



# NRAEQ Appropriations Subcommittee Motions from Accountable Budget Review Status

June 13, 2023

## Item 1: Administrative Appropriation Units

- **Explanation:** *The Administration line item includes the budget for two different divisions: Administrative Services and the Office of the Commissioner, however neither of these are defined units of appropriation. The line item currently includes only two appropriation units: Sheep Promotion and General Administration. Sheep promotion activities are carried out by the Division of Animal Industry. When an agency's budget does not align with operational realities, reporting can be challenging and transparency is decreased.*
- **Recommendation:** *To increase transparency and improve reporting, we recommend moving the Sheep Promotion appropriation unit to the Predatory Animal Control line item and creating appropriation units in the Administration line item that reflect operational realities.*

**UDAF Response/Status: Complete** – See GS 2023 SB 3

## Item 2: UDAF Fee Schedule

- **Explanation:** *The UDAF fee schedule has nearly 400 fees, department discussions have indicated that some fees may be irrelevant or may reflect fees which are charged between divisions (as opposed to external fees which is what the fee bill is intended for). Past analysis has also indicated that fee amounts may not be set in accordance with the Budgetary Procedures Act.*
- **Recommendation:** *We recommend the department report by June 1, 2023, a fee schedule analysis for conciseness, internal versus external fees, schedules that incentivize timely renewals, and for fee amounts that are set in accordance with UCA 63J-1-504.*

**UDAF Response/Status: Complete** - The number of UDAF fees were reduced from 381 in FY2023 to 337 in FY2024. This reduction of 44 fees is a result of the following: 1) all internal fees between divisions were removed; 2) separate processing fees were combined into the registration/license fees; and 3) some fees that were not being charged and not expected to be in the future were removed.

As we perform ongoing analysis of the UDAF fee schedule, we have already identified at least 25 more fees that will be combined or removed in FY2025 to further simplify. The FY2024 schedule only includes external fees. Current fees are set to incentivize timely renewals, which includes late fees after the renewal deadline or a full increased price to reapply.

All new fees are set in accordance with the Budgetary Procedures Act. All existing fees are reviewed on an annual basis to compare revenues and expenses at the fee level. Some fees for FY2024 were changed because of this analysis, with additional changes already identified to submit change requests for FY2025. To improve data collection and ensure accurate fee amounts, all fees will have unique program coding in FINET to be effective July 1, 2023. Supervisors and program managers have been trained in preparation for the coding changes and are responsible for reviewing timesheets for accurate coding. Whenever possible, all expenses will be directly coded to the applicable fee. In situations where this is not possible or not cost effective, we are utilizing the cost accounting function in FINET to allocate these costs to the appropriate fees. This project has been coordinated with State Finance and their consultant, CGI, over the past 8 months.

### Item 3: Agriculture Resource Development Loan Fund Rules

- **Explanation:** *The ARDL fund balance is declining due to non-statutorily authorized uses, and high loan awards relative to the fund balance (in aggregate). Currently, there are no administrative rules for when the department should recalculate interest rates, when service fees should or should not be instituted, what maximum annual awards should be, or what minimum balance should be retained in the ARDL Fund. The department has authority to create rules but has not done so. UCA 4-18-108 also authorizes ARDL funding for grants to fund specific types of restoration projects, but currently there are no rules about how those grant funds should be awarded.*
- **Recommendation:** *We recommend the Legislature requiring the department to create rules that would address loan fund balance minimums, the ability to charge service fees, when to recalculate interest rates, and the grant awards authorized under UCA 4-18-108.*

**UDAF Response/Status: In Process** – Changes to ARDL policies have been written to address the issues identified. Per the new policies, loans will be limited to no more than \$250,000 if the balance in the fund is at \$3.5 million or below, the Utah Conservation Commission (UCC) will consider recalculation of interest rates based on economic factors or the recommendation of staff, and an administrative fee will be charged if the balance of available funds is at or below \$3.5 million (a 1% fee was put in place in November 2022). Additionally, a new Section has been added to the policy to provide guidelines regarding grants Under Section 4-18-108 which will only be possible if the balance of available funds is at least \$10 million. Corresponding changes to Utah Administrative Code Rule R64-1 have been written as well. The updated policy and rules will be considered by the UCC at their meeting on June 20, 2023.

### Item 4: Analytical Laboratory Billing

- **Explanation:** *Several divisions rely on testing performed in the Analytical Laboratory. The lab charges these divisions fees in differing schemes which pay for the cost of testing (i.e. license, permit, registration, or individual testing fees). Revenues in these divisions cannot be transferred to the lab to cover the cost of services without violating the Budgetary Procedures Act. In order for the lab to provide testing services for other divisions, the department should consider creating an internal service fund which would follow statute and provide financial transparency.*
- **Recommendation:** *We recommend that the department works with the LFA to identify the potential advantages and disadvantages of creating an internal service fund for their analytical lab, and report to the subcommittee by June 1, 2023.*

**UDAF Response/Status: Complete** - Analysis was performed to understand the viability of creating an internal service fund (ISF) for the analytical lab. The department met with LFA to discuss this analysis and the possibility of creating an ISF. Other options were also considered to transfer costs the lab incurs from testing on behalf of other divisions. An ISF was determined to not be the best option as the disadvantages outweigh the advantages, with better alternatives available. The department will complete the following steps: 1) identify all tests performed internally within UDAF for other divisions that should be covered with other fees already collected; 2) utilize a consistent cost accounting methodology to identify these costs; 3) obtain transfer revenue authority within the lab to transfer the revenue to the lab to cover the costs of the appropriate tests and still be compliant with the Budgetary Procedures Act.

### Item 5: Building Operation Costs

- **Explanation:** *UDAF reports that building expenses (rent) paid to the Division of Facilities Construction and Management (DFCM) for the Lab space are included in the Analytical Lab's line item, but the department has a separate line item specifically to capture building costs that are paid to DFCM.*
- **Recommendation:** *We recommend the Legislature consider reallocating \$179,800 from the Analytical Laboratory to the Building Operations line item.*

**UDAF Response/Status: In Process** - With all the priorities and changes in during the 2023 General Session, this reallocation was overlooked. This is on the UDAF priority list for the 2024 General Session and will be submitted through Budget Prep requests to ensure it does not get missed again.

## Item 6: Sheep Head Tax Collection

- **Explanation:** *Sheep Head tax is not being collected in accordance with UCA 4-23-109. Utah Code describes the fee being remitted to the state and with the ability of the Utah Wool Growers Association or other statewide organizations to request refunds for promotion or protection activities, between \$.18 and \$.25/head. The department reports that the Wool Growers Association is instead remitting \$.75/head to the department and keeping the remaining amount without submitting a claim for activities conducted. The Wool Growers Association is also not currently submitting annual audits.*
- **Recommendation:** *We recommend that by December 1st, 2022, the Division of Animal Industry review UCA 4-23-109 and make recommendations on changes for the way head tax is collected (so that changes can be made during the General Session), or report to the subcommittee how they will comply with the current statute.*

**UDAF Response/Status: Complete** - The Department is complying with current statute and is now collecting the head tax directly from wool warehouse. Once funds are received, the Department will separate out the \$.75 for predator control and the additional amount for promotion. The promotion money will then be used at the discretion of the Commissioner to support promotion/education of the sheep industry including giving money to the Sheep Marketing Board or the Wool Growers Association as is appropriate. The Department has requested the most recent audit and will implement processes to ensure these are received annually going forward. Auditing requirements related to sheep promotion have also been clarified in pending changes to Utah Administrative Code Rule R65-11 which are currently being considered for public comment and can be made effective by the department on June 21, 2023.

## Item 7: Industrial Hemp and Medical Cannabis Division Vehicles

- **Explanation:** *The Division of Fleet Operations (DFO) requires legislative approval through intent language for the purchase of additional vehicles. At the same time, DFO allows agencies to take on extra vehicles which are in "Active - Already Replaced" status. These vehicles are typically used for seasonal fluctuations where a permanent vehicle is not necessary. These "Already Replaced" vehicles are, by policy, required to be turned back to DFO after 18 months. However, DFO is not actively tracking how long these vehicles have been in agency possession. This practice allows agencies to become dependent on vehicles which are not legislatively authorized. In FY 2020 and FY 2021, DFO and the Legislative Auditor General released reports indicating that UDAF had underutilized vehicles in their fleet, department wide. At the same time, the Division of Industrial Hemp and Medical Cannabis have grown as the programs have become established. The division has requested for vehicles to be assigned to the Industrial Hemp and Medical Cannabis programs and not shared with other programs in the department due to the odor associated with the products. In June 2022, the Subcommittee passed a motion for the agency to establish what the correct rate of vehicles for each program may be, as a function of the number of inspectors and the number of regulated entities. That proposal was presented in the August interim meeting.*
- **Recommendation:** *We recommend that the following intent language be included in the base budget for the Qualified Production Enterprise Fund and the Industrial Hemp line items, respectively: "The Legislature intends that the department of Agriculture and Food's Hemp and Medical Cannabis Division remit all vehicles in 'active already replaced' status to the Division of Fleet Operations. Further, the Legislature intends that the Medical Cannabis program maintains a fleet of no more than 1 vehicle for every 6 licensed establishments requiring an inspection, plus one additional vehicle for office staff." "The Legislature intends that the department of Agriculture and Food's Hemp and Medical Cannabis Division remit all vehicles in 'active already replaced' status to the Division of Fleet Operations. Further, the Legislature intends that the Industrial Hemp program maintain a fleet of 1 vehicle for every inspector in the program."*

**UDAF Response/Status: Complete** - See GS 2023 SB 5, Base Budget for both FY2023 and FY2024

## Item 8: Utah's Own Performance Measures

- **Explanation:** *The Utah's Own program has been around for 20 years (created in 2002) but has not collected any data about the impact of the program. While the department and participants indicate that the program is valuable, there is no data to suggest or confirm that this is the best use of taxpayer money for producers and artisans in Utah.*

- **Recommendation:** We recommend the Legislature require the Division of Marketing and Economic Development to create performance measures that demonstrates the value of the Utah's Own program to members and the larger agricultural industry.

**UDAF Response/Status: Complete** – See GS 2023 SB 2

## Item 9: Plant Industry Appropriation Units

- **Explanation:** The Plant Industry Division has several appropriation units. Two of these units may not be in the correct line item, and several important programs to the division may be wrapped up in a single appropriation unit (i.e. Pesticides, Organics, etc.). Aligning the budget format with operational realities provides transparency and improves the ability to report.
- **Recommendation:** We recommend creating appropriation units that reflect the programs in the division.

**UDAF Response/Status: Complete** – See GS 2023 SB 3

## Item 10: Grazing Improvement Program Budget Realignment

- **Explanation:** The Grazing Improvement Program (GIP) provides staff for the Rangeland Improvement line item, is operationally in the Office of the Commissioner, but is budgetarily housed in the Plant Industry line item. Spreading budget and operations across multiple line items makes reporting challenging and decreases transparency. GIP is also currently being supported through fee revenue by Plant Industry programs that are not related in scope or mission.
- **Recommendation:** We recommend moving the GIP appropriation unit from the Plant Industry line item to the Rangeland Improvement line item.

**UDAF Response/Status: Complete** - see GS 2023 HB 3 and SB 2

## Item 11: Medical Cannabis Fee Revenue

- **Explanation:** The department of Health and Human Services has created revenue codes for each Medical Cannabis fee, which allows the Qualified Patient Enterprise Fund reporting in Data Warehouse to provide monthly updates on financial activity to the Legislature and others. The department of Agriculture and Food has not created revenue codes which adds work and possible errors to reporting UDAF Medical Cannabis revenues.
- **Recommendation:** We recommend that the following intent language be included in the base budget for the Qualified Production Enterprise Fund: “The Legislature intends that the Department of Agriculture and Food create unique revenue codes for each fee deposited into the Qualified Production Enterprise Fund.

**UDAF Response/Status: Not Implemented, Alternative Process Proposed** - Request for new revenue codes was submitted to State Finance but denied. A meeting was held on 12/1/2022 with State Finance, LFA, and UDAF to discuss the denial reason with a decision made to not implement this recommendation. The state's overall change to coding, as well as UDAF's changes to the chart of accounts before FY2025 is expected to resolve this issue. Until that time, starting in FY2024, the department will send a monthly report to LFA with a summary of revenues by fee of the Medical Cannabis program.

## Item 12: Invasive Species Mitigation Funding From Pesticide Registration Fees

- **Explanation:** Operationally, the Plant Industry division includes the Invasive Species Mitigation Program (a separate line item). The Invasive Species Mitigation (ISM) program has requested additional funds in the past several sessions. Pesticide fees are the largest area of fee revenue collected by Plant Industry. In FY 2022, the Division collected roughly \$1.6 million over the cost of administering the program. Because Pesticide fees and the ISM program are related in subject, registration fees (or a portion of them) could support the ISM program.

- **Recommendation:** We recommend that by December 1, 2022, the department recommends an amount of annual Pesticide registration funding that should be used by the ISM program. Further, we recommend the Legislature consider depositing a portion of the registration fees for Pesticides into the Invasive Species Mitigation Account (which would require a statute change.)

**UDAF Response/Status: Complete** – Recommended up to \$1,000,000 of Pesticide fee collections be applied to ISM each year.

## Item 13: Regulatory Dedicated Credit Revenue

- **Explanation:** The division lapsed \$700,000 in FY 2021 and \$1,287,700 in FY 2022. In June 2022, the Subcommittee passed a motion for the agency to evaluate their costs and revenues for each program within the division and recommend the appropriate Dedicated Credit appropriation. Conversations during the accountable budget process have encouraged UDAF Administration to decide if General Fund in this line item can be used for other needs in the department. One such need would be the Grazing Improvement Program, which has been subsidized with Dedicated Credits from unrelated programs in the Plant Industry line item. If the Legislature moves GIP to the Rangeland Improvement line item, General Fund would be needed to replace previously used fee revenues.
- **Recommendation:** We recommend reallocating \$735,400 in General Fund from Regulatory Services line item to the Rangeland Improvement line item, in a new appropriation unit for the Grazing Improvement Program administration.

**UDAF Response/Status: Complete** – See GS 2023 HB 3 and SB 2

## Item 14: Resource Conservation Appropriation Units

- **Explanation:** The Resource Conservation Division has several programs, and the budget of the division has grown over the last three years due to infusions of Federal Funding and emergency drought assistance. However, current budget structure does not reflect the programs which are included in the division. Resource Conservation currently has three appropriation units: “Resource Conservation,” “Resource Conservation Administration,” and “Conservation Commission.” Aligning the budget format with operational realities provides transparency and improves the ability of the agency to report.
- **Recommendation:** To increase transparency and improve reporting, we recommend creating appropriation units in the Resource Conservation line item that reflect the programs administered.

**UDAF Response/Status: Complete** – See GS 2023 SB 3

## Item 15: Department Administrative Functions

- **Explanation:** UDAF may have critical staffing holes in administrative functions (procurement, asset management, contracting, etc.) While the department has a Marketing Division, and a Public Information Officer, UDAF does not have Outreach staff for the department whose primary focus is to educate and encourage adoption of agency programs and facilitate coordination with efforts of other agencies. This may limit the efficacy of the programs being implemented as individual units have to take on these functions themselves.
- **Recommendation:** No recommendation

**UDAF Response/Status:** Internal changes are continuously made to address staffing needs as identified. Over the past year the Administrative Services and Marketing divisions have hired and reorganized roles to fully address all the concerns identified in this item.

## Item 16: Title 4 Recodification

- **Explanation:** *Title 4 is one of the oldest parts of Utah Code. UDAF Code is challenging to associate with division responsibilities and only one division is codified in statute (as of FY 2023). There are also many boards and committees without a clear assignment within the department. A streamlined approach to Title 4 could make interpretation and enforcement easier.*

- **Recommendation:** *No recommendation*

**UDAF Response/Status:** Title 4 is continuously reviewed and updated as considered necessary. The department will continue to review for improvements, including a streamlined approach.