

1                                   **PUBLIC LANDS POLICY COORDINATION**

2   **AMENDMENTS**

3   2009 GENERAL SESSION

4   STATE OF UTAH

5   **Chief Sponsor: Michael E. Noel**

6   Senate Sponsor: Dennis E. Stowell

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8                   **LONG TITLE**

9                   **General Description:**

10                   This bill eliminates the Public Lands Policy Coordinating Council and makes changes  
11 concerning the Constitutional Defense Council and other entities concerning public  
12 lands matters.

13                   **Highlighted Provisions:**

14                   This bill:

- 15                   ▶ addresses membership of the Constitutional Defense Council;
- 16                   ▶ addresses the council's duties;
- 17                   ▶ provides that the Public Lands Policy Coordinating Office assist the Office of the  
18 Attorney General in providing staff support to the Constitutional Defense Council;
- 19                   ▶ addresses the development and updating of a plan for R.S. 2477 rights;
- 20                   ▶ provides for grants to counties for public lands issues with a state benefit;
- 21                   ▶ requires the Public Lands Policy Coordinating Office to report to and assist the  
22 Constitutional Defense Council in carrying out the Constitutional Defense  
23 Council's duties;
- 24                   ▶ addresses the state planning coordinator's duties;
- 25                   ▶ makes certain documents protected records under Title 63G, Chapter 2,  
26 Government Records Access and Management Act;
- 27                   ▶ allows the Public Lands Policy Coordinating Office to enter into contracts with  
28 other state agencies for services; and
- 29                   ▶ makes technical changes.

30 **Monies Appropriated in this Bill:**

31 None

32 **Other Special Clauses:**

33 None

34 **Utah Code Sections Affected:**

35 AMENDS:

36 **63C-4-101**, as last amended by Laws of Utah 2008, Chapter 382

37 **63C-4-102**, as last amended by Laws of Utah 2008, Chapter 382

38 **63C-4-103**, as last amended by Laws of Utah 2008, Chapter 382

39 **63C-4-104**, as last amended by Laws of Utah 2004, Chapter 345

40 **63G-2-305**, as last amended by Laws of Utah 2008, Chapters 3, 87, 95, 101, 111, 161,

41 196, 248, 352 and renumbered and amended by Laws of Utah 2008, Chapter 382

42 **63J-4-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382

43 **63J-4-503**, as renumbered and amended by Laws of Utah 2008, Chapter 382

44 **63J-4-601**, as renumbered and amended by Laws of Utah 2008, Chapter 382

45 **63J-4-603**, as last amended by Laws of Utah 2008, Chapter 381 and renumbered and  
46 amended by Laws of Utah 2008, Chapter 382

47 REPEALS:

48 **63J-4-604**, as renumbered and amended by Laws of Utah 2008, Chapter 382

49 **63J-4-605**, as renumbered and amended by Laws of Utah 2008, Chapter 382



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

52 Section 1. Section **63C-4-101** is amended to read:

53 **63C-4-101. Creation of Constitutional Defense Council -- Membership --**

54 **Vacancies -- Reports -- Per diem and funding.**

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

56 (2) (a) The defense council shall consist of the following [++] members:

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

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

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

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

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

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

66 [~~(vii) one citizen member appointed by the governor; and]~~

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

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

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

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

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

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

77 (b) The council [~~shall select a vice chair from its members]~~ vice chairs shall conduct a  
78 council meeting in the absence of the chair.

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

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

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

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

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

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

91 (d) (i) The Constitutional Defense Council shall require that any entity that receives  
92 monies from the Constitutional Defense Restricted Account provide financial reports and  
93 litigation reports to the Council.

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

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

100 (5) The Office of the Attorney General shall [~~provide staff to~~] advise the defense  
101 council.

102 (6) (a) (i) State government officer and employee members who do not receive salary,  
103 per diem, or expenses from their agency for their service may receive per diem and expenses  
104 incurred in the performance of their official duties from the council at the rates established by  
105 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

106 (ii) State government officer and employee members may decline to receive per diem  
107 and expenses for their service.

108 (b) (i) Local government members who do not receive salary, per diem, or expenses  
109 from the entity that they represent for their service may receive per diem and expenses  
110 incurred in the performance of their official duties at the rates established by the Division of  
111 Finance under Sections 63A-3-106 and 63A-3-107.

112 (ii) Local government members may decline to receive per diem and expenses for their  
113 service.

114 (c) Legislators on the committee shall receive compensation and expenses as provided  
115 by law and legislative rule.

116 (7) (a) The council shall be funded from the Constitutional Defense Restricted  
117 Account created in Section 63C-4-103.

118 (b) Monies appropriated for or received by the council may be expended by the  
119 governor in consultation with the council.

120 Section 2. Section **63C-4-102** is amended to read:

121 **63C-4-102. Duties.**

122 (1) The Constitutional Defense Council is a council to assist the governor and the  
123 Legislature on the following types of issues:

124 (a) the constitutionality of unfunded federal mandates;

125 (b) when making recommendations to challenge the federal mandates and regulations  
126 described in Subsections (1)(e)(i) through (v), the rationale for and effectiveness of those  
127 federal mandates or regulations;

128 (c) legal and policy issues surrounding state and local government rights under R.S.  
129 2477;

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

132 (e) the advisability, feasibility, estimated cost, and likelihood of success of  
133 challenging:

134 (i) federal court rulings that hinder the management of the state's prison system and  
135 place undue financial hardship on the state's taxpayers;

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

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

141 (iv) federal intervention that would damage the state's mining, timber, and ranching

142 industries;

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

145 (vi) other issues that are relevant to ~~[Subsections]~~ this Subsection (1)~~[(a) through (e)]~~.

146 (2) The council shall:

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

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

150 (ii) other public lands issues;

151 (b) approve a plan for R.S. 2477 rights developed in accordance with Section  
152 63C-4-104; and

153 (c) review, at least quarterly:

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

155 and

156 (ii) financial and other reports from the Public Lands Policy Coordinating Office  
157 concerning its activities.

158 ~~[(2)]~~ (3) The council chair may require the attorney general or a designee to provide  
159 testimony on potential legal actions that would enhance the state's sovereignty or authority on  
160 issues affecting Utah and the well-being of its citizens.

161 ~~[(3)]~~ (4) The council chair may direct the attorney general to initiate and prosecute any  
162 action that the council determines will further its purposes.

163 ~~[(4)]~~ (5) (a) Subject to the provisions of this section, the council may select and  
164 employ attorneys to implement the purposes and duties of the council.

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

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

170           ~~[(5)]~~ (6) The council chair shall, only with the concurrence of the council, review and  
171 approve all claims for payments for legal services that are submitted to the council.

172           ~~[(6)]~~ (7) Within five business days' notice, the council chair may, with the concurrence  
173 of the council, order the attorney general or an attorney employed by the council to cease work  
174 to be charged to the fund.

175           ~~[(7)]~~ (8) (a) At least 20 calendar days before the state submits comments on the draft  
176 environmental impact statement or environmental assessment for a proposed land management  
177 plan of any federal land management agency, the governor shall make those documents  
178 available to:

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

183           (b) (i) Council members or local government officials receiving the documents may  
184 make recommendations to the governor or the governor's designee concerning changes to the  
185 documents before they are submitted to the federal land management agency.

186           (ii) Council members or local government officials shall submit recommendations to  
187 the governor or the governor's designee no later than ten calendar days after receiving the  
188 documents under Subsection ~~[(7)]~~ (8)(a).

189           (c) Documents transmitted or received under this Subsection ~~[(7)]~~ (8) are drafts and  
190 are protected records pursuant to Subsection 63G-2-305(22).

191           ~~[(8)]~~ (9) The council shall submit a report on December 1 of each year to the speaker  
192 of the House of Representatives and the president of the Senate that summarizes the council's  
193 activities.

194           Section 3. Section **63C-4-103** is amended to read:

195           **63C-4-103. Creation of Constitutional Defense Restricted Account -- Sources of**  
196 **funds -- Uses of funds -- Reports.**

197           (1) There is created a restricted account within the General Fund known as the

198 Constitutional Defense Restricted Account.

199 (2) The account consists of monies from the following revenue sources:

200 (a) monies deposited to the account as required by Section 53C-3-203;

201 (b) voluntary contributions;

202 (c) monies received by the Constitutional Defense Council from other state agencies;

203 and

204 (d) appropriations made by the Legislature.

205 (3) Funds in the account shall be nonlapsing.

206 (4) The account balance may not exceed \$2,000,000.

207 (5) The Legislature may annually appropriate monies from the Constitutional Defense

208 Restricted Account to one or more of the following:

209 (a) the Constitutional Defense Council to carry out its duties in Section 63C-4-102;

210 (b) the Public Lands Policy Coordinating Office to carry out its duties in Section

211 63J-4-603;

212 [~~(c) the Public Lands Policy Coordinating Council to carry out its duties in Section~~

213 ~~63J-4-605;~~]

214 [~~(d)~~] (c) the Office of the Governor, to be used only for the purpose of asserting,

215 defending, or litigating state and local government rights under R.S. 2477, in accordance with

216 a plan developed and approved as provided in Section 63C-4-104;

217 [~~(e)~~] (d) a county or association of counties to assist counties, consistent with the

218 purposes of the council, in pursuing issues affecting the counties; or

219 [(f)] (e) the Office of the Attorney General, to be used only for public lands counsel

220 and assistance and litigation to the state or local governments including asserting, defending,

221 or litigating state and local government rights under R.S. 2477 in accordance with a plan

222 developed and approved as provided in Section 63C-4-104.

223 (6) (a) The Constitutional Defense Council shall require that any entity that receives

224 monies from the Constitutional Defense Restricted Account provide financial reports and

225 litigation reports to the Council.



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

229 Section 4. Section **63C-4-104** is amended to read:

230 **63C-4-104. Plan for R.S. 2477 rights -- Contents.**

231 (1) As used in this section, "plan" means a guiding document that:

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

233 (b) is approved by the Constitutional Defense Council; and

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

237 (2) The Constitutional Defense Council may approve a plan if the plan:

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

240 (b) allows a county to formally agree to participate in the plan by adopting a  
241 resolution;

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

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

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

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

253 (iii) the county may pursue a strategy or make an expenditure contrary to the final

254 decision of the Constitutional Defense Council only if the county does not claim resources  
255 provided to fund the plan.

256 (3) The Constitutional Defense Council shall ensure that the plan contains:

257 (a) provisions identifying which expenditure types require approval of the plan  
258 committee and which expenditure types may be made without plan committee approval;

259 (b) provisions requiring that financial statements be provided to members of the plan  
260 committee and members of the Constitutional Defense Council, and the frequency with which  
261 those financial statements must be provided; and

262 (c) provisions identifying those decisions or types of decisions that may be made by  
263 the plan committee and those decisions or types of decisions that must be referred to the  
264 Constitutional Defense Council for decision.

265 (4) The Constitutional Defense Council shall:

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

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

270 (c) jointly, with the Public Lands Policy Coordinating Office, present a plan approved  
271 under this section, with any updates, to:

272 (i) the Legislature's Natural Resources, Agriculture, and Environment Interim  
273 Committee by July 1 of each calendar year, after providing the plan to the committee at least  
274 seven days before the presentation; and

275 (ii) the president of the Senate and the speaker of the House of Representatives, which  
276 may be by mail.

277 Section 5. Section **63G-2-305** is amended to read:

278 **63G-2-305. Protected records.**

279 The following records are protected if properly classified by a governmental entity:

280 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret  
281 has provided the governmental entity with the information specified in Section 63G-2-309;

282 (2) commercial information or nonindividual financial information obtained from a  
283 person if:

284 (a) disclosure of the information could reasonably be expected to result in unfair  
285 competitive injury to the person submitting the information or would impair the ability of the  
286 governmental entity to obtain necessary information in the future;

287 (b) the person submitting the information has a greater interest in prohibiting access  
288 than the public in obtaining access; and

289 (c) the person submitting the information has provided the governmental entity with  
290 the information specified in Section 63G-2-309;

291 (3) commercial or financial information acquired or prepared by a governmental entity  
292 to the extent that disclosure would lead to financial speculations in currencies, securities, or  
293 commodities that will interfere with a planned transaction by the governmental entity or cause  
294 substantial financial injury to the governmental entity or state economy;

295 (4) records the disclosure of which could cause commercial injury to, or confer a  
296 competitive advantage upon a potential or actual competitor of, a commercial project entity as  
297 defined in Subsection 11-13-103(4);

298 (5) test questions and answers to be used in future license, certification, registration,  
299 employment, or academic examinations;

300 (6) records the disclosure of which would impair governmental procurement  
301 proceedings or give an unfair advantage to any person proposing to enter into a contract or  
302 agreement with a governmental entity, except, subject to ~~[Subsection]~~ Subsections (1) and (2),  
303 that this Subsection (6) does not restrict the right of a person to have access to, once the  
304 contract or grant has been awarded, a bid, proposal, or application submitted to or by a  
305 governmental entity in response to:

306 (a) a request for bids;

307 (b) a request for proposals;

308 (c) a grant; or

309 (d) other similar document;

310 (7) records that would identify real property or the appraisal or estimated value of real  
311 or personal property, including intellectual property, under consideration for public acquisition  
312 before any rights to the property are acquired unless:

313 (a) public interest in obtaining access to the information outweighs the governmental  
314 entity's need to acquire the property on the best terms possible;

315 (b) the information has already been disclosed to persons not employed by or under a  
316 duty of confidentiality to the entity;

317 (c) in the case of records that would identify property, potential sellers of the described  
318 property have already learned of the governmental entity's plans to acquire the property;

319 (d) in the case of records that would identify the appraisal or estimated value of  
320 property, the potential sellers have already learned of the governmental entity's estimated value  
321 of the property; or

322 (e) the property under consideration for public acquisition is a single family residence  
323 and the governmental entity seeking to acquire the property has initiated negotiations to  
324 acquire the property as required under Section 78B-6-505;

325 (8) records prepared in contemplation of sale, exchange, lease, rental, or other  
326 compensated transaction of real or personal property including intellectual property, which, if  
327 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value  
328 of the subject property, unless:

329 (a) the public interest in access outweighs the interests in restricting access, including  
330 the governmental entity's interest in maximizing the financial benefit of the transaction; or

331 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of  
332 the value of the subject property have already been disclosed to persons not employed by or  
333 under a duty of confidentiality to the entity;

334 (9) records created or maintained for civil, criminal, or administrative enforcement  
335 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes,  
336 if release of the records:

337 (a) reasonably could be expected to interfere with investigations undertaken for

338 enforcement, discipline, licensing, certification, or registration purposes;

339 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement  
340 proceedings;

341 (c) would create a danger of depriving a person of a right to a fair trial or impartial  
342 hearing;

343 (d) reasonably could be expected to disclose the identity of a source who is not  
344 generally known outside of government and, in the case of a record compiled in the course of  
345 an investigation, disclose information furnished by a source not generally known outside of  
346 government if disclosure would compromise the source; or

347 (e) reasonably could be expected to disclose investigative or audit techniques,  
348 procedures, policies, or orders not generally known outside of government if disclosure would  
349 interfere with enforcement or audit efforts;

350 (10) records the disclosure of which would jeopardize the life or safety of an  
351 individual;

352 (11) records the disclosure of which would jeopardize the security of governmental  
353 property, governmental programs, or governmental recordkeeping systems from damage, theft,  
354 or other appropriation or use contrary to law or public policy;

355 (12) records that, if disclosed, would jeopardize the security or safety of a correctional  
356 facility, or records relating to incarceration, treatment, probation, or parole, that would  
357 interfere with the control and supervision of an offender's incarceration, treatment, probation,  
358 or parole;

359 (13) records that, if disclosed, would reveal recommendations made to the Board of  
360 Pardons and Parole by an employee of or contractor for the Department of Corrections, the  
361 Board of Pardons and Parole, or the Department of Human Services that are based on the  
362 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's  
363 jurisdiction;

364 (14) records and audit workpapers that identify audit, collection, and operational  
365 procedures and methods used by the State Tax Commission, if disclosure would interfere with

366 audits or collections;

367 (15) records of a governmental audit agency relating to an ongoing or planned audit  
368 until the final audit is released;

369 (16) records prepared by or on behalf of a governmental entity solely in anticipation of  
370 litigation that are not available under the rules of discovery;

371 (17) records disclosing an attorney's work product, including the mental impressions  
372 or legal theories of an attorney or other representative of a governmental entity concerning  
373 litigation;

374 (18) records of communications between a governmental entity and an attorney  
375 representing, retained, or employed by the governmental entity if the communications would  
376 be privileged as provided in Section 78B-1-137;

377 (19) (a) (i) personal files of a state legislator, including personal correspondence to or  
378 from a member of the Legislature; and

379 (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of  
380 legislative action or policy may not be classified as protected under this section; and

381 (b) (i) an internal communication that is part of the deliberative process in connection  
382 with the preparation of legislation between:

383 (A) members of a legislative body;

384 (B) a member of a legislative body and a member of the legislative body's staff; or

385 (C) members of a legislative body's staff; and

386 (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of  
387 legislative action or policy may not be classified as protected under this section;

388 (20) (a) records in the custody or control of the Office of Legislative Research and  
389 General Counsel, that, if disclosed, would reveal a particular legislator's contemplated  
390 legislation or contemplated course of action before the legislator has elected to support the  
391 legislation or course of action, or made the legislation or course of action public; and

392 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the  
393 Office of Legislative Research and General Counsel is a public document unless a legislator

394 asks that the records requesting the legislation be maintained as protected records until such  
395 time as the legislator elects to make the legislation or course of action public;

396 (21) research requests from legislators to the Office of Legislative Research and  
397 General Counsel or the Office of the Legislative Fiscal Analyst and research findings prepared  
398 in response to these requests;

399 (22) drafts, unless otherwise classified as public;

400 (23) records concerning a governmental entity's strategy about collective bargaining or  
401 pending litigation;

402 (24) records of investigations of loss occurrences and analyses of loss occurrences that  
403 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the  
404 Uninsured Employers' Fund, or similar divisions in other governmental entities;

405 (25) records, other than personnel evaluations, that contain a personal  
406 recommendation concerning an individual if disclosure would constitute a clearly unwarranted  
407 invasion of personal privacy, or disclosure is not in the public interest;

408 (26) records that reveal the location of historic, prehistoric, paleontological, or  
409 biological resources that if known would jeopardize the security of those resources or of  
410 valuable historic, scientific, educational, or cultural information;

411 (27) records of independent state agencies if the disclosure of the records would  
412 conflict with the fiduciary obligations of the agency;

413 (28) records of an institution within the state system of higher education defined in  
414 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,  
415 retention decisions, and promotions, which could be properly discussed in a meeting closed in  
416 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of  
417 the final decisions about tenure, appointments, retention, promotions, or those students  
418 admitted, may not be classified as protected under this section;

419 (29) records of the governor's office, including budget recommendations, legislative  
420 proposals, and policy statements, that if disclosed would reveal the governor's contemplated  
421 policies or contemplated courses of action before the governor has implemented or rejected

422 those policies or courses of action or made them public;

423 (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis,  
424 revenue estimates, and fiscal notes of proposed legislation before issuance of the final  
425 recommendations in these areas;

426 (31) records provided by the United States or by a government entity outside the state  
427 that are given to the governmental entity with a requirement that they be managed as protected  
428 records if the providing entity certifies that the record would not be subject to public  
429 disclosure if retained by it;

430 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body  
431 except as provided in Section 52-4-206;

432 (33) records that would reveal the contents of settlement negotiations but not  
433 including final settlements or empirical data to the extent that they are not otherwise exempt  
434 from disclosure;

435 (34) memoranda prepared by staff and used in the decision-making process by an  
436 administrative law judge, a member of the Board of Pardons and Parole, or a member of any  
437 other body charged by law with performing a quasi-judicial function;

438 (35) records that would reveal negotiations regarding assistance or incentives offered  
439 by or requested from a governmental entity for the purpose of encouraging a person to expand  
440 or locate a business in Utah, but only if disclosure would result in actual economic harm to the  
441 person or place the governmental entity at a competitive disadvantage, but this section may  
442 not be used to restrict access to a record evidencing a final contract;

443 (36) materials to which access must be limited for purposes of securing or maintaining  
444 the governmental entity's proprietary protection of intellectual property rights including  
445 patents, copyrights, and trade secrets;

446 (37) the name of a donor or a prospective donor to a governmental entity, including an  
447 institution within the state system of higher education defined in Section 53B-1-102, and other  
448 information concerning the donation that could reasonably be expected to reveal the identity of  
449 the donor, provided that:



450 (a) the donor requests anonymity in writing;

451 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be  
452 classified protected by the governmental entity under this Subsection (37); and

453 (c) except for an institution within the state system of higher education defined in  
454 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged  
455 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority  
456 over the donor, a member of the donor's immediate family, or any entity owned or controlled  
457 by the donor or the donor's immediate family;

458 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and  
459 73-18-13;

460 (39) a notification of workers' compensation insurance coverage described in Section  
461 34A-2-205;

462 (40) (a) the following records of an institution within the state system of higher  
463 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,  
464 or received by or on behalf of faculty, staff, employees, or students of the institution:

465 (i) unpublished lecture notes;

466 (ii) unpublished notes, data, and information:

467 (A) relating to research; and

468 (B) of:

469 (I) the institution within the state system of higher education defined in Section  
470 53B-1-102; or

471 (II) a sponsor of sponsored research;

472 (iii) unpublished manuscripts;

473 (iv) creative works in process;

474 (v) scholarly correspondence; and

475 (vi) confidential information contained in research proposals;

476 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public  
477 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

478 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;  
479 (41) (a) records in the custody or control of the Office of Legislative Auditor General  
480 that would reveal the name of a particular legislator who requests a legislative audit prior to  
481 the date that audit is completed and made public; and  
482 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to  
483 the Office of the Legislative Auditor General is a public document unless the legislator asks  
484 that the records in the custody or control of the Office of Legislative Auditor General that  
485 would reveal the name of a particular legislator who requests a legislative audit be maintained  
486 as protected records until the audit is completed and made public;  
487 (42) records that provide detail as to the location of an explosive, including a map or  
488 other document that indicates the location of:  
489 (a) a production facility; or  
490 (b) a magazine;  
491 (43) information:  
492 (a) contained in the statewide database of the Division of Aging and Adult Services  
493 created by Section 62A-3-311.1; or  
494 (b) received or maintained in relation to the Identity Theft Reporting Information  
495 System (IRIS) established under Section 67-5-22;  
496 (44) information contained in the Management Information System and Licensing  
497 Information System described in Title 62A, Chapter 4a, Child and Family Services;  
498 (45) information regarding National Guard operations or activities in support of the  
499 National Guard's federal mission;  
500 (46) records provided by any pawn or secondhand business to a law enforcement  
501 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and  
502 Secondhand Merchandise Transaction Information Act;  
503 (47) information regarding food security, risk, and vulnerability assessments  
504 performed by the Department of Agriculture and Food;  
505 (48) except to the extent that the record is exempt from this chapter pursuant to

506 Section 63G-2-106, records related to an emergency plan or program prepared or maintained  
507 by the Division of Homeland Security the disclosure of which would jeopardize:

- 508 (a) the safety of the general public; or
- 509 (b) the security of:
  - 510 (i) governmental property;
  - 511 (ii) governmental programs; or
  - 512 (iii) the property of a private person who provides the Division of Homeland Security  
513 information;

- 514 (49) records of the Department of Agriculture and Food relating to the National  
515 Animal Identification System or any other program that provides for the identification, tracing,  
516 or control of livestock diseases, including any program established under Title 4, Chapter 24,  
517 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and  
518 Quarantine;

- 519 (50) as provided in Section 26-39-501:

- 520 (a) information or records held by the Department of Health related to a complaint  
521 regarding a child care program or residential child care which the department is unable to  
522 substantiate; and

- 523 (b) information or records related to a complaint received by the Department of Health  
524 from an anonymous complainant regarding a child care program or residential child care;

- 525 (51) unless otherwise classified as public under Section 63G-2-301 and except as  
526 provided under Section 41-1a-116, an individual's home address, home telephone number, or  
527 personal mobile phone number, if:

- 528 (a) the individual is required to provide the information in order to comply with a law,  
529 ordinance, rule, or order of a government entity; and

- 530 (b) the subject of the record has a reasonable expectation that this information will be  
531 kept confidential due to:

- 532 (i) the nature of the law, ordinance, rule, or order; and

- 533 (ii) the individual complying with the law, ordinance, rule, or order;

534 (52) the name, home address, work addresses, and telephone numbers of an individual  
535 that is engaged in, or that provides goods or services for, medical or scientific research that is:

536 (a) conducted within the state system of higher education, as defined in Section  
537 53B-1-102; and

538 (b) conducted using animals;

539 (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement  
540 Private Proposal Program, to the extent not made public by rules made under that chapter;

541 (54) information collected and a report prepared by the Judicial Performance  
542 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter  
543 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,  
544 the information or report;

545 (55) (a) records of the Utah Educational Savings Plan Trust created under Section  
546 53B-8a-103 if the disclosure of the records would conflict with its fiduciary obligations;

547 (b) proposals submitted to the Utah Educational Savings Plan Trust; and

548 (c) contracts entered into by the Utah Educational Savings Plan Trust and the related  
549 payments; [~~and~~]

550 (56) records contained in the Management Information System created in Section  
551 62A-4a-1003[-]; and

552 (57) records provided or received by the Public Lands Policy Coordinating Office in  
553 furtherance of any contract or other agreement made in accordance with Section 63J-4-603.

554 Section 6. Section **63J-4-401** is amended to read:

555 **63J-4-401. Planning duties of the planning coordinator and office.**

556 (1) The state planning coordinator shall:

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

559 (b) counsel with the authorized representatives of the Department of Transportation,  
560 the State Building Board, the Department of Health, the Department of Workforce Services,  
561 the Labor Commission, the Department of Natural Resources, the School and Institutional

562 Trust Lands Administration, and other proper persons concerning all state planning matters;  
563 (c) when designated to do so by the governor, receive funds made available to Utah by  
564 the federal government;  
565 (d) receive and review plans of the various state agencies and political subdivisions  
566 relating to public improvements and programs;  
567 (e) when conflicts occur between the plans and proposals of state agencies, prepare  
568 specific recommendations for the resolution of the conflicts and submit the recommendations  
569 to the governor for a decision resolving the conflict;  
570 (f) when conflicts occur between the plans and proposals of a state agency and a  
571 political subdivision or between two or more political subdivisions, advise these entities of the  
572 conflict and make specific recommendations for the resolution of the conflict;  
573 (g) act as the governor's planning agent in planning public improvements and land use  
574 and, in this capacity, undertake special studies and investigations;  
575 (h) provide information and cooperate with the Legislature or any of its committees in  
576 conducting planning studies;  
577 (i) cooperate and exchange information with federal agencies and local, metropolitan,  
578 or regional agencies as necessary to assist with federal, state, regional, metropolitan, and local  
579 programs; ~~and~~  
580 (j) make recommendations to the governor that the planning coordinator considers  
581 advisable for the proper development and coordination of plans for state government and  
582 political subdivisions~~[-]; and~~  
583 (k) oversee and supervise the activities and duties of the public lands policy  
584 coordinator.  
585 (2) The state planning coordinator may:  
586 (a) perform regional and state planning and assist state government planning agencies  
587 in performing state planning;  
588 (b) provide planning assistance to Indian tribes regarding planning for Indian  
589 reservations; and

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

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

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

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

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

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

614 (e) establish and coordinate agreements between the state and federal land  
615 management agencies, federal natural resource management agencies, and federal natural  
616 resource regulatory agencies to facilitate state and local participation in the development,  
617 revision, and implementation of land use plans, guidelines, regulations, other instructional

618 memoranda, or similar documents proposed or promulgated for lands and natural resources  
619 administered by federal agencies; and

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

625 (4) The state planning coordinator shall comply with the requirements of Subsection  
626 63C-4-102~~(7)~~(8) before submitting any comments on a draft environmental impact statement  
627 or on an environmental assessment for a proposed land management plan, if the governor  
628 would be subject to Subsection 63C-4-102(8) if the governor were submitting the material.

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

633 (a) through the Resource Development Coordinating Committee;

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

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

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

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

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

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

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

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

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

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

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

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

659 (G) meet the needs of wildlife;

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

662 (I) meet the needs of economic development;

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

664 (K) provide for the protection of water rights;

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

669 (c) all waters of the state are:

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

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

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



- 674 (d) the state has the right to develop and use its entitlement to interstate rivers;
- 675 (e) all water rights desired by the federal government must be obtained through the  
676 state water appropriation system;
- 677 (f) land management and resource-use decisions which affect federal lands should give  
678 priority to and support the purposes of the compact between the state and the United States  
679 related to school and institutional trust lands;
- 680 (g) development of the solid, fluid, and gaseous mineral resources of the state is an  
681 important part of the economy of the state, and of local regions within the state;
- 682 (h) the state should foster and support industries that take advantage of the state's  
683 outstanding opportunities for outdoor recreation;
- 684 (i) wildlife constitutes an important resource and provides recreational and economic  
685 opportunities for the state's citizens;
- 686 (j) proper stewardship of the land and natural resources is necessary to ensure the  
687 health of the watersheds, timber, forage, and wildlife resources to provide for a continuous  
688 supply of resources for the people of the state and the people of the local communities who  
689 depend on these resources for a sustainable economy;
- 690 (k) forests, rangelands, timber, and other vegetative resources:
  - 691 (i) provide forage for livestock;
  - 692 (ii) provide forage and habitat for wildlife;
  - 693 (iii) provide resources for the state's timber and logging industries;
  - 694 (iv) contribute to the state's economic stability and growth; and
  - 695 (v) are important for a wide variety of recreational pursuits;
- 696 (l) management programs and initiatives that improve watersheds, forests, and  
697 increase forage for the mutual benefit of wildlife species and livestock, logging, and other  
698 agricultural industries by utilizing proven techniques and tools are vital to the state's economy  
699 and the quality of life in Utah; and
- 700 (m) (i) land management plans, programs, and initiatives should provide that the  
701 amount of domestic livestock forage, expressed in animal unit months, for permitted, active

702 use as well as the wildlife forage included in that amount, be no less than the maximum  
703 number of animal unit months sustainable by range conditions in grazing allotments and  
704 districts, based on an on-the-ground and scientific analysis;

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

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

712 (B) when practices described in Subsection (6)(m)(iii)(A) increase a grazing  
713 allotment's forage beyond the total permitted forage use that was allocated to that allotment in  
714 the last federal land use plan or allotment management plan still in existence as of January 1,  
715 2005, a reasonable and fair portion of the increase in forage beyond the previously allocated  
716 total permitted use should be allocated to wildlife as recommended by a joint, evenly balanced  
717 committee of livestock and wildlife representatives that is appointed and constituted by the  
718 governor for that purpose;

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

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

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

729 (vi) policies, plans, programs, initiatives, resource management plans, and forest plans

730 may not allow the placement of grazing animal unit months in a suspended use category unless  
731 there is a rational and scientific determination that the condition of the rangeland allotment or  
732 district in question will not sustain the animal unit months sought to be placed in suspended  
733 use;

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

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

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

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

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

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

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

758 planning area that provides for:

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

760 (ii) reasonable access to a broad range of resources and opportunities throughout the

761 resource planning area, including:

762 (A) livestock operations and improvements;

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

764 (C) recreational opportunities and operations, including motorized and nonmotorized

765 recreation;

766 (D) search and rescue needs;

767 (E) public safety needs; and

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

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

770 (iv) access to state lands and school and institutional trust lands to accomplish the

771 purposes of those lands.

772 (8) The state planning coordinator shall recognize and promote the following findings

773 in the preparation of any plans, policies, programs, processes, or desired outcomes relating to

774 federal lands and natural resources on federal lands pursuant to this section:

775 (a) the state's support for the addition of a river segment to the National Wild and

776 Scenic Rivers System, 16 U.S.C. Sec. 1271 et seq., will be withheld until:

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

778 (ii) it is clearly demonstrated that the required water-related value is considered

779 outstandingly remarkable within a region of comparison consisting of one of the three

780 physiographic provinces in the state, and that the rationale and justification for the

781 conclusions are disclosed;

782 (iii) it is clearly demonstrated that the inclusion of each river segment is consistent

783 with the plans and policies of the state and the county or counties where the river segment is

784 located as those plans and policies are developed according to Subsection (3);

785 (iv) the effects of the addition upon the local and state economies, agricultural and

786 industrial operations and interests, outdoor recreation, water rights, water quality, water  
787 resource planning, and access to and across river corridors in both upstream and downstream  
788 directions from the proposed river segment have been evaluated in detail by the relevant  
789 federal agency;

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

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

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

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

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

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

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

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

811 (ix) it is clearly demonstrated that the agency with management authority over the  
812 river segment commits not to use an actual or proposed designation as a basis to impose  
813 Visual Resource Management Class I or II management prescriptions that do not comply with

814 the provisions of Subsection (8)(t); and

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

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

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

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

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

830 (i) it is clearly demonstrated that the proposed area satisfies all the definitional  
831 requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec.  
832 1702(a);

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

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

841 (iv) it is clearly demonstrated that the proposed area contains relevant and important

842 historic, cultural or scenic values, fish or wildlife resources, or natural processes which are  
843 unique or substantially significant on a regional basis, or contain natural hazards which  
844 significantly threaten human life or safety;

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

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

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

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

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

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

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

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

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

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

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

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

883 (g) the resources of the forests and rangelands of the state should be integrated as part  
884 of viable, robust, and sustainable state and local economies, and available forage should be  
885 evaluated for the full complement of herbivores the rangelands can support in a sustainable  
886 manner, and forests should contain a diversity of timber species, and disease or insect  
887 infestations in forests should be controlled using logging or other best management practices;

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

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

894 (ii) permanently bars travel on existing roads;

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

897 (iv) interferes with the enjoyment and use of valid, existing rights, including water



898 rights, local transportation plan rights, R.S. 2477 rights, grazing allotment rights, and mineral  
899 leasing rights; or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

953           (A) that the authorized planning agency has:

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

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

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

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

964 (I) the relevant provisions of the Federal Land Policy and Management Act of 1976,  
965 43 U.S.C. Sec. 1701 et seq.;

966 (II) other controlling mineral development laws; and

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

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

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

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

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

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

981 (II) whether the directional drilling feasibility analysis, or analysis of other

982 management prescriptions, demonstrates that the proposed no surface occupancy prescription,  
983 in effect, sterilizes the mineral and energy resources beneath the area; and

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

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

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

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

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

998 (ii) land use management plans, programs, and initiatives should be consistent with  
999 both state and county transportation plans developed according to Subsection (3) in order to  
1000 provide a network of roads throughout the planning area that provides for:

1001 (A) movement of people, goods, and services across public lands;

1002 (B) reasonable access to a broad range of resources and opportunities throughout the  
1003 planning area, including access to livestock, water, and minerals;

1004 (C) economic and business needs;

1005 (D) public safety;

1006 (E) search and rescue;

1007 (F) access for people with disabilities and the elderly;

1008 (G) access to state lands; and

1009 (H) recreational opportunities;

1010 (q) transportation and access provisions for all other existing routes, roads, and trails  
1011 across federal, state, and school trust lands within the state should be determined and  
1012 identified, and agreements should be executed and implemented, as necessary to fully  
1013 authorize and determine responsibility for maintenance of all routes, roads, and trails;

1014 (r) the reasonable development of new routes and trails for motorized, human, and  
1015 animal-powered recreation should be implemented;

1016 (s) (i) forests, rangelands, and watersheds, in a healthy condition, are necessary and  
1017 beneficial for wildlife, livestock grazing, and other multiple-uses;

1018 (ii) management programs and initiatives that are implemented to increase forage for  
1019 the mutual benefit of the agricultural industry, livestock operations, and wildlife species  
1020 should utilize all proven techniques and tools;

1021 (iii) the continued viability of livestock operations and the livestock industry should  
1022 be supported on the federal lands within the state by management of the lands and forage  
1023 resources, by the proper optimization of animal unit months for livestock, in accordance with  
1024 the multiple-use provisions of the Federal Land Policy and Management Act of 1976, 43  
1025 U.S.C. 1701 et seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C. 315 et seq.,  
1026 and the provisions of the Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et  
1027 seq.;

1028 (iv) provisions for predator control initiatives or programs under the direction of state  
1029 and local authorities should be implemented; and

1030 (v) resource-use and management decisions by federal land management and  
1031 regulatory agencies should support state-sponsored initiatives or programs designed to  
1032 stabilize wildlife populations that may be experiencing a scientifically demonstrated decline in  
1033 those populations; and

1034 (t) management and resource use decisions by federal land management and  
1035 regulatory agencies concerning the scenic resources of the state must balance the protection of  
1036 scenery with the full management requirements of the other authorized uses of the land under  
1037 multiple-use management, and should carefully consider using Visual Resource Management

1038 Class I protection only for areas of inventoried Class A scenery or equivalent.

1039 (9) Nothing contained in this section may be construed to restrict or supersede the  
1040 planning powers conferred upon state departments, agencies, instrumentalities, or advisory  
1041 councils of the state or the planning powers conferred upon political subdivisions by any other  
1042 existing law.

1043 (10) Nothing in this section may be construed to affect any lands withdrawn from the  
1044 public domain for military purposes, which are administered by the United States Army, Air  
1045 Force, or Navy.

1046 Section 7. Section **63J-4-503** is amended to read:

1047 **63J-4-503. Planning coordinator responsibilities.**

1048 (1) The state planning coordinator shall:

1049 ~~[(1)]~~ (a) administer this part;

1050 ~~[(2)]~~ (b) subject to the direction and approval of the governor, take necessary action  
1051 for its implementation; and

1052 ~~[(3)]~~ (c) inform political subdivision representatives, in advance, of all committee  
1053 meetings.

1054 (2) The state planning coordinator may delegate the state planning coordinator's  
1055 responsibilities under this part to the Public Lands Policy Coordinating Office.

1056 Section 8. Section **63J-4-601** is amended to read:

1057 **63J-4-601. Definitions.**

1058 As used in this part:

1059 (1) "Coordinator" means the public lands policy coordinator appointed in this part.

1060 ~~[(2)] "Council" means the Public Lands Policy Coordinating Council created by this~~  
1061 ~~part.]~~

1062 ~~[(3)]~~ (2) "Office" means the Public Lands Policy Coordinating Office created by this  
1063 part.

1064 ~~[(4)]~~ (3) "Political subdivision" means a county, municipality, local district, special  
1065 service district, school district, interlocal cooperation agreement entity, or any administrative

1066 subunit of them.

1067           ~~[(5)]~~ (4) "State planning coordinator" means the person appointed under Subsection  
1068 63J-4-202(1)(a)(ii).

1069           Section 9. Section **63J-4-603** is amended to read:

1070           **63J-4-603. Powers and duties of coordinator and office.**

1071           (1) The coordinator and the office shall:

1072           (a) make a report to and provide staff assistance to the Constitutional Defense Council  
1073 created under Section 63C-4-101 concerning R.S. 2477 rights and other public lands issues  
1074 under Title 63C, Chapter 4, Constitutional Defense Council;

1075           ~~[(a)]~~ (b) ~~[assist]~~ under the direction of the state planning coordinator, assist in  
1076 fulfilling the state planning coordinator's duties outlined in Section 63J-4-401 as those duties  
1077 relate to the development of public lands policies by:

1078           (i) developing cooperative contracts and agreements between the state, political  
1079 subdivisions, and agencies of the federal government for involvement in the development of  
1080 public lands policies;

1081           (ii) producing research, documents, maps, studies, analysis, or other information that  
1082 supports the state's participation in the development of public lands policy;

1083           (iii) preparing comments to ensure that the positions of the state and political  
1084 subdivisions are considered in the development of public lands policy;

1085           (iv) partnering with state agencies and political subdivisions in an effort to:

1086           (A) prepare coordinated public lands policies;

1087           (B) develop consistency reviews and responses to public lands policies;

1088           (C) develop management plans that relate to public lands policies; and

1089           (D) develop and maintain a statewide land use plan that is based on cooperation and in  
1090 conjunction with political subdivisions; and

1091           (v) providing other information or services related to public lands policies as requested  
1092 by the state planning coordinator; ~~[and]~~

1093           ~~[(b)]~~ (c) facilitate and coordinate the exchange of information, comments, and

1094 recommendations on public lands policies between and among:

1095 (i) state agencies;

1096 (ii) political subdivisions;

1097 (iii) the Office of Rural Development created under Section 63M-1-1602;

1098 (iv) the Resource Development Coordinating Committee created under Section

1099 63J-4-501;

1100 (v) School and Institutional Trust Lands Administration created under Section

1101 53C-1-201;

1102 (vi) the committee created under Section 63F-1-508 to award grants to counties to

1103 inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

1104 (vii) the Constitutional Defense Council created under Section 63C-4-101;

1105 ~~[(e)]~~ (d) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and

1106 Title 9, Chapter 8, Part 4, Historic Sites; ~~[and]~~

1107 ~~[(d)]~~ (e) consistent with other statutory duties, encourage agencies to responsibly

1108 preserve archaeological resources[-];

1109 ~~[(2) In providing assistance to the state planning coordinator under Subsection (1)(a);~~

1110 ~~the coordinator and office shall take into consideration the:]~~

1111 ~~[(a) findings provided under Subsections 63J-4-401(6) and (7); and]~~

1112 ~~[(b) recommendations of the council.]~~

1113 (f) maintain information concerning grants made under Subsection (1)(h), if available;

1114 (g) report annually, or more often if necessary or requested, concerning the office's

1115 activities and expenditures to:

1116 (i) the Constitutional Defense Council; and

1117 (ii) the Legislature's Natural Resources, Agriculture, and Environment Interim

1118 Committee jointly with the Constitutional Defense Council; and

1119 (h) make grants of up to 16% of the office's total annual appropriations from the

1120 Constitutional Defense Restricted Account to a county or statewide association of counties to

1121 be used by the county or association of counties for public lands matters if the coordinator,



1122 with the advice of the Constitutional Defense Council, determines that the action provides a  
1123 state benefit.

1124 (2) The coordinator and office shall comply with Subsection 63C-4-102(8) before  
1125 submitting a comment to a federal agency, if the governor would be subject to Subsection  
1126 63C-4-102(8) if the governor were submitting the material.

1127 (3) The office may enter into a contract or other agreement with another state agency  
1128 to provide information and services related to:

1129 (a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and  
1130 Classification Act;

1131 (b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and  
1132 Classification Act, or R.S. 2477 matters; or

1133 (c) any other matter within the office's responsibility.

1134 **Section 10. Repealer.**

1135 This bill repeals:

1136 Section **63J-4-604, Public Lands Policy Coordinating Council -- Creation --**  
1137 **Membership -- Funding.**

1138 Section **63J-4-605, Council duties.**