

28 to:

- 29 • grant rulemaking authority to the Department of Agriculture to control and
- 30 eradicate brucellosis, trichomoniasis, and tuberculosis in livestock; trace animal
- 31 disease; and control and prevent disease in poultry, waterfowl, and game-birds;
- 32 • provide for disposal of dead animals; and
- 33 • describe procedures for the control of animal disease; and
- 34 ▶ makes technical changes.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 None

39 **Utah Code Sections Affected:**

40 AMENDS:

- 41 **4-18-5**, as last amended by Laws of Utah 2011, Chapter 383
- 42 **4-20-3**, as last amended by Laws of Utah 2011, Chapters 342 and 383
- 43 **4-39-103**, as enacted by Laws of Utah 1997, Chapter 302
- 44 **63G-2-305**, as last amended by Laws of Utah 2011, Chapters 18, 46, 55, 80, 151, and
- 45 161

46 ENACTS:

- 47 **4-25-12.1**, Utah Code Annotated 1953
- 48 **4-31-101**, Utah Code Annotated 1953
- 49 **4-31-109**, Utah Code Annotated 1953
- 50 **4-31-112**, Utah Code Annotated 1953
- 51 **4-31-118**, Utah Code Annotated 1953
- 52 **4-31-119**, Utah Code Annotated 1953

53 REPEALS AND REENACTS:

- 54 **4-25-12**, as enacted by Laws of Utah 1979, Chapter 2

55 RENUMBERS AND AMENDS:

- 56 **4-26-101**, (Renumbered from 4-26-4, as enacted by Laws of Utah 1979, Chapter 2)
- 57 **4-26-102**, (Renumbered from 4-26-5, as last amended by Laws of Utah 2010, Chapter
- 58 378)

- 59 **4-26-103**, (Renumbered from 4-26-5.1, as enacted by Laws of Utah 2004, Chapter 331)
- 60 **4-31-102**, (Renumbered from 4-26-1, as enacted by Laws of Utah 1979, Chapter 2)
- 61 **4-31-103**, (Renumbered from 4-26-2, as enacted by Laws of Utah 1979, Chapter 2)
- 62 **4-31-104**, (Renumbered from 4-26-3, as enacted by Laws of Utah 1979, Chapter 2)
- 63 **4-31-105**, (Renumbered from 4-31-1, as enacted by Laws of Utah 1979, Chapter 2)
- 64 **4-31-106**, (Renumbered from 4-31-2, as enacted by Laws of Utah 1979, Chapter 2)
- 65 **4-31-107**, (Renumbered from 4-31-3, as last amended by Laws of Utah 2007, Chapter
- 66 179)
- 67 **4-31-108**, (Renumbered from 4-31-4, as enacted by Laws of Utah 1979, Chapter 2)
- 68 **4-31-110**, (Renumbered from 4-31-6, as enacted by Laws of Utah 1979, Chapter 2)
- 69 **4-31-111**, (Renumbered from 4-31-9, as last amended by Laws of Utah 1999, Chapter
- 70 290)
- 71 **4-31-113**, (Renumbered from 4-31-14, as last amended by Laws of Utah 1997, Chapter
- 72 302)
- 73 **4-31-114**, (Renumbered from 4-31-15, as enacted by Laws of Utah 1979, Chapter 2)
- 74 **4-31-115**, (Renumbered from 4-31-16, as last amended by Laws of Utah 2010, Chapter
- 75 378)
- 76 **4-31-116**, (Renumbered from 4-31-17, as enacted by Laws of Utah 1979, Chapter 2)
- 77 **4-31-117**, (Renumbered from 4-31-18, as enacted by Laws of Utah 1979, Chapter 2)
- 78 REPEALS:
- 79 **4-29-1**, as last amended by Laws of Utah 2008, Chapter 382
- 80 **4-29-2**, as last amended by Laws of Utah 2010, Chapter 378
- 81 **4-29-3**, as enacted by Laws of Utah 1979, Chapter 2
- 82 **4-29-4**, as enacted by Laws of Utah 1979, Chapter 2
- 83 **4-29-5**, as last amended by Laws of Utah 1985, Chapter 130
- 84 **4-29-6**, as enacted by Laws of Utah 1979, Chapter 2
- 85 **4-31-5**, as last amended by Laws of Utah 1982, Chapter 2
- 86 **4-31-7**, as enacted by Laws of Utah 1979, Chapter 2
- 87 **4-31-8**, as last amended by Laws of Utah 1985, Chapters 116 and 165
- 88 **4-31-10**, as last amended by Laws of Utah 2007, Chapter 179
- 89 **4-31-11**, as last amended by Laws of Utah 1992, Chapter 18

- 90 4-31-12, as enacted by Laws of Utah 1979, Chapter 2
- 91 4-31-13, as last amended by Laws of Utah 2007, Chapter 179
- 92 4-31-16.5, as last amended by Laws of Utah 2010, Chapter 378
- 93 4-31-19, as last amended by Laws of Utah 1985, Chapter 130
- 94 4-31-21, as last amended by Laws of Utah 2008, Chapter 382
- 95 4-31-22, as enacted by Laws of Utah 2009, Chapter 172

96

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

98 Section 1. Section 4-18-5 is amended to read:

99 **4-18-5. Conservation commission -- Functions and duties.**

100 (1) The commission shall:

101 (a) facilitate the development and implementation of the strategies and programs

102 necessary to:

103 (i) protect, conserve, utilize, and develop the soil, air, and water resources of the state;

104 and

105 (ii) promote the protection, integrity, and restoration of land for agricultural and other
106 beneficial purposes;

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

108 (c) supervise the formation, reorganization, or dissolution of districts according to the
109 requirements of Title 17D, Chapter 3, Conservation District Act;

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

112 (e) approve and make loans for agricultural purposes, from the Agriculture Resource
113 Development Fund for:

114 (i) rangeland improvement and management projects;

115 (ii) watershed protection and flood prevention projects;

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

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

118 (f) administer federal or state funds, including loan funds under this chapter, in
119 accordance with applicable federal or state guidelines and make loans or grants from those
120 funds to land occupiers for:

- 121 (i) the conservation of soil or water resources; [~~and~~]
122 (ii) maintenance of rangeland improvement projects; and
123 (iii) the control or eradication of noxious weeds and invasive plant species:
124 (A) in cooperation and coordination with local weed boards; and
125 (B) in accordance with Section 4-2-8.7;
126 (g) seek to coordinate soil and water protection, conservation, and development
127 activities and programs of state agencies, local governmental units, other states, special interest
128 groups, and federal agencies;
129 (h) plan watershed and flood control projects in cooperation with appropriate local,
130 state, and federal authorities and coordinate flood control projects in the state;
131 (i) develop the requirements for:
132 (i) a certification of environmental stewardship, including best management practices,
133 technical standards, and nutrient management plans, as applicable to each agricultural sector;
134 and
135 (ii) providing the certification to each owner or operator of a farm, ranch, or feedlot
136 that:
137 (A) requests certification; and
138 (B) qualifies for certification;
139 (j) develop best management practices and state technical standards when requested by
140 governmental agencies or agricultural producer groups;
141 (k) develop the requirements and certification process for an individual to be a certified
142 conservation planner as defined in Section 4-18-3;
143 (l) assist other state agencies with conservation standards for agriculture when
144 requested; and
145 (m) when assigned by the governor, when required by contract with the Department of
146 Environmental Quality, or when required by contract with the United States Environmental
147 Protection Agency:
148 (i) develop programs for the prevention, control, or abatement of new or existing
149 pollution to the soil, water, or air of the state;
150 (ii) advise, consult, and cooperate with affected parties to further the purpose of this
151 chapter;

- 152 (iii) conduct studies, investigations, research, and demonstrations relating to
- 153 agricultural pollution issues;
- 154 (iv) give reasonable consideration in the exercise of its powers and duties to the
- 155 economic impact on sustainable agriculture;
- 156 (v) meet the requirements of federal law related to water and air pollution in the
- 157 exercise of its powers and duties; and
- 158 (vi) establish administrative penalties relating to agricultural discharges as defined in
- 159 Section 4-18-3 that are proportional to the seriousness of the resulting environmental harm.
- 160 (2) The commission may:
- 161 (a) employ, with the approval of the department, an administrator and necessary
- 162 technical experts and employees;
- 163 (b) execute contracts or other instruments necessary to exercise its powers;
- 164 (c) take necessary action to promote and enforce the purpose and findings of Section
- 165 4-18-2;
- 166 (d) sue and be sued; and
- 167 (e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative
- 168 Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and
- 169 Subsections (2)(b) and (c).

170 Section 2. Section **4-20-3** is amended to read:

171 **4-20-3. Rangeland Improvement Account distribution.**

- 172 (1) The department shall distribute restricted account money as provided in this
- 173 section.
- 174 (a) The department shall:
- 175 (i) distribute pro rata to each school district the money received by the state under
- 176 Subsection 4-20-2(1)(b)(i) from the sale or lease of public lands based upon the amount of
- 177 revenue generated from the sale or lease of public lands within the district; and
- 178 (ii) ensure that all money generated from the sale or lease of public lands within a
- 179 school district is credited and deposited to the general school fund of that school district.
- 180 (b) (i) After the commissioner approves a request from a regional board, the
- 181 department shall distribute pro rata to each regional board money received by the state under
- 182 Subsection 4-20-2(1)(b)(i) from fees based upon the amount of revenue generated from the

183 imposition of fees within that grazing district.

184 (ii) The regional board shall expend money received in accordance with Subsection (2).

185 (c) (i) The department shall distribute or expend money received by the state under
186 Subsections 4-20-2(1)(b)(ii) through (iv) for the purposes outlined in Subsection (2).

187 (ii) The department may require entities seeking funding from sources outlined in
188 Subsections 4-20-2(1)(b)(ii) through (iv) to provide matching funds.

189 (2) The department shall ensure that restricted account distributions or expenditures
190 under Subsections (1)(b) and (c) are used for:

191 (a) range improvement and maintenance;

192 (b) the control of predatory and depredating animals;

193 (c) the control, management, or extermination of invading species, range damaging
194 organisms, and poisonous or noxious weeds;

195 (d) the purchase or lease of lands or a conservation easement for the benefit of a
196 grazing district;

197 (e) watershed protection, development, distribution, and improvement; [~~and~~]

198 (f) the general welfare of livestock grazing within a grazing district[-]; and

199 (g) subject to Subsection (3), ~~H~~→ [administration costs of] costs to monitor ←~~H~~ rangeland
199a improvement projects.

200 (3) Annual account distributions or expenditures for the ~~H~~→ [administration]
200a monitoring ←~~H~~ costs described

201 in Subsection (2)(g) may not exceed 10% of the annual receipts of the fund.

202 Section 3. Section **4-25-12** is repealed and reenacted to read:

203 **4-25-12. Allowing swine to run at large -- Class B misdemeanor.**

204 (1) A person is guilty of a class B misdemeanor if the person:

205 (a) is in control of a swine; and

206 (b) allows the swine to run at large.

207 (2) A person described in Subsection (1) is liable for damage caused by the swine
208 running at large.

209 Section 4. Section **4-25-12.1** is enacted to read:

210 **4-25-12.1. Release of swine for hunting purposes.**

211 A person may not release swine on public or private property for hunting purposes.

212 Section 5. Section **4-26-101**, which is renumbered from Section 4-26-4 is renumbered
213 and amended to read:

214 CHAPTER 26. ANIMAL ENCLOSURES AND FENCES

215 ~~[4-26-4].~~ 4-26-101. Failure to close entrance to enclosure -- Class C

216 misdemeanor -- Damages.

217 ~~[Any]~~ A person who willfully throws down a fence or opens bars or gates into any
218 enclosure other than the person's own enclosure or into any enclosure jointly owned or
219 occupied by such person and others, and leaves it open is guilty of a class ~~[“C”]~~ C
220 misdemeanor, and is ~~[also]~~ liable in damage for any injury sustained by any person as a result
221 of such an act.

222 Section 6. Section **4-26-102**, which is renumbered from Section 4-26-5 is renumbered
223 and amended to read:

224 ~~[4-26-5].~~ 4-26-102. Adjoining landowners -- Partition fences -- Contribution.

225 (1) If two or more persons agree to a fence enclosure or to the construction of a
226 partition fence, the cost of construction and maintenance of the fence shall be apportioned
227 between each party to the agreement based upon the amount of land enclosed.

228 (2) A person who is a party to ~~[such agreement]~~ an agreement described in Subsection
229 (1) and who fails to maintain such person's part of the fence is liable in a civil action for any
230 damage sustained by another party to the agreement as a result of the failure to maintain the
231 fence.

232 (3) If a person has enclosed land with a fence and the owner of adjoining land desires
233 to enclose land adjoining the fence so that the existing fence or any part of it will become a
234 partition fence between such tracts of land, the owner of the adjoining land shall, before
235 making the enclosure, pay to the owner of the existing fence one-half of the value of all that
236 part of the fence that will become a partition fence; and when one party ceases to improve or
237 cultivate his land or opens his enclosure he may not take away any part of the partition fence
238 belonging to him, if the owner or occupant of the adjoining enclosure within 30 days after
239 notice, pays for the value of such fence; nor shall the partition fence be removed if the crops
240 enclosed by it will be exposed to injury.

241 Section 7. Section **4-26-103**, which is renumbered from Section 4-26-5.1 is
242 renumbered and amended to read:

243 ~~[4-26-5.1].~~ 4-26-103. Definitions -- Qualified landowners' and qualified
244 adjoining landowners' partition fences -- Contribution -- Civil action for damages.

245 (1) As used in this section:

246 (a) "Qualified adjoining landowner" means a private landowner whose land adjoins the
247 land of a qualified landowner and is used for grazing livestock or as habitat for big game
248 wildlife and:

249 (i) is land which qualifies under the definition of "conservation easement" as defined in
250 Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or

251 (ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.

252 (b) "Qualified landowner" means a private landowner whose land is used for grazing
253 livestock and:

254 (i) is land which qualifies under the definition of "conservation easement" as defined in
255 Section 57-18-2, under Title 57, Chapter 18, Land Conservation Easement Act; or

256 (ii) is "land in agricultural use" that meets the requirements of Section 59-2-502.

257 (2) A qualified landowner may require the qualified adjoining landowner to pay for
258 [~~1/2~~] one-half of the cost of the fence if:

259 (a) the fence is or becomes a partition fence separating the qualified landowner's land
260 from that belonging to the qualified adjoining landowner;

261 (b) the cost is reasonable for that type of fence;

262 (c) that type of fence is commonly found in that particular area; and

263 (d) the construction of the fence is no more expensive than the cost for posts, wire, and
264 connectors.

265 (3) If the qualified adjoining landowner refuses, the qualified landowner may maintain
266 a civil action against the qualified adjoining landowner for [~~1/2~~] one-half of the cost of that
267 portion of the fence.

268 (4) The cost of the maintenance of the fence shall also be apportioned between each
269 party based [~~upon~~] on the amount of land enclosed. A party who fails to maintain [~~his~~] that
270 party's part of the fence is also liable in a civil action for any damage sustained by the other
271 party as a result of the failure to maintain the fence.

272 Section 8. Section **4-31-101** is enacted to read:

273 **CHAPTER 31. CONTROL OF ANIMAL DISEASE**

274 **4-31-101. Title.**

275 This chapter is known as "Control of Animal Disease."

276 Section 9. Section **4-31-102**, which is renumbered from Section 4-26-1 is renumbered
277 and amended to read:

278 ~~[4-26-1].~~ **4-31-102. Dead domestic animals -- Duty of owner to bury or**
279 **otherwise dispose of them -- Liability for costs.**

280 ~~[It is the responsibility of the owner or other person responsible for any domestic~~
281 ~~animal which dies to bury or otherwise dispose of it within two days after death.]~~

282 (1) An owner or other person responsible for a domestic animal that dies shall bury or
283 dispose of the animal within two business days after the day on which ~~H~~→ ~~[the animal dies.]~~ the
283a **owner or other person responsible for the animal becomes aware that the animal is dead.** ←~~H~~

284 (2) If the owner or other person responsible for ~~[such an]~~ the dead animal cannot be
285 found, ~~[it is the duty of]~~ the county, city, or town within which the dead animal is found, shall,
286 at ~~[such]~~ the political subdivision's expense, ~~[to]~~ bury the dead animal.

287 (3) A county, city, or town ~~[which]~~ that incurs expense under this section is entitled to
288 reimbursement from the owner of the dead animal.

289 Section 10. Section **4-31-103**, which is renumbered from Section 4-26-2 is renumbered
290 and amended to read:

291 ~~[4-26-2].~~ **4-31-103. Dead animals -- Deposit on another's land prohibited.**

292 ~~[No]~~ A person ~~[shall]~~ may not deposit a dead animal upon the land of another person
293 without the ~~[latter's]~~ landowner's consent.

294 Section 11. Section **4-31-104**, which is renumbered from Section 4-26-3 is renumbered
295 and amended to read:

296 ~~[4-26-3].~~ **4-31-104. Penalty.**

297 ~~[Any]~~ A person who violates Section ~~[4-26-1]~~ 4-31-102 or ~~[4-26-2]~~ 4-31-103 is guilty
298 of a class ~~[^AC]~~ C misdemeanor.

299 Section 12. Section **4-31-105**, which is renumbered from Section 4-31-1 is renumbered
300 and amended to read:

301 ~~[4-31-1].~~ **4-31-105. Outbreak of contagious or infectious disease -- Assistance**
302 **of federal authorities.**

303 If there is an outbreak of contagious or infectious disease among domestic animals in
304 this state that imperils livestock in adjoining states, the commissioner shall seek the assistance
305 of the United States ~~[Animal, Plant and Health Inspection Service]~~ Department of Agriculture,
306 Animal and Plant Health Inspection Service in preventing the spread of the disease to other

307 states.

308 Section 13. Section **4-31-106**, which is renumbered from Section 4-31-2 is renumbered
309 and amended to read:

310 ~~[4-31-2]~~. **4-31-106. Epidemic of contagious or infectious disease --**
311 **Condemnation or destruction of infected or exposed livestock -- Destruction of other**
312 **property.**

313 (1) If there is an outbreak of contagious or infectious disease of epidemic proportion
314 among domestic animals in this state [~~which~~] that imperils livestock, the commissioner, with
315 approval of the governor, may condemn, destroy, or dispose of any infected livestock or any
316 livestock exposed to, or deemed by the commissioner capable of, communicating disease to
317 other domestic animals.

318 (2) The commissioner may [~~also~~], with gubernatorial approval, condemn and destroy
319 any barns, sheds, corrals, pens, or other property [~~deemed~~] necessary to prevent the spread of
320 contagion or infection.

321 Section 14. Section **4-31-107**, which is renumbered from Section 4-31-3 is renumbered
322 and amended to read:

323 ~~[4-31-3]~~. **4-31-107. Appraisal of fair market value before destruction.**

324 (1) Before any livestock or property is condemned and destroyed under Section
325 4-31-106, an appraisal of the fair market value of the livestock or other property shall be
326 forwarded to the commissioner by a panel of three qualified appraisers appointed as follows:

- 327 (a) one by the commissioner;
328 (b) one by the owner of the livestock or other property subject to condemnation; and
329 (c) one by the appraisers specified in [~~this~~] Subsections (1)(a) and (b).

330 (2) After review, the commissioner shall forward the appraisal to the board of
331 examiners described in Subsection 63G-9-201(2), together with [~~his~~] the commissioner's
332 recommendation concerning the amount, if any, that should be allowed.

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

334 Section 15. Section **4-31-108**, which is renumbered from Section 4-31-4 is renumbered
335 and amended to read:

336 ~~[4-31-4]~~. **4-31-108. Slaughter for post-mortem examination.**

337 The commissioner may order the slaughter and post-mortem examination of [~~any one or~~

338 ~~more] a~~ diseased domestic ~~[animals]~~ animal if the exact nature of ~~[their]~~ the animal's disease is
339 not readily ascertained through other means.

340 Section 16. Section **4-31-109** is enacted to read:

341 **4-31-109. Department authorized to make and enforce rules concerning**
342 **brucellosis, trichomoniasis, and tuberculosis in livestock.**

343 (1) The department may:

344 (a) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
345 Rulemaking Act, to control and eradicate brucellosis, trichomoniasis, and tuberculosis in
346 livestock; and

347 (b) enforce the rules described in Subsection (1)(a).

348 (2) The department shall, in making the rules described in Subsection (1)(a), protect
349 against negative impact on the interstate or intrastate commerce of livestock that is transferred,
350 sold, or exhibited.

351 Section 17. Section **4-31-110**, which is renumbered from Section 4-31-6 is renumbered
352 and amended to read:

353 ~~[4-31-6].~~ **4-31-110. Dairy cattle subject to inspection for disease.**

354 ~~[Any dairy cattle in the state are subject to inspection at reasonable times and places]~~
355 The department may inspect a dairy animal in the state for tuberculosis or other infectious or
356 contagious disease [by the department] at a reasonable time and place.

357 Section 18. Section **4-31-111**, which is renumbered from Section 4-31-9 is renumbered
358 and amended to read:

359 ~~[4-31-9].~~ **4-31-111. Imported animals -- Health certificate.**

360 ~~[No person, except as provided by rule of the department, may import any animal into~~
361 ~~this state unless it]~~ Except as provided by rule made by the department, a person may not
362 import an animal into this state unless the animal is accompanied by a health certificate that:

363 (1) meets the requirements of department rules; and

364 (2) is issued by a [licensed] federally accredited veterinarian.

365 Section 19. Section **4-31-112** is enacted to read:

366 **4-31-112. Feeding garbage or plate waste to swine prohibited.**

367 (1) As used in this section, "plate waste" means uneaten food from an establishment or
368 institution that serves food.

369 (2) A person may not feed garbage or plate waste to a swine, unless the swine is
 370 slaughtered for home use.

371 (3) A person who violates this section is guilty of a class C misdemeanor.

372 Section 20. Section **4-31-113**, which is renumbered from Section 4-31-14 is
 373 renumbered and amended to read:

374 **[4-31-14]. 4-31-113. Restrictions on movement of infected or exposed**

374a **Ŝ→ [-domestic] ←Ŝ**

375 animals.

376 **Ŝ→ (1) ←Ŝ** A person who owns or has possession of [~~a domestic~~] an animal [~~or~~
 376a ~~domesticated elk~~]

377 and knows that [it] the animal is infected with, or has been exposed to, any contagious or
 378 infectious disease, may not:

379 **Ŝ→ [(†) (a) ←Ŝ** permit [it] the animal to run at large, or come in contact with, **Ŝ→ [another**
 379a **domestic] an ←Ŝ**

380 animal [~~which~~] that can be infected; or

381 **Ŝ→ [(‡) (b) ←Ŝ** sell, ship, trade, or give away an infected animal [~~or domesticated elk~~]
 381a without

382 disclosing that [it] the animal is diseased or has been exposed to disease.

382a **Ŝ→ (2) The provisions of this section do not apply to protected wildlife that is:**

382b **(a) living in nature; and**

382c **(b) under the jurisdiction of the Division of Wildlife Resources. ←Ŝ**

383 Section 21. Section **4-31-114**, which is renumbered from Section 4-31-15 is
 384 renumbered and amended to read:

385 **[4-31-15]. 4-31-114. Report of vesicular disease.**

386 [~~Any~~] (1) A person who identifies symptoms of vesicular disease in livestock shall
 387 immediately report it to the department.

388 (2) Failure of a veterinarian licensed in this state to report a diagnosed case of vesicular
 389 disease to the department constitutes ground for the revocation of such veterinarian's license.

390 (3) Failure by [~~the~~] an owner of livestock to report symptoms of vesicular disease
 391 among [~~such~~] the owner's livestock constitutes forfeiture of the right to claim an indemnity for
 392 an animal slaughtered on account of the disease.

393 Section 22. Section **4-31-115**, which is renumbered from Section 4-31-16 is
 394 renumbered and amended to read:

395 **[4-31-16]. 4-31-115. Contagious or infectious disease -- Duties of department.**

396 (1) (a) The department shall investigate and may quarantine any reported case of
397 contagious or infectious disease, or any epidemic, or poisoning affecting a domestic [~~animals~~]
398 animal or [~~any animal or animals that it~~] an animal that the department believes may jeopardize
399 the health of animals within the state.

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

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

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

407 (2) (a) If the owner or person in possession of such animals, after written notice from
408 the department, fails to take the action ordered, the commissioner is authorized to seize and
409 hold the animals and take action necessary to prevent the spread of disease, including
410 immunization, testing, dipping, or spraying.

411 (b) ~~[Animals]~~ An animal seized for testing or treatment under this section shall be sold
412 by the commissioner at public sale to reimburse the department for all costs incurred in the
413 seizure, testing, treatment, maintenance, and sale of ~~[such animals]~~ the animal unless the owner
414 ~~[sooner], before the sale,~~ tenders payment for the costs incurred by the department.

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

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

419 (A) prescribed for personal service in Rule 4(d)(1), Utah Rules of Civil Procedure; or

420 (B) if the owner cannot be found after due diligence, in the manner prescribed for
421 service by publication in Rule 4(d)(4), Utah Rules of Civil Procedure.

422 (3) Any amount realized from the sale of the ~~[animals]~~ animal over the total charges
423 shall be paid to the owner of the ~~[animals]~~ animal, if the owner is known or can by reasonable
424 diligence be found; otherwise, the excess shall ~~[be paid to the tuberculosis and Bangs Disease~~
425 ~~Control Account]~~ remain in the General Fund.

426 Section 23. Section **4-31-116**, which is renumbered from Section 4-31-17 is
427 renumbered and amended to read:

428 ~~[4-31-17].~~ **4-31-116. Quarantine -- Peace officers to assist in maintenance of**
429 **quarantine.**

430 (1) The commissioner may quarantine any infected domestic animal or area within the

431 state to prevent the spread of infectious or contagious disease. [~~Sheriffs and~~]

432 (2) A sheriff or other peace [officers within] officer in the state shall, upon request of
433 the commissioner, assist the department in maintaining a quarantine and [~~shall~~] arrest [~~anyone~~]
434 a person who violates it.

435 (3) The department shall pay all costs and fees incurred by any law enforcement
436 authority in assisting the department.

437 Section 24. Section **4-31-117**, which is renumbered from Section 4-31-18 is
438 renumbered and amended to read:

439 ~~[4-31-18].~~ **4-31-117. State chemist -- Assistance in diagnosis of disease.**

440 The state chemist, upon submission by the commissioner, shall examine and analyze all
441 tissue, grass, water, or other substances necessary in the proper diagnosis of disease or losses
442 among livestock.

443 Section 25. Section **4-31-118** is enacted to read:

444 **4-31-118. Animal disease traceability.**

445 The department may:

446 (1) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
447 Rulemaking Act, that are necessary for animal disease traceability and compliance with federal
448 law regarding animal disease traceability; and

449 (2) enforce the rules described in Subsection (1).

450 Section 26. Section **4-31-119** is enacted to read:

451 **4-31-119. Disease control of poultry, waterfowl, and game-birds.**

452 ~~§→~~ **(1) [The] Except as provided in Subsection (2), the** ~~←§~~ department may:

453 ~~§→~~ **[(1)] (a) ←§** make rules, in accordance with Title 63G, Chapter 3, Utah Administrative
454 Rulemaking Act, that are necessary for the control and prevention of disease in poultry,
455 waterfowl, and game-birds; and

456 ~~§→~~ **[(2)] (b) ←§** enforce the rules described in Subsection ~~§→~~ **[(1)] (a).**

456a **(2) The department may not make a rule under Subsection (1)(a) that relates to protected**
456b **wildlife that is:**

456c **(a) living in nature; and**

456d **(b) under the jurisdiction of the Division of Wildlife Resources.** ~~←§~~

457 Section 27. Section **4-39-103** is amended to read:

458 **4-39-103. Department's responsibilities.**

459 The department is responsible for enforcing laws and rules relating to:

460 (1) the importation, possession, or transportation of domesticated elk into the state or
461 within the state;

- 462 (2) the inspection of domesticated elk facilities;
- 463 (3) preventing the outbreak and controlling the spread of disease-causing pathogens
464 among domesticated elk in domesticated elk facilities;
- 465 (4) preventing the spread of disease-causing pathogens from domesticated elk to
466 wildlife, other animals, or humans; and
- 467 (5) if necessary, quarantining any domesticated elk pursuant to Title 4, Chapter 31,
468 [~~Livestock Inspection and Quarantine~~] Control of Animal Disease.
- 469 Section 28. Section **63G-2-305** is amended to read:
- 470 **63G-2-305. Protected records.**
- 471 The following records are protected if properly classified by a governmental entity:
- 472 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
473 has provided the governmental entity with the information specified in Section 63G-2-309;
- 474 (2) commercial information or nonindividual financial information obtained from a
475 person if:
- 476 (a) disclosure of the information could reasonably be expected to result in unfair
477 competitive injury to the person submitting the information or would impair the ability of the
478 governmental entity to obtain necessary information in the future;
- 479 (b) the person submitting the information has a greater interest in prohibiting access
480 than the public in obtaining access; and
- 481 (c) the person submitting the information has provided the governmental entity with
482 the information specified in Section 63G-2-309;
- 483 (3) commercial or financial information acquired or prepared by a governmental entity
484 to the extent that disclosure would lead to financial speculations in currencies, securities, or
485 commodities that will interfere with a planned transaction by the governmental entity or cause
486 substantial financial injury to the governmental entity or state economy;
- 487 (4) records the disclosure of which could cause commercial injury to, or confer a
488 competitive advantage upon a potential or actual competitor of, a commercial project entity as
489 defined in Subsection 11-13-103(4);
- 490 (5) test questions and answers to be used in future license, certification, registration,
491 employment, or academic examinations;
- 492 (6) records the disclosure of which would impair governmental procurement

493 proceedings or give an unfair advantage to any person proposing to enter into a contract or
494 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
495 Subsection (6) does not restrict the right of a person to have access to, once the contract or
496 grant has been awarded, a bid, proposal, or application submitted to or by a governmental
497 entity in response to:

498 (a) a request for bids;

499 (b) a request for proposals;

500 (c) a grant; or

501 (d) other similar document;

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

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

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

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

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

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

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

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

523 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of

524 the value of the subject property have already been disclosed to persons not employed by or
525 under a duty of confidentiality to the entity;

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

529 (a) reasonably could be expected to interfere with investigations undertaken for
530 enforcement, discipline, licensing, certification, or registration purposes;

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

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

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

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

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

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

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

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

555 (14) records and audit workpapers that identify audit, collection, and operational
556 procedures and methods used by the State Tax Commission, if disclosure would interfere with
557 audits or collections;

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

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

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

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

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

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

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

574 (A) members of a legislative body;

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

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

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

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

583 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
584 Office of Legislative Research and General Counsel is a public document unless a legislator
585 asks that the records requesting the legislation be maintained as protected records until such

586 time as the legislator elects to make the legislation or course of action public;

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

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

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

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

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

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

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

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

610 (29) records of the governor's office, including budget recommendations, legislative
611 proposals, and policy statements, that if disclosed would reveal the governor's contemplated
612 policies or contemplated courses of action before the governor has implemented or rejected
613 those policies or courses of action or made them public;

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

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

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

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

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

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

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

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

641 (a) the donor requests anonymity in writing;

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

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

648 by the donor or the donor's immediate family;

649 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
650 73-18-13;

651 (39) a notification of workers' compensation insurance coverage described in Section
652 34A-2-205;

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

656 (i) unpublished lecture notes;

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

658 (A) relating to research; and

659 (B) of:

660 (I) the institution within the state system of higher education defined in Section
661 53B-1-102; or

662 (II) a sponsor of sponsored research;

663 (iii) unpublished manuscripts;

664 (iv) creative works in process;

665 (v) scholarly correspondence; and

666 (vi) confidential information contained in research proposals;

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

669 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

670 (41) (a) records in the custody or control of the Office of Legislative Auditor General
671 that would reveal the name of a particular legislator who requests a legislative audit prior to the
672 date that audit is completed and made public; and

673 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
674 Office of the Legislative Auditor General is a public document unless the legislator asks that
675 the records in the custody or control of the Office of Legislative Auditor General that would
676 reveal the name of a particular legislator who requests a legislative audit be maintained as
677 protected records until the audit is completed and made public;

678 (42) records that provide detail as to the location of an explosive, including a map or

679 other document that indicates the location of:

680 (a) a production facility; or

681 (b) a magazine;

682 (43) information:

683 (a) contained in the statewide database of the Division of Aging and Adult Services
684 created by Section 62A-3-311.1; or

685 (b) received or maintained in relation to the Identity Theft Reporting Information
686 System (IRIS) established under Section 67-5-22;

687 (44) information contained in the Management Information System and Licensing
688 Information System described in Title 62A, Chapter 4a, Child and Family Services;

689 (45) information regarding National Guard operations or activities in support of the
690 National Guard's federal mission;

691 (46) records provided by any pawn or secondhand business to a law enforcement
692 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
693 Secondhand Merchandise Transaction Information Act;

694 (47) information regarding food security, risk, and vulnerability assessments performed
695 by the Department of Agriculture and Food;

696 (48) except to the extent that the record is exempt from this chapter pursuant to Section
697 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or
698 prepared or maintained by the Division of Emergency Management, and the disclosure of
699 which would jeopardize:

700 (a) the safety of the general public; or

701 (b) the security of:

702 (i) governmental property;

703 (ii) governmental programs; or

704 (iii) the property of a private person who provides the Division of Emergency
705 Management information;

706 (49) records of the Department of Agriculture and Food [~~relating to the National~~
707 ~~Animal Identification System or any other program that provides~~] that provide for the
708 identification, tracing, or control of livestock diseases, including any program established under
709 Title 4, Chapter 24, Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, [~~Livestock~~

710 ~~Inspection and Quarantine]~~ Control of Animal Disease;

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

712 (a) information or records held by the Department of Health related to a complaint
713 regarding a child care program or residential child care which the department is unable to
714 substantiate; and

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

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

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

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

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

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

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

728 (a) conducted within the state system of higher education, as defined in Section
729 53B-1-102; and

730 (b) conducted using animals;

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

733 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
734 Evaluation Commission concerning an individual commissioner's vote on whether or not to
735 recommend that the voters retain a judge;

736 (55) information collected and a report prepared by the Judicial Performance
737 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
738 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
739 the information or report;

740 (56) records contained in the Management Information System created in Section

741 62A-4a-1003;

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

744 (58) information requested by and provided to the Utah State 911 Committee under
745 Section 53-10-602;

746 (59) recorded Children's Justice Center investigative interviews, both video and audio,
747 the release of which are governed by Section 77-37-4;

748 (60) in accordance with Section 73-10-33:

749 (a) a management plan for a water conveyance facility in the possession of the Division
750 of Water Resources or the Board of Water Resources; or

751 (b) an outline of an emergency response plan in possession of the state or a county or
752 municipality;

753 (61) the following records in the custody or control of the Office of Inspector General
754 of Medicaid Services, created in Section 63J-4a-201:

755 (a) records that would disclose information relating to allegations of personal
756 misconduct, gross mismanagement, or illegal activity of a person if the information or
757 allegation cannot be corroborated by the Office of Inspector General of Medicaid Services
758 through other documents or evidence, and the records relating to the allegation are not relied
759 upon by the Office of Inspector General of Medicaid Services in preparing a final investigation
760 report or final audit report;

761 (b) records and audit workpapers to the extent they would disclose the identity of a
762 person who, during the course of an investigation or audit, communicated the existence of any
763 Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or
764 regulation adopted under the laws of this state, a political subdivision of the state, or any
765 recognized entity of the United States, if the information was disclosed on the condition that
766 the identity of the person be protected;

767 (c) before the time that an investigation or audit is completed and the final
768 investigation or final audit report is released, records or drafts circulated to a person who is not
769 an employee or head of a governmental entity for the person's response or information;

770 (d) records that would disclose an outline or part of any investigation, audit survey
771 plan, or audit program; or

772 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
773 investigation or audit;

774 (62) records that reveal methods used by the Office of Inspector General of Medicaid
775 Services, the fraud unit, or the Department of Health, to discover Medicaid fraud, waste, or
776 abuse;

777 (63) information provided to the Department of Health or the Division of Occupational
778 and Professional Licensing under Subsection 58-68-304(3) or (4); and

779 (64) a record described in Section 63G-12-210.

780 Section 29. **Repealer.**

781 This bill repeals:

782 Section **4-29-1, Department authorized to make and enforce rules.**

783 Section **4-29-2, Restrictions on importation of chickens, turkeys, chicks, turkey**
784 **poults, and hatching eggs -- Certificate to accompany shipment -- Disposition of**
785 **nonconforming shipments.**

786 Section **4-29-3, Results of negative agglutination blood test filed with department.**

787 Section **4-29-4, Hatchery -- License required to operate.**

788 Section **4-29-5, License -- Application -- Fee -- Expiration -- Renewal.**

789 Section **4-29-6, Enforcement -- Inspection of premises where poultry raised.**

790 Section **4-31-5, Imported dairy cattle -- Tuberculosis certificates.**

791 Section **4-31-7, Claims for indemnity for destroyed or slaughtered cattle.**

792 Section **4-31-8, Tuberculosis and Bangs Account created -- Exclusive use of**
793 **revenue.**

794 Section **4-31-10, Imported swine -- Quarantine period -- Exceptions to quarantine.**

795 Section **4-31-11, Restrictions on movement of swine -- Swine feeder license --**
796 **Restrictions on feeding garbage to swine.**

797 Section **4-31-12, Carcass of infected swine to be burned or buried.**

798 Section **4-31-13, Stockyards -- Disinfection.**

799 Section **4-31-16.5, Brucellosis -- Vaccination required for certain cattle -- Testing**
800 **required to import certain cattle.**

801 Section **4-31-19, Fee to compensate state for quarantine and sanitary procedures.**

802 Section **4-31-21, Trichomoniasis -- Department to make rules.**

803

Section 4-31-22, National animal identification system.

Legislative Review Note
as of 2-21-12 1:44 PM

Office of Legislative Research and General Counsel