

Senator Ralph Okerlund proposes the following substitute bill:

**STATE OF UTAH RESOURCE MANAGEMENT PLAN FOR
FEDERAL LANDS**

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ralph Okerlund

House Sponsor: _____

Cosponsors:
David P. Hinkins

Dennis E. Stowell

Kevin T. Van Tassell

LONG TITLE

General Description:

This bill establishes a state land use planning and management program.

Highlighted Provisions:

This bill:

- ▶ provides definitions, including the lands subject to the state land use planning and management program; and
- ▶ adopts a multiple use policy for the specified lands, including:
 - opposing the federal designation, management, or treatment of specified lands in a manner that resembles wilderness or wilderness study areas, including the use of the non-impairment standard applicable to wilderness study areas;
 - achieving and maintaining at the highest reasonably sustainable levels a continuing yield of energy, hard rock, and natural resources in specified lands;
 - achieving and maintaining livestock grazing in the specified lands at the highest reasonably sustainable levels;
 - managing the watershed in the specific lands to achieve and maintain water



26 resources at the highest reasonably sustainable levels;

27 • achieving and maintaining traditional access to outdoor recreational
28 opportunities in the specified lands;

29 • managing the specified lands so as to protect prehistoric rock art, artifacts, and
30 other culturally important items found on the specified lands;

31 • managing the specified lands so as not to interfere with the property rights of
32 adjacent property owners;

33 • managing the specified lands so as not to interfere with school trust lands; and

34 • discouraging a federal classification of specified lands as areas of critical
35 environmental concern or areas with visual resource management class I or II
36 rating.

37 **Money Appropriated in this Bill:**

38 None

39 **Other Special Clauses:**

40 This bill provides an immediate effective date.

41 **Utah Code Sections Affected:**

42 ENACTS:

43 **63J-8-101**, Utah Code Annotated 1953

44 **63J-8-102**, Utah Code Annotated 1953

45 **63J-8-103**, Utah Code Annotated 1953

46 **63J-8-104**, Utah Code Annotated 1953

47 **63J-8-105**, Utah Code Annotated 1953

48 **63J-8-106**, Utah Code Annotated 1953



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

51 Section 1. Section **63J-8-101** is enacted to read:

52 **CHAPTER 8. STATE OF UTAH RESOURCE MANAGEMENT PLAN FOR**
53 **FEDERAL LANDS**

54 **63J-8-101. Title.**

55 This chapter is known as "State of Utah Resource Management Plan for Federal
56 Lands."

57 Section 2. Section **63J-8-102** is enacted to read:

58 **63J-8-102. Definitions.**

59 As used in this chapter:

60 (1) "ACEC" means an area of critical environmental concern.

61 (2) "AUM" means animal unit months, a unit of grazing forage.

62 (3) "BLM" means the United States Bureau of Land Management.

63 (4) "FLPMA" means the Federal Land Policy Management Act of 1976, 43 U.S.C. Sec.
64 1701 et seq.

65 (5) "Forest service" means the United States Forest Service within the United States
66 Department of Agriculture.

67 (6) "Multiple use" means proper stewardship of the subject lands pursuant to Section
68 1031(C) of FLPMA, 43 U.S.C. 170(C).

69 (7) "OHV" means off-highway vehicle as defined in Section 41-22-2.

70 (8) "SITLA" means the School and Institutional Trust Lands Administration as created
71 in Section 53C-1-201.

72 (9) (a) "Subject lands" means the following non-WSA BLM lands:

73 (i) in Beaver County:

74 (A) Mountain Home Range South, Jackson Wash, The Toad, North Wah Wah
75 Mountains, Central Wah Wah Mountains, and San Francisco Mountains according to the
76 region map entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal
77 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
78 existed on February 17, 2011; and

79 (B) White Rock Range, South Wah Wah Mountains, and Granite Peak according to the
80 region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal for
81 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
82 existed on February 17, 2011;

83 (ii) in Box Elder County: Little Goose Creek, Grouse Creek Mountains North, Grouse
84 Creek Mountains South, Bald Eagle Mountain, Central Pilot Range, Pilot Peak, Crater Island
85 West, Crater Island East, Newfoundland Mountains, and Grassy Mountains North according to
86 the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's Proposal
87 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage

88 existed on February 17, 2011;

89 (iii) in Carbon County: Desbrough Canyon and Turtle Canyon according to the region
90 map entitled "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in
91 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
92 February 17, 2011;

93 (iv) in Daggett County: Goslin Mountain, Home Mountain, Red Creek Badlands,
94 O-wi-yu-kuts, Lower Flaming Gorge, Crouse Canyon, and Diamond Breaks according to the
95 region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for
96 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
97 existed on February 17, 2011;

98 (v) in Duchesne County: Desbrough Canyon according to the region map entitled
99 "Book Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
100 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
101 2011;

102 (vi) in Emery County:

103 (A) San Rafael River and Sweetwater Reef, according to the region map entitled
104 "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness in
105 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
106 February 17, 2011;

107 (B) Flat Tops according to the region map entitled "Glen Canyon", which is available
108 by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for
109 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
110 existed on February 17, 2011; and

111 (C) Price River, Lost Spring Wash, Eagle Canyon, Upper Muddy Creek, Molen Reef,
112 Rock Canyon, Mussentuchit Badland, and Muddy Creek, according to the region map entitled
113 "San Rafael Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah"
114 at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
115 2011;

116 (vii) in Garfield County:

117 (A) Pole Canyon, according to the region map entitled "Great Basin South" linked in
118 the webpage entitled "Citizen's Proposal for Wilderness in Utah" at

119 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
120 2011;

121 (B) Dirty Devil, Fiddler Butte, Little Rockies, Cane Spring Desert, and Cane Spring
122 Desert Adjacents, according to the region map entitled "Glen Canyon", which is available by
123 clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's Proposal for
124 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
125 existed on February 17, 2011;

126 (C) Lampstand, Wide Hollow, Steep Creek, Brinkerhof Flats, Little Valley Canyon,
127 Death Hollow, Studhorse Peaks, Box Canyon, Heaps Canyon, North Escalante Canyon, Colt
128 Mesa, East of Bryce, Slopes of Canaan Peak, Horse Spring Canyon, Muley Twist Flank,
129 Pioneer Mesa, Slopes of Bryce, Blue Hills, Mud Springs Canyon, Carcass Canyon, Willis
130 Creek North, Kodachrome Basin, and Kodachrome Headlands, according to the region map
131 entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's Proposal for
132 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
133 existed on February 17, 2011; and

134 (D) Notom Bench, Mount Ellen, Bull Mountain, Dogwater Creek, Ragged Mountain,
135 Mount Pennell, Mount Hillers, Bullfrog Creek, and Long Canyon, according to the region map
136 entitled "Henry Mountains" linked at the webpage entitled "Citizen's Proposal for Wilderness
137 in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
138 February 17, 2011;

139 (viii) in Iron County: Needle Mountains, Steamboat Mountain, Broken Ridge, Paradise
140 Mountains, Crook Canyon, Hamlin, North Peaks, Mount Escalante, and Antelope Ridge,
141 according to the region map entitled "Great Basin South" linked in the webpage entitled
142 "Citizen's Proposal for Wilderness in Utah" at
143 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
144 2011;

145 (ix) in Juab County: Deep Creek Mountains, Essex Canyon, Kern Mountains, Wild
146 Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Fish
147 Springs Ridge, Thomas Range, Drum Mountains, Dugway Mountains, Keg Mountains West,
148 Keg Mountains East, Lion Peak, and Rockwell Little Sahara, according to the region map
149 entitled "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for

150 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
151 existed on February 17, 2011;

152 (x) in Kane County:

153 (A) Willis Creek North, Willis Creek, Kodachrome Badlands, Mud Springs Canyon,
154 Carcass Canyon, Scorpion, Bryce Boot, Paria-Hackberry Canyons, Fiftymile Canyon,
155 Hurricane Wash, Upper Kanab Creek, Timber Mountain, Nephi Point, Paradise Canyon,
156 Wahweap Burning Hills, Fiftymile Bench, Forty Mile Gulch, Sooner Bench 1, 2, & 3, Rock
157 Cove, Warm Bench, Andalex Not, Vermillion Cliffs, Ladder Canyon, The Cockscomb, Nipple
158 Bench, Moquith Mountain, Bunting Point, Glass Eye Canyon, and Pine Hollow, according to
159 the region map entitled "Grand Staircase Escalante" linked at the webpage entitled "Citizen's
160 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
161 webpage existed on February 17, 2011; and

162 (B) Orderville Canyon, Jolley Gulch, and Parunuweap Canyon, according to the region
163 map entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness
164 in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
165 February 17, 2011;

166 (xi) in Millard County: Kern Mountains, Wild Horse Pass, Disappointment Hills,
167 Granite Mountain, Middle Mountains, Tule Valley, Swasey Mountain, Little Drum Mountains
168 North, Little Drum Mountains South, Drum Mountains, Snake Valley, Coyote Knoll, Howell
169 Peak, Tule Valley South, Ledger Canyon, Chalk Knolls, Orr Ridge, Notch View, Bullgrass
170 Knoll, Notch Peak, Barn Hills, Cricket Mountains, Burbank Pass, Middle Burbank Hills, King
171 Top, Barn Hills, Red Tops, Middle Burbank Hills, Juniper, Painted Rock Mountain, Black
172 Hills, Tunnel Springs, Red Canyon, Sand Ridge, Little Sage Valley, Cat Canyon, Headlight
173 Mountain, Black Hills, Mountain Range Home North, Tweedy Wash, North Wah Wah
174 Mountains, Jackson Wash, and San Francisco Mountains, according to the region map entitled
175 "Great Basin Central" linked in the webpage entitled "Citizen's Proposal for Wilderness in
176 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
177 February 17, 2011;

178 (xii) in Piute County: Kingston Ridge, Rocky Ford, and Phonolite Hill, according to
179 the region map entitled "Great Basin South" linked in the webpage entitled "Citizen's Proposal
180 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage

181 existed on February 17, 2011;

182 (xiii) in San Juan County:

183 (A) Horseshoe Point, Deadhorse Cliffs, Gooseneck, Demon's Playground, Hatch
184 Canyon, Lockhart Basin, Indian Creek, Hart's Point, Butler Wash, Bridger Jack Mesa, and Shay
185 Mountain, according to the region map entitled "Canyonlands Basin" linked in the webpage
186 entitled "Citizen's Proposal for Wilderness in Utah" at
187 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
188 2011;

189 (B) Dark Canyon, Copper Point, Fortknocker Canyon, White Canyon, The Needle, Red
190 Rock Plateau, Upper Red Canyon, and Tuwa Canyon, according to the region map entitled
191 "Glen Canyon", which is available by clicking the link entitled "Dirty Devil" at the webpage
192 entitled "Citizen's Proposal for Wilderness in Utah" at
193 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
194 2011;

195 (C) Hunters Canyon, Behind the Rocks, Mill Creek, and Coyote Wash, according to
196 the region map entitled "Moab/La Sal" linked at the webpage entitled "Citizen's Proposal for
197 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
198 existed on February 17, 2011; and

199 (D) Hammond Canyon, Allen Canyon, Mancos Jim Butte, Arch Canyon, Monument
200 Canyon, Tin Cup Mesa, Cross Canyon, Nokai Dome, Grand Gulch, Fish and Owl Creek
201 Canyons, Comb Ridge, Road Canyon, The Tabernacle, Lime Creek, San Juan River, and
202 Valley of the Gods, according to the region map entitled "San Juan" linked at the webpage
203 entitled "Citizen's Proposal for Wilderness in Utah" at
204 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
205 2011;

206 (xiv) in Sevier County: Rock Canyon, Mussentuchit Badland, Limestone Cliffs, and
207 Jones' Bench, according to the region map entitled "San Rafael Swell" linked at the webpage
208 entitled "Citizen's Proposal for Wilderness in Utah" at
209 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
210 2011;

211 (xv) in Tooele County:

212 (A) Silver Island Mountains, Crater Island East, Grassy Mountains North, Grassy
213 Mountains South, Stansbury Island, Cedar Mountains North, Cedar Mountains Central, Cedar
214 Mountains South, North Stansbury Mountains, Quirrh Mountains, and Big Hollow, according
215 to the region map entitled "Great Basin North" linked in the webpage entitled "Citizen's
216 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
217 webpage existed on February 17, 2011; and

218 (B) Ochre Mountain, Deep Creek Mountains, Dugway Mountains, Indian Peaks, and
219 Lion Peak, according to the region map entitled "Great Basin Central" linked in the webpage
220 entitled "Citizen's Proposal for Wilderness in Utah" at
221 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
222 2011;

223 (xvi) in Uintah County:

224 (A) White River, Lower Bitter Creek, Sunday School Canyon, Dragon Canyon, Wolf
225 Point, Winter Ridge, Seep Canyon, Bitter Creek, Hideout Canyon, Sweetwater Canyon, and
226 Hell's Hole, according to the region map entitled "Book Cliffs" linked in the webpage entitled
227 "Citizen's Proposal for Wilderness in Utah" at
228 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
229 2011; and

230 (B) Lower Flaming Gorge, Crouse Canyon Stone Bridge Draw, Diamond Mountain,
231 Wild Mountain, Split Mountain Benches, Vivas Cake Hill, Split Mountain Benches South,
232 Beach Draw, Stuntz Draw, Moonshine Draw, Bourdette Draw, and Bull Canyon, according to
233 the region map entitled "Dinosaur" linked in the webpage entitled "Citizen's Proposal for
234 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
235 existed on February 17, 2011;

236 (xvii) in Washington County: Cougar Canyon, Docs Pass, Slaughter Creek, Butcher
237 Knife Canyon, Square Top, Scarecrow Creek, Beaver Dam Wash, Beaver Dam Mountains
238 North, Beaver Dam Mountains South, Joshua Tree, Beaver Dam Wilderness Expansion, Red
239 Mountain, Cottonwood Canyon, Taylor Canyon, LaVerkin Creek, Beartrap Canyon, Deep
240 Creek, Black Ridge, Red Butte, Kolob Creek, Goose Creek, Dry Creek, Zion National Park
241 Adjacents, Crater Hill, The Watchman, and Canaan Mountain, according to the region map
242 entitled "Zion/Mohave" linked at the webpage entitled "Citizen's Proposal for Wilderness in

243 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on
244 February 17, 2011, excluding the areas that Congress designated as wilderness and
245 conservation areas under the Omnibus Public Lands Management Act of 2009; and
246 (xviii) in Wayne County:

247 (A) Sweetwater Reef, Upper Horseshoe Canyon, and Labyrinth Canyon, according to
248 the region map entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal
249 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the webpage
250 existed on February 17, 2011;

251 (B) Flat Tops and Dirty Devil, according to the region map entitled "Glen Canyon",
252 which is available by clicking the link entitled "Dirty Devil" at the webpage entitled "Citizen's
253 Proposal for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the
254 webpage existed on February 17, 2011;

255 (C) Fremont Gorge, Pleasant Creek Bench, Notom Bench, Mount Ellen, and Bull
256 Mountain, according to the region map entitled "Henry Mountains" linked at the webpage
257 entitled "Citizen's Proposal for Wilderness in Utah" at
258 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
259 2011; and

260 (D) Capital Reef Adjacents, Muddy Creek, Wild Horse Mesa, North Blue Flats, Red
261 Desert, and Factory Butte, according to the region map entitled "San Rafael Swell" linked at
262 the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
263 <http://www.protectwildutah.org/proposal/index.html> as the webpage existed on February 17,
264 2011.

265 (b) "Subject lands" also includes all BLM and Forest Service lands in the state that are
266 not Wilderness Area or Wilderness Study Areas;

267 (c) "Subject lands" does not include the following lands that are the subject of
268 consideration for a possible federal lands bill and should be managed according to Emery
269 County's position:

270 (i) Turtle Canyon and Desolation Canyon according to the region map entitled "Book
271 Cliffs" linked in the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
272 <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

273 (ii) Labyrinth Canyon, Duma Point, and Horseshoe Point, according to the region map

274 entitled "Canyonlands Basin" linked in the webpage entitled "Citizen's Proposal for Wilderness
275 in Utah" at <http://protectwildutah.org/proposal/index.html> as the webpage existed on February
276 17, 2011; and

277 (iii) Devil's Canyon, Sid's Mountain, Mexican Mountain, San Rafael Reef, Hondu
278 Country, Cedar Mountain, and Wild Horse, according to the region map entitled "San Rafael
279 Swell" linked at the webpage entitled "Citizen's Proposal for Wilderness in Utah" at
280 <http://protectwildutah.org/proposal/index.html> as the webpage existed on February 17, 2011;

281 (10) "Wilderness area" means those BLM and Forest Service lands added to the
282 National Wilderness Preservation System by an act of Congress.

283 (11) "WSA" and "Wilderness Study Area" mean the BLM lands in Utah that were
284 identified as having the necessary wilderness character and were classified as wilderness study
285 areas during the BLM wilderness review conducted between 1976 and 1993 by authority of
286 Section 603 of FLPMA and labeled as Wilderness Study Areas within the final report of the
287 President of the United States to the United States Congress in 1993.

288 Section 3. Section **63J-8-103** is enacted to read:

289 **63J-8-103. State participation in managing public lands.**

290 In view of the requirement in FLPMA, 43 U.S.C. 1712, that BLM must work through a
291 planning process that is coordinated with other federal, state, and local planning efforts before
292 making decisions about the present and future uses of public lands, the requirement in FLPMA,
293 43 U.S.C. 1714 that BLM may not withdraw or otherwise designate BLM lands for specific
294 purposes without congressional approval, and the requirement in the Forest Service
295 Multiple-Use Sustained Yield Act of 1960, 16 U.S.C. 528, that lands within the national forests
296 be managed according to the principles of multiple use, and in view of the right which
297 FLPMA, the National Environmental Policy Act, 42 U.S.C. 4321 et seq. and the Federal
298 Advisory Committee Act, 5 U.S.C. Appendix 2, give to state and local governments to
299 participate in all BLM and the Forest Service efforts to plan for the responsible use of BLM
300 and Forest Service lands and the requirement that BLM and the Forest Service coordinate
301 planning efforts with those of state and local government, the state adopts the following policy
302 for the management of the subject lands:

303 (1) Pursuant to the proper allocation of governmental authority between the several
304 states and the federal government, the implementation of congressional acts concerning the

305 subject lands must recognize the concurrent jurisdiction of the states and accord full
306 recognition to state interpretation of congressional acts, as reflected in state law, plans,
307 programs, and policies, insofar as the interpretation does not violate the Supremacy Clause,
308 U.S. Constitution, Article VI, Clause 2.

309 (2) Differences of opinion between the state's plans and policies on use of the subject
310 lands and any proposed decision concerning the subject lands pursuant to federal planning or
311 other federal decision making processes should be resolved between the authorized federal
312 official, including federal officials from other federal agencies advising the authorized federal
313 official in any capacity, and the governor of Utah.

314 (3) The subject lands managed by the BLM are to be managed to the basic standard of
315 the prevention of undue and unnecessary degradation of the lands, as required by FLPMA. A
316 more restrictive management standard should not apply except through duly adopted statutory
317 or regulatory processes wherein each specific area is evaluated pursuant to the provisions of the
318 BLM's planning process and those of the National Environmental Policy Act.

319 (4) The subject lands should not be segregated into separate geographical areas for
320 management which resembles the management of wilderness, wilderness study areas,
321 wildlands, lands with wilderness characteristics, or the like.

322 (5) The BLM and the Forest Service should make plans for the use of the subject lands
323 and resources subject to their management pursuant to statutorily authorized processes, with
324 due regard for the provisions of the National Environmental Policy Act, by:

325 (a) recognizing that the duly adopted Resource Management Plan or Forest Service
326 equivalent is the fundamental planning document, which may be revised or amended from time
327 to time;

328 (b) avoiding and eliminating any form of guidance or policy that has the effect of
329 prescreening, segregating, or imposing any form of management requirements upon any of the
330 subject lands and resources prior to any of the planning processes subject to Subsection (5)(a);
331 and

332 (c) avoiding and eliminating all forms of planning that parallel or duplicate the
333 planning processes subject to Subsection (5)(a).

334 Section 4. Section **63J-8-104** is enacted to read:

335 **63J-8-104. State land use planning and management program.**

336 The BLM and Forest Service land use plans should produce planning documents
337 consistent with state and local land use plans to the maximum extent consistent with federal
338 law and FLPMA's purposes, by incorporating the state's land use planning and management
339 program for the subject lands which is as follows:

340 (1) preserve traditional multiple use and sustained yield management on the subject
341 lands to:

342 (a) achieve and maintain in perpetuity a high-level annual or regular periodic output of
343 agricultural, mineral, and various other resources from the subject lands;

344 (b) support valid existing transportation, mineral, and grazing privileges in the subject
345 lands at the highest reasonably sustainable levels;

346 (c) produce and maintain the desired vegetation for watersheds, timber, food, fiber,
347 livestock forage, wildlife forage, and minerals that are necessary to meet present needs and
348 future economic growth and community expansion in each county where the subject lands are
349 situated without permanent impairment of the productivity of the land;

350 (d) meet the recreational needs and the personal and business-related transportation
351 needs of the citizens of each county where the subject lands are situated by providing access
352 throughout each such county;

353 (e) meet the needs of wildlife, provided that the respective forage needs of wildlife and
354 livestock are balanced according to the provisions of Subsection 63J-4-401(6)(m);

355 (f) protect against adverse effects to historic properties, as defined by 36 C.F.R. 800;

356 (g) meet the needs of economic development;

357 (h) meet the needs of community development;

358 (i) provide for the protection of existing water rights and the reasonable development
359 of additional water rights; and

360 (j) provide for reasonable and responsible development of electrical transmission and
361 energy pipeline infrastructure on the subject lands;

362 (2) (a) do not designate, establish, manage, or treat any of the subject lands as an area
363 with management prescriptions which parallel, duplicate, or resemble the management
364 prescriptions established for wilderness areas or wilderness study areas, including the
365 non-impairment standard applicable to WSAs or anything that parallels, duplicates, or
366 resembles that nonimpairment standard; and

367 (b) recognize, follow, and apply the agreement between the state and the Department of
368 the Interior in the 2003 settlement agreement (revised in 2005) in the case of State of Utah v.
369 Gale Norton, Secretary of Interior (United States District Court, D. Utah, Case No.
370 2:96cv0870), which effectively prohibits the actions listed in Subsection (2)(a):

371 (3) achieve and maintain at the highest reasonably sustainable levels a continuing yield
372 of energy, hard rock, and nuclear resources in those subject lands with economically
373 recoverable amounts of such resources as follows:

374 (a) the development of the solid, fluid, and gaseous mineral resources in portions of the
375 subject lands is an important part of the state's economy and the economies of the respective
376 counties, recognizing that it is technically feasible to access mineral and energy resources in
377 portions of the subject lands while preserving or, as necessary, restoring non-mineral and
378 non-energy resources;

379 (b) all available, recoverable solid, fluid, gaseous, and nuclear mineral resources in the
380 subject lands should be seriously considered for contribution or potential contribution to the
381 state's economy and the economies of the respective counties;

382 (c) those portions of the subject lands shown to have reasonable mineral, energy, and
383 nuclear potential should be open to leasing, drilling, and other access with reasonable
384 stipulations and conditions, including mitigation, reclamation, and bonding measures where
385 necessary, that will protect the lands against unnecessary and undue damage to other significant
386 resource values;

387 (d) federal oil and gas existing lease conditions and restrictions should not be modified,
388 waived, or removed unless the lease conditions or restrictions are no longer necessary or
389 effective;

390 (e) any prior existing lease restrictions in the subject lands that are no longer necessary
391 or effective should be modified, waived, or removed;

392 (f) restrictions against surface occupancy should be eliminated, modified, or waived,
393 where reasonable;

394 (g) in the case of surface occupancy restrictions that cannot be reasonably eliminated,
395 modified, or waived, directional drilling should be considered where the mineral and energy
396 resources beneath the area can be reached employing available directional drilling technology;

397 (h) applications for permission to drill in the subject lands that meet standard

398 qualifications, including reasonable and effective mitigation and reclamation requirements,
399 should be expeditiously processed and granted; and

400 (i) any moratorium that may exist against the issuance of qualified mining patents and
401 oil and gas leases in the subject lands, and any barriers that may exist against developing
402 unpatented mining claims and filing for new claims, should be carefully evaluated for removal;

403 (4) achieve and maintain livestock grazing in the subject lands at the highest
404 reasonably sustainable levels by adhering to the policies, goals, and management practices set
405 forth in Subsection 63J-4-401(6)(m);

406 (5) manage the watershed in the subject lands to achieve and maintain water resources
407 at the highest reasonably sustainable levels as follows:

408 (a) adhere to the policies, goals, and management practices set forth in Subsection
409 63J-4-401(6)(m);

410 (b) deter unauthorized cross-country OHV use in the subject lands by establishing a
411 reasonable system of roads and trails in the subject lands for the use of an OHV, as closing the
412 subject lands to all OHV use will only spur increased and unauthorized use; and

413 (c) keep open any road or trail in the subject lands that historically has been open to
414 OHV use, as identified on respective county road maps;

415 (6) achieve and maintain traditional access to outdoor recreational opportunities
416 available in the subject lands as follows:

417 (a) hunting, trapping, fishing, hiking, family and group parties, family and group
418 campouts and campfires, rock hounding, OHV travel, geological exploring, pioneering,
419 recreational vehicle parking, or just touring in personal vehicles are activities that are important
420 to the traditions, customs, and character of the state and individual counties where the subject
421 lands are located and should continue;

422 (b) wildlife hunting, trapping, and fishing should continue at levels determined by the
423 Wildlife Board and the Division of Wildlife Resources and traditional levels of group camping,
424 group day use, and other traditional forms of outdoor recreation, both motorized and
425 nonmotorized, should continue; and

426 (c) the broad spectrum of outdoor recreational activities available on the subject lands
427 should be available to citizens for whom a primitive, nonmotorized, outdoor experience is not
428 preferred, affordable, or physically achievable;

429 (7) (a) keep open to motorized travel, any road in the subject lands that is part of the
430 respective counties' duly adopted transportation plan;

431 (b) provide that R.S. 2477 rights-of-way should be recognized by the BLM;

432 (c) provide that a county road may be temporarily closed or permanently abandoned
433 only by statutorily authorized action of the county or state;

434 (d) provide that BLM and Forest Service must recognize and not unduly interfere with
435 a county's ability to maintain and repair roads, and where reasonably necessary, make
436 improvements to the roads; and

437 (e) recognize that additional roads and trails may be needed in the subject lands from
438 time to time to facilitate reasonable access to a broad range of resources and opportunities
439 throughout the subject lands, including livestock operations and improvements, solid, fluid,
440 and gaseous mineral operations, recreational opportunities and operations, search and rescue
441 needs, other public safety needs, access to public lands for people with disabilities and the
442 elderly, and access to Utah school and institutional trust lands for the accomplishment of the
443 purposes of those lands;

444 (8) manage the subject lands so as to protect prehistoric rock art, three dimensional
445 structures, and other artifacts and sites recognized as culturally important and significant by the
446 state historic preservation officer or each respective county by imposing reasonable and
447 effective stipulations and conditions reached by agreement between the federal agency and the
448 state authorized officer pursuant to the authority granted by the National Historic Preservation
449 Act, 16 U.S.C. 470 et seq.;

450 (9) manage the subject lands so as to not interfere with the property rights of private
451 landowners as follows:

452 (a) the state recognize that there are parcels of private fee land throughout the subject
453 lands;

454 (b) land management policies and standards in the subject lands should not interfere
455 with the property rights of any private landowner to enjoy and engage in uses and activities on
456 an individual's private property consistent with controlling county zoning and land use laws;
457 and

458 (c) a private landowner or a guest or client of a private landowner should not be denied
459 the right of motorized access to the private landowner's property consistent with past uses of

460 the private property;

461 (10) manage the subject lands in a manner which supports the fiduciary agreement
462 made between the state and the federal government concerning the school and institutional trust
463 lands, as managed according to state law, by:

464 (a) formally recognizing, by duly authorized federal proclamation, the duty of the
465 federal government to support the purposes of the school and institutional trust lands owned by
466 the state and administered by SITLA in trust for the benefit of public schools and other
467 institutions as mandated in the Utah Constitution and the Utah Enabling Act of 1894, 28,
468 Stat.107;

469 (b) actively seeking to support SITLA's fiduciary responsibility to manage the school
470 trust lands to optimize revenue by making the school trust lands available for sale and private
471 development and for other multiple and consumptive use activities such as mineral
472 development, grazing, recreation, timber, and agriculture;

473 (c) not interfering with SITLA's ability to carry out its fiduciary responsibilities by the
474 creation of geographical areas burdened with management restrictions that prohibit or
475 discourage the optimization of revenue, without just compensation;

476 (d) recognizing SITLA's right of economic access to the school trust lands to enable
477 SITLA to put those sections to use in its fiduciary responsibilities; and

478 (e) recognizing any management plan enacted by SITLA pursuant to Section
479 53C-2-201;

480 (11) designating subject BLM lands as areas of critical environmental concern (ACEC)
481 is generally not compatible with the state's plan and policy for managing the subject lands, but
482 special cases may exist where such a designation is appropriate if compliance with FLPMA, 43
483 U.S.C. Sec. 1702(a) is clearly demonstrated and where the proposed designation and
484 protection:

485 (a) is limited to the geographic size to the minimum necessary to meet the standards
486 required by Section 63J-4-401;

487 (b) is necessary to protect not just a temporary change in ground conditions or visual
488 resources that can be reclaimed or reversed naturally, but is clearly shown as necessary to
489 protect against visible damage on the ground that will persist on a time scale beyond that
490 necessary to find an area meets the requirements for an inventory of wilderness characteristics;

491 (c) will not be applied in a geographic area already protected by other protective
492 designations available pursuant to law; and

493 (d) is not a substitute for the non-impairment management requirements of wilderness
494 study areas; and

495 (12) recognize that a BLM visual resource management class I or II rating is generally
496 not compatible with the state's plan and policy for managing the subject lands, but special cases
497 may exist where such a rating is appropriate if jointly considered and created by state, local and
498 federal authorities as part of an economic development plan for a region of the state, with due
499 regard for school trust lands and private lands within the area.

500 Section 5. Section **63J-8-105** is enacted to read:

501 **63J-8-105. Maps available for public review.**

502 A printed copy of the maps referenced in Subsection 63J-8-102(9) shall be available for
503 inspection by the public at the offices of the Utah Association of Counties.

504 Section 6. Section **63J-8-106** is enacted to read:

505 **63J-8-106. Miscellaneous provisions.**

506 Notwithstanding the provisions in the previous sections of this chapter, the state
507 believes that some WSAs and other BLM or Forest Service lands may be considered for
508 permanent inclusion in the National Wilderness Preservation System as part of county specific
509 proposals for Congress to consider if driven by a local process that includes all interested
510 stakeholders.

511 Section 7. **Effective date.**

512 If approved by two-thirds of all the members elected to each house, this bill takes effect
513 upon approval by the governor, or the day following the constitutional time limit of Utah
514 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
515 the date of veto override.

FISCAL NOTE

S.B. 221 1st Sub. (Green)

SHORT TITLE: **State of Utah Resource Management Plan for Federal Lands**

SPONSOR: **Okerlund, R.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.