

1 **CONSTITUTIONAL AND FEDERALISM DEFENSE ACT**

2 2013 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Ken Ivory**

5 Senate Sponsor: Mark B. Madsen

7 **LONG TITLE**

8 **General Description:**

9 This bill recodifies and amends Title 63C, Chapter 4, Constitutional Defense Council,
10 dissolves the Federalism Subcommittee, and creates the Commission on Federalism.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ defines terms;
- 14 ▶ recodifies Title 63C, Chapter 4, Constitutional Defense Council, and renames it the
15 Constitutional and Federalism Defense Act;
- 16 ▶ adds one member to the Constitutional Defense Council;
- 17 ▶ dissolves the Federalism Subcommittee;
- 18 ▶ amends the duties of the Constitutional Defense Council;
- 19 ▶ creates the Commission on Federalism and describes its duties, which include most
20 of the duties formerly assigned to the Federalism Subcommittee;
- 21 ▶ amends provisions relating to the Constitutional Defense Restricted Account;
- 22 ▶ subjects the provisions of this bill to sunset review before being repealed on July 1,
23 2018; and
- 24 ▶ makes technical changes.

25 **Money Appropriated in this Bill:**

26 This bill appropriates in fiscal year 2013:

- 27 ▶ to the General Fund Restricted - Constitutional Defense Restricted Account as a
28 one-time appropriation, from the General Fund, one-time, (\$79,800);
- 29 ▶ to the Governor's Office - Constitutional Defense Council as a one-time

30 appropriation, from the General Fund Restricted - Constitutional Defense, (\$79,800);
31 ▶ to the Legislature - Senate as a one-time appropriation, from the General Fund,
32 one-time, \$34,200; and
33 ▶ to the Legislature - House of Representatives as a one-time appropriation, from the
34 General Fund, one-time, \$45,600.

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 **AMENDS:**

- 39 **53C-3-203**, as last amended by Laws of Utah 2012, Chapter 212
- 40 **63I-1-263 (Effective 05/01/13)**, as last amended by Laws of Utah 2012, Chapters 126,
- 41 206, 347, 369, and 395
- 42 **63J-4-401**, as last amended by Laws of Utah 2012, Chapter 189
- 43 **63J-4-603**, as last amended by Laws of Utah 2011, Chapter 252
- 44 **67-5-1**, as last amended by Laws of Utah 2011, Chapter 342

45 **ENACTS:**

- 46 **63C-4a-101**, Utah Code Annotated 1953
- 47 **63C-4a-102**, Utah Code Annotated 1953
- 48 **63C-4a-201**, Utah Code Annotated 1953
- 49 **63C-4a-301**, Utah Code Annotated 1953
- 50 **63C-4a-302**, Utah Code Annotated 1953
- 51 **63C-4a-401**, Utah Code Annotated 1953

52 **RENUMBERS AND AMENDS:**

- 53 **63C-4a-103**, (Renumbered from 63C-4-105, as enacted by Laws of Utah 2001, Chapter
- 54 287)
- 55 **63C-4a-202**, (Renumbered from 63C-4-101, as last amended by Laws of Utah 2011,
- 56 Chapter 252)
- 57 **63C-4a-203**, (Renumbered from 63C-4-102, as last amended by Laws of Utah 2012,

58 Chapters 324 and 377)

59 **63C-4a-303**, (Renumbered from 63C-4-106, as last amended by Laws of Utah 2012,
60 Chapter 369)

61 **63C-4a-304**, (Renumbered from 63C-4-107, as enacted by Laws of Utah 2011, Chapter
62 252)

63 **63C-4a-305**, (Renumbered from 63C-4-108, as enacted by Laws of Utah 2011, Chapter
64 252)

65 **63C-4a-402**, (Renumbered from 63C-4-103, as last amended by Laws of Utah 2012,
66 Chapter 324)

67 **63C-4a-403**, (Renumbered from 63C-4-104, as last amended by Laws of Utah 2011,
68 Chapter 252)

69 **Uncodified Material Affected:**

70 ENACTS UNCODIFIED MATERIAL



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

73 Section 1. Section **53C-3-203** is amended to read:

74 **53C-3-203. Land Exchange Distribution Account.**

75 (1) As used in this section, "account" means the Land Exchange Distribution Account
76 created in Subsection (2)(a).

77 (2) (a) There is created within the General Fund a restricted account known as the Land
78 Exchange Distribution Account.

79 (b) The account shall consist of revenue deposited in the account as required by
80 Section 53C-3-202.

81 (3) (a) The state treasurer shall invest money in the account according to Title 51,
82 Chapter 7, State Money Management Act.

83 (b) The Division of Finance shall deposit interest or other earnings derived from
84 investment of account money into the General Fund.

85 (4) The Legislature shall annually appropriate from the account in the following order:

86 (a) \$1,000,000 to the Constitutional Defense Restricted Account created in Section
87 [~~63C-4-103~~] 63C-4a-402; and

88 (b) from the deposits to the account remaining after the appropriation in Subsection
89 (4)(a), the following amounts:

90 (i) 55% of the deposits to counties in amounts proportionate to the amounts of mineral
91 revenue generated from the acquired land, exchanged land, acquired mineral interests, or
92 exchanged mineral interests located in each county, to be used to mitigate the impacts caused
93 by mineral development;

94 (ii) 25% of the deposits to counties in amounts proportionate to the total surface and
95 mineral acreage within each county that was conveyed to the United States under the agreement
96 or an exchange, to be used to mitigate the loss of mineral development opportunities resulting
97 from the agreement or exchange;

98 (iii) 1.68% of the deposits to the State Board of Education, to be used for education
99 research and experimentation in the use of staff and facilities designed to improve the quality
100 of education in Utah;

101 (iv) 1.66% of the deposits to the Geological Survey, to be used for natural resources
102 development in the state;

103 (v) 1.66% of the deposits to the Water Research Laboratory at Utah State University, to
104 be used for water development in the state;

105 (vi) 11% of the deposits to the Constitutional Defense Restricted Account created in
106 Section [~~63C-4-103~~] 63C-4a-402;

107 (vii) 1% of the deposits to the Geological Survey, to be used for test wells, other
108 hydrologic studies, and air quality monitoring in the West Desert; and

109 (viii) 3% of the deposits to the Permanent Community Impact Fund created in Section
110 35A-8-303, to be used for grants to political subdivisions of the state to mitigate the impacts
111 resulting from the development or use of school and institutional trust lands.

112 (5) The administration shall make recommendations to the Permanent Community
113 Impact Fund Board for its consideration when awarding the grants described in Subsection

114 (4)(b)(viii).

115 Section 2. Section **63C-4a-101** is enacted to read:

116 **CHAPTER 4a. CONSTITUTIONAL AND FEDERALISM DEFENSE ACT**

117 **Part 1. General Provisions**

118 **63C-4a-101. Title.**

119 (1) This chapter is known as the "Constitutional and Federalism Defense Act."

120 (2) This part is known as "General Provisions."

121 Section 3. Section **63C-4a-102** is enacted to read:

122 **63C-4a-102. Definitions.**

123 As used in this chapter:

124 (1) "Account" means the Constitutional Defense Restricted Account, created in Section
125 63C-4a-402.

126 (2) "Commission" means the Commission on Federalism, created in Section
127 63C-4a-302.

128 (3) "Constitutional defense plan" means a plan that outlines actions and expenditures to
129 fulfill the duties of the commission and the council.

130 (4) "Council" means the Constitutional Defense Council, created in Section
131 63C-4a-202.

132 (5) "Federal governmental entity" means:

133 (a) the president of the United States;

134 (b) the United States Congress;

135 (c) a United States agency; or

136 (d) an employee or official appointed by the president of the United States.

137 (6) "Federal law" means:

138 (a) an executive order by the president of the United States;

139 (b) a statute passed by the United States Congress;

140 (c) a regulation adopted by a United States agency; or

141 (d) a policy statement, order, guidance, or action by:

- 142 (i) a United States agency; or
- 143 (ii) an employee or official appointed by the president of the United States.
- 144 (7) "R.S. 2477" means Revised Statute 2477, codified as 43 U.S.C. Section 932.
- 145 (8) "R.S. 2477 plan" means a guiding document that:
- 146 (a) is developed jointly by the Utah Association of Counties and the state;
- 147 (b) is approved by the council; and
- 148 (c) presents the broad framework of a proposed working relationship between the state
- 149 and participating counties collectively for the purpose of asserting, defending, or litigating state
- 150 and local government rights under R.S. 2477.

151 (9) "United States agency" means a department, agency, authority, commission,

152 council, board, office, bureau, or other administrative unit of the executive branch of the

153 United States government.

154 Section 4. Section **63C-4a-103**, which is renumbered from Section 63C-4-105 is

155 renumbered and amended to read:

156 ~~[63C-4-105].~~ **63C-4a-103. Policy for public lands within the state.**

157 [(+) It is the policy of the state to claim and preserve by lawful means the rights of the

158 state and its citizens to determine and affect the disposition and use of federal lands within the

159 state as those rights are granted by the United States Constitution, the Utah Enabling Act, and

160 other applicable law.

161 [~~(2) The Constitutional Defense Council shall study, formulate, and recommend~~

162 ~~appropriate legal strategies and arguments to further this policy.]~~

163 Section 5. Section **63C-4a-201** is enacted to read:

Part 2. Constitutional Defense Council

164 **63C-4a-201. Title.**

165 This part is known as "Constitutional Defense Council."

166 Section 6. Section **63C-4a-202**, which is renumbered from Section 63C-4-101 is

167 renumbered and amended to read:

168 ~~[63C-4-101].~~ **63C-4a-202. Creation of Constitutional Defense Council --**

170 **Membership -- Vacancies -- Meetings -- Staff -- Reports -- Per diem, travel expenses, and**
 171 **funding.**

- 172 (1) There is created the Constitutional Defense Council.
- 173 (2) (a) The council shall consist of the following members:
- 174 (i) the governor or the lieutenant governor, who shall serve as chair of the council;
- 175 (ii) the president of the Senate or the president of the Senate's designee who shall serve
- 176 as vice chair of the council;
- 177 (iii) the speaker of the House or the speaker of the House's designee who shall serve as
- 178 vice chair of the council;
- 179 (iv) another member of the House, appointed by the speaker of the House;
- 180 [~~(iv)~~] (v) the minority leader of the Senate or the minority leader of the Senate's
- 181 designee;
- 182 [~~(v)~~] (vi) the minority leader of the House or the minority leader of the House's
- 183 designee;
- 184 [~~(vi)~~] (vii) the attorney general or the attorney general's designee, who shall be one of
- 185 the attorney general's appointees, not a current career service employee;
- 186 [~~(vii)~~] (viii) the director of the School and Institutional Trust Lands Administration;
- 187 [~~(viii)~~] (ix) four elected county commissioners, county council members, or county
- 188 executives from different counties who are selected by the Utah Association of Counties, at
- 189 least one of whom shall be from a county of the first or second class;
- 190 [~~(ix)~~] (x) the executive director of the Department of Natural Resources, who may not
- 191 vote;
- 192 [~~(x)~~] (xi) the commissioner of the Department of Agriculture and Food, who may not
- 193 vote;
- 194 [~~(xi)~~] (xii) the director of the Governor's Office of Economic Development, who may
- 195 not vote; and
- 196 [~~(xii)~~] (xiii) two elected county commissioners, county council members, or county
- 197 executives from different counties appointed by the Utah Association of Counties, who may

198 not vote.

199 (b) The council vice chairs shall conduct a council meeting in the absence of the chair.

200 (c) If both the governor and the lieutenant governor are absent from a meeting of the
201 council, the governor may designate a person to attend the meeting solely for the purpose of
202 casting a vote on any matter on the governor's behalf.

203 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
204 appointed for the unexpired term in the same manner as the original appointment.

205 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), the council shall meet at least
206 monthly or more frequently as needed.

207 (ii) The council need not meet monthly if the chair, after polling the members,
208 determines that a majority of the members do not wish to meet.

209 (b) The governor or any six members of the council may call a meeting of the council.

210 (c) Before calling a meeting, the governor or council members shall solicit items for
211 the agenda from other members of the council.

212 (d) (i) The council shall require that any entity, other than the commission, that
213 receives money from the Constitutional Defense Restricted Account provide financial reports
214 and litigation reports to the council.

215 (ii) Nothing in this Subsection (4)(d) prohibits the council from closing a meeting
216 under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the council from
217 complying with Title 63G, Chapter 2, Government Records Access and Management Act.

218 (e) A majority of the voting membership on the council is required for a quorum to
219 conduct council business. A majority vote of the quorum is required for any action taken by
220 the council.

221 (5) (a) The Office of the Attorney General shall advise[~~-(i)~~] the council[~~,-and~~].
222 [~~(ii) the Federalism Subcommittee.~~]

223 (b) The Public Lands Policy Coordinating Office shall provide staff assistance for
224 meetings of the council [~~and Federalism Subcommittee~~].

225 (6) A member of the council may not receive compensation or benefits for the

226 member's service, but may receive per diem and travel expenses in accordance with:

227 (a) Section 63A-3-106;

228 (b) Section 63A-3-107; and

229 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
230 63A-3-107.

231 [~~(7) (a) The council and Federalism Subcommittee shall be funded from the
232 Constitutional Defense Restricted Account created in Section 63C-4-103.~~]

233 [~~(b)~~] (7) Money appropriated for or received by the council may be expended by the
234 governor in consultation with the council.

235 [~~(8) (a) There is created a Federalism Subcommittee of the council.~~]

236 [~~(b) The subcommittee shall consist of members listed in Subsections (2)(a)(i) through
237 (vi).~~]

238 [~~(c) (i) The governor or the lieutenant governor shall serve as chair of the
239 subcommittee.~~]

240 [~~(ii) The council vice chair shall conduct a subcommittee meeting in the absence of the
241 chair.~~]

242 Section 7. Section **63C-4a-203**, which is renumbered from Section 63C-4-102 is
243 renumbered and amended to read:

244 [~~63C-4-102~~]. **63C-4a-203. Duties of Constitutional Defense Council.**

245 (1) The Constitutional Defense Council [~~is a council to~~] shall assist the governor and
246 the Legislature on the following types of issues:

247 (a) the constitutionality of federal mandates;

248 (b) when making recommendations to challenge the federal mandates and regulations
249 described in Subsections (1)(f)(i) through (v), the rationale for and effectiveness of those
250 federal mandates or regulations;

251 (c) legal and policy issues surrounding state and local government rights under R.S.
252 2477;

253 (d) legal issues relating to the rights of the School and Institutional Trust Lands

254 Administration and its beneficiaries;

255 (e) a disagreement with another state regarding the use or ownership of water; and

256 (f) the advisability, feasibility, estimated cost, and likelihood of success of challenging:

257 (i) federal court rulings that:

258 (A) hinder the management of the state's prison system and place undue financial

259 hardship on the state's taxpayers;

260 (B) impact a power or a right reserved to the state or its citizens by the United States

261 Constitution, Amendment IX or X; or

262 (C) expand or grant a power to the United States government beyond the limited,

263 enumerated powers granted by the United States Constitution;

264 (ii) federal laws or regulations that reduce or negate water rights or the rights of owners

265 of private property, or the rights and interest of state and local governments, including

266 sovereignty interests and the power to provide for the health, safety, and welfare, and promote

267 the prosperity of their inhabitants;

268 (iii) conflicting federal regulations or policies in land management on federal land;

269 (iv) federal intervention that would damage the state's mining, timber, ~~and~~ or

270 ranching industries;

271 (v) the authority of the Environmental Protection Agency and Congress to mandate

272 local air quality standards and penalties; and

273 (vi) other issues that are relevant to this Subsection (1).

274 (2) The council shall:

275 (a) provide advice to the governor, state planning coordinator, and the public lands

276 policy coordinator concerning coordination of:

277 (i) state and local government rights under R.S. 2477; and

278 (ii) other public lands issues;

279 (b) approve a plan for R.S. 2477 rights developed in accordance with Section

280 ~~[63C-4-104; and] 63C-4a-403;~~

281 (c) review, at least quarterly:

282 (i) financial statements concerning implementation of the plan for R.S. 2477 rights;
283 and

284 (ii) financial and other reports from the Public Lands Policy Coordinating Office
285 concerning its activities[-]; and

286 (d) study, formulate, and recommend appropriate legal strategies and arguments to
287 further the policy described in Section 63C-4a-103.

288 (3) The council chair may require the attorney general or a designee to provide
289 testimony on potential legal actions that would enhance the state's sovereignty or authority on
290 issues affecting Utah and the well-being of its citizens.

291 (4) The council chair may direct the attorney general to initiate and prosecute any
292 action that the council determines will further its purposes, including an action described in
293 Section 67-5-29.

294 (5) (a) Subject to the provisions of this section, the council may select and employ
295 attorneys to implement the purposes and duties of the council.

296 (b) The council chair may, in consultation with the council, direct any council attorney
297 in any manner considered appropriate by the attorney general to best serve the purposes of the
298 council.

299 (c) The attorney general shall negotiate a contract for services with any attorney
300 selected and approved for employment under this section.

301 (6) The council chair may, only with the concurrence of the council, review and
302 approve all claims for payments for:

303 (a) legal services that are submitted to the council;

304 (b) an action filed in accordance with Section 67-5-29; and

305 (c) costs related to a constitutional defense plan approved in accordance with Section
306 [~~63C-4-104~~] 63C-4a-403 that are submitted by:

307 (i) the Public Lands Policy Coordinating Office;

308 (ii) the School and Institutional Trust Lands Administration; or

309 (iii) the Office of the Attorney General.

310 (7) ~~(a) [Within five business days' notice, the]~~ The council chair may, with the
311 concurrence of the council, order the attorney general or an attorney employed by the council to
312 cease work ~~[to]~~ that may be charged to the fund.

313 (b) The attorney general or other attorney subject to the order shall comply with the
314 order no later than five business days after the day on which the order is given.

315 (8) (a) At least 20 calendar days before the state submits comments on the draft
316 environmental impact statement or environmental assessment for a proposed land management
317 plan of any federal land management agency, the governor shall make those documents
318 available to:

319 (i) members of the council; and

320 (ii) any county executive, county council member, or county commissioner of a county
321 that is covered by the management plan and that has established formal cooperating agency
322 status with the relevant federal land management agency regarding the proposed plan.

323 ~~(b) (i) [Council members or local government officials receiving]~~ A council member or
324 local government official who receives the documents described in Subsection (8)(a) may make
325 recommendations to the governor or the governor's designee concerning changes to the
326 documents before ~~[they]~~ the documents are submitted to the federal land management agency.

327 ~~(ii) [Council members or local government officials]~~ A council member or local
328 government official shall submit recommendations to the governor or the governor's designee
329 no later than 10 calendar days after ~~[receiving]~~ the day on which the council member or local
330 government official receives the documents ~~[under]~~ described in Subsection (8)(a).

331 (c) Documents transmitted or received under this Subsection (8) are drafts and are
332 protected records ~~[pursuant to]~~ under Subsection 63G-2-305(21).

333 (9) The council shall submit a report on December 1 of each year to each legislator by
334 electronic mail that summarizes the council's activities ~~[to each legislator]~~.

335 Section 8. Section **63C-4a-301** is enacted to read:

336 **Part 3. Commission on Federalism**

337 **63C-4a-301. Title.**

338 This part is known as "Commission on Federalism."

339 Section 9. Section **63C-4a-302** is enacted to read:

340 **63C-4a-302. Creation of Commission on Federalism -- Membership meetings --**

341 **Staff -- Expenses.**

342 (1) There is created the Commission on Federalism, comprised of the following seven
343 members:

344 (a) the president of the Senate or the president of the Senate's designee who shall serve
345 as cochair of the commission;

346 (b) another member of the Senate, appointed by the president of the Senate;

347 (c) the speaker of the House or the speaker of the House's designee who shall serve as
348 cochair of the commission;

349 (d) two other members of the House, appointed by the speaker of the House;

350 (e) the minority leader of the Senate or the minority leader of the Senate's designee;

351 and

352 (f) the minority leader of the House or the minority leader of the House's designee.

353 (2) (a) A majority of the members of the commission constitute a quorum of the
354 commission.

355 (b) Action by a majority of the members of a quorum constitutes action by the
356 commission.

357 (3) The commission shall meet six times each year, unless additional meetings are
358 approved by the Legislative Management Committee.

359 (4) The Office of Legislative Research and General Counsel shall provide staff support
360 to the commission.

361 (5) Salary and expenses of a member of the commission shall be paid in accordance
362 with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Expense and Mileage
363 Reimbursement for Authorized Legislative Meetings, Special Sessions, and Veto Override
364 Sessions.

365 (6) Nothing in this section prohibits the commission from closing a meeting under

366 Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the commission from
367 complying with Title 63G, Chapter 2, Government Records Access and Management Act.

368 Section 10. Section **63C-4a-303**, which is renumbered from Section 63C-4-106 is
369 renumbered and amended to read:

370 ~~[63C-4-106].~~ **63C-4a-303. Duties of Commission on Federalism.**

371 ~~[(1) As used in this chapter:]~~

372 ~~[(a) "Federal governmental entity" means:]~~

373 ~~[(i) the President of the United States;]~~

374 ~~[(ii) the United States Congress;]~~

375 ~~[(iii) a United States agency; or]~~

376 ~~[(iv) an employee or official appointed by the President of the United States.]~~

377 ~~[(b) "Federal law" means:]~~

378 ~~[(i) an executive order by the President of the United States;]~~

379 ~~[(ii) a statute passed by the United States Congress;]~~

380 ~~[(iii) a regulation adopted by a United States agency; or]~~

381 ~~[(iv) a policy statement, guidance, or action by:]~~

382 ~~[(A) a United States agency; or]~~

383 ~~[(B) an employee or official appointed by the President of the United States.]~~

384 ~~[(c) "United States agency" means a department, agency, authority, commission,~~
385 ~~council, board, office, bureau, or other administrative unit of the executive branch of the~~
386 ~~United States government.]~~

387 ~~[(2)]~~ (1) In accordance with Section ~~[63C-4-107]~~ 63C-4a-304, the ~~[Federalism~~
388 ~~Subcommittee shall]~~ commission may evaluate a federal law:

389 (a) as agreed by a majority of the commission; or

390 (b) submitted to the [Federalism Subcommittee] commission by a council member.

391 ~~[(3)]~~ (2) The ~~[Federalism Subcommittee]~~ commission may request information
392 regarding a federal law under evaluation from a United States Senator or representative elected
393 from the state.

394 ~~[(4)]~~ (3) If the ~~[Federalism Subcommittee]~~ commission finds that a federal law is not
395 authorized by the United States Constitution or violates the principle of federalism as described
396 in Subsection ~~[63C-4-107]~~ 63C-4a-304(2), ~~[the Federalism Subcommittee chair]~~ a commission
397 cochair may:

398 (a) request from a United States senator or representative elected from the state:

399 (i) information about the federal law; or

400 (ii) assistance in communicating with a federal governmental entity regarding the
401 federal law;

402 (b) (i) give written notice of ~~[the]~~ an evaluation ~~[required by]~~ made under Subsection
403 ~~[(2)]~~ (1) to the federal governmental entity responsible for adopting or administering the
404 federal law; and

405 (ii) request a response by a specific date to the evaluation from the federal
406 governmental entity; and

407 (c) request a meeting, conducted in person or by electronic means, with the federal
408 governmental entity ~~[and a council member]~~, a representative from another state, or a United
409 States Senator or Representative elected from the state to discuss the evaluation of federal law
410 and any possible remedy.

411 ~~[(5)]~~ (4) The ~~[Federalism Subcommittee]~~ commission may recommend to the governor
412 that the governor call a special session of the Legislature to give the Legislature an opportunity
413 to respond to the ~~[subcommittee's]~~ commission's evaluation of a federal law.

414 ~~[(6)]~~ (5) ~~[The Federalism Subcommittee chair]~~ A commission cochair may coordinate
415 the evaluation of and response to federal law with another state as provided in Section
416 ~~[63C-4-108]~~ 63C-4a-305.

417 ~~[(7)]~~ (6) ~~[The Federalism Subcommittee]~~ On May 20 and October 20 of each year, the
418 commission shall submit a report by electronic mail ~~[that summarizes action taken in~~
419 ~~accordance with this section]~~ to the Legislative Management Committee and the Government
420 Operations Interim Committee ~~[on May 20 and October 20 of each year:]~~ that summarizes:

421 (a) action taken by the commission in accordance with this section; and

422 (b) action taken by, or communication received from, any of the following in response
 423 to a request or inquiry made, or other action taken, by the commission:

424 (i) a United States senator or representative elected from the state;

425 (ii) a representative of another state; or

426 (iii) a federal entity, official, or employee.

427 (7) The commission shall keep a current list on the Legislature's website of:

428 (a) a federal law that the commission evaluates under Subsection (1);

429 (b) an action taken by a cochair of the commission under Subsection (3);

430 (c) any coordination undertaken with another state under Section 63C-4a-305; and

431 (d) any response received from a federal government entity that was requested under
 432 Subsection (3).

433 Section 11. Section **63C-4a-304**, which is renumbered from Section 63C-4-107 is
 434 renumbered and amended to read:

435 ~~[63C-4-107].~~ **63C-4a-304. Standard for evaluation of federal law.**

436 (1) The ~~[Federalism Subcommittee]~~ commission shall evaluate whether a federal law
 437 ~~[submitted under Subsection 63C-4-106(2)]~~ evaluated under Section 63C-4a-303 is authorized
 438 by:

439 (a) United States Constitution, Article I, Section 2, to provide for the decennial census;

440 (b) United States Constitution, Article I, Section 4, to override state laws regulating the
 441 times, places, and manner of congressional elections, other than the place of senatorial
 442 elections;

443 (c) United States Constitution, Article I, Section 7, to veto bills, orders, and resolutions
 444 by Congress;

445 (d) United States Constitution, Article I, Section 8, to:

446 (i) lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for
 447 the common defense and general welfare of the United States, but all duties, imposts, and
 448 excises shall be uniform throughout the United States;

449 (ii) borrow money on the credit of the United States;

- 450 (iii) regulate commerce with foreign nations, among the several states, and with the
- 451 Indian tribes;
- 452 (iv) establish a uniform rule of naturalization and uniform laws on the subject of
- 453 bankruptcies throughout the United States;
- 454 (v) coin money, regulate the value of coin money and of foreign coin, and fix the
- 455 standard of weights and measures;
- 456 (vi) provide for the punishment of counterfeiting the securities and current coin of the
- 457 United States;
- 458 (vii) establish post offices and post roads;
- 459 (viii) promote the progress of science and useful arts, by securing for limited times to
- 460 authors and inventors the exclusive right to their respective writings and discoveries;
- 461 (ix) constitute tribunals inferior to the supreme court;
- 462 (x) define and punish piracies and felonies committed on the high seas and offences
- 463 against the law of nations;
- 464 (xi) declare war, grant letters of marque and reprisal, and make rules concerning
- 465 captures on land and water;
- 466 (xii) raise and support armies, but no appropriation of money to that use shall be for a
- 467 longer term than two years;
- 468 (xiii) provide and maintain a navy;
- 469 (xiv) make rules for the government and regulation of the land and naval forces;
- 470 (xv) provide for calling forth the militia to execute the laws of the union, suppress
- 471 insurrections, and repel invasions;
- 472 (xvi) provide for organizing, arming, and disciplining the militia, and for governing the
- 473 part of the militia that may be employed in the service of the United States, reserving to the
- 474 states respectively, the appointment of the officers and the authority of training the militia
- 475 according to the discipline prescribed by Congress;
- 476 (xvii) exercise exclusive legislation in all cases whatsoever, over such district, which
- 477 may not exceed 10 miles square, as may, by cession of particular states and the acceptance of

478 Congress, become the seat of the government of the United States, and to exercise like
479 authority over all places purchased by the consent of the legislature of the state in which the
480 place shall be, for the erection of forts, magazines, arsenals, dock-yards, and other needful
481 buildings; or

482 (xviii) make all laws which shall be necessary and proper for carrying into execution
483 the powers listed in this section, and all other powers vested by the United States Constitution
484 in the government of the United States, or in any department or officer of the United States;

485 (e) United States Constitution, Article I, Section 9, to authorize a federal officer to
486 receive benefits from a foreign nation;

487 (f) United States Constitution, Article I, Section 10, to fix the pay of members of
488 Congress and of federal officers;

489 (g) United States Constitution, Article II, Section 1, to:

490 (i) set the time for choosing electors; or

491 (ii) establish who succeeded to the presidency after the vice president;

492 (h) United States Constitution, Article II, Section 2, to:

493 (i) serve as Commander-in-Chief of the armed forces;

494 (ii) require the written opinions of executive officers;

495 (iii) grant reprieves and pardons;

496 (iv) make vacancy appointments;

497 (v) make treaties, subject to the advice and consent of the United States Senate;

498 (vi) appoint foreign affairs officers subject to the advice and consent of the United
499 States Senate;

500 (vii) appoint domestic affairs officers subject either to the advice and consent of the
501 United States Senate or pursuant to law;

502 (viii) appoint judges subject to the advice and consent of the United States Senate; or

503 (ix) authorize the president to fill designated inferior offices without senatorial
504 consent;

505 (i) United States Constitution, Article II, Section 3, to:

- 506 (i) receive representatives of foreign powers;
- 507 (ii) execute the laws;
- 508 (iii) commission United States officers;
- 509 (iv) give Congress information;
- 510 (v) make recommendations to Congress;
- 511 (vi) convene Congress on extraordinary occasions; or
- 512 (vii) adjourn Congress if it cannot agree on a time;
- 513 (j) United States Constitution, Article III, Section 1, to:
- 514 (i) create exceptions to the supreme court's appellate jurisdiction;
- 515 (ii) fix the jurisdiction of federal courts inferior to the supreme court; or
- 516 (iii) declare the punishment for treason;
- 517 (k) United States Constitution, Article IV, Section 1, to establish the rules by which the
- 518 records and judgments of states are proved in other states;
- 519 (l) United States Constitution, Article IV, Section 3, to:
- 520 (i) manage federal property;
- 521 (ii) dispose of federal property;
- 522 (iii) govern the federal territories; or
- 523 (iv) consent to admission of new states or the combination of existing states;
- 524 (m) United States Constitution, Article IV, Section 4, to defend states from invasion,
- 525 insurrection, and non-republican forms of government;
- 526 (n) United States Constitution, Article V, Section 1, to propose constitutional
- 527 amendments;
- 528 (o) United States Constitution, Article VI, Section 1, to prescribe the oath for federal
- 529 officers;
- 530 (p) United States Constitution, Amendment XIII, to abolish slavery;
- 531 (q) United States Constitution, Amendment XIV, to guard people from certain state
- 532 abuses;
- 533 (r) United States Constitution, Amendment XVI, to impose taxes on income from any

534 source without having to apportion the total dollar amount of tax collected from each state
535 according to each state's population in relation to the total national population;

536 (s) United States Constitution, Amendment XX, to revise the manner of presidential
537 succession;

538 (t) United States Constitution, Amendment XV, XIX, XXIII, or XXIV, to extend and
539 protect the right to vote; or

540 (u) United States Constitution, Amendment XVII, to grant a pay raise to a sitting
541 Congress.

542 (2) The [~~Federalism Subcommittee~~] commission shall evaluate whether a federal law
543 [~~submitted under Subsection 63C-4-106(2)~~] evaluated under Section 63C-4a-303 violates the
544 principle of federalism by:

545 (a) affecting the distribution of power and responsibility among the state and national
546 government;

547 (b) limiting the policymaking discretion of the state;

548 (c) impacting a power or a right reserved to the state or its citizens by the United States
549 Constitution, Amendment IX or X; [~~and~~] or

550 (d) impacting the sovereignty rights and interest of the state or a political subdivision to
551 provide for the health, safety, and welfare and promote the prosperity of the state's or political
552 subdivision's inhabitants.

553 (3) In the evaluation of a federal law, the [~~Federalism Subcommittee~~] commission:

554 (a) shall rely on:

555 (i) the text of the United States Constitution, as amended;

556 (ii) the meaning of the text of the United States Constitution, as amended, at the time
557 of its drafting and ratification; and

558 (iii) a primary source document that is:

559 (A) directly relevant to the drafting, adoption, ratification, or initial implementation of
560 the United States Constitution, as amended; or

561 (B) created by a person directly involved in the drafting, adoption, ratification, or

562 initial implementation of the United States Constitution, as amended;

563 (b) may rely on other relevant sources, including federal court decisions; and

564 (c) is not bound by a holding by a federal court.

565 Section 12. Section **63C-4a-305**, which is renumbered from Section 63C-4-108 is
566 renumbered and amended to read:

567 ~~[63C-4-108].~~ **63C-4a-305. Communication with other states and**
568 **governmental entities.**

569 ~~[(1) The Federalism Subcommittee chair]~~ A commission cochair may correspond with
570 the presiding officer of the legislative branch of another state or an entity of another state that
571 has powers and duties that are similar to the ~~[Federalism Subcommittee]~~ commission to discuss
572 and coordinate the evaluation of and response to federal law as provided in Section
573 ~~[63C-4-106]~~ 63C-4a-303.

574 ~~[(2) The Federalism Subcommittee shall send a copy of this bill and the pages of the~~
575 ~~House and Senate Journal that pertain to Laws of Utah 2011, Chapter 252 to:]~~

576 ~~[(a) the governor of each state;]~~

577 ~~[(b) the presiding officer, the majority leader, and the minority leader of each house, if~~
578 ~~applicable, of each state legislature;]~~

579 ~~[(c) each United States Senator or Representative elected from this state;]~~

580 ~~[(d) the Chief Justice of the United States Supreme Court;]~~

581 ~~[(e) the President of the United States; and]~~

582 ~~[(f) the presiding officer, the majority leader, and the minority leader of each house of~~
583 ~~the United States Congress.]~~

584 Section 13. Section **63C-4a-401** is enacted to read:

585 **Part 4. Miscellaneous Provisions**

586 **63C-4a-401. Title.**

587 This part is known as "Miscellaneous Provisions."

588 Section 14. Section **63C-4a-402**, which is renumbered from Section 63C-4-103 is
589 renumbered and amended to read:

590 ~~[63C-4-103].~~ 63C-4a-402. **Creation of Constitutional Defense Restricted**
 591 **Account -- Sources of funds -- Uses of funds -- Reports.**

592 (1) There is created a restricted account within the General Fund known as the
 593 Constitutional Defense Restricted Account.

594 (2) The account consists of money from the following revenue sources:

595 (a) money deposited to the account as required by Section 53C-3-203;

596 (b) voluntary contributions;

597 (c) money received by the council from other state agencies; and

598 (d) appropriations made by the Legislature.

599 (3) The Legislature may annually appropriate money from the Constitutional Defense
 600 Restricted Account to one or more of the following:

601 (a) the commission, to fund the commission and for the commission's duties;

602 ~~[(a)]~~ (b) the council, to fund the council and for the council's ~~[or Federalism~~
 603 ~~Subcommittee's duties established in this chapter]~~ duties;

604 ~~[(b)]~~ (c) the Public Lands Policy Coordinating Office to carry out its duties in Section
 605 63J-4-603;

606 ~~[(c)]~~ (d) the Office of the Governor, to be used only for the purpose of asserting,
 607 defending, or litigating:

608 (i) an issue arising with another state regarding the use or ownership of water; or

609 (ii) state and local government rights under R.S. 2477, in accordance with a plan
 610 developed and approved as provided in Section ~~[63C-4-104]~~ 63C-4a-403;

611 ~~[(d)]~~ (e) a county or association of counties to assist counties, consistent with the
 612 purposes of the council, in pursuing issues affecting the counties; [or]

613 ~~[(e)]~~ (f) the Office of the Attorney General, to be used only:

614 (i) for public lands counsel and assistance and litigation to the state or local
 615 governments including asserting, defending, or litigating state and local government rights
 616 under R.S. 2477 in accordance with a plan developed and approved as provided in Section
 617 ~~[63C-4-104]~~ 63C-4a-403;

- 618 (ii) for an action filed in accordance with Section 67-5-29;
- 619 (iii) to advise the council [~~and Federalism Subcommittee~~]; or
- 620 (iv) for asserting, defending, or litigating an issue arising with another state regarding
- 621 the use or ownership of water[-]; or

622 (g) the Office of Legislative Research and General Counsel, to provide staff support to

623 the commission.

624 (4) (a) The council shall require that any entity, other than the commission, that

625 receives money from the [~~Constitutional Defense Restricted Account~~] account provide

626 financial reports and litigation reports to the council.

627 (b) Nothing in this Subsection (4) prohibits the commission or the council from closing

628 a meeting under Title 52, Chapter 4, Open and Public Meetings Act, or prohibits the

629 commission or the council from complying with Title 63G, Chapter 2, Government Records

630 Access and Management Act.

631 Section 15. Section **63C-4a-403**, which is renumbered from Section 63C-4-104 is

632 renumbered and amended to read:

633 ~~[63C-4-104].~~ **63C-4a-403. Plans for R.S. 2477 rights and constitutional**

634 **defense -- Contents.**

635 [~~(1) As used in this section:~~]

636 [~~(a) "Constitutional defense plan" means a plan that outlines actions and expenditures~~

637 ~~to fulfill the council's and Federalism Subcommittee's duties established by this chapter.]~~

638 [~~(b) "R.S. 2477 plan" means a guiding document that:~~]

639 [~~(i) is developed jointly by the Utah Association of Counties and the state;~~]

640 [~~(ii) is approved by the Constitutional Defense Council; and~~]

641 [~~(iii) presents the broad framework of a proposed working relationship between the~~

642 ~~state and participating counties collectively for the purpose of asserting, defending, or litigating~~

643 ~~state and local government rights under R.S. 2477.]~~

644 [(2)] (1) The [~~Constitutional Defense Council~~] council may approve [a] an R.S. 2477

645 plan if the R.S. 2477 plan:

646 (a) provides for a good faith, cooperative effort between the state and each
647 participating county;

648 (b) allows a county to formally agree to participate in the R.S. 2477 plan by adopting a
649 resolution;

650 (c) provides that the state and a participating county are equal partners in determining
651 litigation strategy and the expenditure of resources with respect to that county's rights under
652 R.S. 2477; and

653 (d) provides a process for resolving any disagreement between the state and a
654 participating county about litigation strategy or resource expenditure that includes the
655 following requirements:

656 (i) the governor or the governor's designee and a representative of the Utah Association
657 of Counties shall first attempt to resolve the disagreement;

658 (ii) if the county and the state continue to disagree, the county, the governor, and the
659 Utah Association of Counties shall present their recommendations to the [~~Constitutional~~
660 ~~Defense Council~~] council for a final decision about the strategy or expenditure in question; and

661 (iii) the county may pursue a strategy or make an expenditure contrary to the final
662 decision of the [~~Constitutional Defense Council~~] council only if the county does not claim
663 resources provided to fund the R.S. 2477 plan.

664 [~~3~~] (2) The [~~Constitutional Defense Council~~] council shall ensure that the R.S. 2477
665 plan contains:

666 (a) provisions identifying which expenditure types require approval of the R.S. 2477
667 plan committee and which expenditure types may be made without the R.S. 2477 plan
668 committee approval;

669 (b) provisions requiring that financial statements be provided to members of the R.S.
670 2477 plan committee and members of the [~~Constitutional Defense Council~~] council, and the
671 frequency with which those financial statements must be provided; and

672 (c) provisions identifying those decisions or types of decisions that may be made by the
673 R.S. 2477 plan committee and those decisions or types of decisions that must be referred to the

674 [~~Constitutional Defense Council~~] council for decision.

675 [~~(4)~~] (3) (a) The Public Lands Policy Coordinating Office, in consultation with the
 676 committee, the Office of the Attorney General and the School and Institutional Trust Lands,
 677 shall prepare and submit a constitutional defense plan to the [~~Constitutional Defense Council~~]
 678 council for the council's approval.

679 (b) The constitutional defense plan shall contain proposed action and expenditure for:

680 (i) the council's or the [~~subcommittee's~~] commission's duties [~~established by this~~
 681 ~~chapter~~]; or

682 (ii) an action filed in accordance with Section 67-5-29.

683 [~~(5)~~] (4) The [~~Constitutional Defense Council~~] council shall:

684 (a) review expenditures, at least quarterly, made to further a plan approved under this
 685 section;

686 (b) approve an update to a plan under this section at least annually, or more often, if
 687 necessary; and

688 (c) jointly, with the Public Lands Policy Coordinating Office, present a R.S. 2477 plan
 689 approved under this section, with any updates, to:

690 (i) the Legislature's Natural Resources, Agriculture, and Environment Interim
 691 Committee by July 1 of each calendar year, after providing the R.S. 2477 plan to the committee
 692 at least seven days before the presentation; [~~and~~]

693 (ii) the commission, which may be by mail; and

694 [~~(ii)~~] (iii) the president of the Senate and the speaker of the House of Representatives,
 695 which may be by mail.

696 Section 16. Section **63I-1-263 (Effective 05/01/13)** is amended to read:

697 **63I-1-263 (Effective 05/01/13). Repeal dates, Titles 63A to 63M.**

698 (1) Section 63A-4-204, authorizing the Risk Management Fund to provide coverage to
 699 any public school district which chooses to participate, is repealed July 1, 2016.

700 (2) Section 63A-5-603, State Facility Energy Efficiency Fund, is repealed July 1, 2016.

701 (3) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July

702 1, 2018.

703 [~~3~~] (4) Section 63C-8-106, rural residency training program, is repealed July 1, 2015.

704 [~~4~~] (5) Title 63C, Chapter 13, Prison Relocation and Development Authority Act, is
705 repealed July 1, 2014.

706 [~~5~~] (6) Subsection 63G-6a-1402(7) authorizing certain transportation agencies to
707 award a contract for a design-build transportation project in certain circumstances, is repealed
708 July 1, 2015.

709 [~~6~~] (7) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed
710 July 1, 2020.

711 [~~7~~] (8) The Resource Development Coordinating Committee, created in Section
712 63J-4-501, is repealed July 1, 2015.

713 [~~8~~] (9) Title 63M, Chapter 1, Part 4, Enterprise Zone Act, is repealed July 1, 2018.

714 [~~9~~] (10) (a) Title 63M, Chapter 1, Part 11, Recycling Market Development Zone Act,
715 is repealed January 1, 2021.

716 (b) Subject to Subsection [~~9~~] (10)(c), Sections 59-7-610 and 59-10-1007 regarding
717 tax credits for certain persons in recycling market development zones, are repealed for taxable
718 years beginning on or after January 1, 2021.

719 (c) A person may not claim a tax credit under Section 59-7-610 or 59-10-1007:

720 (i) for the purchase price of machinery or equipment described in Section 59-7-610 or
721 59-10-1007, if the machinery or equipment is purchased on or after January 1, 2021; or

722 (ii) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), if
723 the expenditure is made on or after January 1, 2021.

724 (d) Notwithstanding Subsections [~~9~~] (10)(b) and (c), a person may carry forward a tax
725 credit in accordance with Section 59-7-610 or 59-10-1007 if:

726 (i) the person is entitled to a tax credit under Section 59-7-610 or 59-10-1007; and

727 (ii) (A) for the purchase price of machinery or equipment described in Section
728 59-7-610 or 59-10-1007, the machinery or equipment is purchased on or before December 31,
729 2020; or

730 (B) for an expenditure described in Subsection 59-7-610(1)(b) or 59-10-1007(1)(b), the
731 expenditure is made on or before December 31, 2020.

732 [~~(10)~~] (11) (a) Section 63M-1-2507, Health Care Compact is repealed on July 1, 2014.

733 (b) (i) The Legislature shall, before reauthorizing the Health Care Compact:

734 (A) direct the Health System Reform Task Force to evaluate the issues listed in
735 Subsection [~~(10)~~] (11)(b)(ii), and by January 1, 2013, develop and recommend criteria for the
736 Legislature to use to negotiate the terms of the Health Care Compact; and

737 (B) prior to July 1, 2014, seek amendments to the Health Care Compact among the
738 member states that the Legislature determines are appropriate after considering the
739 recommendations of the Health System Reform Task Force.

740 (ii) The Health System Reform Task Force shall evaluate and develop criteria for the
741 Legislature regarding:

742 (A) the impact of the Supreme Court ruling on the Affordable Care Act;

743 (B) whether Utah is likely to be required to implement any part of the Affordable Care
744 Act prior to negotiating the compact with the federal government, such as Medicaid expansion
745 in 2014;

746 (C) whether the compact's current funding formula, based on adjusted 2010 state
747 expenditures, is the best formula for Utah and other state compact members to use for
748 establishing the block grants from the federal government;

749 (D) whether the compact's calculation of current year inflation adjustment factor,
750 without consideration of the regional medical inflation rate in the current year, is adequate to
751 protect the state from increased costs associated with administering a state based Medicaid and
752 a state based Medicare program;

753 (E) whether the state has the flexibility it needs under the compact to implement and
754 fund state based initiatives, or whether the compact requires uniformity across member states
755 that does not benefit Utah;

756 (F) whether the state has the option under the compact to refuse to take over the federal
757 Medicare program;

758 (G) whether a state based Medicare program would provide better benefits to the
759 elderly and disabled citizens of the state than a federally run Medicare program;

760 (H) whether the state has the infrastructure necessary to implement and administer a
761 better state based Medicare program;

762 (I) whether the compact appropriately delegates policy decisions between the
763 legislative and executive branches of government regarding the development and
764 implementation of the compact with other states and the federal government; and

765 (J) the impact on public health activities, including communicable disease surveillance
766 and epidemiology.

767 [~~(11)~~] (12) The Crime Victim Reparations and Assistance Board, created in Section
768 63M-7-504, is repealed July 1, 2017.

769 [~~(12)~~] (13) Title 63M, Chapter 9, Families, Agencies, and Communities Together for
770 Children and Youth At Risk Act, is repealed July 1, 2016.

771 [~~(13)~~] (14) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1,
772 2017.

773 Section 17. Section **63J-4-401** is amended to read:

774 **63J-4-401. Planning duties of the planning coordinator and office.**

775 (1) The state planning coordinator shall:

776 (a) act as the governor's adviser on state, regional, metropolitan, and local
777 governmental planning matters relating to public improvements and land use;

778 (b) counsel with the authorized representatives of the Department of Transportation,
779 the State Building Board, the Department of Health, the Department of Workforce Services,
780 the Labor Commission, the Department of Natural Resources, the School and Institutional
781 Trust Lands Administration, and other proper persons concerning all state planning matters;

782 (c) when designated to do so by the governor, receive funds made available to Utah by
783 the federal government;

784 (d) receive and review plans of the various state agencies and political subdivisions
785 relating to public improvements and programs;

786 (e) when conflicts occur between the plans and proposals of state agencies, prepare
787 specific recommendations for the resolution of the conflicts and submit the recommendations
788 to the governor for a decision resolving the conflict;

789 (f) when conflicts occur between the plans and proposals of a state agency and a
790 political subdivision or between two or more political subdivisions, advise these entities of the
791 conflict and make specific recommendations for the resolution of the conflict;

792 (g) act as the governor's planning agent in planning public improvements and land use
793 and, in this capacity, undertake special studies and investigations;

794 (h) provide information and cooperate with the Legislature or any of its committees in
795 conducting planning studies;

796 (i) cooperate and exchange information with federal agencies and local, metropolitan,
797 or regional agencies as necessary to assist with federal, state, regional, metropolitan, and local
798 programs;

799 (j) make recommendations to the governor that the planning coordinator considers
800 advisable for the proper development and coordination of plans for state government and
801 political subdivisions; and

802 (k) oversee and supervise the activities and duties of the public lands policy
803 coordinator.

804 (2) The state planning coordinator may:

805 (a) perform regional and state planning and assist state government planning agencies
806 in performing state planning;

807 (b) provide planning assistance to Indian tribes regarding planning for Indian
808 reservations; and

809 (c) assist city, county, metropolitan, and regional planning agencies in performing
810 local, metropolitan, and regional planning, provided that the state planning coordinator and the
811 state planning coordinator's agents and designees recognize and promote the plans, policies,
812 programs, processes, and desired outcomes of each planning agency whenever possible.

813 (3) When preparing or assisting in the preparation of plans, policies, programs, or

814 processes related to the management or use of federal lands or natural resources on federal
815 lands in Utah, the state planning coordinator shall:

816 (a) incorporate the plans, policies, programs, processes, and desired outcomes of the
817 counties where the federal lands or natural resources are located, to the maximum extent
818 consistent with state and federal law, provided that this requirement shall not be interpreted to
819 infringe upon the authority of the governor;

820 (b) identify inconsistencies or conflicts between the plans, policies, programs,
821 processes, and desired outcomes prepared under Subsection (3)(a) and the plans, programs,
822 processes, and desired outcomes of local government as early in the preparation process as
823 possible, and seek resolution of the inconsistencies through meetings or other conflict
824 resolution mechanisms involving the necessary and immediate parties to the inconsistency or
825 conflict;

826 (c) present to the governor the nature and scope of any inconsistency or other conflict
827 that is not resolved under the procedures in Subsection (3)(b) for the governor's decision about
828 the position of the state concerning the inconsistency or conflict;

829 (d) develop, research, and use factual information, legal analysis, and statements of
830 desired future condition for the state, or subregion of the state, as necessary to support the
831 plans, policies, programs, processes, and desired outcomes of the state and the counties where
832 the federal lands or natural resources are located;

833 (e) establish and coordinate agreements between the state and federal land management
834 agencies, federal natural resource management agencies, and federal natural resource
835 regulatory agencies to facilitate state and local participation in the development, revision, and
836 implementation of land use plans, guidelines, regulations, other instructional memoranda, or
837 similar documents proposed or promulgated for lands and natural resources administered by
838 federal agencies; and

839 (f) work in conjunction with political subdivisions to establish agreements with federal
840 land management agencies, federal natural resource management agencies, and federal natural
841 resource regulatory agencies to provide a process for state and local participation in the

842 preparation of, or coordinated state and local response to, environmental impact analysis
843 documents and similar documents prepared pursuant to law by state or federal agencies.

844 (4) The state planning coordinator shall comply with the requirements of Subsection
845 [~~63C-4-102~~] 63C-4a-203(8) before submitting any comments on a draft environmental impact
846 statement or on an environmental assessment for a proposed land management plan, if the
847 governor would be subject to Subsection [~~63C-4-102~~] 63C-4a-203(8) if the governor were
848 submitting the material.

849 (5) The state planning coordinator shall cooperate with and work in conjunction with
850 appropriate state agencies and political subdivisions to develop policies, plans, programs,
851 processes, and desired outcomes authorized by this section by coordinating the development of
852 positions:

- 853 (a) through the Resource Development Coordinating Committee;
- 854 (b) in conjunction with local government officials concerning general local government
855 plans;
- 856 (c) by soliciting public comment through the Resource Development Coordinating
857 Committee; and
- 858 (d) by working with the Public Lands Policy Coordinating Office.

859 (6) The state planning coordinator shall recognize and promote the following principles
860 when preparing any policies, plans, programs, processes, or desired outcomes relating to
861 federal lands and natural resources on federal lands pursuant to this section:

- 862 (a) (i) the citizens of the state are best served by applying multiple-use and
863 sustained-yield principles in public land use planning and management; and
- 864 (ii) multiple-use and sustained-yield management means that federal agencies should
865 develop and implement management plans and make other resource-use decisions that:
 - 866 (A) achieve and maintain in perpetuity a high-level annual or regular periodic output of
867 mineral and various renewable resources from public lands;
 - 868 (B) support valid existing transportation, mineral, and grazing privileges at the highest
869 reasonably sustainable levels;

870 (C) support the specific plans, programs, processes, and policies of state agencies and
871 local governments;

872 (D) are designed to produce and provide the desired vegetation for the watersheds,
873 timber, food, fiber, livestock forage, and wildlife forage, and minerals that are necessary to
874 meet present needs and future economic growth and community expansion without permanent
875 impairment of the productivity of the land;

876 (E) meet the recreational needs and the personal and business-related transportation
877 needs of the citizens of the state by providing access throughout the state;

878 (F) meet the recreational needs of the citizens of the state;

879 (G) meet the needs of wildlife;

880 (H) provide for the preservation of cultural resources, both historical and
881 archaeological;

882 (I) meet the needs of economic development;

883 (J) meet the needs of community development; and

884 (K) provide for the protection of water rights;

885 (b) managing public lands for "wilderness characteristics" circumvents the statutory
886 wilderness process and is inconsistent with the multiple-use and sustained-yield management
887 standard that applies to all Bureau of Land Management and U.S. Forest Service lands that are
888 not wilderness areas or wilderness study areas;

889 (c) all waters of the state are:

890 (i) owned exclusively by the state in trust for its citizens;

891 (ii) are subject to appropriation for beneficial use; and

892 (iii) are essential to the future prosperity of the state and the quality of life within the
893 state;

894 (d) the state has the right to develop and use its entitlement to interstate rivers;

895 (e) all water rights desired by the federal government must be obtained through the
896 state water appropriation system;

897 (f) land management and resource-use decisions which affect federal lands should give

898 priority to and support the purposes of the compact between the state and the United States
899 related to school and institutional trust lands;

900 (g) development of the solid, fluid, and gaseous mineral resources of the state is an
901 important part of the economy of the state, and of local regions within the state;

902 (h) the state should foster and support industries that take advantage of the state's
903 outstanding opportunities for outdoor recreation;

904 (i) wildlife constitutes an important resource and provides recreational and economic
905 opportunities for the state's citizens;

906 (j) proper stewardship of the land and natural resources is necessary to ensure the
907 health of the watersheds, timber, forage, and wildlife resources to provide for a continuous
908 supply of resources for the people of the state and the people of the local communities who
909 depend on these resources for a sustainable economy;

910 (k) forests, rangelands, timber, and other vegetative resources:

911 (i) provide forage for livestock;

912 (ii) provide forage and habitat for wildlife;

913 (iii) provide resources for the state's timber and logging industries;

914 (iv) contribute to the state's economic stability and growth; and

915 (v) are important for a wide variety of recreational pursuits;

916 (l) management programs and initiatives that improve watersheds, forests, and increase
917 forage for the mutual benefit of wildlife species and livestock, logging, and other agricultural
918 industries by utilizing proven techniques and tools are vital to the state's economy and the
919 quality of life in Utah; and

920 (m) (i) land management plans, programs, and initiatives should provide that the
921 amount of domestic livestock forage, expressed in animal unit months, for permitted, active
922 use as well as the wildlife forage included in that amount, be no less than the maximum
923 number of animal unit months sustainable by range conditions in grazing allotments and
924 districts, based on an on-the-ground and scientific analysis;

925 (ii) the state opposes the relinquishment or retirement of grazing animal unit months in

926 favor of conservation, wildlife, and other uses;

927 (iii) (A) the state favors the best management practices that are jointly sponsored by
928 cattlemen's, sportsmen's, and wildlife management groups such as chaining, logging, seeding,
929 burning, and other direct soil and vegetation prescriptions that are demonstrated to restore
930 forest and rangeland health, increase forage, and improve watersheds in grazing districts and
931 allotments for the mutual benefit of domestic livestock and wildlife;

932 (B) when practices described in Subsection (6)(m)(iii)(A) increase a grazing
933 allotment's forage beyond the total permitted forage use that was allocated to that allotment in
934 the last federal land use plan or allotment management plan still in existence as of January 1,
935 2005, a reasonable and fair portion of the increase in forage beyond the previously allocated
936 total permitted use should be allocated to wildlife as recommended by a joint, evenly balanced
937 committee of livestock and wildlife representatives that is appointed and constituted by the
938 governor for that purpose;

939 (C) the state favors quickly and effectively adjusting wildlife population goals and
940 population census numbers in response to variations in the amount of available forage caused
941 by drought or other climatic adjustments, and state agencies responsible for managing wildlife
942 population goals and population census numbers will give due regard to both the needs of the
943 livestock industry and the need to prevent the decline of species to a point where listing under
944 the terms of the Endangered Species Act when making such adjustments;

945 (iv) the state opposes the transfer of grazing animal unit months to wildlife for
946 supposed reasons of rangeland health;

947 (v) reductions in domestic livestock animal unit months must be temporary and
948 scientifically based upon rangeland conditions;

949 (vi) policies, plans, programs, initiatives, resource management plans, and forest plans
950 may not allow the placement of grazing animal unit months in a suspended use category unless
951 there is a rational and scientific determination that the condition of the rangeland allotment or
952 district in question will not sustain the animal unit months sought to be placed in suspended
953 use;

954 (vii) any grazing animal unit months that are placed in a suspended use category should
955 be returned to active use when range conditions improve;

956 (viii) policies, plans, programs, and initiatives related to vegetation management
957 should recognize and uphold the preference for domestic grazing over alternate forage uses in
958 established grazing districts while upholding management practices that optimize and expand
959 forage for grazing and wildlife in conjunction with state wildlife management plans and
960 programs in order to provide maximum available forage for all uses; and

961 (ix) in established grazing districts, animal unit months that have been reduced due to
962 rangeland health concerns should be restored to livestock when rangeland conditions improve,
963 and should not be converted to wildlife use.

964 (7) The state planning coordinator shall recognize and promote the following findings
965 in the preparation of any policies, plans, programs, processes, or desired outcomes relating to
966 federal lands and natural resources on federal lands under this section:

967 (a) as a coholder of R.S. 2477 rights-of-way with the counties, the state supports its
968 recognition by the federal government and the public use of R.S. 2477 rights-of-way and urges
969 the federal government to fully recognize the rights-of-way and their use by the public as
970 expeditiously as possible;

971 (b) it is the policy of the state to use reasonable administrative and legal measures to
972 protect and preserve valid existing rights-of-way granted by Congress under R.S. 2477, and to
973 support and work in conjunction with counties to redress cases where R.S. 2477 rights-of-way
974 are not recognized or are impaired; and

975 (c) transportation and access routes to and across federal lands, including all
976 rights-of-way vested under R.S. 2477, are vital to the state's economy and to the quality of life
977 in the state, and must provide, at a minimum, a network of roads throughout the resource
978 planning area that provides for:

979 (i) movement of people, goods, and services across public lands;

980 (ii) reasonable access to a broad range of resources and opportunities throughout the
981 resource planning area, including:

- 982 (A) livestock operations and improvements;
- 983 (B) solid, fluid, and gaseous mineral operations;
- 984 (C) recreational opportunities and operations, including motorized and nonmotorized
985 recreation;
- 986 (D) search and rescue needs;
- 987 (E) public safety needs; and
- 988 (F) access for transportation of wood products to market;
- 989 (iii) access to federal lands for people with disabilities and the elderly; and
- 990 (iv) access to state lands and school and institutional trust lands to accomplish the
991 purposes of those lands.

992 (8) The state planning coordinator shall recognize and promote the following findings
993 in the preparation of any plans, policies, programs, processes, or desired outcomes relating to
994 federal lands and natural resources on federal lands pursuant to this section:

995 (a) the state's support for the addition of a river segment to the National Wild and
996 Scenic Rivers System, 16 U.S.C. Sec. 1271 et seq., will be withheld until:

- 997 (i) it is clearly demonstrated that water is present and flowing at all times;
- 998 (ii) it is clearly demonstrated that the required water-related value is considered
999 outstandingly remarkable within a region of comparison consisting of one of the three
1000 physiographic provinces in the state, and that the rationale and justification for the conclusions
1001 are disclosed;

1002 (iii) it is clearly demonstrated that the inclusion of each river segment is consistent
1003 with the plans and policies of the state and the county or counties where the river segment is
1004 located as those plans and policies are developed according to Subsection (3);

1005 (iv) the effects of the addition upon the local and state economies, agricultural and
1006 industrial operations and interests, outdoor recreation, water rights, water quality, water
1007 resource planning, and access to and across river corridors in both upstream and downstream
1008 directions from the proposed river segment have been evaluated in detail by the relevant federal
1009 agency;

1010 (v) it is clearly demonstrated that the provisions and terms of the process for review of
1011 potential additions have been applied in a consistent manner by all federal agencies;

1012 (vi) the rationale and justification for the proposed addition, including a comparison
1013 with protections offered by other management tools, is clearly analyzed within the multiple-use
1014 mandate, and the results disclosed;

1015 (vii) it is clearly demonstrated that the federal agency with management authority over
1016 the river segment, and which is proposing the segment for inclusion in the National Wild and
1017 Scenic River System will not use the actual or proposed designation as a basis to impose
1018 management standards outside of the federal land management plan;

1019 (viii) it is clearly demonstrated that the terms and conditions of the federal land and
1020 resource management plan containing a recommendation for inclusion in the National Wild
1021 and Scenic River System:

1022 (A) evaluates all eligible river segments in the resource planning area completely and
1023 fully for suitability for inclusion in the National Wild and Scenic River System;

1024 (B) does not suspend or terminate any studies for inclusion in the National Wild and
1025 Scenic River System at the eligibility phase;

1026 (C) fully disclaims any interest in water rights for the recommended segment as a result
1027 of the adoption of the plan; and

1028 (D) fully disclaims the use of the recommendation for inclusion in the National Wild
1029 and Scenic River System as a reason or rationale for an evaluation of impacts by proposals for
1030 projects upstream, downstream, or within the recommended segment;

1031 (ix) it is clearly demonstrated that the agency with management authority over the river
1032 segment commits not to use an actual or proposed designation as a basis to impose Visual
1033 Resource Management Class I or II management prescriptions that do not comply with the
1034 provisions of Subsection (8)(t); and

1035 (x) it is clearly demonstrated that including the river segment and the terms and
1036 conditions for managing the river segment as part of the National Wild and Scenic River
1037 System will not prevent, reduce, impair, or otherwise interfere with:

1038 (A) the state and its citizens' enjoyment of complete and exclusive water rights in and
1039 to the rivers of the state as determined by the laws of the state; or

1040 (B) local, state, regional, or interstate water compacts to which the state or any county
1041 is a party;

1042 (b) the conclusions of all studies related to potential additions to the National Wild and
1043 Scenic River System, 16 U.S.C. Sec. 1271 et seq., are submitted to the state for review and
1044 action by the Legislature and governor, and the results, in support of or in opposition to, are
1045 included in any planning documents or other proposals for addition and are forwarded to the
1046 United States Congress;

1047 (c) the state's support for designation of an Area of Critical Environmental Concern
1048 (ACEC), as defined in 43 U.S.C. Sec. 1702, within federal land management plans will be
1049 withheld until:

1050 (i) it is clearly demonstrated that the proposed area satisfies all the definitional
1051 requirements of the Federal Land Policy and Management Act of 1976, 43 U.S.C. Sec.
1052 1702(a);

1053 (ii) it is clearly demonstrated that the area proposed for designation as an ACEC is
1054 limited in geographic size and that the proposed management prescriptions are limited in scope
1055 to the minimum necessary to specifically protect and prevent irreparable damage to the relevant
1056 and important values identified, or limited in geographic size and management prescriptions to
1057 the minimum required to specifically protect human life or safety from natural hazards;

1058 (iii) it is clearly demonstrated that the proposed area is limited only to areas that are
1059 already developed or used or to areas where no development is required;

1060 (iv) it is clearly demonstrated that the proposed area contains relevant and important
1061 historic, cultural or scenic values, fish or wildlife resources, or natural processes which are
1062 unique or substantially significant on a regional basis, or contain natural hazards which
1063 significantly threaten human life or safety;

1064 (v) the federal agency has analyzed regional values, resources, processes, or hazards for
1065 irreparable damage and its potential causes resulting from potential actions which are

1066 consistent with the multiple-use, sustained-yield principles, and the analysis describes the
1067 rationale for any special management attention required to protect, or prevent irreparable
1068 damage to the values, resources, processes, or hazards;

1069 (vi) it is clearly demonstrated that the proposed designation is consistent with the plans
1070 and policies of the state and of the county where the proposed designation is located as those
1071 plans and policies are developed according to Subsection (3);

1072 (vii) it is clearly demonstrated that the proposed ACEC designation will not be applied
1073 redundantly over existing protections provided by other state and federal laws for federal lands
1074 or resources on federal lands, and that the federal statutory requirement for special management
1075 attention for a proposed ACEC will discuss and justify any management requirements needed
1076 in addition to those specified by the other state and federal laws;

1077 (viii) the difference between special management attention required for an ACEC and
1078 normal multiple-use management has been identified and justified, and that any determination
1079 of irreparable damage has been analyzed and justified for short and long-term horizons;

1080 (ix) it is clearly demonstrated that the proposed designation:

1081 (A) is not a substitute for a wilderness suitability recommendation;

1082 (B) is not a substitute for managing areas inventoried for wilderness characteristics
1083 after 1993 under the BLM interim management plan for valid wilderness study areas; and

1084 (C) it is not an excuse or justification to apply de facto wilderness management
1085 standards; and

1086 (x) the conclusions of all studies are submitted to the state, as a cooperating agency, for
1087 review, and the results, in support of or in opposition to, are included in all planning
1088 documents;

1089 (d) sufficient federal lands are made available for government-to-government
1090 exchanges of school and institutional trust lands and federal lands without regard for a
1091 resource-to-resource correspondence between the surface or mineral characteristics of the
1092 offered trust lands and the offered federal lands;

1093 (e) federal agencies should support government-to-government exchanges of land with

1094 the state based on a fair process of valuation which meets the fiduciary obligations of both the
1095 state and federal governments toward trust lands management, and which assures that revenue
1096 authorized by federal statute to the state from mineral or timber production, present or future, is
1097 not diminished in any manner during valuation, negotiation, or implementation processes;

1098 (f) agricultural and grazing lands should continue to produce the food and fiber needed
1099 by the citizens of the state and the nation, and the rural character and open landscape of rural
1100 Utah should be preserved through a healthy and active agricultural and grazing industry,
1101 consistent with private property rights and state fiduciary duties;

1102 (g) the resources of the forests and rangelands of the state should be integrated as part
1103 of viable, robust, and sustainable state and local economies, and available forage should be
1104 evaluated for the full complement of herbivores the rangelands can support in a sustainable
1105 manner, and forests should contain a diversity of timber species, and disease or insect
1106 infestations in forests should be controlled using logging or other best management practices;

1107 (h) the state opposes any additional evaluation of national forest service lands as
1108 "roadless" or "unroaded" beyond the forest service's second roadless area review evaluation and
1109 opposes efforts by agencies to specially manage those areas in a way that:

1110 (i) closes or declassifies existing roads unless multiple side by side roads exist running
1111 to the same destination and state and local governments consent to close or declassify the extra
1112 roads;

1113 (ii) permanently bars travel on existing roads;

1114 (iii) excludes or diminishes traditional multiple-use activities, including grazing and
1115 proper forest harvesting;

1116 (iv) interferes with the enjoyment and use of valid, existing rights, including water
1117 rights, local transportation plan rights, R.S. 2477 rights, grazing allotment rights, and mineral
1118 leasing rights; or

1119 (v) prohibits development of additional roads reasonably necessary to pursue
1120 traditional multiple-use activities;

1121 (i) the state's support for any forest plan revision or amendment will be withheld until

1122 the appropriate plan revision or plan amendment clearly demonstrates that:

1123 (i) established roads are not referred to as unclassified roads or a similar classification;

1124 (ii) lands in the vicinity of established roads are managed under the multiple-use,
1125 sustained-yield management standard; and

1126 (iii) no roadless or unroaded evaluations or inventories are recognized or upheld
1127 beyond those that were recognized or upheld in the forest service's second roadless area review
1128 evaluation;

1129 (j) the state's support for any recommendations made under the statutory requirement to
1130 examine the wilderness option during the revision of land and resource management plans by
1131 the U.S. Forest Service will be withheld until it is clearly demonstrated that:

1132 (i) the duly adopted transportation plans of the state and county or counties within the
1133 planning area are fully and completely incorporated into the baseline inventory of information
1134 from which plan provisions are derived;

1135 (ii) valid state or local roads and rights-of-way are recognized and not impaired in any
1136 way by the recommendations;

1137 (iii) the development of mineral resources by underground mining is not affected by
1138 the recommendations;

1139 (iv) the need for additional administrative or public roads necessary for the full use of
1140 the various multiple-uses, including recreation, mineral exploration and development, forest
1141 health activities, and grazing operations is not unduly affected by the recommendations;

1142 (v) analysis and full disclosure is made concerning the balance of multiple-use
1143 management in the proposed areas, and that the analysis compares the full benefit of
1144 multiple-use management to the recreational, forest health, and economic needs of the state and
1145 the counties to the benefits of the requirements of wilderness management; and

1146 (vi) the conclusions of all studies related to the requirement to examine the wilderness
1147 option are submitted to the state for review and action by the Legislature and governor, and the
1148 results, in support of or in opposition to, are included in any planning documents or other
1149 proposals that are forwarded to the United States Congress;

1150 (k) the invasion of noxious weeds and undesirable invasive plant species into the state
1151 should be reversed, their presence eliminated, and their return prevented;

1152 (l) management and resource-use decisions by federal land management and regulatory
1153 agencies concerning the vegetative resources within the state should reflect serious
1154 consideration of the proper optimization of the yield of water within the watersheds of the
1155 state;

1156 (m) (i) it is the policy of the state that:

1157 (A) mineral and energy production and environmental protection are not mutually
1158 exclusive;

1159 (B) it is technically feasible to permit appropriate access to mineral and energy
1160 resources while preserving nonmineral and nonenergy resources;

1161 (C) resource management planning should seriously consider all available mineral and
1162 energy resources;

1163 (D) the development of the solid, fluid, and gaseous mineral resources of the state and
1164 the renewable resources of the state should be encouraged;

1165 (E) the waste of fluid and gaseous minerals within developed areas should be
1166 prohibited; and

1167 (F) requirements to mitigate or reclaim mineral development projects should be based
1168 on credible evidence of significant impacts to natural or cultural resources;

1169 (ii) the state's support for mineral development provisions within federal land
1170 management plans will be withheld until the appropriate land management plan environmental
1171 impact statement clearly demonstrates:

1172 (A) that the authorized planning agency has:

1173 (I) considered and evaluated the mineral and energy potential in all areas of the
1174 planning area as if the areas were open to mineral development under standard lease
1175 agreements; and

1176 (II) evaluated any management plan prescription for its impact on the area's baseline
1177 mineral and energy potential;

1178 (B) that the development provisions do not unduly restrict access to public lands for
1179 energy exploration and development;

1180 (C) that the authorized planning agency has supported any closure of additional areas
1181 to mineral leasing and development or any increase of acres subject to no surface occupancy
1182 restrictions by adhering to:

1183 (I) the relevant provisions of the Federal Land Policy and Management Act of 1976, 43
1184 U.S.C. Sec. 1701 et seq.;

1185 (II) other controlling mineral development laws; and

1186 (III) the controlling withdrawal and reporting procedures set forth in the Federal Land
1187 Policy and Management Act of 1976, 43 U.S.C. Sec. 1701 et seq.;

1188 (D) that the authorized planning agency evaluated whether to repeal any moratorium
1189 that may exist on the issuance of additional mining patents and oil and gas leases;

1190 (E) that the authorized planning agency analyzed all proposed mineral lease
1191 stipulations and considered adopting the least restrictive necessary to protect against damage to
1192 other significant resource values;

1193 (F) that the authorized planning agency evaluated mineral lease restrictions to
1194 determine whether to waive, modify, or make exceptions to the restrictions on the basis that
1195 they are no longer necessary or effective;

1196 (G) that the authorized federal agency analyzed all areas proposed for no surface
1197 occupancy restrictions, and that the analysis evaluated:

1198 (I) whether directional drilling is economically feasible and ecologically necessary for
1199 each proposed no surface occupancy area;

1200 (II) whether the directional drilling feasibility analysis, or analysis of other
1201 management prescriptions, demonstrates that the proposed no surface occupancy prescription,
1202 in effect, sterilizes the mineral and energy resources beneath the area; and

1203 (III) whether, if the minerals are effectively sterilized, the area must be reported as
1204 withdrawn under the provisions of the Federal Land Policy and Management Act; and

1205 (H) that the authorized planning agency has evaluated all directional drilling

1206 requirements in no surface occupancy areas to determine whether directional drilling is feasible
1207 from an economic, ecological, and engineering standpoint;

1208 (n) motorized, human, and animal-powered outdoor recreation should be integrated
1209 into a fair and balanced allocation of resources within the historical and cultural framework of
1210 multiple-uses in rural Utah, and outdoor recreation should be supported as part of a balanced
1211 plan of state and local economic support and growth;

1212 (o) off-highway vehicles should be used responsibly, the management of off-highway
1213 vehicles should be uniform across all jurisdictions, and laws related to the use of off-highway
1214 vehicles should be uniformly applied across all jurisdictions;

1215 (p) (i) rights-of-way granted and vested under the provisions of R.S. 2477 should be
1216 preserved and acknowledged;

1217 (ii) land use management plans, programs, and initiatives should be consistent with
1218 both state and county transportation plans developed according to Subsection (3) in order to
1219 provide a network of roads throughout the planning area that provides for:

1220 (A) movement of people, goods, and services across public lands;

1221 (B) reasonable access to a broad range of resources and opportunities throughout the
1222 planning area, including access to livestock, water, and minerals;

1223 (C) economic and business needs;

1224 (D) public safety;

1225 (E) search and rescue;

1226 (F) access for people with disabilities and the elderly;

1227 (G) access to state lands; and

1228 (H) recreational opportunities;

1229 (q) transportation and access provisions for all other existing routes, roads, and trails

1230 across federal, state, and school trust lands within the state should be determined and

1231 identified, and agreements should be executed and implemented, as necessary to fully authorize

1232 and determine responsibility for maintenance of all routes, roads, and trails;

1233 (r) the reasonable development of new routes and trails for motorized, human, and

1234 animal-powered recreation should be implemented;

1235 (s) (i) forests, rangelands, and watersheds, in a healthy condition, are necessary and
1236 beneficial for wildlife, livestock grazing, and other multiple-uses;

1237 (ii) management programs and initiatives that are implemented to increase forage for
1238 the mutual benefit of the agricultural industry, livestock operations, and wildlife species should
1239 utilize all proven techniques and tools;

1240 (iii) the continued viability of livestock operations and the livestock industry should be
1241 supported on the federal lands within the state by management of the lands and forage
1242 resources, by the proper optimization of animal unit months for livestock, in accordance with
1243 the multiple-use provisions of the Federal Land Policy and Management Act of 1976, 43
1244 U.S.C. 1701 et seq., the provisions of the Taylor Grazing Act of 1934, 43 U.S.C. 315 et seq.,
1245 and the provisions of the Public Rangelands Improvement Act of 1978, 43 U.S.C. 1901 et seq.;

1246 (iv) provisions for predator control initiatives or programs under the direction of state
1247 and local authorities should be implemented; and

1248 (v) resource-use and management decisions by federal land management and
1249 regulatory agencies should support state-sponsored initiatives or programs designed to stabilize
1250 wildlife populations that may be experiencing a scientifically demonstrated decline in those
1251 populations; and

1252 (t) management and resource use decisions by federal land management and regulatory
1253 agencies concerning the scenic resources of the state must balance the protection of scenery
1254 with the full management requirements of the other authorized uses of the land under
1255 multiple-use management, and should carefully consider using Visual Resource Management
1256 Class I protection only for areas of inventoried Class A scenery or equivalent.

1257 (9) Notwithstanding any provision of Section 63J-8-105.5, the state is committed to
1258 establishing and administering an effective statewide conservation strategy for greater sage
1259 grouse.

1260 (10) Nothing contained in this section may be construed to restrict or supersede the
1261 planning powers conferred upon state departments, agencies, instrumentalities, or advisory

1262 councils of the state or the planning powers conferred upon political subdivisions by any other
1263 existing law.

1264 (11) Nothing in this section may be construed to affect any lands withdrawn from the
1265 public domain for military purposes, which are administered by the United States Army, Air
1266 Force, or Navy.

1267 Section 18. Section **63J-4-603** is amended to read:

1268 **63J-4-603. Powers and duties of coordinator and office.**

1269 (1) The coordinator and the office shall:

1270 (a) make a report to the Constitutional Defense Council created under Section
1271 ~~[63C-4-101]~~ 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title
1272 63C, Chapter ~~[4]~~ 4a, Constitutional and Federalism Defense ~~[Council]~~ Act;

1273 (b) provide staff assistance to the Constitutional Defense Council created under Section
1274 ~~[63C-4-101]~~ 63C-4a-202 for meetings of the council ~~[and Federalism Subcommittee]~~;

1275 (c) (i) prepare and submit a constitutional defense plan under Section ~~[63C-4-104]~~
1276 63C-4a-403; and

1277 (ii) execute any action assigned in a constitutional defense plan;

1278 (d) under the direction of the state planning coordinator, assist in fulfilling the state
1279 planning coordinator's duties outlined in Section 63J-4-401 as those duties relate to the
1280 development of public lands policies by:

1281 (i) developing cooperative contracts and agreements between the state, political
1282 subdivisions, and agencies of the federal government for involvement in the development of
1283 public lands policies;

1284 (ii) producing research, documents, maps, studies, analysis, or other information that
1285 supports the state's participation in the development of public lands policy;

1286 (iii) preparing comments to ensure that the positions of the state and political
1287 subdivisions are considered in the development of public lands policy;

1288 (iv) partnering with state agencies and political subdivisions in an effort to:

1289 (A) prepare coordinated public lands policies;

- 1290 (B) develop consistency reviews and responses to public lands policies;
- 1291 (C) develop management plans that relate to public lands policies; and
- 1292 (D) develop and maintain a statewide land use plan that is based on cooperation and in
- 1293 conjunction with political subdivisions; and
- 1294 (v) providing other information or services related to public lands policies as requested
- 1295 by the state planning coordinator;
- 1296 (e) facilitate and coordinate the exchange of information, comments, and
- 1297 recommendations on public lands policies between and among:
 - 1298 (i) state agencies;
 - 1299 (ii) political subdivisions;
 - 1300 (iii) the Office of Rural Development created under Section 63M-1-1602;
 - 1301 (iv) the Resource Development Coordinating Committee created under Section
 - 1302 63J-4-501;
 - 1303 (v) School and Institutional Trust Lands Administration created under Section
 - 1304 53C-1-201;
 - 1305 (vi) the committee created under Section 63F-1-508 to award grants to counties to
 - 1306 inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and
 - 1307 (vii) the Constitutional Defense Council created under Section [~~63C-4-101~~]
 - 1308 63C-4a-202;
- 1309 (f) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9,
- 1310 Chapter 8, Part 4, Historic Sites;
- 1311 (g) consistent with other statutory duties, encourage agencies to responsibly preserve
- 1312 archaeological resources;
- 1313 (h) maintain information concerning grants made under Subsection (1)(j), if available;
- 1314 (i) report annually, or more often if necessary or requested, concerning the office's
- 1315 activities and expenditures to:
 - 1316 (i) the Constitutional Defense Council; and
 - 1317 (ii) the Legislature's Natural Resources, Agriculture, and Environment Interim

1318 Committee jointly with the Constitutional Defense Council;

1319 (j) make grants of up to 16% of the office's total annual appropriations from the
1320 Constitutional Defense Restricted Account to a county or statewide association of counties to
1321 be used by the county or association of counties for public lands matters if the coordinator,
1322 with the advice of the Constitutional Defense Council, determines that the action provides a
1323 state benefit;

1324 (k) provide staff services to the Snake Valley Aquifer Advisory Council created in
1325 Section 63C-12-103; and

1326 (l) coordinate and direct the Snake Valley Aquifer Research Team created in Section
1327 63C-12-107.

1328 (2) The coordinator and office shall comply with Subsection [~~63C-4-102~~]
1329 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be
1330 subject to Subsection [~~63C-4-102~~] 63C-4a-203(8) if the governor were submitting the material.

1331 (3) The office may enter into a contract or other agreement with another state agency to
1332 provide information and services related to:

1333 (a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and
1334 Classification Act;

1335 (b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and
1336 Classification Act, or R.S. 2477 matters; or

1337 (c) any other matter within the office's responsibility.

1338 Section 19. Section **67-5-1** is amended to read:

1339 **67-5-1. General duties.**

1340 The attorney general shall:

1341 (1) perform all duties in a manner consistent with the attorney-client relationship under
1342 Section 67-5-17;

1343 (2) except as provided in Sections 10-3-928 and 17-18-1, attend the Supreme Court
1344 and the Court of Appeals of this state, and all courts of the United States, and prosecute or
1345 defend all causes to which the state, or any officer, board, or commission of the state in an

1346 official capacity is a party; and take charge, as attorney, of all civil legal matters in which the
1347 state is interested;

1348 (3) after judgment on any cause referred to in Subsection (2), direct the issuance of
1349 process as necessary to execute the judgment;

1350 (4) account for, and pay over to the proper officer, all money that comes into the
1351 attorney general's possession that belongs to the state;

1352 (5) keep a file of all cases in which the attorney general is required to appear, including
1353 any documents and papers showing the court in which the cases have been instituted and tried,
1354 and whether they are civil or criminal, and:

1355 (a) if civil, the nature of the demand, the stage of proceedings, and when prosecuted to
1356 judgment, a memorandum of the judgment and of any process issued whether satisfied, and if
1357 not satisfied, the return of the sheriff;

1358 (b) if criminal, the nature of the crime, the mode of prosecution, the stage of
1359 proceedings, and when prosecuted to sentence, a memorandum of the sentence and of the
1360 execution, if the sentence has been executed, if not executed, of the reason of the delay or
1361 prevention; and

1362 (c) deliver this information to the attorney general's successor in office;

1363 (6) exercise supervisory powers over the district and county attorneys of the state in all
1364 matters pertaining to the duties of their offices, and from time to time require of them reports of
1365 the condition of public business entrusted to their charge;

1366 (7) give the attorney general's opinion in writing and without fee to the Legislature or
1367 either house, and to any state officer, board, or commission, and to any county attorney or
1368 district attorney, when required, upon any question of law relating to their respective offices;

1369 (8) when required by the public service or directed by the governor, assist any county,
1370 district, or city attorney in the discharge of his duties;

1371 (9) purchase in the name of the state, under the direction of the state Board of
1372 Examiners, any property offered for sale under execution issued upon judgments in favor of or
1373 for the use of the state, and enter satisfaction in whole or in part of the judgments as the

1374 consideration of the purchases;

1375 (10) when the property of a judgment debtor in any judgment mentioned in Subsection
1376 (9) has been sold under a prior judgment, or is subject to any judgment, lien, or encumbrance
1377 taking precedence of the judgment in favor of the state, redeem the property, under the
1378 direction of the state Board of Examiners, from the prior judgment, lien, or encumbrance, and
1379 pay all money necessary for the redemption, upon the order of the state Board of Examiners,
1380 out of any money appropriated for these purposes;

1381 (11) when in his opinion it is necessary for the collection or enforcement of any
1382 judgment, institute and prosecute on behalf of the state any action or proceeding necessary to
1383 set aside and annul all conveyances fraudulently made by the judgment debtors, and pay the
1384 cost necessary to the prosecution, when allowed by the state Board of Examiners, out of any
1385 money not otherwise appropriated;

1386 (12) discharge the duties of a member of all official boards of which the attorney
1387 general is or may be made a member by the Utah Constitution or by the laws of the state, and
1388 other duties prescribed by law;

1389 (13) institute and prosecute proper proceedings in any court of the state or of the
1390 United States, to restrain and enjoin corporations organized under the laws of this or any other
1391 state or territory from acting illegally or in excess of their corporate powers or contrary to
1392 public policy, and in proper cases forfeit their corporate franchises, dissolve the corporations,
1393 and wind up their affairs;

1394 (14) institute investigations for the recovery of all real or personal property that may
1395 have escheated or should escheat to the state, and for that purpose, subpoena any persons
1396 before any of the district courts to answer inquiries and render accounts concerning any
1397 property, examine all books and papers of any corporations, and when any real or personal
1398 property is discovered that should escheat to the state, institute suit in the district court of the
1399 county where the property is situated for its recovery, and escheat that property to the state;

1400 (15) administer the Children's Justice Center as a program to be implemented in
1401 various counties pursuant to Sections 67-5b-101 through 67-5b-107;

1402 (16) assist the Constitutional Defense Council as provided in Title 63C, Chapter [4] 4a,
1403 Constitutional and Federalism Defense [~~Council~~] Act;

1404 (17) pursue any appropriate legal action to implement the state's public lands policy
1405 established in [~~Subsection 63C-4-105(1)~~] Section 63C-4a-103;

1406 (18) investigate and prosecute violations of all applicable state laws relating to fraud in
1407 connection with the state Medicaid program and any other medical assistance program
1408 administered by the state, including violations of Title 26, Chapter 20, False Claims Act;

1409 (19) investigate and prosecute complaints of abuse, neglect, or exploitation of patients
1410 at:

1411 (a) health care facilities that receive payments under the state Medicaid program; and

1412 (b) board and care facilities, as defined in the federal Social Security Act, 42 U.S.C.
1413 Sec. 1396b(q)(4)(B), regardless of the source of payment to the board and care facility; and

1414 (20) (a) report at least twice per year to the Legislative Management Committee on any
1415 pending or anticipated lawsuits, other than eminent domain lawsuits, that might:

1416 (i) cost the state more than \$500,000; or

1417 (ii) require the state to take legally binding action that would cost more than \$500,000
1418 to implement; and

1419 (b) if the meeting is closed, include an estimate of the state's potential financial or other
1420 legal exposure in that report.

1421 **Section 20. Dissolution of Federalism Subcommittee.**

1422 (1) The Federalism Subcommittee is dissolved on the effective date of this bill.

1423 (2) All appointments to the Federalism Subcommittee end on the effective date of this
1424 bill.

1425 (3) This Section 20 of this bill is repealed on December 31, 2013.

1426 **Section 21. Appropriation.**

1427 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, for
1428 the fiscal year beginning July 1, 2012, and ending June 30, 2013, the following sums of money
1429 are appropriated from resources not otherwise appropriated, or reduced from amounts

1430 previously appropriated, out of the funds or accounts indicated. These sums of money are in
1431 addition to any amounts previously appropriated for fiscal year 2013.

1432 ITEM 1 To General Fund Restricted - Constitutional Defense Restricted Account
1433 From General Fund, One-time (\$79,800)
1434 Schedule of Programs:
1435 Constitutional Defense Restricted Account (\$79,800)

1436 ITEM 2 To Governor's Office - Constitutional Defense Council
1437 From General Fund Restricted - Constitutional Defense (\$79,800)
1438 Schedule of Programs:
1439 Constitutional Defense Council (\$79,800)

1440 ITEM 3 To Legislature - Senate
1441 From General Fund, One-time \$34,200
1442 Schedule of Programs:
1443 Administration \$34,200

1444 ITEM 4 To Legislature - House of Representatives
1445 From General Fund, One-time \$45,600
1446 Schedule of Programs:
1447 Administration \$45,600

1448 The Legislature intends that, notwithstanding dissolution of the Federalism
1449 Subcommittee in this House Bill 131, appropriations from the General Fund Restricted --
1450 Constitutional Defense Restricted Account in House Bill 5, Executive Offices and Criminal
1451 Justice Base Budget, 2013 General Session, remain unaffected by this House Bill 131.