACT

Part 1. General Provisions

63C-4a-101. Title.

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

(2) This part is known as "General Provisions."

Section 3. Section **63C-4a-102** is enacted to read:

63C-4a-102. Definitions.

As used in this chapter:

(1) "Account" means the Constitutional Defense Restricted Account, created in Section 63C-4a-402.

(2) "Commission" means the Commission on Federalism, created in Section 63C-4a-302.

(3) "Constitutional defense plan" means a plan that outlines actions and expenditures to fulfill the duties of the commission and the council.

(4) "Council" means the Constitutional Defense Council, created in Section 63C-4a-202.

(5) "Federal governmental entity" means:

(a) the president of the United States;

(b) the United States Congress;

(c) a United States agency; or

(d) an employee or official appointed by the president of the United States.

(6) "Federal law" means:

(a) an executive order by the president of the United States;

(b) a statute passed by the United States Congress;

(c) a regulation adopted by a United States agency; or

(d) a policy statement, order, guidance, or action by:

(i) a United States agency; or

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(ii) an employee or official appointed by the president of the United States.

(7) "R.S. 2477" means Revised Statute 2477, codified as 43 U.S.C. Section 932.

(8) "R.S. 2477 plan" means a guiding document that:

(a) is developed jointly by the Utah Association of Counties and the state;

(b) is approved by the council; and

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

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

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

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

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

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

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

Part 2. Constitutional Defense Council

63C-4a-201. Title.

This part is known as "Constitutional Defense Council."

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

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

(1) There is created the Constitutional Defense Council.

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

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

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

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

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

~~(iv)~~ (v) the minority leader of the Senate or the minority leader of the Senate's designee;

~~(v)~~ (vi) the minority leader of the House or the minority leader of the House's designee;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) (i) The council shall require that any entity, other than the commission, that receives money from the Constitutional Defense Restricted Account provide financial reports and litigation reports to the council.

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

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

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

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

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

(a) Section 63A-3-106;

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

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

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

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

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

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

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

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

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

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

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

- (a) the constitutionality of federal mandates;
- (b) when making recommendations to challenge the federal mandates and regulations described in Subsections (1)(f)(i) through (v), the rationale for and effectiveness of those federal mandates or regulations;
- (c) legal and policy issues surrounding state and local government rights under R.S. 2477;
- (d) legal issues relating to the rights of the School and Institutional Trust Lands Administration and its beneficiaries;
- (e) a disagreement with another state regarding the use or ownership of water; and
- (f) the advisability, feasibility, estimated cost, and likelihood of success of challenging:
 - (i) federal court rulings that:
 - (A) hinder the management of the state's prison system and place undue financial hardship on the state's taxpayers;
 - (B) impact a power or a right reserved to the state or its citizens by the United States Constitution, Amendment IX or X; or
 - (C) expand or grant a power to the United States government beyond the limited, enumerated powers granted by the United States Constitution;
 - (ii) federal laws or regulations that reduce or negate water rights or the rights of owners of private property, or the rights and interest of state and local governments, including sovereignty interests and the power to provide for the health, safety, and welfare, and promote

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the prosperity of their inhabitants;

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

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

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

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

(2) The council shall:

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

(i) state and local government rights under R.S. 2477; and

(ii) other public lands issues;

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

(c) review, at least quarterly:

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

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

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

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

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

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

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

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council.

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

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

(a) legal services that are submitted to the council;

(b) an action filed in accordance with Section 67-5-29; and

(c) costs related to a constitutional defense plan approved in accordance with Section ~~[63C-4-104]~~ 63C-4a-403 that are submitted by:

(i) the Public Lands Policy Coordinating Office;

(ii) the School and Institutional Trust Lands Administration; or

(iii) the Office of the Attorney General.

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

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

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

(i) members of the council; and

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

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

(ii) ~~[Council members or local government officials]~~ A council member or local government official shall submit recommendations to the governor or the governor's designee

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no later than 10 calendar days after ~~[receiving]~~ the day on which the council member or local government official receives the documents ~~[under]~~ described in Subsection (8)(a).

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

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

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

Part 3. Commission on Federalism

63C-4a-301. Title.

This part is known as "Commission on Federalism."

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

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

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

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

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

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

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

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

and

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

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

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

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

(4) The Office of Legislative Research and General Counsel shall provide staff support

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to the commission.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) information about the federal law; or

(ii) assistance in communicating with a federal governmental entity regarding the federal law;

(b) (i) give written notice of ~~[the]~~ an evaluation ~~[required by]~~ made under Subsection ~~[(2)]~~ (1) to the federal governmental entity responsible for adopting or administering the federal law; and

(ii) request a response by a specific date to the evaluation from the federal governmental entity; and

(c) request a meeting, conducted in person or by electronic means, with the federal governmental entity ~~[and a council member]~~, a representative from another state, or a United States Senator or Representative elected from the state to discuss the evaluation of federal law and any possible remedy.

~~[(5)]~~ (4) The ~~[Federalism Subcommittee]~~ commission may recommend to the governor that the governor call a special session of the Legislature to give the Legislature an opportunity to respond to the ~~[subcommittee's]~~ commission's evaluation of a federal law.

~~[(6)]~~ (5) ~~[The Federalism Subcommittee chair]~~ A commission cochair may coordinate the evaluation of and response to federal law with another state as provided in Section ~~[63C-4-108]~~ 63C-4a-305.

~~[(7)]~~ (6) ~~[The Federalism Subcommittee]~~ On May 20 and October 20 of each year, the commission shall submit a report by electronic mail ~~[that summarizes action taken in accordance with this section]~~ to the Legislative Management Committee and the Government Operations Interim Committee ~~[on May 20 and October 20 of each year.]~~ that summarizes:

(a) action taken by the commission in accordance with this section; and

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(b) action taken by, or communication received from, any of the following in response to a request or inquiry made, or other action taken, by the commission:

(i) a United States senator or representative elected from the state;

(ii) a representative of another state; or

(iii) a federal entity, official, or employee.

(7) The commission shall keep a current list on the Legislature's website of:

(a) a federal law that the commission evaluates under Subsection (1);

(b) an action taken by a cochair of the commission under Subsection (3);

(c) any coordination undertaken with another state under Section 63C-4a-305; and

(d) any response received from a federal government entity that was requested under Subsection (3).

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

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

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

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

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

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

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

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

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

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

(iv) establish a uniform rule of naturalization and uniform laws on the subject of

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bankruptcies throughout the United States;

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

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

(vii) establish post offices and post roads;

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

(ix) constitute tribunals inferior to the supreme court;

(x) define and punish piracies and felonies committed on the high seas and offences against the law of nations;

(xi) declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;

(xii) raise and support armies, but no appropriation of money to that use shall be for a longer term than two years;

(xiii) provide and maintain a navy;

(xiv) make rules for the government and regulation of the land and naval forces;

(xv) provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions;

(xvi) provide for organizing, arming, and disciplining the militia, and for governing the part of the militia that may be employed in the service of the United States, reserving to the states respectively, the appointment of the officers and the authority of training the militia according to the discipline prescribed by Congress;

(xvii) exercise exclusive legislation in all cases whatsoever, over such district, which may not exceed 10 miles square, as may, by cession of particular states and the acceptance of Congress, become the seat of the government of the United States, and to exercise like authority over all places purchased by the consent of the legislature of the state in which the place shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful buildings; or

(xviii) make all laws which shall be necessary and proper for carrying into execution the powers listed in this section, and all other powers vested by the United States Constitution

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in the government of the United States, or in any department or officer of the United States;

(e) United States Constitution, Article I, Section 9, to authorize a federal officer to receive benefits from a foreign nation;

(f) United States Constitution, Article I, Section 10, to fix the pay of members of Congress and of federal officers;

(g) United States Constitution, Article II, Section 1, to:

(i) set the time for choosing electors; or

(ii) establish who succeeded to the presidency after the vice president;

(h) United States Constitution, Article II, Section 2, to:

(i) serve as Commander-in-Chief of the armed forces;

(ii) require the written opinions of executive officers;

(iii) grant reprieves and pardons;

(iv) make vacancy appointments;

(v) make treaties, subject to the advice and consent of the United States Senate;

(vi) appoint foreign affairs officers subject to the advice and consent of the United States Senate;

(vii) appoint domestic affairs officers subject either to the advice and consent of the United States Senate or pursuant to law;

(viii) appoint judges subject to the advice and consent of the United States Senate; or

(ix) authorize the president to fill designated inferior offices without senatorial consent;

(i) United States Constitution, Article II, Section 3, to:

(i) receive representatives of foreign powers;

(ii) execute the laws;

(iii) commission United States officers;

(iv) give Congress information;

(v) make recommendations to Congress;

(vi) convene Congress on extraordinary occasions; or

(vii) adjourn Congress if it cannot agree on a time;

(j) United States Constitution, Article III, Section 1, to:

(i) create exceptions to the supreme court's appellate jurisdiction;

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- (ii) fix the jurisdiction of federal courts inferior to the supreme court; or
 - (iii) declare the punishment for treason;
 - (k) United States Constitution, Article IV, Section 1, to establish the rules by which the records and judgments of states are proved in other states;
 - (l) United States Constitution, Article IV, Section 3, to:
 - (i) manage federal property;
 - (ii) dispose of federal property;
 - (iii) govern the federal territories; or
 - (iv) consent to admission of new states or the combination of existing states;
 - (m) United States Constitution, Article IV, Section 4, to defend states from invasion, insurrection, and non-republican forms of government;
 - (n) United States Constitution, Article V, Section 1, to propose constitutional amendments;
 - (o) United States Constitution, Article VI, Section 1, to prescribe the oath for federal officers;
 - (p) United States Constitution, Amendment XIII, to abolish slavery;
 - (q) United States Constitution, Amendment XIV, to guard people from certain state abuses;
 - (r) United States Constitution, Amendment XVI, to impose taxes on income from any source without having to apportion the total dollar amount of tax collected from each state according to each state's population in relation to the total national population;
 - (s) United States Constitution, Amendment XX, to revise the manner of presidential succession;
 - (t) United States Constitution, Amendment XV, XIX, XXIII, or XXIV, to extend and protect the right to vote; or
 - (u) United States Constitution, Amendment XVII, to grant a pay raise to a sitting Congress.
- (2) The [~~Federalism Subcommittee~~] commission shall evaluate whether a federal law [~~submitted under Subsection 63C-4-106(2)~~] evaluated under Section 63C-4a-303 violates the principle of federalism by:
- (a) affecting the distribution of power and responsibility among the state and national

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government;

(b) limiting the policymaking discretion of the state;

(c) impacting a power or a right reserved to the state or its citizens by the United States Constitution, Amendment IX or X; ~~[and]~~ or

(d) impacting the sovereignty rights and interest of the state or a political subdivision to provide for the health, safety, and welfare and promote the prosperity of the state's or political subdivision's inhabitants.

(3) In the evaluation of a federal law, the ~~[Federalism Subcommittee]~~ commission:

(a) shall rely on:

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

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

(iii) a primary source document that is:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) provides for a good faith, cooperative effort between the state and each participating county;

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

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

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

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

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

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

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

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

(b) provisions requiring that financial statements be provided to members of the R.S.

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2477 plan committee and members of the [~~Constitutional Defense Council~~] council, and the frequency with which those financial statements must be provided; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(I) whether the compact appropriately delegates policy decisions between the

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legislative and executive branches of government regarding the development and implementation of the compact with other states and the federal government; and

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

~~[(11)]~~ (12) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2017.

~~[(12)]~~ (13) Title 63M, Chapter 9, Families, Agencies, and Communities Together for Children and Youth At Risk Act, is repealed July 1, 2016.

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

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

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

(1) The state planning coordinator shall:

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

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

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

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

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

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

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

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

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

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

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

(2) The state planning coordinator may:

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

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

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

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

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

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

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conflict;

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

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

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

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

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

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

(a) through the Resource Development Coordinating Committee;

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

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

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

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

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

(ii) multiple-use and sustained-yield management means that federal agencies should develop and implement management plans and make other resource-use decisions that:

(A) achieve and maintain in perpetuity a high-level annual or regular periodic output of mineral and various renewable resources from public lands;

(B) support valid existing transportation, mineral, and grazing privileges at the highest reasonably sustainable levels;

(C) support the specific plans, programs, processes, and policies of state agencies and local governments;

(D) are designed to produce and provide the desired vegetation for the watersheds, timber, food, fiber, livestock forage, and wildlife forage, and minerals that are necessary to meet present needs and future economic growth and community expansion without permanent impairment of the productivity of the land;

(E) meet the recreational needs and the personal and business-related transportation needs of the citizens of the state by providing access throughout the state;

(F) meet the recreational needs of the citizens of the state;

(G) meet the needs of wildlife;

(H) provide for the preservation of cultural resources, both historical and archaeological;

(I) meet the needs of economic development;

(J) meet the needs of community development; and

(K) provide for the protection of water rights;

(b) managing public lands for "wilderness characteristics" circumvents the statutory wilderness process and is inconsistent with the multiple-use and sustained-yield management

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standard that applies to all Bureau of Land Management and U.S. Forest Service lands that are not wilderness areas or wilderness study areas;

(c) all waters of the state are:

(i) owned exclusively by the state in trust for its citizens;

(ii) are subject to appropriation for beneficial use; and

(iii) are essential to the future prosperity of the state and the quality of life within the state;

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

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

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

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

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

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

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

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

(i) provide forage for livestock;

(ii) provide forage and habitat for wildlife;

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

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

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

(l) management programs and initiatives that improve watersheds, forests, and increase forage for the mutual benefit of wildlife species and livestock, logging, and other agricultural

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industries by utilizing proven techniques and tools are vital to the state's economy and the quality of life in Utah; and

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

(ii) the state opposes the relinquishment or retirement of grazing animal unit months in favor of conservation, wildlife, and other uses;

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

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

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

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

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

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

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

(viii) policies, plans, programs, and initiatives related to vegetation management should recognize and uphold the preference for domestic grazing over alternate forage uses in established grazing districts while upholding management practices that optimize and expand forage for grazing and wildlife in conjunction with state wildlife management plans and programs in order to provide maximum available forage for all uses; and

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

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

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

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

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

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

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

(A) livestock operations and improvements;

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

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

(D) search and rescue needs;

(E) public safety needs; and

(F) access for transportation of wood products to market;

(iii) access to federal lands for people with disabilities and the elderly; and

(iv) access to state lands and school and institutional trust lands to accomplish the purposes of those lands.

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

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

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

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

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

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

(v) it is clearly demonstrated that the provisions and terms of the process for review of

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potential additions have been applied in a consistent manner by all federal agencies;

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) it is clearly demonstrated that the proposed area satisfies all the definitional requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec. 1702(a);

(ii) it is clearly demonstrated that the area proposed for designation as an ACEC is limited in geographic size and that the proposed management prescriptions are limited in scope to the minimum necessary to specifically protect and prevent irreparable damage to the relevant and important values identified, or limited in geographic size and management prescriptions to the minimum required to specifically protect human life or safety from natural hazards;

(iii) it is clearly demonstrated that the proposed area is limited only to areas that are already developed or used or to areas where no development is required;

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

(v) the federal agency has analyzed regional values, resources, processes, or hazards for irreparable damage and its potential causes resulting from potential actions which are consistent with the multiple-use, sustained-yield principles, and the analysis describes the rationale for any special management attention required to protect, or prevent irreparable damage to the values, resources, processes, or hazards;

(vi) it is clearly demonstrated that the proposed designation is consistent with the plans and policies of the state and of the county where the proposed designation is located as those plans and policies are developed according to Subsection (3);

(vii) it is clearly demonstrated that the proposed ACEC designation will not be applied

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redundantly over existing protections provided by other state and federal laws for federal lands or resources on federal lands, and that the federal statutory requirement for special management attention for a proposed ACEC will discuss and justify any management requirements needed in addition to those specified by the other state and federal laws;

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

(ix) it is clearly demonstrated that the proposed designation:

(A) is not a substitute for a wilderness suitability recommendation;

(B) is not a substitute for managing areas inventoried for wilderness characteristics after 1993 under the BLM interim management plan for valid wilderness study areas; and

(C) it is not an excuse or justification to apply de facto wilderness management standards; and

(x) the conclusions of all studies are submitted to the state, as a cooperating agency, for review, and the results, in support of or in opposition to, are included in all planning documents;

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

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

(f) agricultural and grazing lands should continue to produce the food and fiber needed by the citizens of the state and the nation, and the rural character and open landscape of rural Utah should be preserved through a healthy and active agricultural and grazing industry, consistent with private property rights and state fiduciary duties;

(g) the resources of the forests and rangelands of the state should be integrated as part of viable, robust, and sustainable state and local economies, and available forage should be

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evaluated for the full complement of herbivores the rangelands can support in a sustainable manner, and forests should contain a diversity of timber species, and disease or insect infestations in forests should be controlled using logging or other best management practices;

(h) the state opposes any additional evaluation of national forest service lands as "roadless" or "unroaded" beyond the forest service's second roadless area review evaluation and opposes efforts by agencies to specially manage those areas in a way that:

(i) closes or declassifies existing roads unless multiple side by side roads exist running to the same destination and state and local governments consent to close or declassify the extra roads;

(ii) permanently bars travel on existing roads;

(iii) excludes or diminishes traditional multiple-use activities, including grazing and proper forest harvesting;

(iv) interferes with the enjoyment and use of valid, existing rights, including water rights, local transportation plan rights, R.S. 2477 rights, grazing allotment rights, and mineral leasing rights; or

(v) prohibits development of additional roads reasonably necessary to pursue traditional multiple-use activities;

(i) the state's support for any forest plan revision or amendment will be withheld until the appropriate plan revision or plan amendment clearly demonstrates that:

(i) established roads are not referred to as unclassified roads or a similar classification;

(ii) lands in the vicinity of established roads are managed under the multiple-use, sustained-yield management standard; and

(iii) no roadless or unroaded evaluations or inventories are recognized or upheld beyond those that were recognized or upheld in the forest service's second roadless area review evaluation;

(j) the state's support for any recommendations made under the statutory requirement to examine the wilderness option during the revision of land and resource management plans by the U.S. Forest Service will be withheld until it is clearly demonstrated that:

(i) the duly adopted transportation plans of the state and county or counties within the planning area are fully and completely incorporated into the baseline inventory of information from which plan provisions are derived;

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(ii) valid state or local roads and rights-of-way are recognized and not impaired in any way by the recommendations;

(iii) the development of mineral resources by underground mining is not affected by the recommendations;

(iv) the need for additional administrative or public roads necessary for the full use of the various multiple-uses, including recreation, mineral exploration and development, forest health activities, and grazing operations is not unduly affected by the recommendations;

(v) analysis and full disclosure is made concerning the balance of multiple-use management in the proposed areas, and that the analysis compares the full benefit of multiple-use management to the recreational, forest health, and economic needs of the state and the counties to the benefits of the requirements of wilderness management; and

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

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

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

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

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

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

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

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

(E) the waste of fluid and gaseous minerals within developed areas should be

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prohibited; and

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

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

(A) that the authorized planning agency has:

(I) considered and evaluated the mineral and energy potential in all areas of the planning area as if the areas were open to mineral development under standard lease agreements; and

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

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

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

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

(II) other controlling mineral development laws; and

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

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

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

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

(G) that the authorized federal agency analyzed all areas proposed for no surface

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occupancy restrictions, and that the analysis evaluated:

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

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

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

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

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

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

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

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

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

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

(C) economic and business needs;

(D) public safety;

(E) search and rescue;

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

(G) access to state lands; and

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(H) recreational opportunities;

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

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

(s) (i) forests, rangelands, and watersheds, in a healthy condition, are necessary and beneficial for wildlife, livestock grazing, and other multiple-uses;

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

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

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

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

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

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

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grouse.

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

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

Section 18. Section **63J-4-603** is amended to read:

63J-4-603. Powers and duties of coordinator and office.

(1) The coordinator and the office shall:

(a) make a report to the Constitutional Defense Council created under Section ~~[63C-4-101]~~ 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter ~~[4]~~ 4a, Constitutional and Federalism Defense ~~[Council]~~ Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section ~~[63C-4-101]~~ 63C-4a-202 for meetings of the council ~~[and Federalism Subcommittee]~~;

(c) (i) prepare and submit a constitutional defense plan under Section ~~[63C-4-104]~~ 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) under the direction of the state planning coordinator, assist in fulfilling the state planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the development of public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of public lands policies;

(ii) producing research, documents, maps, studies, analysis, or other information that supports the state's participation in the development of public lands policy;

(iii) preparing comments to ensure that the positions of the state and political subdivisions are considered in the development of public lands policy;

(iv) partnering with state agencies and political subdivisions in an effort to:

(A) prepare coordinated public lands policies;

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- (B) develop consistency reviews and responses to public lands policies;
- (C) develop management plans that relate to public lands policies; and
- (D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions; and
 - (v) providing other information or services related to public lands policies as requested by the state planning coordinator;
 - (e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:
 - (i) state agencies;
 - (ii) political subdivisions;
 - (iii) the Office of Rural Development created under Section 63M-1-1602;
 - (iv) the Resource Development Coordinating Committee created under Section 63J-4-501;
 - (v) School and Institutional Trust Lands Administration created under Section 53C-1-201;
 - (vi) the committee created under Section 63F-1-508 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and
 - (vii) the Constitutional Defense Council created under Section [~~63C-4-101~~]
63C-4a-202;
 - (f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9, Chapter 8, Part 4, Historic Sites;
 - (g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;
 - (h) maintain information concerning grants made under Subsection (1)(j), if available;
 - (i) report annually, or more often if necessary or requested, concerning the office's activities and expenditures to:
 - (i) the Constitutional Defense Council; and
 - (ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;
 - (j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to

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be used by the county or association of counties for public lands matters if the coordinator, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

(k) provide staff services to the Snake Valley Aquifer Advisory Council created in Section 63C-12-103; and

(l) coordinate and direct the Snake Valley Aquifer Research Team created in Section 63C-12-107.

(2) The coordinator and office shall comply with Subsection [~~63C-4-102~~] 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection [~~63C-4-102~~] 63C-4a-203(8) if the governor were submitting the material.

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

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

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

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

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

67-5-1. General duties.

The attorney general shall:

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

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

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

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

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

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

(b) if criminal, the nature of the crime, the mode of prosecution, the stage of proceedings, and when prosecuted to sentence, a memorandum of the sentence and of the execution, if the sentence has been executed, if not executed, of the reason of the delay or prevention; and

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

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

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

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

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

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

(11) when in his opinion it is necessary for the collection or enforcement of any judgment, institute and prosecute on behalf of the state any action or proceeding necessary to

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set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any money not otherwise appropriated;

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

(13) institute and prosecute proper proceedings in any court of the state or of the United States, to restrain and enjoin corporations organized under the laws of this or any other state or territory from acting illegally or in excess of their corporate powers or contrary to public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations, and wind up their affairs;

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) The Federalism Subcommittee is dissolved on the effective date of this bill.

(2) All appointments to the Federalism Subcommittee end on the effective date of this bill.

(3) This Section 20 of this bill is repealed on December 31, 2013.

Section 21. **Appropriation.**

Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following sums of money are appropriated from resources not otherwise appropriated, or reduced from amounts previously appropriated, out of the funds or accounts indicated. These sums of money are in addition to any amounts previously appropriated for fiscal year 2013.

<u>ITEM 1</u>	<u>To General Fund Restricted - Constitutional Defense Restricted Account</u>	
	<u>From General Fund, One-time</u>	<u>(\$79,800)</u>
	<u>Schedule of Programs:</u>	
	<u>Constitutional Defense Restricted Account</u>	<u>(\$79,800)</u>
<u>ITEM 2</u>	<u>To Governor's Office - Constitutional Defense Council</u>	
	<u>From General Fund Restricted - Constitutional Defense</u>	<u>(\$79,800)</u>
	<u>Schedule of Programs:</u>	
	<u>Constitutional Defense Council</u>	<u>(\$79,800)</u>
<u>ITEM 3</u>	<u>To Legislature - Senate</u>	
	<u>From General Fund, One-time</u>	<u>\$34,200</u>
	<u>Schedule of Programs:</u>	
	<u>Administration</u>	<u>\$34,200</u>
<u>ITEM 4</u>	<u>To Legislature - House of Representatives</u>	

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<u>From General Fund, One-time</u>	<u>\$45,600</u>
<u>Schedule of Programs:</u>	
<u>Administration</u>	<u>\$45,600</u>

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Legislative Review Note

———— as of ~~2-8-13 4:04 PM~~

———— ~~Office of Legislative Research and General Counsel;~~ The Legislature intends that, notwithstanding dissolution of the Federalism Subcommittee in this House Bill 131, appropriations from the General Fund Restricted -- Constitutional Defense Restricted Account in House Bill 5, Executive Offices and Criminal Justice Base Budget, 2013 General Session, remain unaffected by this House Bill 131.