

Representative Michael E. Noel proposes the following substitute bill:

STATE LAND USE MANAGEMENT PLANS

AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael E. Noel

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ establishes certain findings to be considered when developing state policies relating to federal lands and natural resources located on federal lands;
- ▶ establishes considerations for recognition of state and local interests in the federal land use management process;
- ▶ establishes planning policies related to:
 - managing for the sustainability and health of the renewable resources such as water, timber, forage, recreation, and wildlife;
 - managing public land for wilderness considerations;
 - allocation of grazing animal unit months;
 - transportation to and across federal land;
 - management of river segments;



- 26 • designation of areas of critical environmental concern; and
- 27 • creation of roadless or unroaded areas on federal lands;
- 28 ▶ requires that the state planning coordinator work in conjunction with state agencies
- 29 and political subdivisions when developing policies, plans, and programs;
- 30 ▶ requires that the state planning coordinator uphold and promote the policies, plans,
- 31 programs, and desired outcomes of the state and counties where federal lands are
- 32 located; and
- 33 ▶ makes technical changes.

34 **Monies Appropriated in this Bill:**

35 None

36 **Other Special Clauses:**

37 This bill provides a coordination clause.

38 **Utah Code Sections Affected:**

39 AMENDS:

40 **63-38d-401**, as last amended by Chapter 184, Laws of Utah 2004



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

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

44 **63-38d-401. Planning duties of the planning coordinator and office.**

- 45 (1) The state planning coordinator shall:
 - 46 (a) act as the governor's adviser on state, regional, metropolitan, and local
 - 47 governmental planning matters relating to public improvements and land use;
 - 48 (b) counsel with the authorized representatives of the Department of Transportation,
 - 49 the State Building Board, the Department of Health, the Department of Workforce Services,
 - 50 the Labor Commission, the Department of Natural Resources, the School and Institutional
 - 51 Trust Lands Administration, and other proper persons concerning all state planning matters;
 - 52 (c) when designated to do so by the governor, receive funds made available to Utah by
 - 53 the federal government;
 - 54 (d) receive and review plans of the various state agencies and political subdivisions
 - 55 relating to public improvements and programs;
 - 56 (e) when conflicts occur between the plans and proposals of state agencies, prepare

57 specific recommendations for the resolution of the conflicts and submit the recommendations
58 to the governor for a decision resolving the conflict;

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

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

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

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

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

72 (2) The state planning coordinator may:

73 (a) perform regional and state planning and assist [~~city, county, metropolitan, regional,~~
74 ~~and~~] state government planning agencies in performing [~~local, metropolitan, regional, and~~]
75 state planning; [~~and~~]

76 (b) provide planning assistance to Indian tribes regarding planning for Indian
77 reservations[-]; and

78 [~~(3) The state planning coordinator may prepare plans, programs, or processes, and~~
79 ~~shall coordinate the:~~]

80 [~~(a) development of policies concerning the management and use of federal lands and~~
81 ~~natural resources on federal lands in Utah that promote maximum recognition of state and local~~
82 ~~interest in the federal land use management process;~~]

83 [~~(b) development;~~]

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

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

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

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

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

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

108 ~~[(c) establishment of]~~ (e) establish and coordinate agreements between the state and
109 federal land management agencies, federal natural resource management agencies, and federal
110 natural resource regulatory agencies ~~[which]~~ to facilitate state and local participation in the
111 development, revision, and implementation of land use plans, guidelines, regulations, other
112 instructional memoranda, or similar documents proposed or promulgated for lands and natural
113 resources administered by federal agencies; and

114 ~~[(d) establishment of]~~ (f) work in conjunction with political subdivisions to establish
115 agreements with federal land management agencies, federal natural resource management
116 agencies, and federal natural resource regulatory agencies [which] to provide a process for state
117 and local participation in the preparation of, or coordinated state and local response to,
118 environmental impact analysis documents and similar documents prepared pursuant to law by

119 state or federal agencies.

120 (4) ~~[If the]~~ The state planning coordinator [submits] shall comply with the
121 requirements of Subsection 63C-4-102(7) before submitting any comments on a draft
122 environmental impact statement or on an environmental assessment for a proposed land
123 management plan~~[-, before submission, the state planning coordinator shall comply with the~~
124 requirements of Subsection 63C-4-102(7)].

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

129 (a) through the Resource Development Coordinating Committee;

130 (b) in ~~[consultation]~~ conjunction with local government officials concerning general
131 local government plans; ~~[and]~~

132 (c) by soliciting public comment through the Resource Development Coordinating
133 Committee~~[-]; and~~

134 (d) by working with the public lands policy coordinating office.

135 (6) The state planning coordinator ~~[shall take into consideration the following findings~~
136 ~~in the preparation of]~~ shall recognize and promote the following principles when preparing any
137 policies, plans, programs, [or] processes, or desired outcomes relating to federal lands and
138 natural resources on federal lands pursuant to this section:

139 (a) (i) the citizens of the state are best served by ~~[the application of]~~ applying
140 multiple-use and sustained-yield principles [when making decisions concerning the
141 management and use of the lands administered by the Bureau of Land Management and the
142 U.S. Forest Service;] in public land use planning and management; and

143 ~~[(b)]~~ (ii) multiple-use and sustained-yield management means that federal agencies
144 should develop and implement management plans and make other resource-use decisions
145 ~~[which facilitate land and natural resource use allocation which would support the]~~ that:

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

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

150 (C) support the specific plans, programs, processes, and policies of state agencies and
151 local governments [~~and which are~~];

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

156 (E) meet the recreational needs and the personal and business-related transportation
157 needs of the citizens of the state [without permanent impairment of the productivity of the
158 land] by providing access throughout the state;

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

160 (G) meet the needs of wildlife;

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

163 (I) meet the needs of economic development;

164 (J) meet the needs of community development; and

165 (K) provide for the protection of water rights.

166 (b) managing public lands for "wilderness characteristics" circumvents the statutory
167 wilderness process and is inconsistent with the multiple-use and sustained-yield management
168 standard that applies to all Bureau of Land Management and U.S. Forest Service lands that are
169 not wilderness areas or wilderness study areas;

170 (c) [~~the~~] all waters of the state are [~~the property of the citizens of the state,];~~

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

172 (ii) are subject to appropriation for beneficial use[~~;~~]; and

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

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

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

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

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

183 (h) ~~[Utah has]~~ the state should foster and support industries that take advantage of the
184 state's outstanding opportunities for outdoor recreation;

185 (i) wildlife constitutes an important resource and provides recreational and economic
186 opportunities for the state's citizens~~[-and];~~;

187 (j) ~~proper stewardship of the land and natural resources is necessary to ensure [a viable~~
188 ~~wildlife population within the state]~~ the health of the watersheds, timber, forage, and wildlife
189 resources to provide for a continuous supply of resources for the people of the state and the
190 people of the local communities who depend on these resources for a sustainable economy;

191 ~~[(j)]~~ (k) forests, rangelands, timber, and other vegetative resources;

192 (i) provide forage for livestock[-];

193 (ii) provide forage and habitat for wildlife[-];

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

195 (iv) contribute to the state's economic stability and growth[-]; and

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

197 ~~[(k)]~~ (l) management programs and initiatives [which] that improve watersheds,
198 forests, and increase forage for the mutual benefit of [the agricultural industry and] wildlife
199 species and livestock, logging, and other agricultural industries by utilizing proven techniques
200 and tools are vital to the state's economy and the quality of life in Utah; and

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

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

208 (iii) (A) the state favors the best management practices that are jointly sponsored by
209 cattlemen's, sportsmen's, and wildlife management groups such as chaining, logging, seeding,
210 burning, and other direct soil and vegetation prescriptions that are demonstrated to restore
211 forest and rangeland health, increase forage, and improve watersheds in grazing districts and

212 allotments for the mutual benefit of domestic livestock and wildlife;

213 (B) when practices described in Subsection (6)(m)(iii)(A) increase a grazing
214 allotment's forage beyond the total permitted forage use that was allocated to that allotment in
215 the last federal land use plan or allotment management plan still in existence as of January 1,
216 2005, a reasonable and fair portion of the increase in forage beyond the previously allocated
217 total permitted use should be allocated to wildlife as recommended by a joint, evenly-balanced
218 committee of livestock and wildlife representatives that is appointed and constituted by the
219 governor for that purpose;

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

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

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

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

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

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

242 (ix) in established grazing districts, animal unit months that have been reduced due to

243 rangeland health concerns should be restored to livestock when rangeland conditions improve,
244 and should not be converted to wildlife use.

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

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

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

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

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

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

263 (A) livestock operations and improvements;

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

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

267 (D) search and rescue needs;

268 (E) public safety needs; and

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

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

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

273 [~~(7)~~] (8) The state planning coordinator shall [~~take into consideration~~] recognize and

274 promote the following findings in the preparation of any [~~policies,~~] plans, policies, programs,
275 [~~or~~] processes, or desired outcomes relating to federal lands and natural resources on federal
276 lands pursuant to this section:

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

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

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

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

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

292 [~~(iv)~~] (v) it is clearly demonstrated that the provisions and terms of the process for
293 review of potential additions have been applied in a consistent manner by all federal agencies;
294 [~~and~~]

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

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

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

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

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

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

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

314 (ix) it is clearly demonstrated that the agency with management authority over the river
315 segment commits not to impose Visual Resource Management Class I or II management
316 prescriptions that do not comply with the provisions of Subsection (8)(t); and

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

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

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

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

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

332 (i) it is clearly demonstrated that the proposed area satisfies all the definitional
333 requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec.
334 1702(a);

335 (ii) it is clearly demonstrated that the area proposed for designation as an ACEC is

336 limited in geographic size and that the proposed management prescriptions are limited in scope
337 to the minimum necessary to specifically protect and prevent irreparable damage to the relevant
338 and important values identified, or limited in geographic size and management prescriptions to
339 the minimum required to specifically protect human life or safety from natural hazards;

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

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

346 ~~[(iv)]~~ (v) the federal agency has analyzed regional values, resources, processes, or
347 hazards [have been analyzed by the federal agency for impacts] for irreparable damage and its
348 potential causes resulting from potential actions which are consistent with the multiple-use,
349 sustained-yield principles, and ~~[that this]~~ the analysis describes the rationale for any special
350 management attention required to protect, or prevent irreparable damage to the values,
351 resources, processes, or hazards;

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

355 (vii) it is clearly demonstrated that the proposed ACEC designation will not be applied
356 redundantly over existing protections provided by other state and federal laws for federal lands
357 or resources on federal lands, and that the federal statutory requirement for special management
358 attention for a proposed ACEC will discuss and justify any management requirements needed
359 in addition to those specified by the other state and federal laws;

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

364 ~~[(viii)]~~ (ix) it is clearly demonstrated that the proposed designation;

365 (A) is not a substitute for a wilderness suitability recommendation; [and]

366 (B) is not a substitute for managing areas inventoried for wilderness characteristics

367 after 1993 under the BLM interim management plan for valid wilderness study areas; and

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

369 standards; and

370 [~~(v)~~] (x) the conclusions of all studies are submitted to the state, as a cooperating

371 agency, for review, and the results, in support of or in opposition to, are included in all

372 planning documents;

373 (d) sufficient federal lands are made available for government-to-government

374 exchanges of school and institutional trust lands and federal lands without regard for a

375 resource-to-resource correspondence between the surface or mineral characteristics of the

376 offered trust lands and the offered federal lands;

377 (e) federal agencies should support government-to-government exchanges of land with

378 the state based on a fair process of valuation which meets the fiduciary obligations of both the

379 state and federal governments toward trust lands management, and which assures that revenue

380 authorized by federal statute to the state from mineral or timber production, present or future, is

381 not diminished in any manner during valuation, negotiation, or implementation processes;

382 (f) [~~prime~~] agricultural and grazing lands should continue to produce the food and fiber

383 needed by the citizens of the state and the nation, and the rural character and open landscape of

384 rural Utah should be preserved through a healthy and active agricultural and grazing industry,

385 consistent with private property rights and state fiduciary duties;

386 (g) the resources of the forests and rangelands of the state should be integrated as part

387 of viable, robust, and sustainable state and local economies, and available forage should be

388 evaluated for the full complement of herbivores the rangelands can support in a sustainable

389 manner, and forests should contain a diversity of timber species, and disease or insect

390 infestations in forests should be controlled using logging or other best management practices;

391 (h) the state opposes any additional evaluation of national forest service lands as

392 "roadless" or "unroaded" beyond the forest service's second roadless area review evaluation and

393 opposes efforts by agencies to specially manage those areas in a way that:

394 (i) closes or declassifies existing roads unless multiple side by side roads exist running

395 to the same destination and state and local governments consent to close or declassify the extra

396 roads;

397 (ii) permanently bars travel on existing roads;

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

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

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

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

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

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

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

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

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

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

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

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

426 (v) analysis and full disclosure is made concerning the balance of multiple-use
427 management in the proposed areas, and that the analysis compares the full benefit of
428 multiple-use management to the recreational, forest health and economic needs of the state and

429 the counties to the benefits of the requirements of wilderness management; and
430 (vi) the conclusions of all studies related to the requirement to examine the wilderness
431 option are submitted to the state for review and action by the Legislature and governor, and the
432 results, in support of or in opposition to, are included in any planning documents or other
433 proposals that are forwarded to the United States Congress;
434 ~~[(h)]~~ (k) the invasion of noxious weeds and undesirable invasive plant species into
435 ~~[Utah]~~ the state should be reversed, their presence eliminated, and their return prevented;
436 ~~[(i)]~~ (l) management and resource-use decisions by federal land management and
437 regulatory agencies concerning the vegetative resources within the state should reflect serious
438 consideration of the proper optimization of the yield of water within the watersheds of [Utah]
439 the state;
440 (m) (i) it is the policy of the state that:
441 (A) mineral and energy production and environmental protection are not mutually
442 exclusive;
443 (B) it is technically feasible to permit appropriate access to mineral and energy
444 resources while preserving nonmineral and nonenergy resources;
445 (C) resource management planning should seriously consider all available mineral and
446 energy resources;
447 ~~[(j)]~~ (D) the development of the solid, fluid, and gaseous mineral resources of the state
448 and the renewable resources of the state should be encouraged[;];
449 (E) the waste of fluid and gaseous minerals within developed areas should be
450 prohibited[;]; and
451 (F) requirements to mitigate or reclaim mineral development projects should be based
452 on credible evidence of significant impacts to natural or cultural resources;
453 (ii) the state's support for mineral development provisions within federal land
454 management plans will be withheld until the appropriate land management plan environmental
455 impact statement clearly demonstrates:
456 (A) that the authorized planning agency has:
457 (I) considered and evaluated the mineral and energy potential in all areas of the
458 planning area as if the areas were open to mineral development under standard lease
459 agreements; and

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

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

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

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

469 (II) other controlling mineral development laws; and

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

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

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

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

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

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

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

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

489 (H) that the authorized planning agency has evaluated all directional drilling
490 requirements in no surface occupancy areas to determine whether directional drilling is feasible

491 from an economic, ecological, and engineering standpoint;

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

496 ~~[(t)]~~ (o) off-highway vehicles should be used responsibly, ~~[and]~~ the management of
497 off-highway vehicles should be uniform across all jurisdictions, and laws related to the use of
498 off-highway vehicles should be uniformly applied across all jurisdictions;

499 ~~[(m)]~~ (p) (i) rights-of-way granted and vested under the provisions of R.S. 2477 should
500 be preserved and acknowledged;

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

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

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

507 (C) economic and business needs;

508 (D) public safety;

509 (E) search and rescue;

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

511 (G) access to state lands; and

512 (H) recreational opportunities;

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

517 ~~[(o)]~~ (r) the reasonable development of new routes and trails for motorized, human, and
518 animal-powered recreation should be implemented; ~~[and]~~

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

521 (ii) ~~[that]~~ management programs and initiatives ~~[which]~~ that are implemented to

522 increase forage for the mutual benefit of the agricultural industry, livestock operations, and
523 wildlife species should utilize all proven techniques and tools;

524 (iii) ~~[that]~~ the continued viability of livestock operations and the livestock industry
525 should be supported on the federal lands within ~~[Utah]~~ the state by management of the lands
526 and forage resources, by the proper optimization of animal unit months for livestock, in
527 accordance with the multiple-use provisions of the Federal Land Policy and Management Act
528 of 1976, 43 U.S.C. 1701 et seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C.
529 315 et seq., and the provisions of the Public Rangelands Improvement Act of 1978, 43 U.S.C.
530 1901 et seq.;

531 (iv) ~~[that]~~ provisions for predator control initiatives or programs under the direction of
532 state and local authorities should be implemented; and

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

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

542 ~~[(8)]~~ (9) Nothing contained in this section may be construed to restrict or supersede the
543 planning powers conferred upon state departments, agencies, instrumentalities, or advisory
544 councils of the state or the planning powers conferred upon political subdivisions by any other
545 existing law.

546 ~~[(9)]~~ (10) Nothing in this section may be construed to affect any lands withdrawn from
547 the public domain for military purposes, which are administered by the United States Army,
548 Air Force, or Navy.

549 **Section 2. Coordinating H.B. 264 with S.B. 239.**

550 If this H.B. 264 passes and S.B. 239, Public Lands Policy Coordination, does not pass,
551 it is the intent of the Legislature that Subsection 63-38d-401(5)(d) be deleted and that
552 Subsections 63-38d-401(5)(b) and (c) read as follows:

553 "(b) in conjunction with local government officials concerning general local
554 government plans; and
555 (c) by soliciting public comment through the Resource Development Coordinating
556 Committee."

Fiscal Note
Bill Number HB0264S02

State Land Use Management Plans Amendments

25-Feb-05

3:11 PM

State Impact

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

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst