

Senator Lyle W. Hillyard proposes the following substitute bill:

**BIOPROSPECTING**

2010 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Lyle W. Hillyard**

House Sponsor: Fred R Hunsaker

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to state lands to address requirements related to bioprospecting.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Utah Bioprospecting Act, including:
  - defining terms;
  - providing for the scope of the chapter;
  - requiring registration;
  - providing for the state's reservation of economic rights; and
  - providing for penalties.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**65A-14-101**, Utah Code Annotated 1953





57 (a) is not owned, controlled, or held in trust by the federal government; and

58 (b) (i) is owned or controlled by:

59 (A) the state;

60 (B) a county, city, or town; or

61 (C) a governmental entity other than the federal government; or

62 (ii) is school and institutional trust lands, as defined in Section 53C-1-103.

63 Section 3. Section **65A-14-103** is enacted to read:

64 **65A-14-103. Scope of chapter.**

65 (1) This chapter does not modify or replace any other requirement under federal, state ~~§~~, ~~↔~~↔  
66 or local law related to an act that under this chapter is considered bioprospecting, including any  
67 requirement to obtain the permission of a landowner.

68 (2) This chapter applies only to non-federal public land.

69 Section 4. Section **65A-14-104** is enacted to read:

70 **65A-14-104. Rulemaking.**

71 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
72 division may make rules necessary to fulfill the purposes of this chapter.

73 Section 5. Section **65A-14-201** is enacted to read:

74 **Part 2. Registration for Bioprospecting**

75 **65A-14-201. Registration for bioprospecting.**

76 (1) (a) On and after July 1, 2011, before engaging in an act of bioprospecting ~~§~~, ~~↔~~↔ ~~↔~~ a  
76a person  
77 shall register with the division.

78 (b) A registration under this chapter expires on June 30 of each year.

79 (2) To register with the division or renew a registration, a person shall:

80 (a) submit a registration form created by the division in accordance with Subsection  
81 (3); and

82 (b) pay a fee established by the division in accordance with Section 63J-1-504.

83 (3) The division shall create, by rule made in accordance with Title 63G, Chapter 3,  
83a **↔ Utah ↔**

84 Administrative Rulemaking Act, a registration form for purposes of this chapter that includes:

85 (a) notice of the state's reservation of economic interests provided in Section  
86 65A-14-202;

87 (b) a statement to be signed by a person who registers that states that the person agrees

88 to negotiate as described in Section 65A-14-202; and

89 (c) a requirement that the person lists the locations at which the person anticipates  
90 bioprospecting during the 12-month period of the registration.

91 Section 6. Section **65A-14-202** is enacted to read:

92 **65A-14-202. Reservation of economic interests -- Agreement to negotiate in good**  
93 **faith.**

94 (1) The right of a person to engage in an act of bioprospecting in this state is subject to  
95 the state's reservation of any right the state may have to an economic benefit derived from:

96 (a) the act of ~~§~~→ [bioprospecting] bioprospecting ←~~§~~ ;

97 (b) a microorganism, plant, or ~~§~~→ [fungi] fungus ←~~§~~ removed from a natural environment  
97a in the state;

98 or

99 (c) information concerning a microorganism's, plant's, or fungus' physical or genetic  
100 properties removed from a natural environment in the state.

101 (2) A person may not engage in an act of bioprospecting in this state if the person, as  
102 part of the registration required under Section 65A-14-201, does not agree in writing to  
103 negotiate in good faith with the state if the state asserts an economic interest described in  
104 Subsection (1).

105 Section 7. Section **65A-14-301** is enacted to read:

106 **Part 3. Penalties**

107 **65A-14-301. Economic benefits of bioprospecting denied.**

108 (1) A person who engages in an act of bioprospecting in violation of this chapter is  
109 guilty of criminal trespass punishable in accordance with Section 76-6-206.

110 (2) If found guilty of a violation under this chapter, a court may in addition to a penalty  
111 imposed under Section 76-6-206 ~~§~~→ , ←~~§~~ order restitution that is proportional to the economic  
111a interests

112 the state may have under Section 65A-14-202.

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**S.B. 51 1st Sub. (Green) - Bioprospecting**

**Fiscal Note**

2010 General Session  
State of Utah

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**State Impact**

Enactment of this bill will not require additional appropriations.

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**Individual, Business and/or Local Impact**

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.

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