

**DEPARTMENT OF AGRICULTURE**

**AMENDMENTS**

2007 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Margaret Dayton**

House Sponsor: Patrick Painter

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**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

- ▶ changes the name of the Soil Conservation Commission;
- ▶ removes references to the agricultural development division;
- ▶ repeals the chapter regarding the regulation of flour and cereal;
- ▶ repeals several sections regarding the conservation corps; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

**AMENDS:**

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

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

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

**4-3-1**, as enacted by Chapter 2, Laws of Utah 1979



28           **4-3-4**, as enacted by Chapter 2, Laws of Utah 1979  
29           **4-3-7**, as enacted by Chapter 2, Laws of Utah 1979  
30           **4-3-8**, as last amended by Chapter 87, Laws of Utah 2001  
31           **4-3-10**, as enacted by Chapter 2, Laws of Utah 1979  
32           **4-3-14**, as last amended by Chapter 358, Laws of Utah 2004  
33           **4-4-4**, as enacted by Chapter 2, Laws of Utah 1979  
34           **4-5-6**, as enacted by Chapter 2, Laws of Utah 1979  
35           **4-5-7**, as last amended by Chapter 20, Laws of Utah 1995  
36           **4-5-10**, as enacted by Chapter 2, Laws of Utah 1979  
37           **4-5-15**, as enacted by Chapter 2, Laws of Utah 1979  
38           **4-5-17**, as enacted by Chapter 2, Laws of Utah 1979  
39           **4-8-7**, as enacted by Chapter 2, Laws of Utah 1979  
40           **4-10-2**, as enacted by Chapter 2, Laws of Utah 1979  
41           **4-10-7**, as enacted by Chapter 2, Laws of Utah 1979  
42           **4-11-15**, as enacted by Chapter 2, Laws of Utah 1979  
43           **4-12-2**, as enacted by Chapter 2, Laws of Utah 1979  
44           **4-12-5**, as enacted by Chapter 2, Laws of Utah 1979  
45           **4-13-2**, as last amended by Chapter 30, Laws of Utah 1992  
46           **4-13-4**, as enacted by Chapter 2, Laws of Utah 1979  
47           **4-13-6**, as last amended by Chapter 3, Laws of Utah 1981  
48           **4-14-3**, as last amended by Chapter 130, Laws of Utah 1985  
49           **4-14-9**, as enacted by Chapter 2, Laws of Utah 1979  
50           **4-15-5**, as last amended by Chapter 130, Laws of Utah 1985  
51           **4-15-6**, as enacted by Chapter 126, Laws of Utah 1981  
52           **4-17-6**, as enacted by Chapter 126, Laws of Utah 1981  
53           **4-18-1**, as last amended by Chapter 122, Laws of Utah 1992  
54           **4-18-3**, as last amended by Chapter 326, Laws of Utah 2001  
55           **4-18-4**, as last amended by Chapter 176, Laws of Utah 2002  
56           **4-18-5**, as last amended by Chapter 244, Laws of Utah 1993  
57           **4-18-6**, as last amended by Chapter 316, Laws of Utah 2003  
58           **4-19-1**, as last amended by Chapter 82, Laws of Utah 1997

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

83 REPEALS:

- 84           **4-6-1**, as enacted by Chapter 2, Laws of Utah 1979
- 85           **4-6-2**, as enacted by Chapter 2, Laws of Utah 1979
- 86           **4-6-3**, as last amended by Chapter 20, Laws of Utah 1995
- 87           **4-6-4**, as enacted by Chapter 2, Laws of Utah 1979
- 88           **4-18-14**, as last amended by Chapter 244, Laws of Utah 1993
- 89           **4-18-15**, as enacted by Chapter 205, Laws of Utah 1990

- 90 4-18-16, as enacted by Chapter 205, Laws of Utah 1990
- 91 4-18-17, as enacted by Chapter 205, Laws of Utah 1990
- 92 4-18-18, as enacted by Chapter 205, Laws of Utah 1990
- 93 4-18-19, as enacted by Chapter 205, Laws of Utah 1990
- 94 4-18-20, as enacted by Chapter 205, Laws of Utah 1990
- 95 4-18-21, as enacted by Chapter 205, Laws of Utah 1990
- 96 4-18-22, as enacted by Chapter 205, Laws of Utah 1990
- 97 4-18-23, as enacted by Chapter 205, Laws of Utah 1990
- 98 4-18-24, as enacted by Chapter 205, Laws of Utah 1990
- 99 4-18-25, as enacted by Chapter 205, Laws of Utah 1990
- 100 4-18-26, as enacted by Chapter 205, Laws of Utah 1990
- 101 4-18-27, as enacted by Chapter 205, Laws of Utah 1990

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

104 Section 1. Section 4-1-4 is amended to read:

105 **4-1-4. Code enforcement -- Inspection authorized -- Condemnation or seizure --**  
106 **Injunctive relief -- Costs awarded -- County or district attorney to represent state --**  
107 **Criminal actions -- Witness fee.**

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

110 (a) enter, at reasonable times, [~~for the purpose of inspection,~~] and inspect any public or  
111 private premises where agricultural products are located; and [~~may~~]

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

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

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

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

120 (ii) upon proper grounds, [~~to~~] obtain a temporary restraining order or temporary or

121 permanent injunction to prevent violation of ~~[any such chapter]~~ this title.

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

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

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

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

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

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

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

144 (8) Any witness subpoenaed by the department for whatever purpose~~[-]~~ is entitled to:

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

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

149 Section 2. Section **4-2-2** is amended to read:

150 **4-2-2. Functions, powers, and duties of department -- Fees for services --**

151 **Marketing orders -- Procedure.**

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

154 (a) [~~to~~] inquire into and promote the interests and products of agriculture and its allied  
155 industries;

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

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

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

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

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

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

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

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

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

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

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

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

179 (j) [~~to~~] when necessary, make investigations, subpoena witnesses and records, conduct  
180 hearings, issue orders, and make recommendations concerning all matters related to  
181 agriculture;

182 (k) (i) [~~to~~] inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or

183 any private or public place ~~[which]~~ that may become infested or infected with harmful insects,  
184 plant diseases, noxious or poisonous weeds, or other agricultural pests;

185 (ii) ~~[to]~~ establish and enforce quarantines;

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

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

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

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

193 (n) ~~[to]~~ assist the ~~[Soil]~~ Conservation Commission in the administration of Title 4,  
194 Chapter 18, ~~[Soil]~~ Conservation Commission Act, and administer and disburse any funds  
195 ~~[which are]~~ available ~~[for the purpose of assisting soil]~~ to assist conservation districts in the  
196 state in the conservation of the state's soil and water resources; and

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

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

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

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

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

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

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

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

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

217 ~~[(ii)]~~ (B) ensure that the account is annually audited by an accountant approved by the  
218 commissioner.

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

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

222 **4-2-10. Responsibilities.**

223 (1) The state chemist shall:

224 (a) serve as the chief administrative officer of the Division of Laboratories ~~[and shall~~  
225 ~~be responsible for the supervision and administration of]~~; and

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

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

230 (a) the tests and analytical work do not interfere with, or impede, the work required by  
231 the department~~[-]~~; and ~~[(f)]~~

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

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

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

236 **4-3-1. Definitions.**

237 As used in this chapter:

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

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

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

242 (i) under unsanitary conditions~~[-or]~~;

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

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



- 245 (c) contains any food additive that is unsafe within the meaning of [~~Section 409 of the~~  
 246 ~~Federal Food, Drug and Cosmetic Act~~] 21 U.S.C. Sec. 348;
- 247 (d) contains:
- 248 (i) any filthy, putrid, or decomposed substance[~~;~~~~or~~];
- 249 (ii) fresh fluid milk [~~which contains~~] with a lactic acid level at or above [~~the level of~~  
 250 ~~.18 of 1%, or~~] .0018;
- 251 (iii) cream with a lactic acid level at or above [~~.8 of 1%, or which~~] .008 or that is  
 252 otherwise unfit for human food;
- 253 (e) is the product of:
- 254 (i) a diseased animal [~~or~~];
- 255 (ii) an animal [~~which~~] that died otherwise than by slaughter[~~;~~]; or
- 256 (iii) an animal fed upon uncooked offal;
- 257 (f) has intentionally been subjected to radiation, unless the use of the radiation is in  
 258 conformity with a [~~regulation~~] rule or exemption promulgated by the department; or
- 259 (g) (i) has any valuable constituent omitted or abstracted[~~;~~~~or which~~];
- 260 (ii) has any substance substituted in whole or in part [~~therefor, or which~~];
- 261 (iii) has damage or inferiority concealed in any manner[~~;~~~~or which~~]; or
- 262 (iv) has any substance added, mixed, or packed with the product to:
- 263 (A) increase its bulk or weight[~~;~~~~or~~];
- 264 (B) reduce its quality or strength[~~;~~]; or
- 265 (C) make it appear better or of greater value.
- 266 (2) "Dairy product" means any product derived from raw or pasteurized milk.
- 267 (3) "Distributor" means any person who distributes a dairy product.
- 268 (4) (a) "Filled milk" means any milk, cream, or skimmed milk, whether condensed,  
 269 evaporated, concentrated, powdered, dried, or desiccated, [~~which~~] that has fat or oil other than  
 270 milk fat added, blended, or compounded with it so that the resultant product is an imitation or  
 271 semblance of milk, cream, or skimmed milk. [~~It~~]
- 272 (b) "Filled milk" does not include any distinctive proprietary food compound [~~which~~];
- 273 (i) that is prepared and designated for feeding infants and young children, which is  
 274 customarily used upon the order of a licensed physician; [~~provided, that~~]
- 275 (ii) whose product name and label does not contain the word "milk" [~~does not appear in~~

276 ~~the product name or in any statement on the label;~~; and ~~[that the]~~

277 (iii) whose label conforms with the food labeling requirements.

278 (5) "Frozen dairy products" mean dairy products normally served to the consumer in a  
279 frozen or semifrozen state.

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

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

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

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

291 (10) "Misbranded" means:

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

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

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

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

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

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

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

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

307 1/2-inch in height appear on each package, roll, square, or container of such butter; or  
 308 ~~[(e)]~~ (f) any dairy product in final packaged form ~~[which]~~ that makes nutritional claims  
 309 or adds or adjusts nutrients that are not so labeled.

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

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

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

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

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

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

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

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

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

325 **4-3-4. Authority to inspect premises.**

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

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

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

334 **4-3-7. Testing and measuring milk -- Standards prescribed -- Milk quality work**  
 335 **in accordance with rules.**

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

- 338           (a) the latest edition of "Association of Official Analytical Chemists[;]" [or];  
339           (b) the latest edition of "Standard Methods for Examination of Dairy Products[;]" [~~or in~~  
340 ~~accordance with~~];  
341           (c) other publications accepted by the department[; ~~or in accordance with~~]; or  
342           (d) methods prescribed by the department [~~shall be used for testing and measuring~~  
343 ~~milk~~].

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

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

348           **4-3-8. Licenses and permits -- Application -- Fee -- Expiration -- Renewal.**

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

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

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

359           (4) A license to operate a plant [~~or to~~], manufacture butter or cheese, pasteurize milk,  
360 test milk for payment, haul milk in bulk, or for the wholesale distribution of dairy products, is  
361 renewable for a period of one year upon the payment of an annual license renewal fee  
362 determined by the department [~~pursuant~~] according to Subsection 4-2-2(2) on or before  
363 December 31 of each year.

364           [~~(2)~~] (5) Application for a permit or certificate to produce milk shall be made to the  
365 department on forms prescribed and furnished by it.

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

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

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

371 **4-3-10. Unlawful acts specified.**

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

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

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

375 (3) manufacture butter or cheese, pasteurize milk, test milk for payment, or haul milk

376 in bulk without a special license to perform the particular activity designated in this Subsection

377 (3); [~~provided, that~~] unless if more than one person working in a plant is engaged in the

378 performance of a single activity designated in this Subsection (3), [~~it is sufficient if~~] the person

379 who directs the activity is licensed[-];

380 (4) manufacture, distribute, sell, deliver, hold, store, or offer for sale any adulterated or

381 misbranded dairy product;

382 (5) manufacture, distribute, sell, deliver, hold, store, or offer for sale any dairy product

383 without a license, permit, or certificate required by this chapter;

384 (6) sell or offer for sale any milk not intended for human consumption unless it is

385 denatured or decharacterized in accordance with the [~~regulations~~] rules of the department;

386 (7) manufacture, distribute, sell, or offer for sale any filled milk labeled as milk or as a

387 dairy product;

388 (8) keep any animals with brucellosis, tuberculosis, or other infectious or contagious

389 diseases communicable to humans in any place where they may come in contact with cows or

390 other milking animals;

391 (9) draw milk for human food from cows or other milking animals that are infected

392 with tuberculosis, running sores, communicable diseases, or from animals that are fed feed that

393 will produce milk that is adulterated;

394 (10) accept[-] or process milk from any producer without verification that the producer

395 holds a valid permit or certification or, if milk is accepted from out of the state, without

396 verification that the producer holds a permit or certification from the appropriate regulatory

397 agency of that state;

398 (11) use any contaminated or unclean equipment or container to process, manufacture,

399 distribute, deliver, or sell a dairy product;

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

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

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

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

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

409 **4-3-14. Sale of raw milk prohibited -- Exceptions -- Suspension of producer's**  
410 **permit.**

411 (1) Raw milk may be sold if:

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

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

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

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

419 (e) it is labeled "raw milk" and meets the labeling requirements under 21 C.F.R. Parts  
420 101 and 131 and rules established by the department;

421 (f) it is:

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

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

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

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

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

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

434 (i) the production of the milk conforms to departmental rules for the production of  
435 grade A milk;

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

437 (i) permanently and individually identifiable; and

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

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

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

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

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

447 **4-4-4. Unlawful acts specified.**

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

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

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

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

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

456 Section 11. Section ~~4-5-6~~ is amended to read:

457 **4-5-6. Definitions and standards of identity, quality, and fill of container -- Rules**  
458 **-- Temporary and special permits.**

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

462 container in this state. [~~However, the~~]

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

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

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

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

476 Section 12. Section **4-5-7** is amended to read:

477 **4-5-7. Adulterated food specified.**

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

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

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

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

486 (B) a food additive; or

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

488 or

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

492 (iii) if it is or it bears or contains any food additive [~~which~~] that is unsafe within the



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

503 (c) if it consists in whole or in part of a diseased, contaminated, filthy, putrid, or  
504 decomposed substance, or if it is otherwise unfit for food;

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

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

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

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

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

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

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

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

524 (b) if any substance has been substituted wholly or in part therefor;  
525 (c) if damage or inferiority has been concealed in any manner; or  
526 (d) if any substance has been added or mixed or packed therewith so as to increase its  
527 bulk or weight, or reduce its quality or strength or make it appear better or of greater value than  
528 it is; or

529 (3) if it is confectionery, and:

530 (a) has partially or completely imbedded therein any nonnutritive object; provided that  
531 this ~~[clause]~~ Subsection (3)(a) shall not apply in the case of any nonnutritive objective if, in the  
532 judgment of the department such object is of practical functional value to the confectionery  
533 product and would not render the product injurious or hazardous to health;

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

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

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

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

546 **4-5-10. Food processed, labeled, or repacked at another location -- Exemption**  
547 **from labeling requirements.**

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

554 (2) (a) Regulations now or hereafter adopted under authority of the ~~[federal act]~~

555 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., relating to ~~[such] the~~  
556 exemptions described in Subsection (1) are automatically effective in this state. ~~[However, the]~~

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

559 Section 14. Section ~~4-5-15~~ is amended to read:

560 **4-5-15. Consumer commodities -- Labeling and packaging.**

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

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

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

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

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

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

586 number of packages [~~which~~] that may be used to enclose any commodity; [~~(b)~~]

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

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

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

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

598 (iv) prevent the nonfunctional slack-fill of packages containing consumer  
599 commodities.

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

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

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

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

608 **4-5-17. Authority to make and enforce rules.**

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

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

616 (2) Hearings authorized or required by this [~~act~~] chapter shall be conducted by the

617 department or by ~~[such]~~ an officer, agent, or employee ~~[as the]~~ designated by the department  
618 ~~[may designate for the purpose]~~.

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

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

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

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

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

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

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

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

645 (b) Except as provided by Subsection (7)(c), the department may, if it finds it necessary  
646 in the interest of consumers, prescribe package and labeling ~~[regulations]~~ rules for consumer  
647 commodities, whether or not in accordance with regulations promulgated under the federal

648 act[, provided, that no such regulations shall be promulgated which].

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

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

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

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

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

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

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

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

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

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

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

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

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

678 (9) Whenever a regulation is promulgated under authority of the Federal Food, Drug,

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

684 Section 16. Section ~~4-8-7~~ is amended to read:

685 **4-8-7. Defense to claim of illegal activity.**

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

690 Section 17. Section ~~4-10-2~~ is amended to read:

691 **4-10-2. Definitions.**

692 As used in this chapter:

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

695 (2) "Bedding" means any:

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

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

699 (3) "Filling material" means any cotton, wool, kapok, feathers, down, hair or other  
 700 material, or any combination of ~~[such]~~ material, whether loose or in bags, bales, batting, pads,  
 701 or other prefabricated form ~~[which]~~ that is, or can be, used in bedding, upholstered furniture or  
 702 quilted clothing.

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

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

709 (b) "Manufacture" does not include isolated sales of such articles by persons who are

710 not primarily engaged in the making, processing, or preparation of such articles.

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

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

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

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

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

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

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

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

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

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

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

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

738 **4-10-7. Bedding, upholstered furniture, and filling material to be tagged -- Tag**  
739 **size -- Information required on tag -- Quilted clothing tagged in conformance with**  
740 **Federal Textile Fiber Products Identification Act -- Removal of tags.**



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

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

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

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

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

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

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

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

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

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

760 **4-11-15. Wax-salvage operations -- County bee inspector to supervise compliance**  
761 **with rules -- Salvage procedures specified.**

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

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

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

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

771 **4-12-2. Definitions.**

772 As used in this chapter:

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

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

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

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

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

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

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

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

803 labeling.

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

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

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

816 (5) "Distribute" means to:

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

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

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

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

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

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

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

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

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

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

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

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

837 **4-12-5. Labeling requirements for commercial and customer-formula feed**  
838 **specified.**

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

841 (a) the name and principal address of the registrant;

842 (b) the product or brand name, if any, under which it is distributed;

843 (c) the feed ingredients stated in the manner prescribed by [~~regulation~~] rule of the  
844 department;

845 (d) the net cumulative weight of the container and contents;

846 (e) the lot number or some other means of lot identification; and

847 (f) any information prescribed by [~~regulation~~] rule of the department [~~deemed~~]  
848 considered necessary for the safe and effective use of the feed.

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

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

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

856 (a) the name and principal address of the manufacturer;

857 (b) the name and principal address of the purchaser;

858 (c) the date of delivery;

859 (d) the net weight of each registered commercial feed used in the mixture and the net  
860 weight of each other ingredient used; and

861 (e) any information prescribed by [~~regulation~~] rule of the department [~~deemed~~]  
862 considered necessary for the safe and effective use of the customer-formula feed.

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

864 **4-13-2. Definitions.**

865 As used in this chapter:

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

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

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

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

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

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

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

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

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

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

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

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

896 bone meal, manures, and similar raw materials may be guaranteed in fractional units.

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

899 Total nitrogen (N) \_\_\_\_\_ percent

900 Available phosphoric acid (P<sub>0</sub>) \_\_\_\_\_ percent

901 Soluble potash (K<sub>0</sub>) \_\_\_\_\_ percent

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

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

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

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

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

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

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

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

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

924 (10) "Labeling" means all written, printed, or graphic matter upon or accompanying  
925 any commercial fertilizer or soil amendment, or advertisements, brochures, posters, television  
926 and radio announcements used in promoting the sale of such commercial fertilizers or soil

927 amendments.

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

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

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

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

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

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

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

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

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

945 **4-13-4. Labeling requirements for specialty fertilizer, bulk commercial fertilizer,**  
946 **packaged mixed fertilizer, and soil amendments specified.**

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

- 949 (a) its net weight;
- 950 (b) brand and grade;
- 951 (c) guaranteed analysis;
- 952 (d) the name and address of the registrant; and
- 953 (e) the lot number.

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

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

958 delivered.

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

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

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

968 Section 24. Section ~~4-13-6~~ is amended to read:

969 **4-13-6. Distribution of fertilizers not complying with labeling requirements**  
970 **prohibited -- Guaranteed analysis deficient -- Penalty assessed -- Time for payment --**  
971 **Court action to vacate or amend finding authorized.**

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

978 (2) If an official sample, after analysis, demonstrates the guaranteed analysis is  
979 deficient in one or more of its primary plant foods (NPK) beyond the investigational allowance  
980 prescribed by [~~regulation~~] rule, or if the over-all index value of the official sample is below the  
981 level established by [~~regulation~~] rule, a penalty of three times the commercial value of the  
982 deficiency or deficiencies of the lot represented by the official sample may be assessed against  
983 the registrant.

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

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



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

990 **4-14-3. Registration required for distribution -- Application -- Fees -- Renewal --**  
991 **Local needs registration -- Distributor or applicator license -- Fees -- Renewal.**

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

1002 (2) The application shall include the following information:

1003 (a) the name and address of the applicant and the name and address of the person  
1004 whose name will appear on the label, if other than the applicant's name;

1005 (b) the name of the pesticide;

1006 (c) a complete copy of the label which will appear on the pesticide; and

1007 (d) any information prescribed by ~~[regulation]~~ rule of the department ~~[deemed]~~  
1008 considered necessary for the safe and effective use of the pesticide.

1009 (3) Forms for the renewal of registration shall be mailed to registrants at least 30 days  
1010 before their registration expires. A registration in effect on June 30 for which a renewal  
1011 application has been filed and the registration fee tendered shall continue in effect until the  
1012 applicant is notified either that the registration is renewed or that it is suspended or revoked  
1013 pursuant to Section 4-14-8.

1014 (4) The department may, before approval of any registration, require the applicant to  
1015 submit the complete formula of any pesticide including active and inert ingredients and may  
1016 also, for any pesticide not registered ~~[pursuant to Section (3) of FIFRA]~~ according to 7 U.S.C.  
1017 Sec. 136a or for any pesticide on which restrictions are being considered, require a complete  
1018 description of all tests and test results that support the claims made by the applicant or the  
1019 manufacturer of the pesticide.

1020 (5) A registrant who desires to register a pesticide to meet special local needs [~~pursuant~~  
1021 ~~to Section 24(c) of FIFRA]~~ according to 7 U.S.C. Sec. 436v(c) shall, in addition to complying  
1022 with Subsections (1) and (2), satisfy the department that:

1023 (a) a special local need exists;

1024 (b) the pesticide warrants the claims made for it;

1025 (c) the pesticide, if used in accordance with commonly accepted practices, will not  
1026 cause unreasonable adverse effects on the environment; and

1027 (d) the proposed classification for use conforms with [~~Section 3(d) of FIFRA]~~ 7 U.S.C.  
1028 Sec. 136a(d).

1029 (6) No registration is required for a pesticide distributed in this state pursuant to an  
1030 experimental use permit issued by the EPA or under Section 4-14-5.

1031 (7) No pesticide dealer may distribute a restricted use pesticide in this state without a  
1032 license. No person may apply a pesticide for hire in this state without a license. A license to  
1033 engage in either activity may be obtained upon application from the department upon the  
1034 payment of a license fee determined by the department pursuant to Subsection 4-2-2(2), which  
1035 shall entitle the applicant to engage in the otherwise proscribed activity through December 31  
1036 of the year in which the license is issued. Such a license is annually renewable upon the  
1037 payment of an annual license renewal fee determined by the department [~~pursuant~~] according to  
1038 Subsection 4-2-2(2).

1039 Section 26. Section **4-14-9** is amended to read:

1040 **4-14-9. Examination requirements for license to act as applicator may be waived**  
1041 **through reciprocal agreement.**

1042 The department may waive any or all examination requirements [~~which~~] that may be  
1043 specified by [~~regulation~~] rule for noncommercial, commercial, and private applicators through  
1044 a reciprocal agreement with another state whose examination requirements and standards for  
1045 licensure are substantially similar to those of Utah.

1046 Section 27. Section **4-15-5** is amended to read:

1047 **4-15-5. License -- Application -- Fees -- Expiration -- Renewal.**

1048 (1) (a) Application for a license to operate a nursery or nursery outlet or to solicit or  
1049 receive orders of nursery stock for a person regularly engaged in the business of operating a  
1050 nursery or nursery outlet shall be made to the department on forms prescribed and furnished by

1051 it.

1052           (b) Upon receipt of a proper application and compliance with applicable [regulations]  
1053 rules, and payment of a license fee determined by the department [pursuant] according to  
1054 Subsection 4-2-2(2) for each place of business where the applicant intends to offer nursery  
1055 stock for wholesale or retail sale, or the payment of a fee determined by the department  
1056 pursuant to Subsection 4-2-2(2) in the case of an agent, the commissioner, if satisfied the  
1057 convenience and necessity of the industry and the public will be served, shall issue a license to  
1058 engage in the otherwise proscribed activity through December 31 of the year in which the  
1059 license is issued, subject to suspension or revocation for cause.

1060           (2) A license to operate a nursery or nursery outlet or an agent's license is renewable on  
1061 or before December 31 of each year for a period of one year upon the payment of an annual  
1062 license renewal fee determined by the department [pursuant] according to Subsection 4-2-2(2).

1063           Section 28. Section **4-15-6** is amended to read:

1064           **4-15-6. Nursery stock for wholesale or retail sale -- Graded and sized -- Labels**  
1065 **and tags -- Information to appear on label or tag.**

1066           (1) Each type of nursery stock delivered to a nursery or nursery outlet for subsequent  
1067 wholesale or retail sale shall:

1068           (a) be sized and graded in accordance with the applicable [regulations] rules of the  
1069 department; and [~~shall~~]

1070           (b) bear a tag or label with the name, grade, size, and variety of the stock.

1071           (2) Each bundle, single lot, or single nursery stock sold at retail shall bear a secure tag  
1072 or label with the common or botanical name, grade, size, and variety of the stock legibly  
1073 printed or written on it.

1074           Section 29. Section **4-17-6** is amended to read:

1075           **4-17-6. Weed control supervisor -- Qualification -- Appointment -- Duties.**

1076           (1) (a) Each commission may employ one or more weed control supervisors qualified  
1077 to:

1078           (i) detect and treat noxious weeds; and [~~to~~]

1079           (ii) direct the weed control program for the county weed board.

1080           (b) A person may be a weed control supervisor for more than one county weed board.

1081           (c) Terms and conditions of employment shall be prescribed by the commission. [~~It is~~]

1082 ~~the duty of every]~~

1083 (2) A supervisor, under the direction of the local county weed control board, ~~[to]~~ shall:

1084 (a) examine all land under the jurisdiction of the county weed control board to  
1085 determine whether this chapter and the ~~[regulations of the commissioner]~~ rules adopted by the  
1086 department have been met~~[-to]~~;

1087 (b) compile data on infested areas~~[-to]~~;

1088 (c) consult and advise upon matters pertaining to the best and most practical method of  
1089 noxious weed control and prevention~~[-to]~~;

1090 (d) render assistance and direction for the most effective control and prevention~~[-to]~~;

1091 (e) investigate violations of this chapter~~[-to]~~;

1092 (f) enforce noxious weed controls within the county~~[-and to]~~; and

1093 (g) perform any other duties required by the county weed control board.

1094 Section 30. Section 4-18-1 is amended to read:

1095 **CHAPTER 18. CONSERVATION COMMISSION ACT**

1096 **4-18-1. Title.**

1097 This chapter ~~[shall be]~~ is known ~~[and may be cited]~~ as the "[Soil] Conservation  
1098 Commission Act."

1099 Section 31. Section 4-18-3 is amended to read:

1100 **4-18-3. Definitions.**

1101 As used in this chapter:

1102 (1) "Alternate" means a substitute for a district supervisor if the district supervisor  
1103 cannot attend a meeting.

1104 (2) (a) "Animal feeding operation" means a facility where animals, other than aquatic  
1105 animals, are stabled or confined and fed or maintained for a total of 45 days or more in any  
1106 12-month period. ~~[Animals are not considered to be stabled or confined when they are]~~

1107 (b) "Animal feeding operation" does not include an operation where animals are in  
1108 areas such as pastures or rangeland that sustain crops or forage growth during the entire time  
1109 the animals are present.

1110 (3) "Commission" means the [Soil] Conservation Commission created ~~[by this chapter]~~  
1111 in Section 4-18-4.

1112 (4) "Comprehensive nutrient management plan" means a plan that identifies actions or

1113 priorities that will be followed to meet clearly defined nutrient management goals at an animal  
1114 feeding operation.

1115 (5) "District" or "[~~soil~~] conservation district" means a governmental subdivision of this  
1116 state organized under [~~Section 17A-3-80+~~] Title 17A, Chapter 3, Part 8, Conservation Districts.

1117 Section 32. Section **4-18-4** is amended to read:

1118 **4-18-4. Conservation Commission created -- Composition -- Appointment --**  
1119 **Terms -- Compensation -- Attorney general to provide legal assistance.**

1120 (1) There is [~~established, to serve as an agency of the state and functioning]~~ created  
1121 within the [~~Department of Agriculture and Food]~~ department the [~~Soil~~] Conservation  
1122 Commission to perform the functions specified in this chapter.

1123 (2) The [~~Soil~~] Conservation Commission shall be comprised of 12 members [~~as~~  
1124 ~~follows], including:~~

1125 (a) the director of the Extension Service at Utah State University[;] or [~~his~~] the  
1126 director's designee;

1127 (b) the president of the Utah Association of [~~Soil~~] Conservation Districts[;] or [~~his~~] the  
1128 president's designee;

1129 (c) the commissioner[;] or [~~his~~] the commissioner's designee;

1130 (d) the executive director of the Department of Natural Resources[;] or [~~his~~] the  
1131 executive director's designee;

1132 (e) the executive director of the Department of Environmental Quality[;] or [~~his~~] the  
1133 executive director's designee; and

1134 (f) seven district supervisors who provide district representation on the commission on  
1135 a multicounty basis.

1136 (3) If a district supervisor is unable to attend a meeting, an alternate may serve in [~~his~~  
1137 ~~place]~~ the place of the district supervisor for that meeting.

1138 (4) The members of the commission specified in Subsection (2)(f) shall:

1139 (a) be recommended by the commission to the governor; and

1140 (b) be appointed by the governor with the consent of the Senate.

1141 (5) (a) Except as required by Subsection (5)(b), as terms of current commission  
1142 members expire, the governor shall appoint each new member or reappointed member to a  
1143 four-year term.

1144 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the  
1145 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
1146 commission members are staggered so that approximately half of the commission is appointed  
1147 every two years.

1148 (6) When a vacancy occurs in the membership for any reason, the replacement shall be  
1149 appointed for the unexpired term.

1150 (7) The commissioner is chair of the commission.

1151 (8) Attendance of a majority of the commission members at a meeting constitutes a  
1152 quorum.

1153 (9) (a) (i) [~~Members~~] A member who [~~are~~] is not a government [~~employees shall~~  
1154 employee may not receive [~~no~~] compensation or benefits for [~~their services~~] the member's  
1155 service, but may receive per diem and expenses incurred in the performance of the member's  
1156 official duties at the rates established by the Division of Finance under Sections 63A-3-106 and  
1157 63A-3-107.

1158 (ii) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the  
1159 member's service.

1160 (b) (i) [~~State~~] A state government officer and employee [~~members~~] member who [~~do~~]  
1161 does not receive salary, per diem, or expenses from [~~their~~] the agency the member represents  
1162 for [~~their~~] the member's service may receive per diem and expenses incurred in the  
1163 performance of [~~their~~] the member's official duties [~~from the commission~~] at the rates  
1164 established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1165 (ii) [~~State~~] A state government officer and employee [~~members~~] member may decline  
1166 to receive per diem and expenses for [~~their~~] the member's service.

1167 (c) (i) [~~Higher~~] A higher education [~~members~~] member who [~~do~~] does not receive  
1168 salary, per diem, or expenses from the entity that [~~they represent~~] the member represents for  
1169 [~~their~~] the member's service may receive per diem and expenses incurred in the performance of  
1170 [~~their~~] the member's official duties from the committee at the rates established by the Division  
1171 of Finance under Sections 63A-3-106 and 63A-3-107.

1172 (ii) [~~Higher~~] A higher education [~~members~~] member may decline to receive per diem  
1173 and expenses for [~~their~~] the member's service.

1174 (d) (i) [~~Local~~] A local government [~~members~~] member who [~~do~~] does not receive

1175 salary, per diem, or expenses from the entity that [~~they represent~~] the member represents for  
 1176 [~~their~~] the member's service may receive per diem and expenses incurred in the performance of  
 1177 [~~their~~] the member's official duties at the rates established by the Division of Finance under  
 1178 Sections 63A-3-106 and 63A-3-107.

1179 (ii) [~~Local~~] A local government [~~members~~] member may decline to receive per diem  
 1180 and expenses for [~~their~~] the member's service.

1181 (10) The commission shall keep a record of its actions.

1182 (11) The attorney general shall provide legal services to the commission upon request.

1183 Section 33. Section **4-18-5** is amended to read:

1184 **4-18-5. Conservation commission -- Functions and duties.**

1185 (1) The commission shall:

1186 (a) facilitate the development and implementation of the strategies and programs  
 1187 necessary to protect, conserve, utilize, and develop the soil and water resources of the state;

1188 (b) disseminate information regarding districts' activities and programs;

1189 (c) supervise the formation, reorganization, or dissolution of districts [~~pursuant~~]  
 1190 according to the requirements of Title 17A, Chapter 3, Part 8, Conservation Districts;

1191 (d) prescribe uniform accounting and recordkeeping procedures for districts and  
 1192 require each district to submit annually an audit of its funds to the commission;

1193 (e) approve and make loans for agricultural purposes, from the Agriculture Resource  
 1194 Development Fund for [~~the following~~]:

1195 (i) nonfederal rangeland improvement and management projects;

1196 (ii) watershed protection and flood prevention projects;

1197 (iii) agricultural cropland soil and water conservation projects; and

1198 (iv) programs designed to promote energy efficient farming practices;

1199 (f) administer federal or state funds in accordance with applicable federal or state  
 1200 guidelines and make loans or grants from those funds to land occupiers for the conservation of  
 1201 soil or water resources;

1202 (g) seek to coordinate soil and water protection, conservation, and development  
 1203 activities and programs of state agencies, local governmental units, other states, special interest  
 1204 groups, and federal agencies; and

1205 (h) plan watershed and flood control projects in cooperation with appropriate local,

1206 state, and federal authorities and coordinate flood control projects in the state.

1207 (2) The commission may:

1208 (a) employ, with the approval of the department, an administrator and necessary  
1209 technical experts and employees;

1210 (b) execute contracts or other instruments necessary to exercise its powers;

1211 (c) sue and be sued; and

1212 (d) adopt rules, in accordance with Title 63, Chapter 46a, Utah Administrative  
1213 Rulemaking Act, necessary to carry out the powers and duties specified in Subsections (1)(d),

1214 (e), (f), and (2)(b).

1215 Section 34. Section **4-18-6** is amended to read:

1216 **4-18-6. Agriculture Resource Development Fund -- Contents -- Use of fund**  
1217 **monies.**

1218 (1) There is created a revolving loan fund known as the Agriculture Resource  
1219 Development Fund.

1220 (2) The Agriculture Resource Development Fund shall consist of:

1221 (a) money appropriated to it by the Legislature;

1222 (b) sales and use tax receipts transferred to the fund pursuant to Section 59-12-103;

1223 (c) money received for the repayment of loans made from the fund;

1224 (d) money made available to the state for agriculture resource development from any  
1225 source; and

1226 (e) interest earned on the fund.

1227 (3) The commission shall make loans from the Agriculture Resource Development  
1228 Fund as provided by Section 4-18-5.

1229 [~~4) For fiscal year 2003-04 only, up to \$500,000 in the Agriculture Resource~~  
1230 ~~Development Fund may be appropriated by the Legislature to the Utah Rural Rehabilitation~~  
1231 ~~Fund created in Section 4-19-4.]~~

1232 Section 35. Section **4-19-1** is amended to read:

1233 **4-19-1. Department responsible for conduct and administration of rural**  
1234 **rehabilitation program.**

1235 The department [through its Agricultural Development Division is responsible for the]  
1236 shall conduct and [~~administration of~~] administer the rural rehabilitation program within the



1237 state in accordance with ~~[that certain use]~~ the agreement entered into in January 1975, between  
 1238 the United States of America through its Farm Home Administration and the state ~~[of Utah]~~  
 1239 through its commissioner ~~[of agriculture and food]~~.

1240 Section 36. Section **4-19-2** is amended to read:

1241 **4-19-2. Department authorized to approve and make loans, acquire property, or**  
 1242 **lease or operate property.**

1243 The ~~[Division of Agricultural Development]~~ department, in conjunction with the  
 1244 administration of the rural rehabilitation program ~~[is authorized to]~~, may:

1245 (1) (a) approve and make farm loans subject to Section 4-19-3, ~~[take]~~ including:

1246 (i) taking security for ~~[such]~~ the loans through mortgages, trust deeds, pledges, or other  
 1247 security devices; ~~[purchase]~~

1248 (ii) purchasing promissory notes, real estate contracts, mortgages, trust deeds, or other  
 1249 instruments or evidences of indebtedness; and ~~[collect, compromise, cancel, or adjust]~~

1250 (iii) collecting, compromising, canceling, or adjusting claims and obligations arising  
 1251 out of the administration of the rural rehabilitation program;

1252 (2) purchase or otherwise obtain property in which the division has acquired an interest  
 1253 on account of any mortgage, trust deed, lien, pledge, assignment, judgment, or other means at  
 1254 any execution or foreclosure sale; and

1255 (3) operate or lease, if necessary to protect its investment, any property in which it has  
 1256 an interest or sell or otherwise dispose of ~~[such]~~ the property.

1257 Section 37. Section **4-19-3** is amended to read:

1258 **4-19-3. Loans -- Not to exceed period of ten years -- Agricultural Advisory Board**  
 1259 **to approve loans and renewals, methods of payments, and interest rates -- Guidelines in**  
 1260 **fixing interest rates declared.**

1261 ~~[No loan shall be made]~~ (1) The department may not make a loan authorized under this  
 1262 chapter for a period to exceed ten years but ~~[any such a]~~ the loan is renewable.

1263 (2) The Agricultural Advisory Board shall approve:

1264 (a) all loans and renewals~~[-];~~

1265 (b) the methods of repayment~~[-];~~ and

1266 (c) the interest rates charged.

1267 (3) In fixing interest rates, the Agricultural Advisory Board shall consider:

1268 (a) the current applicable interest rate or rates being charged by the [~~Farm Home~~  
 1269 ~~Administration~~] USDA Farm Service Agency on similar loans[;];

1270 (b) the current prime rate charged by leading lending institutions[;]; and

1271 (c) any other pertinent economic data.

1272 (4) The interest rates established shall be compatible with guidelines stated in this  
 1273 section.

1274 Section 38. Section **4-19-4** is amended to read:

1275 **4-19-4. Utah Rural Rehabilitation Fund created -- State treasurer to maintain**  
 1276 **fund -- Income from rural rehabilitation program to be deposited in fund.**

1277 [~~AH~~] (1) The department shall deposit all income generated from the administration of  
 1278 the rural rehabilitation program [~~shall be deposited~~] in a separate fund known as the "Utah  
 1279 Rural Rehabilitation Fund."

1280 (2) The state treasurer shall maintain the Utah Rural Rehabilitation Fund and record all  
 1281 debits and credits made to the fund by the [~~division~~] department.

1282 Section 39. Section **4-20-1.5** is amended to read:

1283 **4-20-1.5. State Grazing Advisory Board -- Duties.**

1284 (1) (a) There is created within the department the State Grazing Advisory Board.

1285 (b) The commissioner shall appoint the following members:

1286 (i) one member from each regional board;

1287 (ii) one member from the [~~Soil~~] Conservation Commission created in Section 4-18-4;

1288 (iii) one representative of the Department of Natural Resources;

1289 (iv) two livestock producers at-large; and

1290 (v) one representative of the oil, gas, or mining industry.

1291 (2) The term of office for a state board member is four years.

1292 (3) Members of the state board shall elect a chair, who shall serve for two years.

1293 (4) (a) (i) [~~Members~~] A member who [~~are~~] is not a government [~~employees of the state~~  
 1294 ~~or local government shall~~] employee may not receive [~~no~~] compensation or benefits for [~~their~~  
 1295 ~~services~~] the member's service, but may receive per diem and expenses incurred in the  
 1296 performance of the member's official duties at the rates established by the Division of Finance  
 1297 under Sections 63A-3-106 and 63A-3-107.

1298 (ii) [~~Members~~] A member may decline to receive per diem and expenses for [~~their~~] the

1299 member's service.

1300 (b) (i) [~~State~~] A state government officer and employee [~~members~~] member who [~~do~~]  
 1301 does not receive salary, per diem, or expenses from [~~their~~] the agency the member represents  
 1302 for [~~their~~] the member's service may receive per diem and expenses incurred in the  
 1303 performance of [~~their~~] the member's official duties [~~from the board~~] at the rates established by  
 1304 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

1305 (ii) [~~State~~] A state government officer and employee [~~members~~] member may decline  
 1306 to receive per diem and expenses for [~~their~~] the member's service.

1307 (c) (i) [~~Local~~] A local government [~~members~~] member who [~~do~~] does not receive  
 1308 salary, per diem, or expenses from the entity that [~~they represent~~] the member represents for  
 1309 [~~their~~] the member's service may receive per diem and expenses incurred in the performance of  
 1310 [~~their~~] the member's official duties at the rates established by the Division of Finance under  
 1311 Sections 63A-3-106 and 63A-3-107.

1312 (ii) [~~Local~~] A local government [~~members~~] member may decline to receive per diem  
 1313 and expenses for [~~their~~] the member's service.

1314 (5) The state board shall:

1315 (a) receive:

1316 (i) advice and recommendations from a regional board concerning:

1317 (A) management plans for public lands, state lands, and school and institutional trust  
 1318 lands as defined in Section 53C-1-103, within the regional board's region; and

1319 (B) any issue that impacts grazing on private lands, public lands, state lands, or school  
 1320 and institutional trust lands as defined in Section 53C-1-103, in its region; and

1321 (ii) requests for fund monies from the entities described in Subsections (5)(c)(i)  
 1322 through (iv);

1323 (b) recommend state policy positions and cooperative agency participation in federal  
 1324 and state land management plans to the department and to the Public Lands Policy  
 1325 Coordinating Office created under Section 63-38d-602; and

1326 (c) advise the department on the requests and recommendations of:

1327 (i) regional boards;

1328 (ii) county weed control boards created under Section 4-17-4;

1329 (iii) cooperative weed management associations; and

1330 (iv) ~~[soit]~~ conservation districts created under the authority of Title 17A, Chapter 3,  
1331 Part 8, ~~[Soit]~~ Conservation Districts.

1332 Section 40. Section **4-20-1.6** is amended to read:

1333 **4-20-1.6. Regional Grazing Advisory Boards -- Duties.**

1334 (1) The commissioner shall appoint members to a regional board for each grazing  
1335 district from nominations submitted by:

1336 (a) the Utah Cattlemen's Association;

1337 (b) the Utah Woolgrower's Association;

1338 (c) the Utah Farm Bureau Federation; and

1339 (d) a ~~[soit]~~ conservation district, if the ~~[soit]~~ conservation district's boundaries include  
1340 some portion of the grazing district.

1341 (2) Regional boards:

1342 (a) shall provide advice and recommendations to the state board; and

1343 (b) may receive monies from the Rangeland Improvement Fund created in Section  
1344 4-20-2.

1345 Section 41. Section **4-30-6** is amended to read:

1346 **4-30-6. Livestock Market Committee -- Guidelines delineated for decision on**  
1347 **application.**

1348 (1) The Livestock Market Committee in determining whether to recommend approval  
1349 or denial of the application shall consider:

1350 ~~[(1)]~~ (a) the applicant's proven or potential ability to comply with the Packers and  
1351 Stockyards Act, 7 U.S.C. Sec. 221 through 229b;

1352 ~~[(2)]~~ (b) the financial stability, business integrity, and fiduciary responsibility of the  
1353 applicant;

1354 ~~[(3)]~~ (c) the livestock marketing benefits which potentially will be derived from the  
1355 establishment and operation of the public livestock market proposed;

1356 ~~[(4)]~~ (d) the need for livestock market services in the trade area proposed;

1357 ~~[(5)]~~ (e) the adequacy of the livestock market location and facilities proposed in the  
1358 application, including facilities for health inspection and testing;

1359 ~~[(6)]~~ (f) whether the operation of the proposed livestock market is likely to be  
1360 permanent; and

1361           ~~(7)~~ (g) the economic feasibility of the proposed livestock market based on competent  
1362 evidence.

1363           (2) Any interested person may appear at the hearing on the application and give an  
1364 opinion or present evidence either for or against granting the application.

1365           Section 42. Section **4-31-3** is amended to read:

1366           **4-31-3. Appraisal of fair market value before destruction.**

1367           (1) Before any livestock or property is condemned and destroyed, an appraisal of the  
1368 fair market value of the livestock or other property shall be forwarded to the commissioner by a  
1369 panel of three qualified appraisers appointed as follows:

1370           ~~(1)~~ (a) one by the commissioner;

1371           ~~(2)~~ (b) one by the owner of the livestock or other property subject to condemnation;

1372 and

1373           ~~(3)~~ (c) one by the appraisers specified in ~~[Subsections]~~ this Subsection (1) and  
1374 Subsection (2) ~~[of this section]~~.

1375           (2) After review, the commissioner shall forward the appraisal to the board of  
1376 examiners together with his recommendation concerning the amount, if any, ~~[which]~~ that  
1377 should be allowed.

1378           (3) Any costs incurred in the appraisal shall be paid by the state.

1379           Section 43. Section **4-31-10** is amended to read:

1380           **4-31-10. Imported swine -- Quarantine period -- Exceptions to quarantine.**

1381           (1) No person shall load swine for shipment to or within this state, except those for  
1382 immediate slaughter, until the car is cleaned and disinfected in accordance with departmental  
1383 ~~[regulations]~~ rules.

1384           (2) All swine shipped into the state, except those for immediate slaughter, shall, upon  
1385 arrival at their final destination in the state, be kept in a clean and disinfected place away from  
1386 other swine for a period of 18 days.

1387           (3) The owner or consignee of such swine shall notify the commissioner of the date of  
1388 their arrival and the place where they are being held.

1389           Section 44. Section **4-31-13** is amended to read:

1390           **4-31-13. Stockyards -- Disinfection.**

1391           All stockyards are considered infectious, and all swine and other livestock, except those

1392 for immediate slaughter, shall be unloaded in chutes in a section of the yards [~~which~~] that is  
1393 cleaned and disinfected in accordance with departmental [~~regulations~~] rules.

1394 Section 45. Section **4-31-16** is amended to read:

1395 **4-31-16. Contagious or infectious disease -- Duties of department.**

1396 (1) (a) The department shall investigate and may quarantine any reported case of  
1397 contagious or infectious disease, or any epidemic, or poisoning affecting domestic animals or  
1398 any animal or animals [~~which~~] that it believes may jeopardize the health of animals within the  
1399 state.

1400 (b) The department shall make a prompt and thorough examination of all  
1401 circumstances surrounding the disease, epidemic, or poisoning and may order quarantine, care,  
1402 or any necessary remedies.

1403 (c) The department may also order immunization or testing and sanitary measures to  
1404 prevent the spread of disease.

1405 (d) Investigations involving fish or wildlife shall be conducted under a cooperative  
1406 agreement with the Division of Wildlife Resources.

1407 (2) (a) If the owner or person in possession of such animals, after written notice from  
1408 the department, fails to take the action ordered, the commissioner is authorized to seize and  
1409 hold the animals and take action necessary to prevent the spread of disease, including but not  
1410 limited to: immunization; testing; dipping; or spraying.

1411 (b) Animals seized for testing or treatment under this section shall be sold by the  
1412 commissioner at public sale to reimburse the department for all costs incurred in the seizure,  
1413 testing, treatment, maintenance, and sale of such animals unless the owner sooner tenders  
1414 payment for the costs incurred by the department.

1415 (c) (i) No seized animal shall be sold, however, until the owner or person in possession  
1416 is served with a notice specifying the itemized costs incurred by the department and the time,  
1417 place, and purpose of sale and the number of animals to be sold.

1418 (ii) The notice shall be served at least three days in advance of sale in the manner:

1419 [~~(+)~~] (A) prescribed for personal service in Rule 4[~~(+)~~](d)(1), Utah Rules of Civil  
1420 Procedure; or

1421 [~~(+)~~] (B) if the owner cannot be found after due diligence, in the manner prescribed for  
1422 service by publication in Rule 4[~~(g)~~](d)(4), Utah Rules of Civil Procedure.

1423           (3) Any amount realized from the sale of the animals over the total charges shall be  
1424 paid to the owner of the animals if the owner is known or can by reasonable diligence be found;  
1425 otherwise, the excess shall be paid to the tuberculosis and Bangs Disease Control Account.

1426           Section 46. Section **4-32-3** is amended to read:

1427           **4-32-3. Definitions.**

1428           As used in this chapter:

1429           (1) "Adulterated" means any livestock product or poultry product [~~which~~] that:

1430           (a) bears or contains any poisonous or deleterious substance [~~which~~] that may render it  
1431 injurious to health, but, if the substance is not an added substance, the livestock product shall  
1432 not be considered adulterated under this subsection if the quantity of the substance in or on the  
1433 livestock product does not ordinarily render it injurious to health;

1434           (b) bears or contains, by reason of the administration of any substance to the livestock  
1435 or poultry or otherwise, any added poisonous or added deleterious substance which in the  
1436 judgment of the commissioner makes the livestock product unfit for human food;

1437           (c) contains, in whole or in part, a raw agricultural commodity and such commodity  
1438 bears or contains a pesticide chemical [~~which~~] that is unsafe within the meaning of [~~Section~~  
1439 ~~408 of the Federal Food, Drug and Cosmetic Act~~] 21 U.S.C. Sec. 346a;

1440           (d) bears or contains any food additive [~~which~~] that is unsafe within the meaning of  
1441 [~~Section 409 of the Federal Food, Drug and Cosmetic Act~~] 21 U.S.C. Sec. 348;

1442           (e) bears or contains any color additive [~~which~~] that is unsafe within the meaning of  
1443 [~~Section 721, Federal Food, Drug and Cosmetic Act,~~] 21 U.S.C. [Section] Sec. 379e; provided,  
1444 that a livestock product which is not otherwise [~~deemed~~] considered adulterated under  
1445 Subsections (1)(c), (d), or (e) of this section shall nevertheless be [~~deemed~~] considered  
1446 adulterated if use of the pesticide chemical, food additive, or color additive is prohibited in  
1447 official establishments by [~~regulations of the commissioner~~] rules of the department;

1448           (f) consists, in whole or in part, of any filthy, putrid, or decomposed substance or is for  
1449 any other reason unsound, unhealthful, unwholesome, or otherwise unfit for human food;

1450           (g) has been prepared, packaged, or held under unsanitary conditions if it may have  
1451 become contaminated with filth, or if it may have been rendered injurious to health;

1452           (h) is in whole or in part the product of an animal [~~which~~] that has died otherwise than  
1453 by slaughter;

1454 (i) is contained in a container [~~which~~] that is composed, in whole or in part, of any  
1455 poisonous or deleterious substance [~~which~~] that may render the meat product injurious to  
1456 health;

1457 (j) has been intentionally subjected to radiation, unless the use of the radiation was in  
1458 conformity with a regulation or exemption in effect pursuant to [~~Section 409 of the Federal~~  
1459 ~~Food, Drug and Cosmetic Act~~] 21 U.S.C. Sec. 348;

1460 (k) has a valuable constituent in whole or in part omitted, abstracted, or substituted; or  
1461 if damage or inferiority is concealed in any manner; or if any substance has been added, mixed,  
1462 or packed with the meat product to increase its bulk or weight, or reduce its quality or strength,  
1463 or to make it appear better or of greater value; or

1464 (1) is margarine containing animal fat and any of the raw material used in the margarine  
1465 consists in whole or in part of any filthy, putrid, or decomposed substance.

1466 (2) "Animal food manufacturer" means any person engaged in the business of  
1467 preparing animal food derived from livestock carcasses or parts or products of such carcasses.

1468 (3) "Broker" means any person engaged in the business of buying or selling livestock  
1469 or livestock products on commission, or otherwise negotiating purchases or sales of livestock  
1470 or livestock products other than for such person's own account.

1471 (4) "Capable of use as human food" means any livestock carcass, or part or product of  
1472 a carcass, unless it is denatured or otherwise identified as required by [~~regulations~~] rules of the  
1473 department to deter its use as human food, or unless it is naturally inedible by humans.

1474 (5) "Container" or "package" means any box, can, tin, cloth, plastic, or other receptacle,  
1475 wrapper, or cover.

1476 (6) "Director of meat inspection" means a licensed graduate veterinarian whose duties  
1477 and responsibilities are specified by the commissioner.

1478 (7) "Domesticated elk" shall have the meaning as defined in Section 4-39-102.

1479 (8) "Farm custom slaughter" means custom slaughtering of livestock or poultry for an  
1480 owner without inspection.

1481 (9) "Farm custom slaughter permit" means a permit issued by the department to allow  
1482 farm custom slaughter.

1483 (10) "Farm custom slaughter tag" means a tag which specifies the animal's  
1484 identification and certifies its ownership which is issued by the department through a brand



1485 inspector to the owner of the animal before it is slaughtered.

1486 (11) "Federal Food, Drug and Cosmetic Act" means the act so entitled, approved June  
1487 25, 1938 (52 Stat. 1040) (21 U.S.C. 301[;] et seq.), and any amendments to it.

1488 (12) "Federal Meat Inspection Act" means the act so entitled approved March 4, 1907  
1489 (34 Stat. 1260), as amended by the Wholesome Meat Act [~~(81 Stat. 584)~~], 21 U.S.C. 601[;] et  
1490 seq.[;]; the term "federal Poultry Products Inspection Act" means the act so entitled approved  
1491 August 28, 1957 [~~(71 Stat. 441)~~], as amended by the Wholesome Poultry Products Act [~~(~~ 82  
1492 Stat. 791[~~)~~] 21 U.S.C. 451[;] et seq.[;]; and the term "federal acts" means these two federal  
1493 acts.

1494 (13) "Immediate container" means any consumer package, or any other container in  
1495 which livestock products not consumer packaged, are packed.

1496 (14) "Inspector" means a licensed veterinarian or competent lay person working under  
1497 the supervision of a licensed graduate veterinarian.

1498 (15) "Label" means a display of printed, or graphic matter upon any livestock or  
1499 poultry product or the immediate container, not including package liners, of any such product.

1500 (16) "Labeling" means all labels and other printed, or graphic matter:

1501 (a) upon any livestock product or any of its containers or wrappers; or

1502 (b) accompanying a livestock product.

1503 (17) "Livestock" means any cattle, domesticated elk, sheep, swine, goats, horses, mules  
1504 or other equines, whether living or dead.

1505 (18) "Livestock product" means any carcass, part of a carcass, meat, or meat food  
1506 product of any livestock.

1507 (19) "Meat food product" means any product capable of use as human food [~~which~~  
1508 that is made wholly or in part from any meat or other part of the carcass of any cattle, sheep,  
1509 swine, or goats, excepting products [~~which~~ that contain meat or other parts of such carcasses  
1510 in relatively small proportion or [~~which~~ that historically have not been considered by  
1511 consumers as products of the meat food industry, and which are exempted from definition as a  
1512 meat food product by the commissioner. Meat food product as applied to food products of  
1513 equines shall have a meaning comparable to that provided in this subsection with respect to  
1514 cattle, sheep, swine, and goats.

1515 (20) "Misbranded" means any livestock product or poultry product [~~which~~ that:

- 1516 (a) bears a label that is false or misleading in any particular;
- 1517 (b) is offered for sale under the name of another food;
- 1518 (c) is an imitation of another food, unless the label bears, in type of uniform size and  
1519 prominence, the word "imitation" followed by the name of the food imitated;
- 1520 (d) if its container is so made, formed, or filled as to be misleading;
- 1521 (e) does not bear a label showing:
- 1522 (i) the name and place of business of the manufacturer, packer, or distributor; and
- 1523 (ii) an accurate statement of the quantity of the product in terms of weight, measure, or  
1524 numerical count; provided, that under this Subsection (20)(e), exemptions as to livestock  
1525 products not in containers may be established by [~~regulations~~] rules of the department and that  
1526 under [~~Clause (ii) of~~] this Subsection (20)(e)(ii), reasonable variations may be permitted, and  
1527 exemptions for small packages may be established for livestock or poultry products by  
1528 [~~regulation~~] rule of the department;
- 1529 (f) does not bear any word, statement, or other information required by or under  
1530 authority of this chapter to appear on the label or other labeling is not prominently placed with  
1531 such conspicuousness, as compared with other words, statements, designs, or devices, in the  
1532 labeling, and in such terms as to render it likely to be read and understood by the ordinary  
1533 individual under customary conditions of purchase and use;
- 1534 (g) is a food for which a definition and standard of identity or composition has been  
1535 prescribed by [~~regulations~~] rules of the department under Section 4-32-7 if the food does not  
1536 conform to such definition and standard and the label does not bear the name of the food and  
1537 any other information that is required by the [~~regulation~~] rule;
- 1538 (h) is a food for which a standard of fill has been prescribed by [~~regulation~~] rule of the  
1539 department for the container and the actual fill of the container falls below that prescribed  
1540 unless its label bears, in such manner and form as such [~~regulations~~] rules specify, a statement  
1541 that it falls below such standard;
- 1542 (i) is a food for which no standard or definition of identity has been prescribed under  
1543 Subsection (20)(g) [~~of this section~~] unless its label bears [~~(i)~~]:
- 1544 (i) the common or usual name of the food, if [~~any~~] there be[;] any; and [~~(ii) in case~~]
- 1545 (ii) if it is fabricated from two or more ingredients, the common or usual name of each  
1546 such ingredient; except that spices, flavorings, and colorings may, when authorized by the

1547 department, be designated as spices, flavorings, and colorings without naming each; provided,  
1548 that to the extent that compliance with the requirements of [~~Clause (ii) of this~~] Subsection  
1549 (20)(i)(ii) is impracticable, or results in deception or unfair competition, exemptions shall be  
1550 established by [~~regulation~~] rule;

1551 (j) is a food [~~which~~] that purports to be or is represented to be for special dietary uses,  
1552 unless its label bears such information concerning its vitamin, mineral, and other dietary  
1553 properties as the department, after consultation with the Secretary of Agriculture of the United  
1554 States, prescribes by [~~regulation~~] rules as necessary to inform purchasers as to its value for such  
1555 uses;

1556 (k) bears or contains any artificial flavoring, artificial coloring, or chemical  
1557 preservative, unless it bears labeling stating that fact; provided, that to the extent that  
1558 compliance with the requirements of this subsection are impracticable, exemptions shall be  
1559 prescribed by [~~regulations~~] rules of the department; or

1560 (l) does not bear directly thereon and on its containers, as the department may prescribe  
1561 by [~~regulation~~] rule, the official inspection legend and establishment number of the official  
1562 establishment where the product was prepared, and, unrestricted by any of the foregoing, such  
1563 other information as the department may require by [~~regulations~~] rules to assure that it will not  
1564 have false or misleading labeling and that the public will be informed of the manner of  
1565 handling required to maintain it in a wholesome condition.

1566 (21) "Official certificate" means any certificate prescribed by [~~regulations~~] rules of the  
1567 department for issuance by an inspector or other person performing official functions under this  
1568 chapter.

1569 (22) "Official device" means any device prescribed or authorized by the commissioner  
1570 for use in applying any official mark.

1571 (23) "Official establishment" means any establishment at which inspection of the  
1572 slaughter of livestock or the preparation of livestock products is maintained under the authority  
1573 of this chapter.

1574 (24) "Official inspection legend" means any symbol prescribed by [~~regulations~~] rules of  
1575 the department showing that a livestock product was inspected and passed in accordance with  
1576 this chapter.

1577 (25) "Official mark" means the official legend or any other symbol prescribed by

1578 [~~regulations~~] rules of the department to identify the status of any livestock or livestock product  
1579 under this chapter.

1580 (26) "Permittee" means a person who holds a valid farm custom slaughter permit.

1581 (27) "Pesticide chemical," "food additive," "color additive," and "raw agricultural  
1582 commodity," have the same meanings for purposes of this chapter as ascribed to them in the  
1583 Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

1584 (28) "Poultry" means any domesticated bird, whether living or dead.

1585 (29) "Poultry product" means any product capable of use as human food [~~which~~] that is  
1586 made wholly or in part from any poultry carcass, excepting products [~~which~~] that contain  
1587 poultry ingredients in relatively small proportion or [~~which~~] that historically have not been  
1588 considered by consumers as products of the poultry food industry, and [~~which~~] that are  
1589 exempted from definition as a poultry product by the commissioner.

1590 (30) "Prepared" means slaughtered, canned, salted, stuffed, rendered, boned, cut up, or  
1591 otherwise manufactured or processed.

1592 (31) "Renderer" means any person engaged in the business of rendering livestock  
1593 carcasses, or parts or products of such carcasses, except rendering conducted under inspection  
1594 or exemption under this chapter.

1595 (32) "Slaughter" means the killing of livestock or poultry in a humane manner  
1596 including skinning, dressing, or the process of performing any of the specified acts in preparing  
1597 livestock or poultry for human consumption.

1598 (33) "Slaughterhouse" or "custom slaughterhouse" means any building, plant, or  
1599 establishment used for the purpose of killing, dressing, or processing, whether such dressing or  
1600 processing is in conjunction with a killing operation or is a separate business, livestock or  
1601 livestock products or poultry or poultry products offered for sale or to be used for human  
1602 consumption.

1603 (34) "Slaughtering of livestock or poultry as a business" means the slaughtering of  
1604 livestock or poultry for the owner or caretaker of the livestock or poultry by a person who is  
1605 not a full-time employee of the owner or caretaker of such livestock or poultry.

1606 Section 47. Section **4-32-5** is amended to read:

1607 **4-32-5. Slaughterhouse licenses and farm custom slaughter permits -- Application**  
1608 **-- Fees -- Expiration -- Renewal.**

1609 (1) (a) Application for a license to operate a slaughterhouse shall be made to the  
1610 department upon forms prescribed and furnished by it.

1611 (b) Upon receipt of a proper application, compliance with all applicable [~~regulations~~]  
1612 rules, and the payment of an annual license fee determined by the department [~~pursuant~~]  
1613 according to Subsection 4-2-2(2), the commissioner, if satisfied that the public convenience  
1614 and necessity will be served, shall issue a license allowing the applicant to operate a  
1615 slaughterhouse through December 31 of the year in which the license is issued, subject to  
1616 suspension or revocation for cause.

1617 (c) A slaughterhouse license is annually renewable on or before December 31 of each  
1618 year, upon the payment of an annual license renewal fee in an amount determined by the  
1619 department [~~pursuant~~] according to Subsection 4-2-2(2).

1620 (2) (a) Application for a farm custom slaughter permit to engage in the business of  
1621 slaughtering livestock shall be made to the department on forms prescribed and furnished by it.

1622 (b) Upon receipt of a proper application, compliance with all applicable [~~regulations~~]  
1623 rules, and payment of a permit fee in an amount determined by the department [~~pursuant~~]  
1624 according to Subsection 4-2-2(2), the commissioner shall issue a permit allowing the applicant  
1625 to engage in farm custom slaughtering.

1626 (c) A farm custom slaughter permit is annually renewable on or before December 31 of  
1627 each year, upon the payment of an annual renewal permit fee in an amount determined by the  
1628 department [~~pursuant~~] according to Subsection 4-2-2(2).

1629 Section 48. Section **4-32-13** is amended to read:

1630 **4-32-13. Meat or carcasses of horses, mules, or other equines to be marked or**  
1631 **labeled -- Livestock or poultry products not intended for human food -- Dead, dying,**  
1632 **disabled, or diseased animals.**

1633 (1) No person shall sell, transport, offer for sale or transportation, or receive for  
1634 transportation, any carcasses of horses, mules, or other equines or parts of such carcasses, or  
1635 the meat or meat food products, unless they are plainly and conspicuously marked or labeled or  
1636 otherwise identified as required by [~~regulations prescribed by the commissioner~~] rules adopted  
1637 by the department to show the kinds of animals from which they were derived.

1638 (2) No person shall buy, sell, transport, or offer for sale or transportation, or receive for  
1639 transportation any livestock products or poultry products [~~which~~] that are not intended for

1640 human food unless they are denatured or otherwise identified as required by the [~~regulations of~~  
1641 ~~the commissioner~~] rules of the department or are naturally inedible by humans.

1642 (3) No person engaged in the business of buying, selling, or transporting dead, dying,  
1643 disabled, or diseased animals, or any parts of the carcasses of any animals that died otherwise  
1644 than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for  
1645 transportation such animals or parts of carcasses unless such transaction or transportation is  
1646 made in accordance with [~~regulations prescribed by the commissioner~~] rules adopted by the  
1647 department to assure that such animals or parts of carcasses will be prevented from being used  
1648 for human food.

1649 Section 49. Section **4-32-18** is amended to read:

1650 **4-32-18. Rules for the construction and operation of slaughterhouses authorized.**

1651 (1) For the purposes of administering this chapter and qualifying slaughterhouses for  
1652 licenses, the [~~commissioner~~] department has authority to adopt sanitary inspection rules and  
1653 regulations, and all other necessary rules [~~and regulations~~], including those pertaining to the  
1654 construction, equipment, and facilities of slaughterhouses. [~~Such~~]

1655 (2) The rules [~~and regulations~~] shall, so far as practical, [~~be in conformity~~] conform  
1656 with the regulations promulgated under the federal acts.

1657 Section 50. Section **4-32-20** is amended to read:

1658 **4-32-20. Suspension or revocation -- Grounds.**

1659 The department may upon its own motion and shall upon the verified complaint in  
1660 writing of any person, investigate or cause to be investigated the operation of any  
1661 slaughterhouse, and may suspend or revoke the license of [~~such~~] the slaughterhouse upon any  
1662 of the following grounds:

1663 (1) the license was obtained by any false or misleading statement;

1664 (2) for slaughtering any livestock or poultry without inspection (antemortem and  
1665 postmortem), or for processing any livestock or poultry or products of either that have not been  
1666 inspected and passed, (or exempted) and so identified;

1667 (3) the advertising or publicizing of any false or misleading statements [~~which~~] that  
1668 pertain to the slaughtering, processing, or distribution of livestock or livestock products or  
1669 poultry or poultry products;

1670 (4) the failure to maintain refrigeration, sanitation, or dispose of waste as required by

1671 [regulations] rules of the department;

1672 (5) the failure to comply with [regulations] rules of the department pertaining to the  
1673 disposal of carcasses or parts of carcasses [~~which~~] that have been determined to be unfit for  
1674 human consumption.

1675 Section 51. Section **4-32-22** is amended to read:

1676 **4-32-22. Livestock or poultry slaughtered or the products of either not intended**  
1677 **for human use -- No inspection -- Products to be denatured or otherwise identified.**

1678 Inspection shall not be provided under this chapter at any establishment for the  
1679 slaughter of livestock or poultry or the preparation of any livestock products or poultry  
1680 products [~~which~~] that are not intended for use as human food, but such products shall be  
1681 denatured or otherwise identified as prescribed by [regulations] rules of the department prior to  
1682 their offer for sale or transportation.

1683 Section 52. Section **17-41-201** is amended to read:

1684 **17-41-201. Agriculture protection area or industrial protection area advisory**  
1685 **board.**

1686 (1) (a) (i) Each county legislative body shall appoint no more than five members from  
1687 the county's [~~soit~~] conservation district [~~boards~~] board of supervisors to serve as the  
1688 Agriculture Protection Area Advisory Board.

1689 (ii) Each county legislative body shall appoint an industrial protection area advisory  
1690 board.

1691 (b) A county legislative body may appoint the advisory board before or after a proposal  
1692 to create an agriculture protection area or industrial protection area is filed.

1693 (2) Each member of an advisory board shall serve without salary, but a county  
1694 legislative body may reimburse members for expenses incurred in the performance of their  
1695 duties.

1696 (3) Each advisory board shall:

1697 (a) evaluate proposals for the establishment of agriculture protection areas or industrial  
1698 protection areas and make recommendations to the applicable legislative body about whether or  
1699 not the proposal should be accepted;

1700 (b) provide expert advice to the planning commission and to the applicable legislative  
1701 body about:

- 1702 (i) the desirability of the proposal;
- 1703 (ii) the nature of agricultural production or industrial use, as the case may be, within
- 1704 the proposed area;
- 1705 (iii) the relation of agricultural production or industrial use, as the case may be, in the
- 1706 area to the county as a whole; and
- 1707 (iv) which agriculture production or industrial use should be allowed within the
- 1708 agriculture protection area or industrial protection area, respectively; and
- 1709 (c) perform all other duties required by this chapter.

1710 Section 53. Section **17A-1-301** is amended to read:

1711 **17A-1-301. Exemptions.**

1712 This part does not apply to:

- 1713 (1) public transit districts established under authority of Chapter 2, Part 10, Utah Public
- 1714 Transit District Act;
- 1715 (2) water conservancy districts established under Chapter 2, Part 14, Water
- 1716 Conservancy Districts;
- 1717 (3) [~~soit~~] conservation districts created under the authority of Chapter 3, Part 8, [~~Soit~~]
- 1718 Conservation Districts;
- 1719 (4) metropolitan water districts established under authority of Chapter 2, Part 8,
- 1720 Metropolitan Water District Act; and
- 1721 (5) any dependent special district established under the authority of Chapter 3,
- 1722 Dependent Special Districts.

1723 Section 54. Section **17A-3-800** is amended to read:

1724 **Part 8. Conservation Districts**

1725 **17A-3-800. Definitions.**

1726 As used in this chapter:

- 1727 (1) "Commission" means the [~~Soit~~] Conservation Commission created by Section
- 1728 4-18-4.
- 1729 (2) "Department" means the Department of Agriculture and Food created in Section
- 1730 4-2-1.
- 1731 (3) "District" means a [~~soit~~] conservation district created under this chapter.

1732 Section 55. Section **41-1a-422** is amended to read:



1733           **41-1a-422. Support special group license plates -- Contributor -- Voluntary**  
1734 **contribution collection procedures.**

1735           (1) As used in this section:

1736           (a) (i) Except as provided in Subsection (1)(a)(ii), "contributor" means a person who  
1737 has donated or in whose name at least \$25 has been donated to:

1738           (A) a scholastic scholarship fund of a single named institution;

1739           (B) the Division of Veterans' Affairs in the Utah National Guard for veterans'  
1740 programs;

1741           (C) the Division of Wildlife Resources for the Wildlife Resources Account created in  
1742 Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection,  
1743 access, and management of wildlife habitat;

1744           (D) the Department of Agriculture and Food for the benefit of [soil] conservation  
1745 districts;

1746           (E) the Division of Parks and Recreation for the benefit of snowmobile programs;

1747           (F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with  
1748 the donation evenly divided between the two;

1749           (G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America  
1750 council as specified by the contributor;

1751           (H) No More Homeless Pets in Utah for distribution to organizations or individuals  
1752 that provide spay and neuter programs that subsidize the sterilization of domestic animals;

1753           (I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth  
1754 development programs; or

1755           (J) the Utah Association of Public School Foundations to support public education.

1756           (ii) For a veterans' special group license plate, "contributor" means a person who has  
1757 donated or in whose name at least a \$25 donation at the time of application and \$10 annual  
1758 donation thereafter has been made.

1759           (b) "Institution" means a state institution of higher education as defined under Section  
1760 53B-3-102 or a private institution of higher education in the state accredited by a regional or  
1761 national accrediting agency recognized by the United States Department of Education.

1762           (2) (a) An applicant for original or renewal collegiate special group license plates under  
1763 Subsection (1)(a)(i) must be a contributor to the institution named in the application and

1764 present the original contribution verification form under Subsection (2)(b) or make a  
1765 contribution to the division at the time of application under Subsection (3).

1766 (b) An institution with a support special group license plate shall issue to a contributor  
1767 a verification form designed by the commission containing:

1768 (i) the name of the contributor;

1769 (ii) the institution to which a donation was made;

1770 (iii) the date of the donation; and

1771 (iv) an attestation that the donation was for a scholastic scholarship.

1772 (c) The state auditor may audit each institution to verify that the moneys collected by  
1773 the institutions from contributors are used for scholastic scholarships.

1774 (d) After an applicant has been issued collegiate license plates or renewal decals, the  
1775 commission shall charge the institution whose plate was issued, a fee determined in accordance  
1776 with Section 63-38-3.2 for management and administrative expenses incurred in issuing and  
1777 renewing the collegiate license plates.

1778 (e) If the contribution is made at the time of application, the contribution shall be  
1779 collected, treated, and deposited as provided under Subsection (3).

1780 (3) (a) An applicant for original or renewal support special group license plates under  
1781 this section must be a contributor to the sponsoring organization associated with the license  
1782 plate.

1783 (b) This contribution shall be:

1784 (i) unless collected by the named institution under Subsection (2), collected by the  
1785 division;

1786 (ii) considered a voluntary contribution for the funding of the activities specified under  
1787 this section and not a motor vehicle registration fee; and

1788 (iii) deposited into the appropriate account less actual administrative costs associated  
1789 with issuing the license plates.

1790 (c) The donation described in Subsection (1)(a) must be made in the 12 months prior to  
1791 registration or renewal of registration.

1792 (d) The donation described in Subsection (1)(a) shall be a one-time donation made to  
1793 the division when issuing original:

1794 (i) snowmobile license plates; or

1795 (ii) [~~soit~~] conservation license plates.

1796 (4) Veterans' license plates shall display one of the symbols representing the Army,

1797 Navy, Air Force, Marines, Coast Guard, or American Legion.

1798 Section 56. Section **54-3-25** is amended to read:

1799 **54-3-25. Telephone corporations -- Publishing special purpose district names and**  
1800 **telephone numbers.**

1801 (1) As used in this section, "special purpose district" includes the following:

1802 (a) Cemetery Maintenance Districts;

1803 (b) County Service Areas;

1804 (c) Drainage Districts;

1805 (d) Fire Protection Districts;

1806 (e) Irrigation Districts;

1807 (f) Metropolitan Water Districts;

1808 (g) Mosquito Abatement Districts;

1809 (h) Public Transit Districts;

1810 (i) Community Redevelopment Agencies;

1811 (j) Neighborhood Redevelopment Agencies;

1812 (k) Special Service Districts;

1813 (l) Water Conservancy Districts;

1814 (m) Airport Authorities;

1815 (n) Great Salt Lake Development Authority;

1816 (o) Hazardous Waste Facilities Management Authorities;

1817 (p) County Improvement Districts;

1818 (q) County Improvement Districts for Water, Sewerage, Flood Control, Electric, Gas;

1819 (r) Municipal Improvement Districts;

1820 (s) Parking and Business Improvements Districts;

1821 (t) Local Health Districts;

1822 (u) Local Mental Health Authorities;

1823 (v) Local Substance Abuse Authorities;

1824 (w) [~~Soit~~] Conservation Districts;

1825 (x) Municipal Building Authorities;

- 1826 (y) Port Authorities;
- 1827 (z) Pure Sugar Beet Seed Districts;
- 1828 (aa) Special Road Districts;
- 1829 (bb) Historic Districts; and
- 1830 (cc) Sprinkling Districts.
- 1831 (2) (a) Each special purpose district, as defined in Subsection (1), shall:
- 1832 (i) annually provide its name, telephone number, and address to the telephone directory
- 1833 publisher serving the geographical area within which the special purpose district headquarters
- 1834 is located; or
- 1835 (ii) annually provide the general manager's telephone number and address to the
- 1836 telephone directory publisher within which the special district is located if the special purpose
- 1837 district does not have its own telephone number and address; and
- 1838 (iii) request that the special purpose district's or the general manager's name, telephone
- 1839 number, and address be published in the government or other appropriate government-related
- 1840 section of the local telephone directory serving the special purpose district.
- 1841 (b) By June 30 of each year, certify in writing to the county treasurer of the county in
- 1842 which the special purpose district is located, that its name, telephone number, and address have
- 1843 been provided to the local telephone directory publisher for inclusion in the government or
- 1844 other appropriate government-related section of the local telephone directory.
- 1845 (c) After June 30, 1991, the county treasurer shall withhold the payment of any
- 1846 property taxes to the special purpose district until the district has certified in writing to the
- 1847 county treasurer it has provided the required telephone listing information to the appropriate
- 1848 telephone directory publisher by June 30 of that year and every year after that.
- 1849 (d) Any special purpose district that has a total annual budget of \$5,000 or less is
- 1850 exempt from this section.

1851 Section 57. Section **63-38-2** is amended to read:

1852 **63-38-2. Governor to submit budget to Legislature -- Contents -- Preparation --**  
1853 **Appropriations based on current tax laws and not to exceed estimated revenues.**

1854 (1) (a) The governor shall, within three days after the convening of the Legislature in  
1855 the annual general session, submit a budget for the ensuing fiscal year by delivering it to the  
1856 presiding officer of each house of the Legislature together with a schedule for all of the

1857 proposed appropriations of the budget, clearly itemized and classified.

1858 (b) The budget message shall include:

1859 (i) a projection of estimated revenues and expenditures for the next fiscal year; and

1860 (ii) the source of all direct, indirect, or in-kind matching funds for all federal grants or  
1861 assistance programs included in the budget.

1862 (2) At least 34 days before the submission of any budget, the governor shall deliver a  
1863 confidential draft copy of his proposed budget recommendations to the Office of the  
1864 Legislative Fiscal Analyst.

1865 (3) (a) The budget shall contain a complete plan of proposed expenditures and  
1866 estimated revenues for the next fiscal year based upon the current fiscal year state tax laws and  
1867 rates.

1868 (b) The budget may be accompanied by a separate document showing proposed  
1869 expenditures and estimated revenues based on changes in state tax laws or rates.

1870 (4) The budget shall be accompanied by a statement showing:

1871 (a) the revenues and expenditures for the last fiscal year;

1872 (b) the current assets, liabilities, and reserves, surplus or deficit, and the debts and  
1873 funds of the state;

1874 (c) an estimate of the state's financial condition as of the beginning and the end of the  
1875 period covered by the budget;

1876 (d) a complete analysis of lease with an option to purchase arrangements entered into  
1877 by state agencies;

1878 (e) the recommendations for each state agency for new full-time employees for the next  
1879 fiscal year; which recommendation should be provided also to the State Building Board under  
1880 Subsection 63A-5-103(2);

1881 (f) any explanation the governor may desire to make as to the important features of the  
1882 budget and any suggestion as to methods for the reduction of expenditures or increase of the  
1883 state's revenue; and

1884 (g) the information detailing certain regulatory fee increases required by Section  
1885 63-38-3.2.

1886 (5) The budget shall include an itemized estimate of the appropriations for:

1887 (a) the Legislative Department as certified to the governor by the president of the

1888 Senate and the speaker of the House;

1889       (b) the Executive Department;

1890       (c) the Judicial Department as certified to the governor by the state court administrator;

1891       (d) payment and discharge of the principal and interest of the indebtedness of the state;

1892       (e) the salaries payable by the state under the Utah Constitution or under law for the

1893 lease agreements planned for the next fiscal year;

1894       (f) other purposes that are set forth in the Utah Constitution or under law; and

1895       (g) all other appropriations.

1896       (6) Deficits or anticipated deficits shall be included in the budget.

1897       (7) (a) (i) For the purpose of preparing and reporting the budget, the governor shall

1898 require from the proper state officials, including public and higher education officials, all heads

1899 of executive and administrative departments and state institutions, bureaus, boards,

1900 commissions, and agencies expending or supervising the expenditure of the state moneys, and

1901 all institutions applying for state moneys and appropriations, itemized estimates of revenues

1902 and expenditures.

1903       (ii) (A) The governor may also require other information under these guidelines and at

1904 times as the governor may direct.

1905       (B) These guidelines may include a requirement for program productivity and

1906 performance measures, where appropriate, with emphasis on outcome indicators.

1907       (b) The estimate for the Legislative Department as certified by the presiding officers of

1908 both houses shall be included in the budget without revision by the governor.

1909       (c) The estimate for the Judicial Department, as certified by the state court

1910 administrator, shall also be included in the budget without revision, but the governor may make

1911 separate recommendations on it.

1912       (d) The governor may require the attendance at budget meetings of representatives of

1913 public and higher education, state departments and institutions, and other institutions or

1914 individuals applying for state appropriations.

1915       (e) The governor may revise all estimates, except those relating to the Legislative

1916 Department, the Judicial Department, and those providing for the payment of principal and

1917 interest to the state debt and for the salaries and expenditures specified by the Utah

1918 Constitution or under the laws of the state.

1919 (8) The total appropriations requested for expenditures authorized by the budget may  
1920 not exceed the estimated revenues from taxes, fees, and all other sources for the next ensuing  
1921 fiscal year.

1922 (9) If any item of the budget as enacted is held invalid upon any ground, the invalidity  
1923 does not affect the budget itself or any other item in it.

1924 (10) (a) In submitting the budgets for the Departments of Health and Human Services  
1925 and the Office of the Attorney General, the governor shall consider a separate recommendation  
1926 in his budget for funds to be contracted to:

1927 (i) local mental health authorities under Section 62A-15-110;

1928 (ii) local substance abuse authorities under Section 62A-15-110;

1929 (iii) area agencies under Section 62A-3-104.2;

1930 (iv) programs administered directly by and for operation of the Divisions of Substance  
1931 Abuse and Mental Health and Aging and Adult Services;

1932 (v) local health departments under Title 26A, Chapter 1, Local Health Departments;

1933 and

1934 (vi) counties for the operation of Children's Justice Centers under Section 67-5b-102.

1935 (b) In his budget recommendations under Subsections (10)(a)(i), (ii), and (iii), the  
1936 governor shall consider an amount sufficient to grant local health departments, local mental  
1937 health authorities, local substance abuse authorities, and area agencies the same percentage  
1938 increase for wages and benefits that he includes in his budget for persons employed by the  
1939 state.

1940 (c) If the governor does not include in his budget an amount sufficient to grant the  
1941 increase described in Subsection (10)(b), he shall include a message to the Legislature  
1942 regarding his reason for not including that amount.

1943 (11) (a) In submitting the budget for the Department of Agriculture, the governor shall  
1944 consider an amount sufficient to grant local [soil] conservation districts and Utah Association  
1945 of Conservation District employees the same percentage increase for wages and benefits that he  
1946 includes in his budget for persons employed by the state.

1947 (b) If the governor does not include in his budget an amount sufficient to grant the  
1948 increase described in Subsection (11)(a), he shall include a message to the Legislature  
1949 regarding his reason for not including that amount.

1950           (12) (a) In submitting the budget for the Utah State Office of Rehabilitation and the  
1951 Division of Services for People with Disabilities, the Division of Child and Family Services,  
1952 and the Division of Juvenile Justice Services within the Department of Human Services, the  
1953 governor shall consider an amount sufficient to grant employees of corporations that provide  
1954 direct services under contract with those divisions, the same percentage increase for  
1955 cost-of-living that he includes in his budget for persons employed by the state.

1956           (b) If the governor does not include in his budget an amount sufficient to grant the  
1957 increase described in Subsection (12)(a), he shall include a message to the Legislature  
1958 regarding his reason for not including that amount.

1959           (13) (a) The Families, Agencies, and Communities Together Council may propose to  
1960 the governor under Subsection 63-75-4(4)(e) a budget recommendation for collaborative  
1961 service delivery systems operated under Section 63-75-6.5.

1962           (b) The Legislature may, through a specific program schedule, designate funds  
1963 appropriated for collaborative service delivery systems operated under Section 63-75-6.5.

1964           (14) The governor shall include in his budget the state's portion of the budget for the  
1965 Utah Communications Agency Network established in Title 63C, Chapter 7, Utah  
1966 Communications Agency Network Act.

1967           (15) (a) The governor shall include a separate recommendation in the governor's  
1968 budget for funds to maintain the operation and administration of the Utah Comprehensive  
1969 Health Insurance Pool.

1970           (b) In making the recommendation the governor may consider:

1971           (i) actuarial analysis of growth or decline in enrollment projected over a period of at  
1972 least three years;

1973           (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period  
1974 of at least three years;

1975           (iii) the annual Medical Care Consumer Price Index;

1976           (iv) the annual base budget for the pool established by the Commerce and Revenue  
1977 Appropriations Subcommittee for each fiscal year;

1978           (v) the growth or decline in insurance premium taxes and fees collected by the tax  
1979 commission and the insurance department; and

1980           (vi) the availability of surplus General Fund revenue under Section 63-38-2.5 and



1981 Subsection 59-14-204(5)(b).

1982 (16) In adopting a budget for each fiscal year, the Legislature shall consider an amount  
1983 sufficient to grant local health departments, local mental health authorities, local substance  
1984 abuse authorities, area agencies on aging, ~~soil~~ conservation districts, and Utah Association of  
1985 Conservation District employees the same percentage increase for wages and benefits that is  
1986 included in the budget for persons employed by the state.

1987 (17) (a) In adopting a budget each year for the Utah Comprehensive Health Insurance  
1988 Pool, the Legislature shall determine an amount that is sufficient to fund the pool for each  
1989 fiscal year.

1990 (b) When making a determination under Subsection (17)(a), the Legislature shall  
1991 consider factors it determines are appropriate, which may include:

1992 (i) actuarial analysis of growth or decline in enrollment projected over a period of at  
1993 least three years;

1994 (ii) actuarial analysis of the medical and pharmacy claims costs projected over a period  
1995 of at least three years;

1996 (iii) the annual Medical Care Consumer Price Index;

1997 (iv) the annual base budget for the pool established by the Commerce and Revenue  
1998 Appropriations Subcommittee for each fiscal year;

1999 (v) the growth or decline in insurance premium taxes and fees collected by the tax  
2000 commission and the insurance department from the previous fiscal year; and

2001 (vi) the availability of surplus General Fund revenue under Section 63-38-2.5 and  
2002 Subsection 59-14-204(5)(b).

2003 (c) The funds appropriated by the Legislature to fund the Utah Comprehensive Health  
2004 Insurance Pool as determined under Subsection (17)(a):

2005 (i) shall be deposited into the enterprise fund established by Section 31A-29-120; and

2006 (ii) are restricted and are to be used to maintain the operation, administration, and  
2007 management of the Utah Comprehensive Health Insurance Pool created by Section  
2008 31A-29-104.

2009 (18) In considering the factors in Subsections (15)(b)(i), (ii), and (iii) and Subsections  
2010 (17)(b)(i), (ii), and (iii), the governor and the Legislature may consider the actuarial data and  
2011 projections prepared for the board of the Utah Comprehensive Health Insurance Pool as it

2012 develops its financial statements and projections for each fiscal year.

2013 Section 58. Section **73-5-15** is amended to read:

2014 **73-5-15. Groundwater management plan.**

2015 (1) As used in this section:

2016 (a) "Critical management area" means a groundwater basin in which the groundwater  
2017 withdrawals consistently exceed the safe yield.

2018 (b) "Safe yield" means the amount of groundwater that can be withdrawn from a  
2019 groundwater basin over a period of time without exceeding the long-term recharge of the basin  
2020 or unreasonably affecting the basin's physical and chemical integrity.

2021 (2) (a) The state engineer may regulate groundwater withdrawals within a specific  
2022 groundwater basin by adopting a groundwater management plan in accordance with this section  
2023 for any groundwater basin or aquifer or combination of hydrologically connected groundwater  
2024 basins or aquifers.

2025 (b) The objectives of a groundwater management plan are to:

2026 (i) limit groundwater withdrawals to safe yield;

2027 (ii) protect the physical integrity of the aquifer; and

2028 (iii) protect water quality.

2029 (c) The state engineer shall adopt a groundwater management plan for a groundwater  
2030 basin if more than 1/3 of the water right owners in the groundwater basin request that the state  
2031 engineer adopt a groundwater management plan.

2032 (3) (a) In developing a groundwater management plan, the state engineer may consider:

2033 (i) the hydrology of the groundwater basin;

2034 (ii) the physical characteristics of the groundwater basin;

2035 (iii) the relationship between surface water and groundwater, including whether the  
2036 groundwater should be managed in conjunction with hydrologically connected surface waters;

2037 (iv) the geographic spacing and location of groundwater withdrawals;

2038 (v) water quality;

2039 (vi) local well interference; and

2040 (vii) other relevant factors.

2041 (b) The state engineer shall base the provisions of a groundwater management plan on  
2042 the principles of prior appropriation.

2043 (c) (i) The state engineer shall use the best available scientific method to determine  
2044 safe yield.

2045 (ii) As hydrologic conditions change or additional information becomes available, safe  
2046 yield determinations made by the state engineer may be revised by following the procedures  
2047 listed in Subsection (5).

2048 (4) (a) (i) Except as provided in Subsection (4)(b), the withdrawal of water from a  
2049 groundwater basin shall be limited to the basin's safe yield.

2050 (ii) Before limiting withdrawals in a groundwater basin to safe yield, the state engineer  
2051 shall:

2052 (A) determine the groundwater basin's safe yield; and

2053 (B) adopt a groundwater management plan for the groundwater basin.

2054 (iii) If the state engineer determines that groundwater withdrawals in a groundwater  
2055 basin exceed the safe yield, the state engineer shall regulate groundwater rights in that  
2056 groundwater basin based on the priority date of the water rights under the groundwater  
2057 management plan, unless a voluntary arrangement exists under Subsection (4)(c) that requires a  
2058 different distribution.

2059 (b) When adopting a groundwater management plan for a critical management area, the  
2060 state engineer shall, based on economic and other impacts to an individual water user or a local  
2061 community caused by the implementation of safe yield limits on withdrawals, allow gradual  
2062 implementation of the groundwater management plan.

2063 (c) (i) In consultation with the state engineer, water users in a groundwater basin may  
2064 agree to participate in a voluntary arrangement for managing withdrawals at any time, either  
2065 before or after a determination that groundwater withdrawals exceed the groundwater basin's  
2066 safe yield.

2067 (ii) A voluntary arrangement under Subsection (4)(c)(i) shall be consistent with other  
2068 law.

2069 (iii) The adoption of a voluntary arrangement under this Subsection (4)(c) by less than  
2070 all of the water users in a groundwater basin does not affect the rights of water users who do  
2071 not agree to the voluntary arrangement.

2072 (5) To adopt a groundwater management plan, the state engineer shall:

2073 (a) give notice as specified in Subsection (7) at least 30 days before the first public

2074 meeting held in accordance with Subsection (5)(b):  
2075 (i) that the state engineer proposes to adopt a groundwater management plan;  
2076 (ii) describing generally the land area proposed to be included in the groundwater  
2077 management plan; and  
2078 (iii) stating the location, date, and time of each public meeting to be held in accordance  
2079 with Subsection (5)(b);  
2080 (b) hold one or more public meetings in the geographic area proposed to be included  
2081 within the groundwater management plan to:  
2082 (i) address the need for a groundwater management plan;  
2083 (ii) present any data, studies, or reports that the state engineer intends to consider in  
2084 preparing the groundwater management plan;  
2085 (iii) address safe yield and any other subject that may be included in the groundwater  
2086 management plan;  
2087 (iv) outline the estimated administrative costs, if any, that groundwater users are likely  
2088 to incur if the plan is adopted; and  
2089 (v) receive any public comments and other information presented at the public  
2090 meeting, including comments from any of the entities listed in Subsection (7)(a)(iii);  
2091 (c) receive and consider written comments concerning the proposed groundwater  
2092 management plan from any person for a period determined by the state engineer of not less  
2093 than 60 days after the day on which the notice required by Subsection (5)(a) is given;  
2094 (d) (i) at least 60 days prior to final adoption of the groundwater management plan,  
2095 publish notice:  
2096 (A) that a draft of the groundwater management plan has been proposed; and  
2097 (B) specifying where a copy of the draft plan may be reviewed; and  
2098 (ii) promptly provide a copy of the draft plan in printed or electronic form to each of  
2099 the entities listed in Subsection (7)(a)(iii) that makes written request for a copy; and  
2100 (e) provide notice of the adoption of the groundwater management plan.  
2101 (6) A groundwater management plan shall become effective on the date notice of  
2102 adoption is completed under Subsection (7), or on a later date if specified in the plan.  
2103 (7) (a) A notice required by this section shall be:  
2104 (i) published once a week for two successive weeks in a newspaper of general

2105 circulation in each county that encompasses a portion of the land area proposed to be included  
2106 within the groundwater management plan;

2107 (ii) published conspicuously on the state engineer's Internet website; and

2108 (iii) mailed to each of the following that has within its boundaries a portion of the land  
2109 area to be included within the proposed groundwater management plan:

2110 (A) county;

2111 (B) incorporated city or town;

2112 (C) any of the following type of independent special districts operating under Title

2113 17A, Special Districts:

2114 (I) county improvement district providing water, sewerage, or flood control;

2115 (II) county service area;

2116 (III) drainage district;

2117 (IV) irrigation district;

2118 (V) metropolitan water district;

2119 (VI) special service district providing water, sewer, drainage, or flood control services;

2120 and

2121 (VII) water conservancy district; and

2122 (D) [soil] conservation district.

2123 (b) A notice required by this section is effective upon substantial compliance with  
2124 Subsections (7)(a)(i) through (iii).

2125 (8) A groundwater management plan may be amended in the same manner as a  
2126 groundwater management plan may be adopted under this section.

2127 (9) The existence of a groundwater management plan does not preclude any otherwise  
2128 eligible person from filing any application or challenging any decision made by the state  
2129 engineer within the affected groundwater basin.

2130 (10) (a) A person aggrieved by a groundwater management plan may challenge any  
2131 aspect of the groundwater management plan by filing a complaint within 60 days after the  
2132 adoption of the groundwater management plan in the district court for any county in which the  
2133 groundwater basin is found.

2134 (b) Notwithstanding Subsection (9), a person may challenge the components of a  
2135 groundwater management plan only in the manner provided by Subsection (10)(a).

2136 (c) An action brought under this Subsection (10) is reviewed de novo by the district  
2137 court.

2138 (d) A person challenging a groundwater management plan under this Subsection (10)  
2139 shall join the state engineer as a defendant in the action challenging the groundwater  
2140 management plan.

2141 (e) (i) Within 30 days after the day on which a person files an action challenging any  
2142 aspect of a groundwater management plan under Subsection (10)(a), the person filing the action  
2143 shall publish notice of the action in a newspaper of general circulation in the county in which  
2144 the district court is located.

2145 (ii) The notice required by Subsection (10)(e)(i) shall be published once a week for two  
2146 consecutive weeks.

2147 (iii) The notice required by Subsection (10)(e)(i) shall:

2148 (A) identify the groundwater management plan the person is challenging;

2149 (B) identify the case number assigned by the district court;

2150 (C) state that a person affected by the groundwater management plan may petition the  
2151 district court to intervene in the action challenging the groundwater management plan; and

2152 (D) list the address for the clerk of the district court in which the action is filed.

2153 (iv) (A) Any person affected by the groundwater management plan may petition to  
2154 intervene in the action within 60 days after the day on which notice is last published under  
2155 Subsections (10)(e)(i) and (ii).

2156 (B) The district court's treatment of a petition to intervene under this Subsection  
2157 (10)(e)(iv) is governed by the Utah Rules of Civil Procedure.

2158 (v) A district court in which an action is brought under Subsection (10)(a) shall  
2159 consolidate all actions brought under that subsection and include in the consolidated action any  
2160 person whose petition to intervene is granted.

2161 (11) A groundwater management plan adopted or amended in accordance with this  
2162 section is exempt from the requirements in Title 63, Chapter 46a, Utah Administrative  
2163 Rulemaking Act.

2164 (12) Recharge and recovery projects permitted under Chapter 3b, Groundwater  
2165 Recharge and Recovery Act, are exempted from this section.

2166 (13) Nothing in this section may be interpreted to require the development,

2167 implementation, or consideration of a groundwater management plan as a prerequisite or  
 2168 condition to the exercise of the state engineer's enforcement powers under other law, including  
 2169 powers granted under Section 73-2-25.

2170 (14) A groundwater management plan adopted in accordance with this section may not  
 2171 apply to the dewatering of a mine.

2172 (15) (a) A groundwater management plan adopted by the state engineer before May 1,  
 2173 2006, remains in force and has the same legal effect as it had on the day on which it was  
 2174 adopted by the state engineer.

2175 (b) If a groundwater management plan that existed before May 1, 2006, is amended on  
 2176 or after May 1, 2006, the amendment is subject to this section's provisions.

2177 Section 59. Section **73-10-26** is amended to read:

2178 **73-10-26. Construction of works, facilities, and projects by board -- Ownership**  
 2179 **and operation -- Transfer of water rights -- Purchase of bonds from Indian tribes.**

2180 (1) (a) The Board of Water Resources, through the Division of Water Resources, may  
 2181 construct works and facilities, including hydroelectric generating works, [as] that are necessary  
 2182 and desirable to conserve and develop the water and power resources of the state. [~~Any~~]

2183 (b) An electric public utility or a municipality of the state may construct electrical  
 2184 facilities incidental to a hydroelectric project [~~may be constructed by an electric public utility or~~  
 2185 ~~a municipality of the state~~].

2186 (c) If the state constructs the electrical facilities [~~are constructed by the state~~], the state  
 2187 must first offer the power and energy derived from the hydroelectric generating plant [~~must~~  
 2188 ~~first be offered~~] to electric public utilities or municipalities in the state for distribution to  
 2189 electric consumers.

2190 (2) (a) The Board of Water Resources, through the Division of Water Resources, may  
 2191 consider any flood control project provided for in Title 4, Chapter 18, Conservation  
 2192 Commission Act, in the same manner, and apply procedures and rules, as the board would  
 2193 consider or apply to any other project within its statutory authority.

2194 (b) If funds controlled by the Board of Water Resources are to be used for the project,  
 2195 the planning by the [~~SoH~~] Conservation Commission is subject to the review of the board.

2196 (c) If the project is authorized for construction, the plans, specifications, and  
 2197 construction supervision shall be undertaken as prescribed by the board.

2198 (3) The Board of Water Resources may enter into an agreement for the construction of  
2199 any project financed with monies from the Water Resources Construction and Development  
2200 Fund with another state, the federal government, a political subdivision of the state, an Indian  
2201 tribe, or a private corporation.

2202 (4) (a) (i) Title to all projects, including water rights, constructed with monies from the  
2203 Water Resources Construction and Development Fund[;] is vested in the state.

2204 (ii) If ~~[a project is being sponsored by]~~ an incorporated municipality, metropolitan  
2205 water district, water conservancy district, improvement district, special improvement district,  
2206 special service district, or any other political subdivision of the state sponsors a project, the  
2207 Board of Water Resources may take revenue bonds, general obligation bonds, special  
2208 assessment bonds, or other bonds or obligations legally issued by the sponsor in lieu of or in  
2209 addition to taking title to the project and water rights.

2210 (b) If an Indian tribe sponsors a project, the Board of Water Resources may take  
2211 revenue bonds, general obligation bonds, or other bonds or obligations legally issued by the  
2212 tribe, to the extent that federal law allows the tribe to issue bonds, in lieu of taking title to the  
2213 project and water rights, if the tribe:

2214 (i) waives the defense of sovereign immunity regarding the bond issue in any action  
2215 arising out of the issuance or default under the bond; and

2216 (ii) agrees in writing that it will not challenge state court jurisdiction over any litigation  
2217 resulting from default on its obligations in the transaction.

2218 (c) Before entering into any agreement with or purchasing any bonds or obligations  
2219 from a tribe, the Board of Water Resources shall:

2220 (i) require that the tribe obtain the written approval of the Secretary of the United  
2221 States Department of the Interior or ~~[his]~~ the secretary's designee to all aspects of the  
2222 agreement, bonds, or obligations;

2223 (ii) obtain a legal opinion from a recognized bond counsel certifying:

2224 (A) that the tribe has legal authority to enter into the agreement or issue the bonds or  
2225 obligations;

2226 (B) that the pledge of any assets or revenues by the tribe as security for the payments  
2227 under the agreement, bonds, or obligations is a valid and legally enforceable pledge; and

2228 (C) that the agreement, bonds, or obligations may be enforced in any court of general



2229 jurisdiction in the state; and

2230 (iii) determine whether it has sufficient legal recourse against the tribe and against any  
2231 security pledged by the tribe in the event of default.

2232 (5) (a) The Board of Water Resources may own and operate water conservation and  
2233 development works and projects[;] and flood control projects, if:

2234 (i) the works and projects are consistent with plans adopted by the board; and

2235 (ii) in the opinion of the board the ownership and operation of the projects by the board  
2236 is in the best interest of the state.

2237 (b) In the ownership and operation of the projects referred to in Subsection (5)(a), the  
2238 board shall [~~utilize~~] use water rights held in its name under authority of Section 73-10-19.

2239 (c) (i) The board may enter into contracts with another state, the federal government, a  
2240 political subdivision of the state, an Indian tribe, or a private corporation for operation,  
2241 maintenance, and administration of the project.

2242 (ii) The board may pay the contracting agency a reasonable sum for operation,  
2243 maintenance, and administration of the project.

2244 (6) (a) The board may also:

2245 (i) enter into agreements in which title to projects may be conveyed to cooperating  
2246 sponsors after charges assessed against the project have been paid to the state in accordance  
2247 with the terms of construction agreements or amendments to those agreements;

2248 (ii) make available for the use of the state's citizens who are, in its opinion, best able to  
2249 utilize it, all water and power conserved by any of the projects to which the state may have  
2250 title;

2251 (iii) enter into contracts for the use of that water and power with individuals or with  
2252 organizations composed of the state's citizens; and

2253 (iv) assess a reasonable fee against any person using water and power from a project.

2254 (b) Any amount collected over the amount to be returned to the state for payment of the  
2255 principal, interest, and maintenance of the project shall become part of the Water Resources  
2256 Conservation and Development Fund as established by Section 73-10-24.

2257 (7) The Board of Water Resources shall retain ownership of water rights used for  
2258 projects owned and operated by the board [~~except as follows~~] unless:

2259 (a) the water rights originally held by cooperating sponsors [~~shall be~~] are conveyed to

2260 [that] the sponsor upon payment to the state of charges assessed against the project in  
2261 accordance with the terms of construction agreements or amendments to those agreements;

2262 [~~and~~] or

2263 (b) the board [~~may transfer~~] transfers any unperfected water right held by it [~~which~~]  
2264 that is not being utilized in a state-owned project to a political subdivision of the state, any  
2265 agency of the federal government, or a nonprofit water company.

2266 (8) Any transfer of the board's water rights shall be made to the entity that is best able to  
2267 [~~utilize~~] use the water rights for the benefit of the state's citizens.

2268 Section 60. **Repealer.**

2269 This bill repeals:

2270 Section 4-6-1, **Definitions.**

2271 Section 4-6-2, **Prohibition against the manufacture, sale, or offer for sale of flour,**  
2272 **cereal, or food product that fails to conform to enrichment or fortification standards.**

2273 Section 4-6-3, **Adoption of enrichment and labeling requirements -- Considerations**  
2274 **for adoption.**

2275 Section 4-6-4, **Transactions exempt from prohibition -- Form and substance of**  
2276 **certification.**

2277 Section 4-18-14, **Adoption of resolution implementing conservation corps.**

2278 Section 4-18-15, **Utah Conservation Corps -- Establishment -- Responsibilities.**

2279 Section 4-18-16, **Definitions.**

2280 Section 4-18-17, **Utah Conservation Corps director.**

2281 Section 4-18-18, **Nature of projects.**

2282 Section 4-18-19, **Project areas -- Benefits and opportunities.**

2283 Section 4-18-20, **Selection criteria.**

2284 Section 4-18-21, **Powers of director.**

2285 Section 4-18-22, **Retirement benefits.**

2286 Section 4-18-23, **Nonresidential programs.**

2287 Section 4-18-24, **Contracts with nonprofit agencies.**

2288 Section 4-18-25, **Educational component.**

2289 Section 4-18-26, **Employment and training.**

2290 Section 4-18-27, **Corps member bill of rights.**

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**Legislative Review Note**  
as of 1-5-07 7:01 AM

**Office of Legislative Research and General Counsel**

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**S.B. 47 - Department of Agriculture Amendments**

**Fiscal Note**

2007 General Session  
State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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*1/16/2007, 8:46:53 AM, Lead Analyst: Djambov, I.*

**Office of the Legislative Fiscal Analyst**