

1 **STATE RESOURCE MANAGEMENT PLAN FOR CERTAIN**
 2 **NONWILDERNESS STUDY AREA BUREAU OF LAND**
 3 **MANAGEMENT LANDS**

4 2011 GENERAL SESSION
 5 STATE OF UTAH

6 **Chief Sponsor: Ralph Okerlund**
 7 House Sponsor: _____



9 **LONG TITLE**

10 **General Description:**

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

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ provides definitions, including the lands subject to the state land use planning and
- 15 management program;
- 16 ▶ adopts a multiple use policy for the specified lands, including:
 - 17 • opposing the federal designation of specified lands as wilderness or lands with
 - 18 wilderness characteristics;
 - 19 • achieving and maintaining at the highest reasonable sustainable levels a
 - 20 continuing yield of energy, hard rock, and natural resources in specified lands;
 - 21 • achieving and maintaining livestock grazing in the specified lands at the highest
 - 22 reasonably sustainable levels;
 - 23 • managing the watershed in the specific lands to achieve and maintain water
 - 24 resources at the highest reasonable sustainable levels;
 - 25 • achieving and maintaining traditional access to outdoor recreational
 - 26 opportunities in the specified lands;
 - 27 • managing the specified lands so as to protect prehistoric rock art, artifacts, and

S.B. 221



- 28 other culturally important items found on the specified lands;
- 29 • managing the specified lands so as to not interfere with the property rights of
- 30 adjacent property owners;
- 31 • managing the specified lands so as not to interfere with school trust lands; and
- 32 • discouraging a federal classification of specified lands as areas of critical
- 33 environmental concern or areas with visual resource management class I or II
- 34 rating.

35 **Money Appropriated in this Bill:**

36 None

37 **Other Special Clauses:**

38 This bill provides an immediate effective date.

39 **Utah Code Sections Affected:**

40 ENACTS:

- 41 **63J-8-101**, Utah Code Annotated 1953
- 42 **63J-8-102**, Utah Code Annotated 1953
- 43 **63J-8-103**, Utah Code Annotated 1953
- 44 **63J-8-104**, Utah Code Annotated 1953



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

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

48 **CHAPTER 8. STATE OF UTAH RESOURCE MANAGEMENT PLAN FOR CERTAIN**

49 **NONWILDERNESS STUDY AREA BUREAU OF LAND MANAGEMENT LANDS**

50 **63J-8-101. Title.**

51 This chapter is known as "State of Utah Resource Management Plan for Certain

52 Nonwilderness Study Area Bureau of Land Management Lands."

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

54 **63J-8-102. Definitions.**

55 As used in this chapter:

- 56 (1) "ACEC" means an area of critical environmental concern.
- 57 (2) "AUM" means animal unit months, a unit of grazing forage.
- 58 (3) "BLM" means the United States Bureau of Land Management.

59 (4) "FLPMA" means the Federal Land Policy Management Act of 1976, 43 U.S.C. Sec.
60 1701 et seq.

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

62 (6) "Subject lands" means the following non-WSA BLM lands:

63 (a) in Beaver County:

64 (i) Mountain Home Range South, Jackson Wash, The Toad, North Wah Wah
65 Mountains, Central Wah Wah Mountains, and San Francisco Mountains according to the
66 region map entitled Great Basin Central linked in the web page entitled "Citizen's Proposal for
67 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the web page
68 existed on February 17, 2011; and

69 (ii) White Rock Range, South Wah Wah Mountains, and Granite Peak according to the
70 region map entitled Great Basin South linked in the web page entitled "Citizen's Proposal for
71 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the web page
72 existed on February 17, 2011;

73 (b) in Box Elder County: Little Goose Creek, Grouse Creek Mountains North, Grouse
74 Creek Mountains South, Bald Eagle Mountain, Central Pilot Range, Pilot Peak, Crater Island
75 West, Crater Island East, Newfoundland Mountains, and Grassy Mountains North according to
76 the region map entitled Great Basin North linked in the web page entitled "Citizen's Proposal
77 for Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the web
78 page existed on February 17, 2011;

79 (c) in Carbon County: Desbrough Canyon and Turtle Canyon according to the region
80 map entitled Book Cliffs linked in the web page entitled "Citizen's Proposal for Wilderness in
81 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the web page existed on
82 February 17, 2011;

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

88 (e) in Duchesne County: Desbrough Canyon according to the region map entitled Book
89 Cliffs linked in the web page entitled "Citizen's Proposal for Wilderness in Utah" at

90 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
91 2011;

92 (f) in Emery County:

93 (i) San Rafael River and Sweetwater Reef, according to the region map entitled
94 Canyonlands Basin linked in the web page entitled "Citizen's Proposal for Wilderness in Utah"
95 at <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
96 2011;

97 (ii) Flat Tops according to the region map entitled Glen Canyon, which is available by
98 clicking the link entitled Dirty Devil at the web page entitled "Citizen's Proposal for
99 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the web page
100 existed on February 17, 2011; and

101 (iii) Price River, Lost Spring Wash, Eagle Canyon, Upper Muddy Creek, Molen Reef,
102 Rock Canyon, Mussentuchit Badland, and Muddy Creek, according to the region map entitled
103 San Rafael Swell linked at the web page entitled "Citizen's Proposal for Wilderness in Utah" at
104 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
105 2011; and

106 (iv) the following lands that are the subject of consideration for a possible federal lands
107 bill and should be managed according to Emery County's position:

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

111 (B) Labyrinth Canyon, Duma Point, and Horseshoe Point, according to the region map
112 entitled Canyonlands Basin linked in the web page entitled "Citizen's Proposal for Wilderness
113 in Utah" at <http://protectwildutah.org/proposal/index.html> as the web page existed on February
114 17, 2011; and

115 (C) Devil's Canyon, Sid's Mountain, Mexican Mountain, San Rafael Reef, Hondu
116 Country, Cedar Mountain, and Wild Horse, according to the region map entitled San Rafael
117 Swell Linked at the web page entitled "Citizen's Proposal for Wilderness in Utah" at
118 <http://protectwildutah.org/proposal/index.html> as the web page existed on February 17, 2011;

119 (g) in Garfield County:

120 (i) Pole Canyon, according to the region map entitled Great Basin South linked in the

121 web page entitled "Citizen's Proposal for Wilderness in Utah" at
122 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
123 2011;

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

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

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

142 (h) in Iron County: Needle Mountains, Steamboat Mountain, Broken Ridge, Paradise
143 Mountains, Crook Canyon, Hamlin, North Peaks, Mount Escalante, and Antelope Ridge,
144 according to the region map entitled Great Basin South linked in the web page entitled
145 "Citizen's Proposal for Wilderness in Utah" at
146 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
147 2011;

148 (i) in Juab County: Deep Creek Mountains, Essex Canyon, Kern Mountains, Wild
149 Horse Pass, Disappointment Hills, Granite Mountain, Middle Mountains, Tule Valley, Fish
150 Springs Ridge, Thomas Range, Drum Mountains, Dugway Mountains, Keg Mountains West,
151 Keg Mountains East, Lion Peak, and Rockwell Little Sahara, according to the region map

152 entitled Great Basin Central linked in the web page entitled "Citizen's Proposal for Wilderness
153 in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the web page existed on
154 February 17, 2011;

155 (j) in Kane County:

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

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

169 (k) in Millard County: Kern Mountains, Wild Horse Pass, Disappointment Hills,
170 Granite Mountain, Middle Mountains, Tule Valley, Swasey Mountain, Little Drum Mountains
171 North, Little Drum Mountains South, Drum Mountains, Snake Valley, Coyote Knoll, Howell
172 Peak, Tule Valley South, Ledger Canyon, Chalk Knolls, Orr Ridge, Notch View, Bullgrass
173 Knoll, Notch Peak, Barn Hills, Cricket Mountains, Burbank Pass, Middle Burbank Hills, King
174 Top, Barn Hills, Red Tops, Middle Burbank Hills, Juniper, Painted Rock Mountain, Black
175 Hills, Tunnel Springs, Red Canyon, Sand Ridge, Little Sage Valley, Cat Canyon, Headlight
176 Mountain, Black Hills, Mountain Range Home North, Tweedy Wash, North Wah Wah
177 Mountains, Jackson Wash, and San Francisco Mountains, according to the region map entitled
178 Great Basin Central linked in the web page entitled "Citizen's Proposal for Wilderness in Utah"
179 at <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
180 2011;

181 (l) in Piute County: Kingston Ridge, Rocky Ford, and Phonolite Hill, according to the
182 region map entitled Great Basin South linked in the web page entitled "Citizen's Proposal for

183 Wilderness in Utah" at <http://www.protectwildutah.org/proposal/index.html> as the web page
184 existed on February 17, 2011;

185 (m) in San Juan County:

186 (i) Horseshoe Point, Deadhorse Cliffs, Gooseneck, Demon's Playground, Hatch
187 Canyon, Lockhart Basin, Indian Creek, Hart's Point, Butler Wash, Bridger Jack Mesa, and Shay
188 Mountain, according to the region map entitled Canyonlands Basin linked in the web page
189 entitled "Citizen's Proposal for Wilderness in Utah" at
190 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
191 2011;

192 (ii) Dark Canyon, Copper Point, Fortknocker Canyon, White Canyon, The Needle, Red
193 Rock Plateau, Upper Red Canyon, and Tuwa Canyon, according to the region map entitled
194 Glen Canyon, which is available by clicking the link entitled Dirty Devil at the web page
195 entitled "Citizen's Proposal for Wilderness in Utah" at
196 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
197 2011;

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

202 (iv) Hammond Canyon, Allen Canyon, Mancos Jim Butte, Arch Canyon, Monument
203 Canyon, Tin Cup Mesa, Cross Canyon, Nokai Dome, Grand Gulch, Fish and Owl Creek
204 Canyons, Comb Ridge, Road Canyon, The Tabernacle, Lime Creek, San Juan River, and
205 Valley of the Gods, according to the region map entitled San Juan linked at the web page
206 entitled "Citizen's Proposal for Wilderness in Utah" at
207 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
208 2011;

209 (n) in Sevier County: Rock Canyon, Mussentuchit Badland, Limestone Cliffs, and
210 Jone's Bench, according to the region map entitled San Rafael Swell linked at the web page
211 entitled "Citizen's Proposal for Wilderness in Utah" at
212 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
213 2011;

214 (o) in Tooele County:

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

221 (ii) Ochre Mountain, Deep Creek Mountains, Dugway Mountains, Indian Peaks, and
222 Lion Peak, according to the region map entitled Great Basin Central linked in the web page
223 entitled "Citizen's Proposal for Wilderness in Utah" at
224 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
225 2011;

226 (p) in Uintah County:

227 (i) White River, Lower Bitter Creek, Sunday School Canyon, Dragon Canyon, Wolf
228 Point, Winter Ridge, Seep Canyon, Bitter Creek, Hideout Canyon, Sweetwater Canyon, and
229 Hell's Hole, according to the region map entitled Book Cliffs linked in the web page entitled
230 "Citizen's Proposal for Wilderness in Utah" at
231 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
232 2011; and

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

239 (q) in Washington County: Cougar Canyon, Docs Pass, Slaughter Creek, Butcher Knife
240 Canyon, Square Top, Scarecrow Creek, Beaver Dam Wash, Beaver Dam Mountains North,
241 Beaver Dam Mountains South, Joshua Tree, Beaver Dam Wilderness Expansion, Red
242 Mountain, Cottonwood Canyon, Taylor Canyon, Laverkin Creek, Beartrap Canyon, Deep
243 Creek, Black Ridge, Red Butte, Kolob Creek, Goose Creek, Dry Creek, Zion National Park
244 Adjacents, Crater Hill, The Watchman, and Canaan Mountain, according to the region map

245 entitled Zion/Mohave linked at the web page entitled "Citizen's Proposal for Wilderness in
246 Utah" at <http://www.protectwildutah.org/proposal/index.html> as the web page existed on
247 February 17, 2011, excluding the areas which Congress designated as wilderness and
248 conservation areas under the Omnibus Public Lands Management Act of 2009; and

249 (r) in Wayne County:

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

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

258 (iii) Fremont Gorge, Pleasant Creek Bench, Notom Bench, Mount Ellen, and Bull
259 Mountain, according to the region map entitled Henry Mountains linked at the web page
260 entitled "Citizen's Proposal for Wilderness in Utah" at
261 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
262 2011; and

263 (iv) Capital Reef Adjacents, Muddy Creek, Wild Horse Mesa, North Blue Flats, Red
264 Desert, and Factory Butte, according to the region map entitled San Rafael Swell linked at the
265 web page entitled "Citizen's Proposal for Wilderness in Utah" at
266 <http://www.protectwildutah.org/proposal/index.html> as the web page existed on February 17,
267 2011.

268 (7) "WSA" and "Wilderness Study Area" mean the BLM lands in Utah that were
269 identified as having the necessary wilderness character and were classified as wilderness study
270 areas during the BLM wilderness review conducted between 1976 and 1993 by authority of
271 Section 603 of FLPMA.

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

273 **63J-8-103. State land use planning and management program.**

274 In view of the requirement in FLPMA, 43 U.S.C. Sec. 1712(c)(9) that BLM land use
275 plans shall be consistent with state and local land use plans to the maximum extent consistent

276 with federal law and FLPMA's purposes, the state adopts the following state land use planning
277 and management program for the subject lands:

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

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

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

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

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

291 (e) meet the needs of wildlife, provided that wildlife populations are kept at a
292 reasonable minimum so as to not interfere with originally permitted AUM levels under the
293 Taylor Grazing Act, 43 U.S.C. Sec. 315, et seq.;

294 (f) protect against direct and substantial impacts to nationally recognized cultural
295 resources, both historical and archaeological;

296 (g) meet the needs of economic development;

297 (h) meet the needs of community development; and

298 (i) provide for the protection of water rights and reasonable development of additional
299 water rights;

300 (2) (a) without Congressional designation through a county-specific land bill that has
301 the support of the specific county where the subject lands are located:

302 (i) do not designate, manage, or treat any of the subject lands as wilderness, lands with
303 wilderness characteristics, wildlands, or the like as provided in Subsection 63J-4-401(6)(b);

304 (ii) do not manage the subject lands for the non-impairment of so-called wilderness
305 characteristics; and

306 (iii) do not manage the subject lands in a way that resembles how a wilderness unit or

307 WSA may be managed under BLM guidelines for managing wilderness and WSAs; and

308 (b) a management standard or designation described in Subsection (2)(a) violates

309 FLPMA and the 2003 settlement agreement and the 2005 revised settlement agreement

310 between the state and the Department of Interior;

311 (3) achieve and maintain at the highest reasonably sustainable levels a continuing yield

312 of energy, hard rock, and nuclear resources in those subject lands with economically

313 recoverable amounts of such resources as follows:

314 (a) The development of the solid, fluid, and gaseous mineral resources in portions of

315 the subject lands is an important part of the state's economy and the economies of the

316 respective counties. It is technically feasible to access mineral and energy resources in portions

317 of the subject lands while preserving or, as necessary, restoring non-mineral and non-energy

318 resources.

319 (b) All available, economically recoverable solid, fluid, gaseous, and nuclear mineral

320 resources in the subject lands should be seriously considered for their contribution or potential

321 contribution to the state's economy and the economies of the respective counties.

322 (c) Those portions of the subject lands shown to have reasonable mineral, energy, and

323 nuclear potential should be open to leasing, drilling, and other access with reasonable

324 stipulations and conditions that will protect the lands against unreasonable and irreparable

325 damage to other significant resource values. This should include reasonable and effective

326 mitigation and reclamation measures, and bonding for such, where necessary.

327 (d) The waste of fluid and gaseous minerals within developed areas of the subject

328 lands, except for those necessary for production, such as flaring, should be prohibited.

329 (e) Any prior existing lease restrictions in the subject lands that are no longer necessary

330 or effective should be modified, waived, or removed.

331 (f) Restrictions against surface occupancy should be modified, waived, or, if necessary,

332 removed where it is shown that directional drilling is not ecologically necessary, not feasible

333 from an economic or engineering standpoint, or where it is shown that directional drilling will,

334 in effect, sterilize the mineral and energy resources beneath the area.

335 (g) Applications for permission to drill in the subject lands that meet standard

336 qualifications, including reasonable and effective mitigation and reclamation requirements,

337 should be expeditiously processed and granted.

338 (h) Any moratorium that may exist against the issuance of additional mining patents
339 and oil and gas leases in the subject lands should be carefully evaluated for removal.

340 (4) achieve and maintain livestock grazing in the subject lands at the highest
341 reasonably sustainable levels as follows:

342 (a) Domestic livestock forage in the subject lands expressed in AUMs for permitted
343 active use, as well as the wildlife forage included in that amount, should be no less than the
344 maximum number of AUMs sustainable by range conditions in grazing districts and allotments
345 in the subject lands based on an on-the-ground and scientific analysis.

346 (b) Where once-available grazing forage in the subject lands has succeeded to pinyon,
347 juniper, and other woody vegetation and associated biomass, or where rangeland health in the
348 subject lands has suffered for any other reason, a vigorous program of mechanical treatments
349 such as chaining, logging, seeding, lopping, thinning, and burning and other mechanical
350 treatments should be applied to remove this woody vegetation and biomass and stimulate the
351 return of the grazing forage to its historic levels for the mutual benefit of livestock, wildlife,
352 and other agricultural industries in a county surrounding the subject lands.

353 (c) The state regards the land which comprises the grazing districts and allotments in
354 the subject lands as more valuable for grazing than for a competing use which might exclude
355 livestock grazing, including the conversion of grazing animal AUMs to wildlife or wilderness
356 uses. AUMs in the subject lands should not be relinquished or retired in favor of conservation,
357 wildlife, or other uses.

358 (d) The state recognizes that from time-to-time, a bona fide livestock permittee in the
359 subject lands, acting in good faith and not to circumvent the intent of the BLM's grazing
360 regulations, may temporarily cease grazing operations without losing the permitted AUMs.
361 BLM-imposed suspensions of use or other reductions in domestic livestock AUMs in the
362 subject lands should be temporary and scientifically based on rangeland conditions.

363 (e) The transfer of AUMs to wildlife for supposed reasons of rangeland health is
364 opposed by the state, as there is already imputed in each AUM a reasonable amount of forage
365 for the wildlife component.

366 (f) Any AUM that may have been reduced in the subject lands due to rangeland health
367 concerns should be restored to livestock when rangeland conditions improve and should not be
368 converted to wildlife use.

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

371 (a) All water resources that derive in the subject lands are the property of the state in
372 trust for the citizens of the state.

373 (b) The state has a strong interest in seeing that all reasonable steps are taken to
374 preserve, maintain, and develop water resources of the state.

375 (c) With increased demands on water resources, it is imperative that management
376 practices be employed in the subject lands to restore, maintain, and maximize water resources
377 and water yield in the subject lands. If water resources in the subject lands have diminished
378 because once-existing grasses have succeeded to pinyon, juniper, and other woody vegetation
379 and associated biomass, a vigorous program of mechanical treatments should be applied to
380 promptly remove this woody vegetation and biomass, stimulate the return of the grasses to
381 historic levels, and provide a watershed that maximizes water yield and water quality for
382 livestock, wildlife, and human use.

383 (d) The state's strategy and plan for protecting the watersheds of the subject lands is to
384 deter unauthorized cross-country OHV use in the subject lands by establishing a reasonable
385 system of roads and trails in the subject lands for the use of an OHV. Closing the subject lands
386 to OHV use will only spur increased unauthorized cross-country OHV use to the detriment of
387 the subject lands' watersheds.

388 (e) Any road and trail in the subject lands which historically has been open to OHV
389 use, as identified on respective county road maps, should remain open.

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

392 (a) Hunting, fishing, hiking, family and group parties, family and group campouts and
393 campfires, rock hounding, OHV travel, geological exploring, pioneering, recreational vehicle
394 parking, or just touring in personal vehicles are activities that are important to the traditions,
395 customs, and character of the state and individual counties where the subject lands are located.

396 (b) Traditional levels of wildlife hunting and fishing should continue, consistent with
397 sustainability of the resource as determined by the Division of Wildlife Resources. Traditional
398 levels of group camping, group day use, and all other traditional forms of outdoor recreation,
399 motorized and non-motorized, should continue.

400 (c) outdoor recreational access in the subject lands should not discriminate in favor of
401 one particular mode of recreation to the exclusion of others. Traditionally, outdoor recreational
402 opportunities in the subject lands have been open and accessible to working class families, to
403 families with small children, to the sick and persons with disabilities, to the middle-aged and
404 elderly, to persons of different cultures for whom a "primitive solitary hike" may not be the
405 preferred form of recreating, and to the economically disadvantaged and underprivileged who
406 lack the money and ability to take the time off work necessary to get outfitted for a multi-day
407 "primitive hike" to reach those destinations. Society should not be forced to participate in a
408 "solitude experience" or a "primitive experience" as the one and only, or primary, mode of
409 outdoor recreation in the subject lands. Any segment of society that wants to recreate in the
410 subject lands, should have motorized access to that recreation if they so desire.

411 (d) The state's plan for the subject lands calls for continued historical public motorized
412 or mechanized access on state and county roads to all traditional outdoor recreational
413 destinations in all areas of the subject lands for all such segments of the public. The state
414 opposes restricting outdoor recreation in the subject lands to just one form available for those
415 who have enough time, money, and athletic ability to hike into the destinations of the subject
416 lands for a so-called "solitude wilderness experience."

417 (7) (a) any road in the subject lands that is part of the respective counties' duly adopted
418 transportation plan should remain open to motorized travel. All county claimed R.S. 2477
419 roads should be recognized by the BLM. A county road should not be closed other than by
420 action of each respective county. Each respective county should have the continued ability to
421 maintain and repair those roads, and where reasonably necessary, make improvements to the
422 roads. Any route in the subject lands that has been open to OHV use should continue to remain
423 open.

424 (b) additional roads and trails may be needed in the subject lands from time-to-time to
425 facilitate reasonable access to a broad range of resources and opportunities throughout the
426 subject lands, including livestock operations and improvements, solid, fluid, and gaseous
427 mineral operations, recreational opportunities and operations, search and rescue needs, other
428 public safety needs, access to public lands for people with disabilities and the elderly, and
429 access to Utah school and institutional trust lands for the accomplishment of the purposes of
430 those lands. The BLM should work with the respective county to provide such access where

431 needed.

432 (8) manage the subject lands so as to protect prehistoric rock art, three dimensional
433 structures, and other artifacts and sites recognized as culturally important and significant by the
434 state historic preservation officer or each respective county as follows:

435 (a) Reasonable mineral development in the subject lands can occur while at the same
436 time protecting prehistoric rock art, three dimensional structures, and other artifacts and sites
437 recognized as culturally important and significant by the state historic preservation officer.

438 (b) Reasonable and effective stipulations and conditions to protect against damage to
439 the cultural resources described in Subsection (8)(a) should accompany decisions to issue
440 mineral leases, permit drilling, permit seismic activities, or allow other mineral development
441 activities in the subject lands. Such drilling and seismic activities should not be disallowed
442 merely because they are in the immediate vicinity of the cultural resources described in
443 Subsection (8)(a) if it is shown that the drilling or seismic activity will not irreparably damage
444 the resources.

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

447 (a) The state recognizes that there are parcels of private fee land located in portions of
448 the subject lands.

449 (b) Land management policies and standards in the subject lands should not interfere
450 with the property rights of any private landowner in the region to enjoy and engage in
451 traditional uses and activities on an individual's private property consistent with controlling
452 county zoning and land use laws.

453 (c) A private landowner or a guest or client of a private landowner should not be
454 denied the right of motorized access to the private landowner's property consistent with past
455 uses of the private property.

456 (10) manage the subject lands so as to not interfere with the fiduciary responsibility of
457 the State School and Institutional Trust Lands Administration (SITLA) as follows:

458 (a) scattered throughout the subject lands are sections of school and institutional trust
459 land owned by the state and administered by SITLA in trust for the benefit of public schools
460 and other institutions (school trust lands) as mandated in the Utah Constitution and the Utah
461 Enabling Act of 1894, 28, Stat.107;

462 (b) as trustee, SITLA has a fiduciary responsibility to manage the school trust lands to
463 generate maximum revenue by making the school trust lands available for sale and private
464 development and for other multiple and consumptive use activities such as mineral
465 development, grazing, recreation, timber, and agriculture, all for the financial benefit of Utah's
466 public schools and other institutional beneficiaries;

467 (c) land management policies and standards on BLM land in the subject lands should
468 not interfere with SITLA's ability to carry out its fiduciary responsibilities; and

469 (d) SITLA not be denied the right of motorized access to the school trust lands to
470 enable SITLA to put those sections to use in order to carry out its fiduciary responsibilities;

471 (11) designating the subject lands as an area of critical environmental concern (ACEC)
472 would contradict the state's plan for managing the subject lands, unless the following criteria is
473 met:

474 (a) no part of the subject lands should be designated an ACEC unless it is clearly
475 demonstrated that the proposed ACEC satisfies the requirements of FLPMA, 43 U.S.C. Sec.
476 1702(a), which are as follows:

477 (i) the proposed ACEC is limited in geographic size and that the proposed management
478 prescriptions are limited in scope to the minimum necessary to:

479 (A) protect and prevent irreparable damage to values that are objectively shown to be
480 relevant and important; or

481 (B) protect human life or safety from natural hazards;

482 (ii) the proposed ACEC is limited only to areas that are already developed or used or to
483 areas where no development is required;

484 (iii) the proposed ACEC designation and protection is necessary to protect not just a
485 temporary change in ground conditions or visual resources that can be reclaimed or reversed
486 eventually, such as reclaiming a natural gas well site after pumping operations are complete,
487 but rather the damage must be shown in all respects to be truly irreparable and justified on a
488 short-term and a long-term basis;

489 (iv) the proposed ACEC designation and protection will not be applied redundantly
490 over existing protections available under FLPMA directed multiple-use sustained yield
491 management; and

492 (v) the proposed ACEC designation is not a substitute for a wilderness suitability

493 determination nor is it offered as a means to manage a non-WSA for so-called wilderness
494 characteristics or as wildlands;

495 (12) a BLM visual resource management class I or II rating for any part of the subject
496 lands would contradict the state's public land policy and the policy of each county where the
497 subject lands are situated as follows:

498 (a) The objective of BLM class I visual resource management is not compatible with
499 and would frustrate and interfere with the state's plan and policy for managing the subject
500 lands.

501 (b) The objective of BLM class II visual resource management is generally not
502 compatible with and would frustrate and interfere with the state's plan and policy for the
503 subject lands. There are certain limited exceptions where a class II objective would be
504 compatible and shall be considered by the state on a case-by-case basis.

505 (c) The state's plan and policy for managing the subject lands are generally consistent
506 with either BLM class III or class IV visual resource management standards depending on the
507 precise area.

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

509 **63J-8-104. Miscellaneous provisions.**

510 (1) The fact that the subject lands do not include any WSAs does not mean the state
511 agrees that any WSA land should be designated by Congress for permanent inclusion in the
512 National Wilderness Preservation System.

513 (2) (a) Certain non-WSA BLM land units in Grand County have also been proposed for
514 Congressional wilderness designation in the perennially introduced but as yet unpassed
515 America's Redrock Wilderness Act, a bill which the Utah Legislature opposes. These units of
516 land are shown on two region maps entitled Book Cliffs and Moab/La Sal which are linked in a
517 web page entitled "Citizen's Proposal for Wilderness in Utah" at
518 <http://protectwildutah.org/proposal/index.html> as the web page existed on February 17, 2011.

519 (b) The 2008 BLM Vernal Field Office Approved Resource Management Plan and
520 Record of Decision (Vernal RMP) and the 2008 BLM Moab Field Office Approved Resource
521 Management Plan and Record of Decision (Moab RMP) evaluated all of the Grand County
522 non-WSA BLM lands proposed for wilderness designation to determine which of these lands,
523 if any, should be managed for wilderness characteristics. The Moab RMP determined that only

524 three units, referenced as the Beaver Creek Unit, Fisher Towers Unit, and Mary Jane Canyon
525 Unit, all located east of State Highway 128, would be managed for wilderness characteristics.

526 (c) All other non-WSA BLM land units in Grand County that had been proposed for
527 wilderness designation were determined by the Vernal RMP and the Moab RMP to not be
528 managed for wilderness characteristics. The state supports this determination.

529 **Section 5. Effective date.**

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

Legislative Review Note
as of 2-23-11 9:42 AM

Office of Legislative Research and General Counsel