

Senator David P. Hinkins proposes the following substitute bill:

DEPARTMENT OF AGRICULTURE AND FOOD AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Joel Ferry

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill makes changes related to the authority and administration of the Department of Agriculture and Food.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ authorizes the department to regulate animal enterprises and the use of working animals and, with certain exceptions, prohibits a political subdivision from regulating animal enterprises or the use of working animals;
- ▶ clarifies the department's authority to award grants;
- ▶ allows the department to email certain registration renewal forms to a registrant unless the registrant requests to receive the forms by mail;
- ▶ authorizes the department to use the Agriculture Resource Development Fund to make loans through a disaster relief program;
- ▶ amends provisions related to the administration of the Utah Rural Rehabilitation Fund;
- ▶ clarifies where the department will send a notice of brand renewal;
- ▶ provides for an annual yearly brand inspection for rodeo stock;



- 26 ▶ clarifies the acceptable use of the Plant Pest Fund for certain administrative
- 27 expenses;
- 28 ▶ changes the term "certificate of registration" to the term "license" throughout the
- 29 Aquaculture Act;
- 30 ▶ amends provisions related to the use of the Agricultural Water Optimization
- 31 Account; and
- 32 ▶ makes technical and conforming changes.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill provides a special effective date.

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 4-2-103, as last amended by Laws of Utah 2018, Chapter 200
- 40 4-14-103, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 41 4-18-106, as last amended by Laws of Utah 2019, Chapter 178
- 42 4-18-108, as last amended by Laws of Utah 2019, Chapter 178
- 43 4-19-105, as renumbered and amended by Laws of Utah 2017, Chapter 345
- 44 4-24-202, as last amended by Laws of Utah 2021, Chapter 295
- 45 4-24-306, as last amended by Laws of Utah 2021, Chapter 295
- 46 4-24-308, as last amended by Laws of Utah 2020, Chapter 311
- 47 4-35-106, as last amended by Laws of Utah 2020, Chapter 326
- 48 4-37-109, as last amended by Laws of Utah 2020, Chapter 154
- 49 4-37-110, as last amended by Laws of Utah 2010, Chapter 378
- 50 4-37-111, as last amended by Laws of Utah 2017, Chapter 412
- 51 4-37-201, as last amended by Laws of Utah 2017, Chapter 412
- 52 4-37-202, as last amended by Laws of Utah 2014, Chapter 189
- 53 4-37-203, as last amended by Laws of Utah 2017, Chapter 412
- 54 4-37-204, as last amended by Laws of Utah 2021, Chapter 295
- 55 4-37-301, as last amended by Laws of Utah 2017, Chapter 412
- 56 4-37-302, as last amended by Laws of Utah 2014, Chapter 189

- 57 **4-37-303**, as last amended by Laws of Utah 2010, Chapter 378
- 58 **4-37-305**, as last amended by Laws of Utah 2010, Chapter 378
- 59 **4-37-401**, as enacted by Laws of Utah 1994, Chapter 153
- 60 **4-37-601**, as enacted by Laws of Utah 1994, Chapter 153
- 61 **4-37-602**, as last amended by Laws of Utah 2010, Chapter 286
- 62 **63I-1-273**, as last amended by Laws of Utah 2021, Chapter 229
- 63 **73-10g-204**, as enacted by Laws of Utah 2018, Chapter 143

64 ENACTS:

65 **4-2-103.5**, Utah Code Annotated 1953



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

68 Section 1. Section **4-2-103** is amended to read:

69 **4-2-103. Functions, powers, and duties of department -- Fees for services --**

70 **Marketing orders -- Procedure -- Purchasing and auditing.**

71 (1) The department shall:

72 (a) inquire into and promote the interests and products of agriculture and allied
73 industries;

74 (b) promote methods for increasing the production and facilitating the distribution of
75 the agricultural products of the state;

76 (c) (i) inquire into the cause of contagious, infectious, and communicable diseases
77 among livestock and the means for their prevention and cure; and

78 (ii) initiate, implement, and administer plans and programs to prevent the spread of
79 diseases among livestock;

80 (d) encourage experiments designed to determine the best means and methods for the
81 control of diseases among domestic and wild animals;

82 (e) issue marketing orders for any designated agricultural product to:

83 (i) promote orderly market conditions for any product;

84 (ii) give the producer a fair return on the producer's investment at the marketplace; and

85 (iii) only promote and not restrict or restrain the marketing of Utah agricultural
86 commodities;

87 (f) administer and enforce all laws assigned to the department by the Legislature;

- 88 (g) establish standards and grades for agricultural products and fix and collect
89 reasonable fees for services performed by the department in conjunction with the grading of
90 agricultural products;
- 91 (h) establish operational standards for any establishment that manufactures, processes,
92 produces, distributes, stores, sells, or offers for sale any agricultural product;
- 93 (i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
94 rules necessary for the effective administration of the agricultural laws of the state;
- 95 (j) when necessary, make investigations, subpoena witnesses and records, conduct
96 hearings, issue orders, and make recommendations concerning all matters related to
97 agriculture;
- 98 (k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any
99 private or public place that may become infested or infected with harmful insects, plant
100 diseases, noxious or poisonous weeds, or other agricultural pests;
- 101 (ii) establish and enforce quarantines;
- 102 (iii) issue and enforce orders and rules for the control and eradication of pests,
103 wherever they may exist within the state; and
- 104 (iv) perform other duties relating to plants and plant products considered advisable and
105 not contrary to law;
- 106 (l) inspect apiaries for diseases inimical to bees and beekeeping;
- 107 (m) take charge of any agricultural exhibit within the state, if considered necessary by
108 the department, and award premiums at that exhibit;
- 109 (n) assist the Conservation Commission in the administration of Title 4, Chapter 18,
110 Conservation Commission Act, and administer and disburse any funds available to assist
111 conservation districts in the state in the conservation of the state's soil and water resources;
- 112 (o) participate in the United States Department of Agriculture certified agricultural
113 mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;
- 114 (p) promote and support the multiple use of public lands;
- 115 (q) ensure that any training or certification required of a public official or public
116 employee, as those terms are defined in Section [63G-22-102](#), complies with Title 63G, Chapter
117 22, State Training and Certification Requirements, if the training or certification is required:
- 118 (i) under this title;

- 119 (ii) by the department; or
120 (iii) by an agency or division within the department; and
121 (r) perform any additional functions, powers, and duties provided by law.
- 122 (2) The department, by following the procedures and requirements of Section
123 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.
- 124 (3) (a) No marketing order issued under Subsection (1)(e) shall take effect until:
125 (i) the department gives notice of the proposed order to the producers and handlers of
126 the affected product;
127 (ii) the commissioner conducts a hearing on the proposed order; and
128 (iii) at least 50% of the registered producers and handlers of the affected products vote
129 in favor of the proposed order.
- 130 (b) (i) The department may establish boards of control to administer marketing orders
131 and the proceeds derived from any order.
132 (ii) A board of control shall:
133 (A) ensure that all proceeds are placed in an account in the board of control's name in a
134 depository institution; and
135 (B) ensure that the account is annually audited by an accountant approved by the
136 commissioner.
- 137 (4) Funds collected by grain grading, as provided by Subsection (1)(g), shall be
138 deposited into the General Fund as dedicated credits for the grain grading program.
- 139 (5) In fulfilling its duties in this chapter, the department may:
140 (a) purchase, as authorized or required by law, services that the department is
141 responsible to provide for legally eligible persons;
142 (b) take necessary steps, including legal action, to recover money or the monetary value
143 of services provided to a recipient who is not eligible;
144 (c) examine and audit the expenditures of any public funds provided to a local
145 authority, agency, or organization that contracts with or receives funds from those authorities or
146 agencies; ~~and~~
147 (d) accept and administer grants from the federal government and from other sources,
148 public or private[-]; and
149 (e) fund grants using money appropriated by the Legislature or money received from

150 any other source.

151 Section 2. Section **4-2-103.5** is enacted to read:

152 **4-2-103.5. Regulation of animal enterprises and working animals.**

153 (1) As used in this section:

154 (a) "Animal" means any nonhuman vertebrate life form.

155 (b) (i) "Animal enterprise" means a commercial or academic enterprise that produces
156 or sells animals for profit, food or fiber production, agriculture, education, research, or testing.

157 (ii) "Animal enterprise" includes an animal competition, exposition, fair, farm, feedlot,
158 furrier, ranch, rodeo, or an event intended to exhibit or advance agricultural arts and sciences.

159 (iii) "Animal enterprise" does not include an aquarium, circus, retail pet store, or zoo.

160 (c) "Political subdivision" means:

161 (i) a city, town, or metro township; or

162 (ii) a county, as it relates to the licensing and regulation of an animal enterprise or
163 working animal in the unincorporated area of the county.

164 (d) "Working animal" means an animal used for performing a specific duty or function
165 in commerce, including an animal used for entertainment, transportation, education, or
166 exhibition.

167 (2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
168 department may adopt rules establishing standards for the operation of an animal enterprise or
169 the use of a working animal.

170 (3) A political subdivision may not adopt or enforce an ordinance or other regulation
171 that prohibits or effectively prohibits the operation of an animal enterprise or the use of a
172 working animal.

173 (4) Subsection (3) does not apply to an ordinance or other regulation adopted or
174 enforced by a political subdivision if the ordinance or other regulation:

175 (a) enforces a state or federal law; or

176 (b) is a land use regulation as that term is defined in Section [10-9a-103](#) or [17-27a-103](#).

177 Section 3. Section **4-14-103** is amended to read:

178 **4-14-103. Registration required for distribution -- Application -- Fees -- Renewal**
179 **-- Local needs registration -- Distributor or applicator license -- Fees -- Renewal.**

180 (1) (a) A person that is not registered with the department may not distribute a

181 pesticide in this state.

182 (b) Application for registration shall be made to the department upon forms prescribed
183 and furnished by the department accompanied with an annual registration fee determined by the
184 department pursuant to Subsection 4-2-103(2) for each pesticide registered.

185 (c) Upon receipt by the department of a proper application and payment of the
186 appropriate fee, the commissioner shall issue a registration to the applicant allowing
187 distribution of the registered pesticide in this state through June 30 of each year, subject to
188 suspension or revocation for cause.

189 (d) (i) Each registration is renewable for a period of one year upon the payment of an
190 annual registration renewal fee in an amount equal to the current applicable original
191 registration fee.

192 (ii) Each renewal fee shall be paid on or before June 30 of each year.

193 (2) The application shall include the following information:

194 (a) the name and address of the applicant and the name and address of the person
195 whose name will appear on the label, if other than the applicant's name;

196 (b) the name of the pesticide;

197 (c) a complete copy of the label that will appear on the pesticide; and

198 (d) any information prescribed by rule of the department considered necessary for the
199 safe and effective use of the pesticide.

200 (3) (a) ~~[Forms]~~ Except as provided in Subsection (3)(b), forms for the renewal of
201 registration shall be ~~[mailed]~~ emailed to registrants at least 30 days before ~~[their]~~ the day on
202 which the registrant's registration expires.

203 (b) If a registrant requests to receive forms for the renewal of registration by mail, the
204 department shall mail the forms to the registrant at least 30 days before the day on which the
205 registrant's registration expires.

206 ~~[(b)]~~ (c) A registration in effect on June 30 for which a renewal application has been
207 filed and the registration fee tendered shall continue in effect until the applicant is notified
208 either that the registration is renewed or that the registration is suspended or revoked pursuant
209 to Section 4-14-108.

210 (4) The department may, before approval of any registration, require the applicant to
211 submit the complete formula of any pesticide, including active and inert ingredients, and may

212 also, for any pesticide not registered according to 7 U.S.C. Sec. 136a or for any pesticide on
213 which restrictions are being considered, require a complete description of all tests and test
214 results that support the claims made by the applicant or the manufacturer of the pesticide.

215 (5) A registrant who desires to register a pesticide to meet special local needs
216 according to 7 U.S.C. Sec. 136v(c) shall, in addition to complying with Subsections (1) and
217 (2), satisfy the department that:

218 (a) a special local need exists;

219 (b) the pesticide warrants the claims made for the pesticide;

220 (c) the pesticide, if used in accordance with commonly accepted practices, will not
221 cause unreasonable adverse effects on the environment; and

222 (d) the proposed classification for use conforms with 7 U.S.C. Sec. 136a(d).

223 (6) A registration is not required for a pesticide distributed in this state pursuant to an
224 experimental use permit issued by the EPA or under Section 4-14-105.

225 (7) A pesticide dealer may not distribute a restricted use pesticide in this state without a
226 license.

227 (8) A person shall receive a license before applying:

228 (a) a restricted use pesticide; or

229 (b) a general use pesticide for hire or in exchange for compensation.

230 (9) (a) A license to engage in an activity listed in Subsection (7) or (8) may be obtained
231 by:

232 (i) submitting an application on a form provided by the department;

233 (ii) showing evidence of competence in the pesticide profession, as established by rule,
234 and complying with the rules adopted by the department under this chapter;

235 (iii) demonstrating good character;

236 (iv) having no outstanding infractions and owing no money to the department; and

237 (v) paying the license fee determined by the department according to Subsection
238 4-2-103(2).

239 (b) A person may apply for a triennial license that expires on December 31 of the
240 second calendar year after the calendar year in which the license is issued.

241 (c) Notwithstanding Section 63J-1-504, the department shall retain the fees as
242 dedicated credits and may only use the fees to administer and enforce this title.

243 Section 4. Section 4-18-106 is amended to read:

244 **4-18-106. Agriculture Resource Development Fund -- Contents -- Use of fund**
245 **money -- Advisory board.**

246 (1) As used in this section:

247 (a) "Disaster" means an extraordinary circumstance, including a flood, drought, or fire,
248 that results in:

249 (i) the president of the United States declaring an emergency or major disaster in the
250 state;

251 (ii) the governor declaring a state of emergency under Title 53, Chapter 2a, Part 2,
252 Disaster Response and Recovery Act; or

253 (iii) the chief executive officer of a local government declaring a local emergency
254 under Title 53, Chapter 2a, Part 2, Disaster Response and Recovery Act.

255 (b) "Local government" means the same as that term is defined in Section 53-2a-602.

256 ~~(1)~~ (2) There is created a revolving loan fund known as the Agriculture Resource
257 Development Fund.

258 ~~(2)~~ (3) The Agriculture Resource Development Fund shall consist of:

259 (a) money appropriated to ~~it~~ the fund by the Legislature;

260 (b) sales and use tax receipts transferred to the fund in accordance with Section
261 59-12-103;

262 (c) money received for the repayment of loans made from the fund;

263 (d) money made available to the state for agriculture resource development from any
264 source; and

265 (e) interest earned on the fund.

266 ~~(3)~~ (4) The commission ~~shall~~ may make loans from the Agriculture Resource
267 Development Fund for ~~a~~ a:

268 (a) a rangeland improvement and management project;

269 (b) a watershed protection or flood prevention project;

270 (c) a soil and water conservation project;

271 (d) a program designed to promote energy efficient farming practices;

272 (e) an improvement program for agriculture product storage or program designed to
273 protect a crop or animal resource;

- 274 (f) a hydroponic or aquaponic system; [or]
- 275 (g) a project or program to improve water quality [or];
- 276 (h) a project to address other environmental issues[-]; or
- 277 (i) subject to Subsection (5), a disaster relief program designed to aid the sustainability
- 278 of agriculture during and immediately following a disaster.

279 (5) (a) Loans made through a disaster relief program described in Subsection (4)(i) may
 280 not comprise more than 10% of the funds appropriated by the Legislature to the Agriculture
 281 Resource Development Fund.

282 (b) Notwithstanding Subsection (5)(a), the department may use all money appropriated
 283 to the Agriculture Resource Development Fund by the Legislature or another source, without
 284 limitation, if the money is appropriated specifically for use in a disaster relief program.

285 (c) (i) Until December 31, 2024, the department is authorized to borrow up to
 286 \$3,000,000 of General Fund appropriations from the Agricultural Water Optimization Account
 287 created in Section 73-10g-204 to be used in making loans through a disaster relief program
 288 described in Subsection (4)(i).

289 (ii) If the department borrows from the Agricultural Water Optimization Account
 290 under Subsection (5)(c)(i), the department shall deposit the repayment of principal and interest
 291 on loans made through a disaster relief program, regardless of the source of the funds used to
 292 make those loans, into the Agricultural Water Optimization Account, with preference over the
 293 repayment of any other source of funds, until the Agricultural Water Optimization Account is
 294 repaid in full.

295 [~~4~~] (6) The commission may appoint an advisory board [that shall] to:

- 296 (a) oversee the award process for loans, as described in this section;
- 297 (b) approve loans; and
- 298 (c) recommend policies and procedures for the Agriculture Resource Development
- 299 Fund that are consistent with statute.

300 Section 5. Section **4-18-108** is amended to read:

301 **4-18-108. Grants for environmental improvement projects -- Criteria for award**
 302 **-- Duties of commission.**

303 (1) The commission may make a grant from the Agriculture Resource Development
 304 Fund, or from funds appropriated by the federal government, Legislature, or another entity, to

305 an eligible entity, as defined by the department by rule made in accordance with Title 63G,
306 Chapter 3, Utah Administrative Rulemaking Act, for:

307 ~~[(a) a purpose set forth under Subsection 4-18-106(3);]~~

308 ~~[(b) the development or implementation of a coordinated resource management plan~~
309 ~~with a conservation district, as defined in Section 17D-3-102;]~~

310 ~~[(c)]~~ (a) control or eradication of noxious weeds and invasive plant species in
311 cooperation and coordination with a local weed board;

312 ~~[(d)]~~ (b) the costs of plans or projects to improve manure management, control surface
313 water runoff, or address other environmental issues on ~~[the]~~ a farm or ranch operation,
314 including the costs of preparing or implementing a nutrient management plan; ~~[or]~~

315 ~~[(e)]~~ (c) the improvement of water quality ~~[or]~~;

316 (d) the development of watershed plans; or

317 (e) a program to address other environmental issues.

318 ~~[(2) The commission may make a grant for a purpose described in Subsection (1) from~~
319 ~~money appropriated by the Legislature for the purpose of awarding a grant under this section.]~~

320 ~~[(3)]~~ (2) (a) In awarding a grant, the commission shall consider the following criteria:

321 (i) the ability of the grantee to pay for the costs of proposed plans or projects;

322 (ii) the availability of:

323 (A) matching funds provided by the grantee or another source; or

324 (B) material, labor, or other items of value provided in lieu of money by the grantee or
325 another source; and

326 (iii) the benefits that accrue to the general public by the awarding of a grant.

327 (b) The commission may establish by rule additional criteria for the awarding of a
328 grant.

329 ~~[(4)]~~ (3) The commission shall make rules in accordance with Title 63G, Chapter 3,
330 Utah Administrative Rulemaking Act, to implement this section.

331 ~~[(5)]~~ (4) The commission may appoint an advisory board to:

332 (a) assist with the grant process;

333 (b) make recommendations to the commission regarding grants; and

334 (c) establish policies and procedures for awarding loans or grants ~~[from the~~
335 ~~Agricultural Resource Development Fund]~~.

336 Section 6. Section **4-19-105** is amended to read:

337 **4-19-105. Utah Rural Rehabilitation Fund.**

338 (1) The department shall deposit all income generated from the administration of the
339 rural rehabilitation program in a separate fund known as the "Utah Rural Rehabilitation Fund."

340 (2) The ~~[state treasurer]~~ Division of Finance shall maintain the Utah Rural
341 Rehabilitation Fund and record all debits and credits made to the fund by the department.

342 (3) The Office of the Treasurer shall deposit interest and other earnings derived from
343 investment of money in the Utah Rural Rehabilitation Fund into the fund.

344 Section 7. Section **4-24-202** is amended to read:

345 **4-24-202. Recordation of brand.**

346 (1) (a) Application for a recorded brand shall be made to the department upon forms
347 prescribed and furnished by the department.

348 (b) The application shall contain the ~~[information the commissioner prescribes.]~~
349 following information:

350 (i) the name of each applicant;

351 (ii) a single designated address where the department will send a notice of brand
352 renewal; and

353 (iii) a description of the brand that is the subject of the application.

354 (c) An application may not be approved without payment of the appropriate recording
355 fee.

356 (d) Upon receipt of a proper application, payment of the recording fee, and recordation
357 of the brand in the central Brand Registry of the department, the commissioner shall issue the
358 applicant a certified copy of recording that entitles the applicant to the exclusive use of the
359 brand recorded.

360 (2) (a) A recorded brand filed with the central Brand Registry expires during the
361 calendar year 1980, and during each fifth year thereafter.

362 (b) (i) The department shall ~~[give]~~ send notice in writing to ~~[all persons who are~~
363 ~~owners of recorded brands]~~ the address designated under Subsection (1)(b)(ii) within a
364 reasonable time before the date of expiration of recordation.

365 (ii) The notice required by this Subsection (2)(b) may be provided by email or regular
366 mail at the department's discretion.

367 (iii) The holder of a registered brand has an affirmative duty to inform the department
368 of a change to the contact information provided on the initial application for a recorded brand.

369 (c) Brand renewal is affected by filing an appropriate application with the department
370 together with payment of the renewal fee.

371 (d) A recorded brand, not timely renewed, shall lapse and be removed from the central
372 Brand Registry.

373 Section 8. Section **4-24-306** is amended to read:

374 **4-24-306. Movement across state line -- Brand inspection required -- Exception --**
375 **Request for brand inspection -- Time and place of inspection.**

376 (1) Except as provided in Subsection (2), a person may not drive or transport any cattle,
377 calves, horses, domesticated elk, or mules from any place within this state to a place outside
378 this state until the animal has been brand inspected.

379 (2) Subsection (1) does not apply:

380 (a) if the animals specified in Subsection (1) customarily forage on an open range
381 which transgresses the Utah state line and that of an adjoining state[-]; or

382 (b) to rodeo stock that have received a current yearly brand inspection.

383 (3) The owner or person responsible for driving or transporting the animals shall
384 request the department to inspect the brands of the animals to be moved.

385 (4) The department shall conduct the inspection at the time and place determined by
386 the department.

387 Section 9. Section **4-24-308** is amended to read:

388 **4-24-308. Brand inspection fees.**

389 (1) The department with the approval of the Livestock Brand Board may set and collect
390 a fee for the:

391 (a) issuance of any certificate of brand inspection, including a yearly brand inspection
392 of rodeo stock;

393 (b) verification of ownership at a custom exempt slaughter facility before slaughter for
394 the owner's use;

395 (c) verification of ownership by a farm custom slaughter licensee before slaughter for
396 the owner's use; or

397 (d) verification of ownership by a state or department employee at a meat

398 establishment where there is no transfer of ownership.

399 (2) Brand inspection fees incurred for the inspection of such animals at a livestock
400 market may be withheld by the market and paid from the proceeds derived from their sale.

401 (3) The fee shall be determined by the department pursuant to Subsection 4-2-103(2).
402 Section 10. Section 4-35-106 is amended to read:

403 **4-35-106. Plant Pest Fund.**

404 (1) There is created an expendable special revenue fund known as the "Plant Pest
405 Fund."

406 (2) The fund is funded from:

407 (a) money the plant industry division within the department receives under this title;

408 (b) the landowner's and lessee's share of costs, if required by rule made by the
409 department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

410 (c) appropriations from the Legislature;

411 (d) federal money deposited into the fund; and

412 (e) the interest and earnings on the fund.

413 (3) The department may only use money in the fund to fund survey, detection,
414 eradication, or suppression efforts for plant pests with the exception designated in Subsection
415 (4).

416 (4) The department may annually use an amount not to exceed the lesser of the
417 following [~~to carry out the department's duties under this chapter~~] for staff or administrative
418 costs to carry out the department's duties under this chapter:

419 (a) 10% of the fund annually; or

420 (b) \$300,000.

421 (5) (a) The fund may not exceed \$10,000,000 of money deposited under Subsections
422 (2)(a), (c), and (e).

423 (b) The Division of Finance shall transfer the money described in Subsection (5)(a) in
424 excess of \$10,000,000 at the end of a fiscal year into the General Fund.

425 (6) Federal money deposited into the fund shall be accounted for separately.

426 (7) Fund money may be used as matching funds for participation in programs of the
427 United States Department of Agriculture for survey, detection, eradication, or suppression
428 efforts of plant pests.

429 Section 11. Section **4-37-109** is amended to read:

430 **4-37-109. Department to make rules.**

431 (1) The department shall make rules in accordance with Title 63G, Chapter 3, Utah
432 Administrative Rulemaking Act:

433 (a) specifying procedures for the application and renewal of [~~certificates of~~
434 ~~registration~~] licenses for operating an aquaculture or fee fishing facility; and

435 (b) governing the disposal or removal of aquatic animals from an aquaculture or fee
436 fishing facility for which the [~~certificate of registration~~] license has lapsed or been revoked.

437 (2) (a) The department may make other rules consistent with its responsibilities set
438 forth in Section **4-37-104**.

439 (b) Except as provided by this chapter, the rules authorized by Subsection (2)(a) shall
440 be consistent with the suggested procedures for the detection and identification of pathogens
441 published by the American Fisheries Society's Fish Health Section.

442 Section 12. Section **4-37-110** is amended to read:

443 **4-37-110. Inspection of records and facilities.**

444 (1) The following records and information shall be maintained by an aquaculture or fee
445 fishing facility for a period of two years and shall be available for inspection by a department
446 representative during reasonable hours:

447 (a) records of purchase, acquisition, distribution, and production histories of aquatic
448 animals;

449 (b) [~~certificate of registration~~] a license; and

450 (c) valid identification of stocks, including origin of stocks.

451 (2) Department representatives may conduct pathological, fish culture, or physical
452 investigations at any aquaculture, public aquaculture, or fee fishing facility during reasonable
453 hours.

454 Section 13. Section **4-37-111** is amended to read:

455 **4-37-111. Prohibited sites.**

456 (1) Except as provided in Subsection (2), an aquaculture facility or a fee fishing facility
457 may not be developed on:

458 (a) a natural lake;

459 (b) a natural flowing stream; or

460 (c) a reservoir constructed on a natural stream channel.

461 (2) The Division of Wildlife Resources may authorize an aquaculture facility, public
462 aquaculture facility, or fee fishing facility on a natural lake or reservoir constructed on a natural
463 stream channel upon inspecting and determining:

464 (a) the facility and inlet source of the facility neither contain wild game fish nor are
465 likely to support such species in the future;

466 (b) the facility and the facility's intended use will not jeopardize conservation of
467 aquatic wildlife or lead to the privatization or commercialization of aquatic wildlife;

468 (c) the facility is properly screened as provided in Subsection 23-15-10(3)(c) and
469 otherwise in compliance with the requirements of this title, rules of the Wildlife Board, and
470 applicable law; and

471 (d) the facility is not vulnerable to flood or high water events capable of compromising
472 the facility's inlet or outlet screens and allowing escapement of privately owned fish into waters
473 of the state.

474 (3) Any authorization issued by the Division of Wildlife Resources under Subsection
475 (2) shall be in the form of a certificate of registration.

476 Section 14. Section 4-37-201 is amended to read:

477 **4-37-201. License required to operate an aquaculture facility.**

478 (1) A person may not operate an aquaculture facility without first obtaining a
479 [~~certificate of registration~~] license from the department.

480 (2) (a) Each application for a [~~certificate of registration~~] license to operate an
481 aquaculture facility shall be accompanied by a fee.

482 (b) The fee shall be established by the department in accordance with Section
483 63J-1-504.

484 (3) The department shall coordinate with the Division of Wildlife Resources:

485 (a) on the suitability of the proposed site relative to potential impacts on adjacent wild
486 aquatic animal populations; and

487 (b) in determining which species the holder of the [~~certificate of registration~~] license
488 may propagate, possess, transport, or sell.

489 (4) The department shall list on the [~~certificate of registration~~] license the species
490 which the holder may propagate, possess, transport, or sell.

491 Section 15. Section **4-37-202** is amended to read:

492 **4-37-202. Acquisition of aquatic animals for use in aquaculture facilities.**

493 (1) Live aquatic animals intended for use in aquaculture facilities may be purchased or
494 acquired only from:

495 (a) aquaculture facilities within the state that have a [~~certificate of registration~~] license
496 and health approval number;

497 (b) public aquaculture facilities within the state that have a health approval number; or

498 (c) sources outside the state that are health approved as provided in Part 5, Health
499 Approval.

500 (2) A person holding a [~~certificate of registration~~] license for an aquaculture facility
501 shall submit annually to the department a record of each purchase of live aquatic animals and
502 transfer of live aquatic animals into the facility. This record shall include the following
503 information:

504 (a) name, address, and health approval number of the source;

505 (b) date of transaction; and

506 (c) number and weight by species.

507 (3) The records required by Subsection (2) shall be submitted to the department before
508 a [~~certificate of registration~~] license is renewed or a subsequent [~~certificate of registration~~]
509 license is issued.

510 Section 16. Section **4-37-203** is amended to read:

511 **4-37-203. Transportation of aquatic animals to or from aquaculture facilities.**

512 (1) Any person holding a [~~certificate of registration~~] license for an aquaculture facility
513 may transport the live aquatic animals specified on the [~~certificate of registration~~] license to the
514 facility or to any person who has been issued a [~~certificate of registration~~] license or who is
515 otherwise authorized by law to possess those aquatic animals.

516 (2) Each transfer or shipment of live aquatic animals from or to an aquaculture facility
517 within the state shall be accompanied by documentation of the source and destination of the
518 fish, including:

519 (a) name, address, [~~certificate of registration~~] license number, and health approval
520 number of the source;

521 (b) number and weight being shipped, by species;

- 522 (c) name of the recipient;
- 523 (d) address of the destination; and
- 524 (e) (i) [~~certificate of registration~~] license number of the receiving facility; or
- 525 (ii) location of the private fish pond or short-term fishing event when authorized to
- 526 receive the aquatic animal without a certificate of registration under Division of Wildlife
- 527 Resources rules.

528 Section 17. Section **4-37-204** is amended to read:

529 **4-37-204. Sale of aquatic animals from aquaculture facilities.**

530 (1) (a) Except as provided by Subsection (1)(c) and subject to Subsection (1)(b), a

531 person holding a [~~certificate of registration~~] license for an aquaculture facility may take an

532 aquatic animal as approved on the [~~certificate of registration~~] license from the facility at any

533 time and offer the aquatic animal for sale.

534 (b) A live aquatic animal may be sold within Utah only to a person who:

535 (i) has been issued a [~~certificate of registration~~] license to possess the aquatic animal;

536 or

537 (ii) is eligible to receive the aquatic animal without a certificate of registration under

538 Wildlife Board rules.

539 (c) A person who owns or operates an aquaculture facility may sell live aquatic animals

540 if the person:

541 (i) obtains a health approval number for the aquaculture facility;

542 (ii) inspects the pond or holding facility to verify that the pond or facility is in

543 compliance with Subsections [23-15-10\(2\)](#) and [\(3\)\(c\)](#); and

544 (iii) stocks the species and reproductive capability of aquatic animals authorized by the

545 Wildlife Board in accordance with Section [23-15-10](#) for stocking in the area where the pond or

546 holding facility is located.

547 (2) An aquatic animal sold or transferred by the owner or operator of an aquaculture

548 facility shall be accompanied by the seller's receipt that contains the following information:

549 (a) date of transaction;

550 (b) name, address, [~~certificate of registration~~] license number, and health approval

551 number;

552 (c) number and weight of aquatic animal by:

- 553 (i) species; and
- 554 (ii) reproductive capability; and
- 555 (d) name and address of the receiver.

556 (3) (a) A person holding a [~~certificate of registration~~] license for an aquaculture facility
557 shall submit to the department an annual report of each sale of live aquatic animals or each
558 transfer of live aquatic animals in Utah. The department shall forward the report to the Division
559 of Wildlife Resources. The department or Division of Wildlife Resources may request copies
560 of receipts from an aquaculture facility.

561 (b) The report shall contain the following information:

- 562 (i) name, address, and [~~certificate of registration~~] license number of the seller or
563 supplier;
- 564 (ii) number and weight of aquatic animals by species and reproductive capacity;
- 565 (iii) date of sale or transfer; and
- 566 (iv) name, address, phone number, and [~~certificate of registration~~] license number of
567 the receiver.

568 (4) Geographic coordinates of the stocking location shall be provided if the receiver is
569 eligible to stock the aquatic animal without a certificate of registration under Wildlife Board
570 rules.

571 (5) A report required by Subsection (3) shall be submitted before:

- 572 (a) a [~~certificate of registration~~] license is renewed or a subsequent [~~certificate of~~
573 ~~registration~~] license is issued; or
- 574 (b) a health approval number is issued.

575 Section 18. Section **4-37-301** is amended to read:

576 **4-37-301. License required to operate a fee fishing facility.**

577 (1) A person may not operate a fee fishing facility without first obtaining a [~~certificate~~
578 ~~of registration~~] license from the department.

579 (2) (a) Each application for a [~~certificate of registration~~] license to operate a fee fishing
580 facility shall be accompanied by a fee.

581 (b) The fee shall be established by the department in accordance with Section
582 [63J-1-504](#).

583 (3) The department shall coordinate with the Division of Wildlife Resources:

584 (a) on the suitability of the proposed site relative to potential impacts on adjacent wild
585 aquatic animal populations; and

586 (b) in determining which species the holder of the [~~certificate of registration~~] license
587 may possess or transport to or stock into the facility.

588 (4) The department shall list on the [~~certificate of registration~~] license the species
589 which the holder may possess or transport to or stock into the facility.

590 (5) A person holding a [~~certificate of registration~~] license for an aquaculture facility
591 may also operate a fee fishing facility without obtaining an additional [~~certificate of~~
592 ~~registration~~] license, if the fee fishing facility:

593 (a) is in a body of water meeting the criteria of Section 4-37-111 which is connected
594 with the aquaculture facility;

595 (b) contains only those aquatic animals specified on the [~~certificate of registration~~]
596 license for the aquaculture facility; and

597 (c) is designated on the [~~certificate of registration~~] license for the aquaculture facility.
598 Section 19. Section 4-37-302 is amended to read:

599 **4-37-302. Acquisition of aquatic animals for use in fee fishing facilities.**

600 (1) Live aquatic animals intended for use in fee fishing facilities may be purchased or
601 acquired only from:

602 (a) aquaculture facilities within the state that have a [~~certificate of registration~~] license
603 and health approval number;

604 (b) public aquaculture facilities within the state that have a health approval number; or

605 (c) sources outside the state that are health approved pursuant to Part 5, Health
606 Approval.

607 (2) (a) A person holding a [~~certificate of registration~~] license for a fee fishing facility
608 shall submit to the department an annual report of all live fish purchased or acquired.

609 (b) The report shall contain the following information:

610 (i) name, address, and [~~certificate of registration~~] license number of the seller or
611 supplier;

612 (ii) number and weight by species;

613 (iii) date of purchase or transfer; and

614 (iv) name, address, and [~~certificate of registration~~] license number of the receiver.

615 (c) The report shall be submitted to the department before a [~~certificate of registration~~
616 license is renewed or a subsequent [~~certificate of registration~~] license is issued.

617 Section 20. Section **4-37-303** is amended to read:

618 **4-37-303. Transportation of live aquatic animals to fee fishing facilities.**

619 (1) Any person holding a [~~certificate of registration~~] license for a fee fishing facility
620 may transport the live aquatic animals specified on the [~~certificate of registration~~] license to the
621 facility.

622 (2) Each transfer or shipment of live aquatic animals to a fee fishing facility within the
623 state shall be accompanied by documentation of the source and destination of the fish,
624 including:

625 (a) name, address, [~~certificate of registration~~] license number, and health approval
626 number of the source;

627 (b) number and weight being shipped by species; and

628 (c) name, address, and [~~certificate of registration~~] license number of the destination.

629 Section 21. Section **4-37-305** is amended to read:

630 **4-37-305. Fishing license not required to fish at fee fishing facilities --**
631 **Transportation of dead fish.**

632 (1) A fishing license is not required to take fish from fee fishing facilities.

633 (2) To transport dead fish from fee fishing facilities the fish shall be accompanied by
634 the seller's receipt containing the following information:

635 (a) species and number of fish;

636 (b) date caught;

637 (c) [~~certificate of registration~~] license number of the fee fishing facility; and

638 (d) name, address, and telephone number of the seller.

639 Section 22. Section **4-37-401** is amended to read:

640 **4-37-401. License required to import aquatic animals for aquaculture or fee**
641 **fishing facilities.**

642 (1) A person may not import aquatic animals classified as controlled species by rules of
643 the Wildlife Board into the state for use in aquaculture or fee fishing facilities without first
644 obtaining a [~~certificate of registration~~] license from the department.

645 (2) The department shall:

646 (a) coordinate with the Division of Wildlife Resources in determining which species
647 the holder may import into the state; and

648 (b) specify those species on the [~~certificate of registration~~] license.

649 (3) A person may not import species into the state that are not listed on the [~~certificate
650 of registration~~] license.

651 Section 23. Section ~~4-37-601~~ is amended to read:

652 **4-37-601. Enforcement and penalties.**

653 (1) Any violation of this chapter is a class B misdemeanor and may be grounds for
654 revocation of the [~~certificate of registration~~] license or denial of any future [~~certificate of
655 registration~~] license as determined by the department.

656 (2) A violation of any rule made under this chapter may be grounds for revocation of
657 the [~~certificate of registration~~] license or denial for future [~~certificate of registration~~] license as
658 determined by the department.

659 Section 24. Section ~~4-37-602~~ is amended to read:

660 **4-37-602. Adjudicative proceedings -- Presiding officer.**

661 (1) Adjudicative proceedings under this chapter shall be conducted in accordance with
662 Title 63G, Chapter 4, Administrative Procedures Act.

663 (2) The revocation of an aquaculture facility's [~~certificate of registration~~] license, the
664 denial of an aquaculture facility's future [~~certificate of registration~~] license, and a denial or
665 cancellation of an aquaculture facility's health approval number is a state agency action
666 governed by Title 63G, Chapter 4, Administrative Procedures Act.

667 (3) (a) An owner or operator of an aquaculture facility may ask for an agency review,
668 as provided by Section ~~63G-4-301~~, of an agency action specified in Subsection (2).

669 (b) The presiding officer, as defined in Section ~~63G-4-103~~, conducting the agency
670 review shall consist of three members as follows:

671 (i) the person representing sport fishermen, appointed under Subsection
672 ~~4-37-503(4)(a)(i)(C)~~;

673 (ii) one person representing the aquaculture industry, appointed by the governor from
674 names submitted by a nonprofit corporation, as defined in Section ~~16-6a-102~~, that promotes the
675 efficient production, distribution, and marketing of aquaculture products and the welfare of all
676 persons engaged in aquaculture; and

677 (iii) one person, appointed by the governor, who is knowledgeable about aquatic
678 diseases and is employed by an institution of higher education.

679 (c) If the governor rejects all the names submitted under Subsection (3)(b)(ii), the
680 recommending nonprofit corporation shall submit additional names.

681 (d) The final decision of the presiding officer shall be adopted upon approval of at least
682 two of the members.

683 (e) The term for the member listed in Subsection (3)(b)(i) shall be the same as provided
684 in Section [4-37-503](#).

685 (f) The term for the members appointed under Subsections (3)(b)(ii) and (iii) shall be
686 four years.

687 (4) A member may not receive compensation or benefits for the member's service, but
688 may receive per diem and travel expenses in accordance with:

689 (a) Section [63A-3-106](#);

690 (b) Section [63A-3-107](#); and

691 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
692 [63A-3-107](#).

693 Section 25. Section **63I-1-273** is amended to read:

694 **63I-1-273. Repeal dates, Title 73.**

695 (1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed
696 January 1, 2031.

697 (2) In relation to Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, [is
698 repealed July 1, 2025:] on July 1, 2025:

699 (a) Section [73-10g-202](#) is repealed; and

700 (b) Section [73-10g-203](#) is repealed.

701 (3) Section [73-18-3.5](#), which creates the Boating Advisory Council, is repealed July 1,
702 2024.

703 (4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1,
704 2027.

705 (5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

706 (a) Subsection [73-1-4\(2\)\(e\)\(xi\)](#) is repealed;

707 (b) Subsection [73-10-4\(1\)\(h\)](#) is repealed; and

708 (c) Title 73, Chapter 31, Water Banking Act, is repealed.

709 Section 26. Section **73-10g-204** is amended to read:

710 **73-10g-204. Agricultural Water Optimization Account.**

711 (1) As used in this section:

712 (a) "Account" means the Agricultural Water Optimization Account created in
713 Subsection (2).

714 (b) "Agricultural water optimization" means the implementation of agricultural and
715 water management practices that maintain or increase viable agriculture while minimizing
716 negative impacts on water supply, water quality, and the environment.

717 (c) "Department" means the Department of Agriculture and Food.

718 (2) There is created a restricted account within the General Fund called the Agricultural
719 Water Optimization Account.

720 ~~[(2)]~~ (3) The ~~[Agricultural Water Optimization Account]~~ account consists of:

721 (a) appropriations from the Legislature ~~[and]~~;

722 (b) federal funds; and

723 (c) grants or donations from other public or private sources.

724 ~~[(3) The task force created in Section 73-10g-202 may, subject to appropriation,~~
725 ~~expend money in the Agricultural Water Optimization Account to fulfill the duties of Section~~
726 ~~73-10g-203.]~~

727 (4) Subject to appropriation, the department may use money in the account to issue
728 grants to improve agricultural water optimization.

729 (5) Until December 31, 2024, the department may loan up to \$3,000,000 of General
730 Fund money in the account to the Agriculture Resource Development Fund, subject to the
731 conditions described in Section 4-18-106.

732 (6) (a) The department shall maintain the Agriculture Water Optimization Account and
733 record all debits and credits made to the account by the department.

734 (b) The Office of the Treasurer shall deposit interest and other earnings derived from
735 investment of money in the Agriculture Water Optimization Account into the account.

736 Section 27. **Effective date.**

737 If approved by two-thirds of all the members elected to each house, this bill takes effect
738 upon approval by the governor, or the day following the constitutional time limit of Utah

739 Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto,
740 the date of veto override.