DEPARTMENT OF NATURAL RESOURCES						
AMENDMENTS						
2010 GENERAL SESSION						
STATE OF UTAH						
Chief Sponsor: Jack R. Draxler						
Senate Sponsor: Kevin T. Van Tassell						
LONG TITLE						
General Description:						
This bill amends provisions related to the Department of Natural Resources and its						
powers and duties.						
Highlighted Provisions:						
This bill:						
 provides that a part-time volunteer may be a conservation officer; 						
 reduces the age requirement for a falconry license from 14 years of age to 12 years 						
of age;						
addresses the use and possession of alcohol while boating;						
removes duplicate requirements concerning:						
 operation of a boat at wakeless speed; and 						
 navigation lights on boats; 						
 changes the calculation and use of user fees on golf courses located in state parks; 						
 changes the membership of the Recreational Trails Advisory Council; and 						
makes technical changes.						
Monies Appropriated in this Bill:						
None						
Other Special Clauses:						
None						



28	Utah Code Sections Affected:						
29	AMENDS:						
30	23-13-2, as last amended by Laws of Utah 2008, Chapter 69						
31	23-19-34.5, as last amended by Laws of Utah 2007, Chapter 187						
32	23-19-34.7, as last amended by Laws of Utah 2001, Chapter 22						
33	41-6a-526, as renumbered and amended by Laws of Utah 2005, Chapter 2						
34	73-18-8, as last amended by Laws of Utah 1995, Chapter 112						
35	73-18-15.1, as last amended by Laws of Utah 2008, Chapter 94						
36	79-4-403, as renumbered and amended by Laws of Utah 2009, Chapter 344						
37	79-5-202, as renumbered and amended by Laws of Utah 2009, Chapter 344						
38 39	Be it enacted by the Legislature of the state of Utah:						
40	Section 1. Section 23-13-2 is amended to read:						
41	23-13-2. Definitions.						
42	As used in this title:						
43	(1) "Activity regulated under this title" means any act, attempted act, or activity						
44	prohibited or regulated under any provision of Title 23, Wildlife Resources Code of Utah, or						
45	the rules, and proclamations promulgated thereunder pertaining to protected wildlife including:						
46	(a) fishing;						
47	(b) hunting;						
48	(c) trapping;						
49	(d) taking;						
50	(e) permitting any dog, falcon, or other domesticated animal to take;						
51	(f) transporting;						
52	(g) possessing;						
53	(h) selling;						
54	(i) wasting;						
55	(j) importing;						
56	(k) exporting;						
57	(l) rearing;						
58	(m) keeping;						

59	(n) utilizing as a commercial venture; and					
60	(o) releasing to the wild.					
61	(2) "Aquatic animal" has the meaning provided in Section 4-37-103.					
62	(3) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or					
63	amphibians.					
64	(4) "Aquaculture facility" has the meaning provided in Section 4-37-103.					
65	(5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife					
66	that one person may legally take during one day.					
67	(6) "Big game" means species of hoofed protected wildlife.					
68	(7) "Carcass" means the dead body of an animal or its parts.					
69	(8) "Certificate of registration" means a document issued under this title, or any rule or					
70	proclamation of the Wildlife Board granting authority to engage in activities not covered by a					
71	license, permit, or tag.					
72	(9) "Closed season" means the period of time during which the taking of protected					
73	wildlife is prohibited.					
74	(10) "Conservation officer" means a [full-time,] permanent employee or volunteer of					
75	the Division of Wildlife Resources who is POST certified as a peace or a special function					
76	officer.					
77	(11) "Dedicated hunter program" means a program that provides:					
78	(a) expanded hunting opportunities;					
79	(b) opportunities to participate in projects that are beneficial to wildlife; and					
80	(c) education in hunter ethics and wildlife management principles.					
81	(12) "Division" means the Division of Wildlife Resources.					
82	(13) (a) "Domicile" means the place:					
83	(i) where an individual has a fixed permanent home and principal establishment;					
84	(ii) to which the individual if absent, intends to return; and					
85	(iii) in which the individual, and the individual's family voluntarily reside, not for a					
86	special or temporary purpose, but with the intention of making a permanent home.					
87	(b) To create a new domicile an individual must:					

(ii) be able to prove that a new domicile has been established.

(i) abandon the old domicile; and

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90 (14) "Endangered" means wildlife designated as [such] endangered according to Section 3 of the federal Endangered Species Act of 1973.

- (15) "Fee fishing facility" has the meaning provided in Section 4-37-103.
- 93 (16) "Feral" means an animal [which] that is normally domesticated but has reverted to the wild.
- 95 (17) "Fishing" means to take fish or crayfish by any means.

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- 96 (18) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and Castoridae families, except coyote and cougar.
- 98 (19) "Game" means wildlife normally pursued, caught, or taken by sporting means for 99 human use.
 - (20) [(a)] "Guide" means a person who receives compensation or advertises services for assisting another person to take protected wildlife[. (b) Assistance under Subsection (20)(a) includes], including the provision of food, shelter, or transportation, or any combination of these.
 - (21) "Guide's agent" means a person who is employed by a guide to assist another person to take protected wildlife.
- 106 (22) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any means.
 - (23) "Intimidate or harass" means to physically interfere with or impede, hinder, or diminish the efforts of an officer in the performance of the officer's duty.
 - (24) "Nonresident" means a person who does not qualify as a resident.
- 111 (25) "Open season" means the period of time during which protected wildlife may be legally taken.
 - (26) "Pecuniary gain" means the acquisition of money or something of monetary value.
 - (27) "Permit" means a document, including a stamp, [which] that grants authority to engage in specified activities under this title or a rule or proclamation of the Wildlife Board.
- 116 (28) "Person" means an individual, association, partnership, government agency, 117 corporation, or an agent of the foregoing.
- 118 (29) "Possession" means actual or constructive possession.
- 119 (30) "Possession limit" means the number of bag limits one individual may legally possess.

(31) (a) "Private fish pond" means a body of water where privately owned, protected					
aquatic wildlife are propagated or kept for a noncommercial purpose.					
(b) "Private fish pond" does not include [any] an aquaculture facility or fee fishing					
facility.					
(32) "Private wildlife farm" means an enclosed place where privately owned birds or					
furbearers are propagated or kept and that restricts the birds or furbearers from:					
(a) commingling with wild birds or furbearers; and					
(b) escaping into the wild.					
(33) "Proclamation" means the publication used to convey a statute, rule, policy, or					
pertinent information as it relates to wildlife.					
(34) (a) "Protected aquatic wildlife" means aquatic wildlife as defined in Subsection					
(3), except as provided in Subsection (34)(b).					
(b) "Protected aquatic wildlife" does not include aquatic insects.					
(35) (a) "Protected wildlife" means wildlife as defined in Subsection (49), except as					
provided in Subsection (35)(b).					
(b) "Protected wildlife" does not include coyote, field mouse, gopher, ground squirrel,					
jack rabbit, muskrat, and raccoon.					
(36) "Released to the wild" means to be turned loose from confinement.					
(37) (a) "Resident" means a person who:					
(i) has been domiciled in the state for six consecutive months immediately preceding					
the purchase of a license; and					
(ii) does not claim residency for hunting, fishing, or trapping in any other state or					
country.					
(b) A Utah resident retains Utah residency if that person leaves this state:					
(i) to serve in the armed forces of the United States or for religious or educational					
purposes; and					
(ii) the person complies with Subsection (37)(a)(ii).					
(c) (i) A member of the armed forces of the United States and dependents are residents					
for the purposes of this chapter as of the date the member reports for duty under assigned					
orders in the state if the member:					

(A) is not on temporary duty in this state; and

(B) complies with Subsection (37)(a)(ii).

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- 153 (ii) A copy of the assignment orders must be presented to a wildlife division office to 154 verify the member's qualification as a resident.
 - (d) A nonresident attending an institution of higher learning in this state as a full-time student may qualify as a resident for purposes of this chapter if the student:
 - (i) has been present in this state for 60 consecutive days immediately preceding the purchase of the license; and
 - (ii) complies with Subsection (37)(a)(ii).
 - (e) A Utah resident license is invalid if a resident license for hunting, fishing, or trapping is purchased in any other state or country.
- 162 (f) An absentee landowner paying property tax on land in Utah does not qualify as a resident.
- 164 (38) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging, or trading.
 - (39) "Small game" means species of protected wildlife:
 - (a) commonly pursued for sporting purposes; and
- (b) not classified as big game, aquatic wildlife, or furbearers and excluding turkey,cougar, and bear.
 - (40) "Spoiled" means impairment of the flesh of wildlife which renders it unfit for human consumption.
 - (41) "Spotlighting" means throwing or casting the rays of any spotlight, headlight, or other artificial light on any highway or in any field, woodland, or forest while having in possession a weapon by which protected wildlife may be killed.
 - (42) "Tag" means a card, label, or other identification device issued for attachment to the carcass of protected wildlife.
 - (43) "Take" means to:
- 178 (a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill any protected 179 wildlife; or
- (b) attempt any action referred to in Subsection (43)(a).
- 181 (44) "Threatened" means wildlife designated as such pursuant to Section 3 of the 182 federal Endangered Species Act of 1973.

183	(45) "Trapping" means taking protected wildlife with a trapping device.
184	(46) "Trophy animal" means an animal described as follows:
185	(a) deer - $[any]$ <u>a</u> buck with an outside antler measurement of 24 inches or greater;
186	(b) elk - [any] a bull with six points on at least one side;
187	(c) bighorn, desert, or rocky mountain sheep - [any] a ram with a curl exceeding half
188	curl;
189	(d) moose - $[any]$ <u>a</u> bull with at least one antler exceeding five inches in length;
190	(e) mountain goat - [any] a male or female;
191	(f) pronghorn antelope - [any] a buck with horns exceeding 14 inches; or
192	(g) bison - [any] <u>a</u> bull.
193	(47) "Waste" means to abandon protected wildlife or to allow protected wildlife to
194	spoil or to be used in a manner not normally associated with its beneficial use.
195	(48) "Water pollution" means the introduction of matter or thermal energy to waters
196	within this state [which] that:
197	(a) exceeds state water quality standards; or
198	(b) could be harmful to protected wildlife.
199	(49) "Wildlife" means:
200	(a) crustaceans, including brine shrimp and crayfish;
201	(b) mollusks; and
202	(c) vertebrate animals living in nature, except feral animals.
203	Section 2. Section 23-19-34.5 is amended to read:
204	23-19-34.5. Falconry certificate of registration Residents 12 or older may
205	obtain certificate of registration License for falconry meet for nonresidents Wildlife
206	Board approval required for falconry meet Hunting license required to take protected
207	game.
208	(1) [Any] \underline{A} resident [14] $\underline{12}$ years of age or older, upon application to the division,
209	may obtain a certificate of registration to hold falcons and engage in the sport of falconry on
210	nongame wildlife species.
211	(2) A nonresident entering Utah to participate in the sport of falconry at an organized
212	meet shall obtain a license as provided in Section 23-19-34.7.

(3) Organizers of a falconry meet [must] shall apply to and receive approval from the

214 Wildlife Board in order to conduct an organized falconry meet. 215 (4) (a) Any person engaging in the sport of falconry on protected small game species 216 shall possess, in addition to the falconry certificate of registration, a hunting license. 217 (b) Any nonresident who has been issued a license pursuant to Section 23-19-34.7 is 218 not required to possess a hunting license in order to take small game during the five-day period 219 of the license. 220 Section 3. Section **23-19-34.7** is amended to read: 221 23-19-34.7. Nonresident falconry meet license. 222 (1) A nonresident [14] 12 years of age or older may participate in a falconry meet in 223 this state upon payment of a fee prescribed by the Wildlife Board. 224 (2) (a) A nonresident falconry meet license [shall be] is valid only for five consecutive 225 days, the dates to be designated on the license. 226 (b) The holder of the license may engage in the sport of falconry on nongame wildlife 227 species and small game species, during the specified five-day period. 228 Section 4. Section **41-6a-526** is amended to read: 229 41-6a-526. Drinking alcoholic beverage and open containers in motor vehicle 230 prohibited -- Definitions -- Exceptions. 231 (1) As used in this section: 232 (a) "Alcoholic beverage" has the same meaning as defined in Section 32A-1-105. 233 (b) "Chartered bus" has the same meaning as defined in Section 32A-1-105. 234 (c) "Limousine" has the same meaning as defined in Section 32A-1-105. 235 (d) (i) "Passenger compartment" means the area of the vehicle normally occupied by 236 the operator and passengers. 237 (ii) "Passenger compartment" includes areas accessible to the operator and passengers 238 while traveling, including a utility or glove compartment. 239 (iii) "Passenger compartment" does not include a separate front or rear trunk 240 compartment or other area of the vehicle not accessible to the operator or passengers while 241 inside the vehicle.

(e) "Waters of the state" has the same meaning as defined in Section 73-18-2.

while a passenger in a motor vehicle, whether the vehicle is moving, stopped, or parked on any

(2) A person may not drink any alcoholic beverage while operating a motor vehicle or

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United States Coast Guard.

245	highway or waters of the state.
246	(3) A person may not keep, carry, possess, transport, or allow another to keep, carry,
247	possess, or transport in the passenger compartment of a motor vehicle, when the vehicle is on
248	any highway or waters of the state, any container which contains any alcoholic beverage if the
249	container has been opened, its seal broken, or the contents of the container partially consumed.
250	(4) Subsections (2) and (3) do not apply to a passenger:
251	(a) in the living quarters of a motor home or camper;
252	(b) who has carried an alcoholic beverage onto a limousine or chartered bus that is in
253	compliance with Subsections 32A-12-213(3)(b) and (c); or
254	(c) in a motorboat [or] on the waters of [this] the state [as these terms are defined in
255	Section 73-18-2].
256	(5) Subsection (3) does not apply to passengers traveling in any licensed taxicab or bus.
257	Section 5. Section 73-18-8 is amended to read:
258	73-18-8. Safety equipment required to be on board vessels.
259	(1) (a) Except as provided in Subsection (1)(c), each vessel shall have, for each person
260	on board, one personal flotation device [which] that is approved for the type of use by the
261	commandant of the United States Coast Guard.
262	(b) Each personal flotation device shall be:
263	(i) in serviceable condition;
264	(ii) legally marked with the United States Coast Guard approval number; and
265	(iii) of an appropriate size for the person for whom it is intended.
266	(c) (i) Sailboards are exempt from the provisions of Subsection (1)(a).
267	(ii) The board may exempt certain types of vessels from the provisions of Subsection
268	(1)(a) under certain conditions or upon certain waters.
269	(d) The board may require by rule for personal flotation devices to be worn:
270	(i) while a person is on board a certain type of vessel;
271	(ii) by a person under a certain age; or
272	(iii) on certain waters of the state.
273	(e) For vessels 16 feet or more in length, there shall also be on board, one Type IV

throwable personal flotation device which is approved for this use by the commandant of the

(2) [Each vessel shall display navigation lights when the vessel is on the waters of this state between sunset and sunrise.] The operator of a vessel operated between sunset and sunrise shall display lighted navigation lights approved by the division. (3) If a vessel is not entirely open and it carries or uses any flammable or toxic fluid in any enclosure for any purpose, the vessel [must] shall be equipped with an efficient natural or mechanical ventilation system [which] that is capable of removing resulting gases [prior to] before and during the time the vessel is occupied by any person. (4) Each vessel shall have fire extinguishing equipment on board. (5) Any inboard gasoline engine shall be equipped with a carburetor backfire flame control device. (6) The board may: (a) require additional safety equipment by rule; and (b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment. (7) A person may not operate or give permission for the operation of a vessel [which] that is not equipped as required by this section or rules promulgated under this section. Section 6. Section **73-18-15.1** is amended to read: 73-18-15.1. Vessel navigation and steering laws. (1) The operator of a vessel shall maintain a proper lookout by sight and hearing at all times to avoid the risk of collision. (2) When the operators of two motorboats approach each other where there is risk of collision, each operator shall alter course to the right and pass on the left side of the other. (3) When the operators of two motorboats are crossing paths and are at risk of a collision, the operator of the vessel [which] that has the other vessel on its right side shall keep out of the way and yield right-of-way if necessary. (4) The operator of any vessel overtaking any other vessel shall keep out of the way of the vessel being overtaken.

- (5) The operator of a vessel underway shall keep out of the way of a:
- (a) vessel not under command;
- (b) vessel restricted in its ability to maneuver;
- 306 (c) vessel engaged in fishing; and

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[(vii)] (g) a launching ramp;

307	(d) sailing vessel.					
308	(6) If the operator of one of two vessels is to keep out of the way, the other vessel					
309	operator shall maintain his course and speed unless it becomes apparent the other vessel is not					
310	taking the appropriate action.					
311	(7) In narrow channels an operator of a vessel underway shall keep to the right of the					
312	middle of the channel.					
313	(8) The operator of a vessel shall proceed at a safe speed at all times so that [he] the					
314	operator can take proper and effective action to avoid collision and be stopped within a					
315	distance appropriate to the prevailing circumstances or conditions.					
316	(9) (a) When the operators of two sailboats are approaching one another so as to					
317	involve risk of collision, one of the operators shall keep out of the way of the other as follows:					
318	(i) when each has the wind on a different side, the operator of the vessel [which] that					
319	has the wind on the left side shall keep out of the way of the other;					
320	(ii) when both have the wind on the same side, the operator of the vessel [which] that is					
321	to the windward shall keep out of the way of the vessel [which] that is to leeward; and					
322	(iii) if the operator of a vessel with the wind on the left side sees a vessel to windward					
323	and cannot determine with certainty whether the other vessel has the wind on the left or on the					
324	right side, the operator shall keep out of way of the other vessel.					
325	(b) For purposes of this Subsection (9), the windward side shall be the side opposite					
326	that on which the mainsail is carried.					
327	(10) The operator of any vessel may not exceed a wakeless speed when [: (a)] within					
328	150 feet of:					
329	[(i)] <u>(a)</u> another vessel;					
330	[(ii)] (b) a person in or floating on the water;					
331	[(iii)] (c) a water skier being towed by another boat;					
332	[(iv)] (d) a water skier that had been towed behind the operator's vessel unless the skier					
333	is still surfing or riding in an upright stance on the wake created by the vessel;					
334	[(v)] (e) a water skier that had been towed behind another vessel and the skier is still					
335	surfing or riding in an upright stance on the wake created by the other vessel;					
336	[(vi)] <u>(f)</u> a shore fisherman;					

338	[(viii)] (h) a dock; or					
339	[(ix)] (i) a designated swimming area[; or].					
340	[(b) in an area designated as a wakeless speed area.]					
341	(11) The operator of a motorboat is responsible for any damage or injury caused by the					
342	wake produced by the operator's motorboat.					
343	(12) (a) Except as provided in Subsection (12)(b), the operator of a motorboat that is					
344	less than 65 feet in length may not exceed a wakeless speed while any person is riding upon the					
345	bow decking, gunwales, transom, seatbacks, or motor cover.					
346	(b) Subsection (12)(a) does not apply if the motorboat is:					
347	(i) between 16 feet and 65 feet in length; and					
348	(ii) the motorboat is equipped with adequate rails or other safeguards to prevent a					
349	person from falling overboard.					
350	(13) If a person is riding upon the bow decking of a motorboat [which] that does not					
351	have designed seating for passengers, the person shall straddle one of the upright supports of					
352	the bow rail and may not block the vision of the operator.					
353	(14) The operator of a vessel may not tow a water skier or a person on another device:					
354	(a) unless an onboard observer, who is at least eight years of age, is designated by the					
355	operator to watch the person being towed; or					
356	(b) between sunset and sunrise.					
357	[(15) The operator of a vessel being operated between sunset and sunrise shall display					
358	lighted navigation lights approved by the division.]					
359	[(16)] (15) A person who violates this section is guilty of a class C misdemeanor.					
360	Section 7. Section 79-4-403 is amended to read:					
361	79-4-403. User fees for golf Wasatch Mountain, Palisade, and Jordan River					
362	State Parks.					
363	(1) The following user fees are assessed in the following parks for playing nine holes					
364	of golf:					
365	(a) [\$1.50] 15% of the green fees at Wasatch Mountain State Park;					
366	(b) [\$1.50] 15% of the green fees at Palisade State Park; and					
367	(c) [\$1.50] 15% of the green fees at Green River State Park.					
368	(2) The fee in Subsection (1) is:					

369	(a) in addition to the fee set by the board; and					
370	(b) to be used at the park where the money is collected for:					
371	(i) the upgrade or development of facilities; or					
372	(ii) the purchase of golf course operation and maintenance equipment and operating					
373	supplies or materials.					
374	(3) The revenue from the fees established in Subsection (1) are nonlapsing.					
375	Section 8. Section 79-5-202 is amended to read:					
376	79-5-202. Council membership Expenses.					
377	(1) The council shall consist of [nine] 10 members knowledgeable about					
378	muscle-powered recreational activities as follows:					
379	(a) five members shall represent the public at large;					
380	(b) one member, nominated by the Utah League of Cities and Towns, shall represent					
381	city government;					
382	(c) one member, nominated by the Utah Association of Counties, shall represent					
383	county government;					
384	(d) one member shall represent the United States Forest Service; [and]					
385	(e) one member shall represent the Bureau of Land Management[:]; and					
386	(f) one member shall represent the National Park Service's River, Trails, and					
387	Conservation Assistance Program.					
388	(2) (a) Except as required by Subsection (2)(b), as terms of current council members					
389	expire, the division shall appoint each new member or reappointed member to a four-year term.					
390	(b) Notwithstanding the requirements of Subsection (2)(a), the division shall, at the					
391	time of appointment or reappointment, adjust the length of terms to ensure that the terms of					
392	council members are staggered so that approximately half of the council is appointed every two					
393	years.					
394	(3) The council shall elect annually a chair and a vice chair from its members.					
395	(4) When a vacancy occurs in the membership for any reason, the division shall					
396	appoint the replacement for the unexpired term.					
397	(5) (a) (i) A member who is not a government employee may not receive compensation					
398	or benefits for the member's service, but may receive per diem and expenses incurred in the					
399	performance of the member's official duties at the rates established by the Division of Finance					

400 under Sections 63A-3-106 and 63A-3-107.

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(ii) A member may decline to receive per diem and expenses for the member's service.

- (b) (i) A state government officer and employee member who does not receive salary, per diem, or expenses from the agency the member represents for the member's service may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (ii) A state government officer and employee member may decline to receive per diem and expenses for the member's service.
- (c) (i) A local government member who does not receive salary, per diem, or expenses from the entity that the member represents for the member's service may receive per diem and expenses incurred in the performance of the member's official duties at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- (ii) A local government member may decline to receive per diem and expenses for the member's service.

Legislative Review Note as of 1-21-10 5:31 PM

Office of Legislative Research and General Counsel

H.B. 240 - Department of Natural Resources Amendments

Fiscal Note

2010 General Session State of Utah

State Impact

Enactment of this bill will generate additional restricted revenues for the Division of Parks and Recreation as follows: \$4,000 for FY 2010 and \$16,300 for FY 2011 and thereafter.

	FY 2010 <u>Approp.</u>	FY 2011 <u>Approp.</u>	FY 2012 <u>Approp.</u>		FY 2011 Revenue	FY 2012 Revenue
				<u>Revenue</u>		
Restricted Funds	\$0	\$0	\$0	\$4 ()()()	310.300	\$10,300
Total	\$0	\$0	50	\$4,000	\$16,300	\$16,300
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Individual, Business and/or Local Impact

Enacting this bill likely will not result in direct, measurable costs and/or benefits for businesses or local governments. Individuals may incur additional costs for golf play.

1/29/2010, 11:42:32 AM, Lead Analyst: Djambov, I./Attny: CRP

Office of the Legislative Fiscal Analyst