

Representative Logan Wilde proposes the following substitute bill:

AGRICULTURE REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Logan Wilde

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses regulation of agriculture related activities.

Highlighted Provisions:

This bill:

- ▶ addresses violation of rules;
 - ▶ modifies definition provisions;
 - ▶ provides for preventive control for human food regulations;
 - ▶ provides the standards for the growing, harvesting, packaging, and holding of produce for human consumption;
 - ▶ addresses regulation of fertilizer or soil amendmets;
 - ▶ modifies requirements for aerial hunting activity;
 - ▶ provides for the commissioner of agriculture and food to appoint members of the conservation board of supervisors and make changes related to conservation districts;
 - ▶ repeals provisions related to the cat and dog community spay and neuter program;
- and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:



26 None

27 **Other Special Clauses:**

28 None

29 **Utah Code Sections Affected:**

30 AMENDS:

- 31 [4-2-303](#), as renumbered and amended by Laws of Utah 2017, Chapter 345
- 32 [4-2-602](#), as enacted by Laws of Utah 2018, Chapter 51
- 33 [4-5-102](#), as last amended by Laws of Utah 2019, Chapter 32
- 34 [4-5-103](#), as last amended by Laws of Utah 2019, Chapter 32
- 35 [4-5-104](#), as renumbered and amended by Laws of Utah 2017, Chapter 345
- 36 [4-13-102](#), as renumbered and amended by Laws of Utah 2017, Chapter 345
- 37 [4-13-103](#), as renumbered and amended by Laws of Utah 2017, Chapter 345
- 38 [4-13-104](#), as renumbered and amended by Laws of Utah 2017, Chapter 345
- 39 [4-13-105](#), as renumbered and amended by Laws of Utah 2017, Chapter 345
- 40 [4-13-106](#), as renumbered and amended by Laws of Utah 2017, Chapter 345
- 41 [4-13-108](#), as renumbered and amended by Laws of Utah 2017, Chapter 345
- 42 [4-13-109](#), as renumbered and amended by Laws of Utah 2017, Chapter 345
- 43 [4-23-106](#), as last amended by Laws of Utah 2019, Chapter 268
- 44 [17D-3-102](#), as last amended by Laws of Utah 2017, Chapter 345
- 45 [17D-3-103](#), as last amended by Laws of Utah 2018, Chapters 115 and 256
- 46 [17D-3-203](#), as last amended by Laws of Utah 2009, Chapter 350
- 47 [17D-3-301](#), as last amended by Laws of Utah 2017, Chapter 70
- 48 [17D-3-302](#), as enacted by Laws of Utah 2008, Chapter 360
- 49 [17D-3-303](#), as enacted by Laws of Utah 2008, Chapter 360
- 50 [17D-3-304](#), as enacted by Laws of Utah 2008, Chapter 360
- 51 [17D-3-305](#), as last amended by Laws of Utah 2019, Chapter 255
- 52 [17D-3-310](#), as enacted by Laws of Utah 2008, Chapter 360
- 53 [17D-3-311](#), as enacted by Laws of Utah 2012, Chapter 103
- 54 [26-15-1](#), as last amended by Laws of Utah 2017, Chapter 345
- 55 [59-10-1304](#), as last amended by Laws of Utah 2019, Chapter 89

56 ENACTS:

57 **4-13-110**, Utah Code Annotated 1953

58 REPEALS:

59 **4-13-107**, as renumbered and amended by Laws of Utah 2017, Chapter 345

60 **4-40-101**, as renumbered and amended by Laws of Utah 2011, Chapter 124

61 **4-40-102**, as last amended by Laws of Utah 2017, Chapter 345

62 **17D-3-306**, as enacted by Laws of Utah 2008, Chapter 360

63 **17D-3-307**, as enacted by Laws of Utah 2008, Chapter 360

64 **17D-3-308**, as enacted by Laws of Utah 2008, Chapter 360

65 **17D-3-309**, as last amended by Laws of Utah 2011, Chapter 292

66 **59-10-1310**, as last amended by Laws of Utah 2012, Chapter 369

67

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

69 Section 1. Section **4-2-303** is amended to read:

70 **4-2-303. Violations unlawful.**

71 It is unlawful for ~~any~~ a person, or the officer or employee of ~~any~~ a person, to
72 willfully violate, disobey, or disregard this title, a rule made under this title, or any notice or
73 order issued under this title.

74 Section 2. Section **4-2-602** is amended to read:

75 **4-2-602. Local Food Advisory Council created.**

76 (1) There is created the Local Food Advisory Council consisting of up to the following
77 13 members:

- 78 (a) one member of the Senate appointed by the president of the Senate;
- 79 (b) two members of the House of Representatives appointed by the speaker of the
80 House of Representatives, each from a different political party;
- 81 (c) the commissioner of the Department of Agriculture and Food, or the
82 commissioner's designee;
- 83 (d) the executive director of the Department of Health, or the executive director's
84 designee;
- 85 (e) two crop direct-to-consumer food producers, appointed by the governor;
- 86 (f) two animal direct-to-consumer food producers, appointed by the governor; and
- 87 (g) the following potential members, appointed by the governor as needed:

- 88 (i) a direct-to-consumer food producer;
 - 89 (ii) a member of a local agriculture organization;
 - 90 (iii) a food retailer;
 - 91 (iv) a licensed dietician;
 - 92 (v) a county health department representative;
 - 93 (vi) an urban farming representative;
 - 94 (vii) a representative of a business engaged in the processing, packaging, or
 - 95 distribution of food;
 - 96 (viii) an anti-hunger advocate; and
 - 97 (ix) an academic with expertise in agriculture.
- 98 (2) (a) The president of the Senate shall designate a member of the Senate appointed
- 99 under Subsection (1)(a) as a cochair of the commission.
- 100 (b) The speaker of the House of Representatives shall designate a member of the House
- 101 of Representatives appointed under Subsection (1)(b) as a cochair of the commission.
- 102 (c) The cochairs may, with the consent of a majority of the council, appoint additional
- 103 nonvoting members to the council who shall serve in a voluntary capacity.
- 104 (3) In appointing members to the council under Subsections (1)(e) through (g), the
- 105 governor shall strive to take into account the geographical makeup of the council.
- 106 (4) A vacancy on the council [~~resulting from the council~~] shall be filled in the same
- 107 manner in which the original appointment [~~was~~] is made.
- 108 (5) Compensation for a member of the council who is a legislator shall be paid in
- 109 accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator
- 110 Compensation.
- 111 (6) Council members who are employees of the state shall receive no additional
- 112 compensation.
- 113 (7) The Department of Agriculture and Food shall provide staff support for the council.
- 114 Section 3. Section 4-5-102 is amended to read:
- 115 **4-5-102. Definitions.**
- 116 As used in this chapter:
- 117 (1) "Advertisement" means a representation, other than by labeling, made to induce the
- 118 purchase of food.

119 (2) (a) "Color additive":

120 (i) means a dye, pigment, or other substance not exempted under the federal act that,
121 when added or applied to a food, is capable of imparting color; and

122 (ii) includes black, white, and intermediate grays.

123 (b) "Color additive" does not include a pesticide chemical, soil or plant nutrient, or
124 other agricultural chemical that imparts color solely because of the chemical's effect, before or
125 after harvest, in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or
126 other natural physiological process of any plant life.

127 (3) (a) "Consumer commodity" means a food, as defined by this [act] chapter, or by the
128 federal act.

129 (b) "Consumer commodity" does not include:

130 (i) a commodity subject to packaging or labeling requirements imposed under the
131 Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. Sec. 136 et seq.;

132 (ii) a commodity subject to Title 4, Chapter 16, Utah Seed Act;

133 (iii) a meat or meat product subject to the Federal Meat Inspection Act, 21 U.S.C. Sec.
134 601 et seq.;

135 (iv) a poultry or poultry product subject to the Poultry Inspection Act, 21 U.S.C. Sec.
136 451 et seq.;

137 (v) a tobacco or tobacco product; or

138 (vi) a beverage subject to or complying with packaging or labeling requirements
139 imposed under the Federal Alcohol Administration Act, 27 U.S.C. Sec. 201 et seq.

140 (4) "Contaminated" means not securely protected from dust, dirt, or foreign or
141 injurious agents.

142 (5) (a) "Farm" means an agricultural operation, under management by one entity, that
143 grows or harvests crops.

144 (b) "Farm" does not include an entity that is exempt under 21 C.F.R. 112.4(a)[;] or 21
145 C.F.R. 112.5[; ~~or 21 C.F.R. 117.3~~].

146 (6) "Farmers market" means a market where a producer of a food product sells only a
147 fresh, raw, whole, unprocessed, and unprepared food item directly to the final consumer.

148 (7) "Federal act" means the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301
149 et seq.

- 150 (8) "Food" means:
- 151 (a) an article used for food or drink for human or animal consumption or the
- 152 components of the article;
- 153 (b) chewing gum or chewing gum components; or
- 154 (c) a food supplement for special dietary use [~~which~~] that is necessitated because of a
- 155 physical, physiological, pathological, or other condition.
- 156 (9) (a) "Food additive" means a substance, the intended use of which results in the
- 157 substance becoming a component, or otherwise affecting the characteristics, of a food.
- 158 (b) (i) "Food additive" includes a substance or source of radiation intended for use in
- 159 producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or
- 160 holding food.
- 161 (ii) "Food additive" does not include:
- 162 (A) a pesticide chemical in or on a raw agricultural commodity;
- 163 (B) a pesticide chemical that is intended for use or is used in the production, storage, or
- 164 transportation of a raw agricultural commodity; or
- 165 (C) a substance used in accordance with a sanction or approval granted pursuant to the
- 166 Poultry Products Inspection Act, 21 U.S.C. Sec. 451 et seq. or the Federal Meat Inspection Act,
- 167 21 U.S.C. Sec. 601 et seq.
- 168 (10) (a) "Food establishment" means a grocery store, bakery, candy factory, food
- 169 processor, bottling plant, sugar factory, cannery, farm, rabbit processor, meat processor, flour
- 170 mill, cold or dry warehouse storage, or other facility where food products are manufactured,
- 171 canned, processed, packaged, stored, transported, prepared, sold, or offered for sale.
- 172 (b) "Food establishment" does not include:
- 173 (i) a dairy farm, a dairy plant, or a meat establishment, that is subject to the Poultry
- 174 Products Inspection Act, 21 U.S.C. Sec. 451 et seq., or the Federal Meat Inspection Act, 21
- 175 U.S.C. Sec. 601 et seq.; or
- 176 (ii) a farmers market.
- 177 (11) "Label" means a written, printed, or graphic display on the immediate container of
- 178 an article of food.
- 179 (12) "Labeling" means a label and other written, printed, or graphic display:
- 180 (a) on an article of food or the article of food's container or wrapper; or

- 181 (b) accompanying the article of food.
- 182 (13) "Official compendium" means the official documents or supplements to the:
- 183 (a) United States Pharmacopoeia;
- 184 (b) National Formulary; or
- 185 (c) Homeopathic Pharmacopoeia of the United States.
- 186 (14) (a) "Package" means a container or wrapping in which a consumer commodity is
- 187 enclosed for use in the delivery or display of the consumer commodity to retail purchasers.
- 188 (b) "Package" does not include:
- 189 (i) a package liner;
- 190 (ii) a shipping container or wrapping used solely for the transportation of a consumer
- 191 commodity in bulk or in quantity to a manufacturer, packer, processor, or wholesale or retail
- 192 distributor; or
- 193 (iii) a shipping container or outer wrapping used by a retailer to ship or deliver a
- 194 consumer commodity to a retail customer, if the container and wrapping bear no printed
- 195 information relating to the consumer commodity.
- 196 (15) (a) "Pesticide" means a substance intended:
- 197 (i) to prevent, destroy, repel, or mitigate a pest, as defined under ~~[Subsection]~~ Section
- 198 4-14-102~~[(20)]~~; or
- 199 (ii) for use as a plant regulator, defoliant, or desiccant.
- 200 (b) "Pesticide" does not include:
- 201 (i) a new animal drug, as defined by 21 U.S.C. Sec. 321, that has been determined by
- 202 the United States Secretary of Health and Human Services not to be a new animal drug by
- 203 federal regulation establishing conditions of use of the drug; or
- 204 (ii) animal feed, as defined by 21 U.S.C. Sec. 321, bearing or containing a new animal
- 205 drug.
- 206 (16) "Principal display panel" means that part of a label that is most likely to be
- 207 displayed, presented, shown, or examined under normal and customary conditions of display
- 208 for retail sale.
- 209 (17) "Produce" means a food that is a:
- 210 (a) fruit, vegetable, mix of intact fruits and vegetables, mushroom, sprout from any
- 211 seed source, peanut, tree nut, or herb; and

212 (b) raw agricultural commodity.

213 (18) "Raw agricultural commodity" means a food in the food's raw or natural state,
214 including all fruits that are washed, colored, or otherwise treated in the fruit's unpeeled, natural
215 form [~~prior to~~] before marketing.

216 (19) "Registration" means the commissioner's issuance of a certificate to a qualified
217 food establishment.

218 (20) "Sprout" means the shoot of a plant generally harvested when cotyledons are
219 undeveloped or underdeveloped and mature leaves have not emerged.

220 Section 4. Section **4-5-103** is amended to read:

221 **4-5-103. Adulterated food specified.**

222 (1) A food is adulterated:

223 (a) if the food bears or contains a poisonous or deleterious substance in a quantity that
224 may ordinarily render the food injurious to health;

225 (b) if the food bears or contains an added poisonous or added deleterious substance that
226 is unsafe within the meaning of Subsection **4-5-204(1)**;

227 (c) except as provided in Subsection (3), if the food:

228 (i) is a raw agricultural commodity; and

229 (ii) bears or contains a pesticide chemical that is unsafe within the meaning of 21
230 U.S.C. Sec. 346a;

231 (d) if the food is, bears, or contains a food additive that is unsafe within the meaning of
232 21 U.S.C. Sec. 348;

233 (e) if the food consists in whole or in part of a diseased, contaminated, filthy, putrid, or
234 decomposed substance;

235 (f) if the food is otherwise unfit for food;

236 (g) if the food has been produced, prepared, packed, or held under unsanitary
237 conditions whereby the food may have:

238 (i) become contaminated with filth; or

239 (ii) been rendered diseased, unwholesome, or injurious to health;

240 (h) if the food is, in whole or in part, the product of:

241 (i) a diseased animal;

242 (ii) an animal that has died other than by slaughter; or

- 243 (iii) an animal that has fed upon the uncooked offal from a slaughterhouse;
- 244 (i) if the food's container is composed, in whole or in part, of a poisonous or
245 deleterious substance that may render the contents injurious to health;
- 246 (j) if the food [~~has been~~] is intentionally subjected to radiation, unless the use of the
247 radiation was in conformity with a rule or exemption in effect pursuant to Section 4-5-204, or
248 21 U.S.C. Sec. 348;
- 249 (k) if the food:
- 250 (i) is a meat or meat product; and
- 251 (ii) (A) is in a casing, package, or wrapper:
- 252 (I) through which a part of the casing, package, or wrapper's contents can be seen; and
253 (II) that is colored or has markings that are colored, so as to be misleading or deceptive
254 with respect to the color, quality, or kind of food to which the color is applied; or
- 255 (B) contains or bears a color additive;
- 256 (l) if the food is produce and is in violation of [~~a provision of~~] 21 C.F.R. Part 112;
- 257 (m) if a valuable constituent [~~has been~~] is, in whole or in part, omitted or abstracted
258 from a product and a substance [~~has been~~] is substituted wholly or in part;
- 259 (n) if damage or inferiority [~~has been~~] is concealed;
- 260 (o) if a substance [~~has been~~] is added, mixed, or packed with a product so as to:
- 261 (i) increase the product's bulk or weight;
- 262 (ii) reduce the product's quality or strength; or
- 263 (iii) make the product appear better or of greater value; or
- 264 (p) if the food:
- 265 (i) is confectionery; and
- 266 (ii) (A) has partially or completely imbedded in the food a nonnutritive object, unless
267 the department determines that the nonnutritive object:
- 268 (I) is of practical functional value to the confectionery product; and
269 (II) would not render the product injurious or hazardous to health;
- 270 (B) bears or contains alcohol, other than alcohol derived solely from the use of
271 flavoring extracts, that does not exceed .05% by volume; or
- 272 (C) bears or contains a nonnutritive substance, unless:
- 273 (I) the nonnutritive substance is a safe nonnutritive substance that is in or on the

274 confectionery for a practical functional purpose in the manufacture, packaging, or storing of the
275 confectionery; and

276 (II) the use of the nonnutritive substance does not promote deception of the consumer
277 or otherwise result in adulteration or misbranding in violation of this chapter.

278 (2) The department may, for the purpose of avoiding or resolving uncertainty as to the
279 application of Subsection (1)(p)(ii)(C), issue rules allowing or prohibiting the use of a
280 particular nonnutritive substance.

281 (3) Notwithstanding [~~the provisions of~~] Section 4-5-204, the residue of a pesticide
282 chemical remaining in or on a processed food is not considered unsafe if:

283 (a) the pesticide chemical is used in or on a raw agricultural commodity in conformity
284 with an exemption granted or tolerance prescribed under 21 U.S.C. Sec. 346a;

285 (b) the residue of the pesticide chemical in or on the raw agricultural commodity is
286 removed to the extent possible in good manufacturing practice;

287 (c) the raw agricultural commodity is subjected to processing such as canning, cooking,
288 freezing, dehydrating, or milling; and

289 (d) the concentration of the residue in the processed food when ready to eat is no
290 greater than the tolerance prescribed for the raw agricultural commodity.

291 Section 5. Section 4-5-104 is amended to read:

292 **4-5-104. Authority to make and enforce rules.**

293 (1) The department may adopt rules to efficiently enforce this chapter, and if
294 practicable, adopt rules that conform to the regulations adopted under the Federal Food, Drug,
295 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq.

296 (2) [~~Hearings~~] The department or an officer, agent, or employee designated by the
297 department shall conduct a hearing authorized or required by this chapter [~~shall be conducted~~
298 ~~by the department or by an officer, agent, or employee designated by the department~~].

299 (3) (a) Except as provided by Subsection (3)(b), [~~all~~] pesticide chemical regulations
300 [~~and their amendments now or hereafter~~] adopted under authority of the Federal Food, Drug,
301 and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the pesticide chemical regulations in this
302 state.

303 (b) The department may adopt a rule that prescribes tolerance for pesticides in finished
304 foods in this state whether or not in accordance with regulations [~~promulgated~~] made under the

305 federal act.

306 (4) (a) Except as provided by Subsection (4)(b), [~~all~~] food additive regulations [~~and~~
307 ~~their amendments now or hereafter~~] adopted under authority of the Federal Food, Drug, and
308 Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the food additive regulations in this state.

309 (b) The department may adopt a rule that prescribes conditions under which a food
310 additive may be used in this state whether or not in accordance with regulations [~~promulgated~~]
311 made under the federal act.

312 (5) [~~All color~~] Color additive regulations adopted under authority of the Federal Food,
313 Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are the color additive rules in this state.

314 (6) (a) Except as provided by Subsection (6)(b), [~~all~~] special dietary use regulations
315 adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et
316 seq., are the special dietary use rules in this state.

317 (b) The department may, if [~~it~~] the department finds it necessary to inform purchasers
318 of the value of a food for special dietary use, prescribe special dietary use rules whether or not
319 in accordance with regulations [~~promulgated~~] made under the federal act.

320 (7) (a) Except as provided by Subsection (7)(b), [~~all~~] regulations adopted under the Fair
321 Packaging and Labeling Act, 15 U.S.C. Sec. 1453 et seq., shall be the rules in this state.

322 (b) Except as provided by Subsection (7)(c), the department may, if [~~it~~] the department
323 finds it necessary in the interest of consumers, prescribe package and labeling rules for
324 consumer commodities, whether or not in accordance with regulations [~~promulgated~~] made
325 under the federal act.

326 (c) The department may not adopt rules that are contrary to the labeling requirements
327 for the net quantity of contents required according to 15 U.S.C. Sec. 1453(a)(4).

328 (8) (a) Except as provided by Subsection (8)(b), the preventive control for human food
329 regulations adopted under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C.
330 Sec. 301 et seq., are the preventive controls for the state.

331 (b) The department may adopt a rule that prescribes preventive controls in this state
332 whether or not in accordance with regulations made under the federal act except that the rule
333 may not be more stringent than the federal law.

334 (9) (a) Except as provided by Subsection (9)(b), the standards for the growing,
335 harvesting, packaging, and holding of produce for human consumption regulations adopted

336 under authority of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., are
337 the standards for the state.

338 (b) The department may adopt a rule that prescribes standards for the growing,
339 harvesting, packaging, and holding of produce for human consumption in this state whether or
340 not in accordance with regulations made under the federal act except that the rule may not be
341 more stringent than the federal law.

342 [~~8~~] (10) (a) A federal regulation automatically adopted according to this chapter takes
343 effect in this state on the date [it] the federal regulation becomes effective as a federal
344 regulation.

345 (b) The department shall publish all other proposed rules in publications prescribed by
346 the department.

347 (c) (i) A person who may be adversely affected by a rule may, within 30 days after a
348 federal regulation is automatically adopted, or within 30 days after publication of any other
349 rule, file with the department, in writing, objections and a request for a hearing.

350 (ii) The timely filing of substantial objections to a federal regulation automatically
351 adopted stays the effect of the rule.

352 (d) (i) If no substantial objections are received and no hearing is requested within 30
353 days after publication of a proposed rule, it shall take effect on a date set by the department.

354 (ii) The effective date shall be at least 60 days after the time for filing objections has
355 expired.

356 (e) (i) If timely substantial objections are made to a federal regulation within 30 days
357 after [it] the federal regulation is automatically adopted or to a proposed rule within 30 days
358 after [it] the proposed rule is published, the department, after notice, shall conduct a public
359 hearing to receive evidence on the issues raised by the objections.

360 (ii) [~~Any~~] An interested person or the person's representative may be heard.

361 (f) (i) The department shall act upon objections by order and shall mail the order to
362 objectors by certified mail as soon after the hearing as practicable.

363 (ii) The order shall be based on substantial evidence in the record of the hearing.

364 (g) (i) If the order concerns a proposed rule, [it] the department may withdraw [it] the
365 proposed rule or set an effective date for the rule as published or as modified by the order.

366 (ii) The effective date shall be at least 60 days after publication of the order.

367 ~~[(9)]~~ (11) Whenever a regulation is ~~[promulgated]~~ made under authority of the Federal
 368 Food, Drug, and Cosmetic Act, 21 U.S.C. Sec. 301 et seq., establishing standards for food, the
 369 tolerances established by the department under this chapter shall immediately conform to the
 370 standards established by the Federal Food and Drug Administration as herein provided and
 371 shall remain the same until the department determines that for reasons peculiar to Utah a
 372 different rule should apply.

373 Section 6. Section **4-13-102** is amended to read:

374 **4-13-102. Definitions.**

375 As used in this chapter:

376 (1) "Adulterated fertilizer" means ~~[any commercial]~~ a fertilizer or soil amendment that:

377 (a) contains ~~[an ingredient that renders]~~ a deleterious or harmful substance in sufficient
 378 amount to render it injurious to beneficial plant life, animals, humans, aquatic life, soil, or
 379 water when applied in accordance with the directions for use on the label~~[, or]~~;

380 (b) has a composition that falls below or differs from that which the composition is
 381 purported to possess by the composition's labeling;

382 (c) contains unwanted crop or weed seed~~[, or is inadequately labeled to protect plant~~
 383 life.]; or

384 (d) exceeds levels of metals permitted by the United States Environmental Protection
 385 Agency.

386 (2) "Beneficial substances or compounds" means a substance or compound other than
 387 primary, secondary, and micro plant nutrients that can be demonstrated by scientific research to
 388 be beneficial to one or more species of plants when applied exogenously.

389 (3) "Biostimulant" means a product containing naturally-occurring substances and
 390 microbes that are used to stimulate plant growth, enhance resistance to plant pests, and reduce
 391 abiotic stress.

392 (4) "Blender" means a person engaged in the business of blending or mixing fertilizer,
 393 soil amendments, or both.

394 ~~[(2)]~~ (5) "Brand" means ~~[any]~~ a term, design, or trade mark used in connection with
 395 one or several grades of ~~[commercial]~~ fertilizer or soil amendment.

396 ~~[(3)]~~ "Commercial fertilizer" means any substance that contains one or more recognized
 397 plant nutrients that is used for its plant nutrient content and is designed for use or claimed to

398 ~~have value in promoting plant growth, exclusive of unmanipulated animal and vegetable~~
399 ~~manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted by rule of~~
400 ~~the department.]~~

401 (6) "Bulk fertilizer" means fertilizer delivered to the purchaser either in solid or liquid
402 state in a non-packaged form to which a label cannot be attached.

403 (7) "Custom blend" means a fertilizer blended according to specification provided to a
404 blender in a soil test nutrient recommendation or to meet the specific consumer request before
405 blending.

406 (8) "Deficiency" means the amount of nutrient found by analysis to be less than that
407 guaranteed.

408 (9) "Derivation" means the source from which the guaranteed nutrients are derived.

409 (10) "Distribute" means to import, consign, manufacture, produce, compound, mix,
410 blend, or to offer for sale, sell, barter, or supply fertilizer or soil amendments in the state.

411 ~~[(4)]~~ (11) "Distributor" means [any] a person who[:] distributes.

412 ~~[(a) imports, consigns, manufactures, produces, compounds, mixes, or blends~~
413 ~~commercial fertilizer;]~~

414 ~~[(b) imports, consigns, manufactures, produces, compounds, sizes, or blends a soil~~
415 ~~amendment; or]~~

416 ~~[(c) offers for sale, sells, barter, or otherwise supplies commercial fertilizer or a soil~~
417 ~~amendment in this state;]~~

418 (12) "Fertilizer" means a substance that contains one or more recognized plant
419 nutrients that is used for the substance's plant nutrient content and is designed for use or
420 claimed to have value in promoting plant growth, exclusive of unmanipulated animal and
421 vegetable manures, marl, lime, limestone, wood ashes, gypsum, and other products exempted
422 by rule.

423 ~~[(5)]~~ (13) "Fertilizer material" means a [commercial] fertilizer that contains [either]:

424 (a) quantities of no more than one of the primary plant nutrients [~~(nitrogen, phosphoric~~
425 ~~acid and potash)], nitrogen (N), phosphate (P₂O₅), Potash (K₂O);~~

426 (b) [approximately] 85% plant nutrients in the form of a single chemical compound; or

427 (c) plant or animal residues or by-products, or a natural material deposit that is
428 processed so that its primary plant nutrients have not been materially changed, except through

429 purification and concentration.

430 ~~[(6)]~~ (14) "Grade" means the percentage of total nitrogen, available [~~phosphorus or~~
431 ~~phosphoric acid, and soluble potassium or~~] phosphate and soluble potash stated in whole
432 numbers in the same terms, order, and percentages as in the guaranteed analysis~~[-provided,] if~~
433 that specialty fertilizers may be guaranteed in fractional units of less than one percent of total
434 nitrogen, available phosphorus or phosphoric acid, and soluble potassium or soluble potash and
435 that fertilizer materials such as bone meal, manures, and similar raw materials may be
436 guaranteed in fractional units.

437 ~~[(7)]~~ (15) (a) "Guaranteed analysis" means the minimum percentage by weight of plant
438 nutrients claimed in the following order and form:

- 439 Total [~~nitrogen~~] Nitrogen (N) _____ percent
- 440 Available [~~phosphoric acid (P₂O₅)~~] Phosphate _____ percent
(P₂O₅)
- 441 Soluble [~~potash (K₂O)~~] Potash (K₂O) _____ percent

442 (b) For unacidulated mineral phosphatic [~~materials~~] material and basic slag, bone,
443 tankage, and other organic [~~phosphate materials, it means the total phosphoric acid~~] phosphate
444 or degree of fineness may also be guaranteed.

445 ~~[(c) Potential basicity or acidity expressed in terms of calcium carbonate equivalent in~~
446 ~~multiples of one hundred pounds per ton, when required by rule.]~~

447 ~~[(d)]~~ (c) (i) Guarantees for plant nutrients other than nitrogen, phosphorus, and
448 potassium may be permitted or required by rule of the department.

449 (ii) The guarantees for such other nutrients shall be expressed in the form of the
450 element.

451 (iii) The sources of such other nutrients, such as oxides, salt, chelates, may be required
452 to be stated on the application for registration and may be included as a parenthetical statement
453 on the label.

454 (iv) Other beneficial substances or compounds, determinable by laboratory methods,
455 also may be guaranteed by permission of the department.

456 (v) Any plant nutrients or other substances or compounds guaranteed are subject to
457 inspection and analysis in accord with the methods and rules prescribed by the department.

458 ~~[(8)]~~ (16) "Investigational allowance" means an allowance for variations inherent in the

459 taking, preparation, and analysis of an official sample of [~~commercial~~] fertilizer or soil
460 amendment.

461 ~~[(9)]~~ (17) "Label" means the display of [~~at~~] the written, printed, or graphic matter upon
462 the immediate container or statement accompanying a [~~commercial~~] fertilizer or soil
463 amendment.

464 ~~[(10)]~~ (18) "Labeling" means [~~at~~] the written, printed, or graphic matter upon or
465 accompanying [~~any commercial~~] fertilizer or soil amendment, or advertisements, brochures,
466 posters, television and radio announcements used in promoting the sale of [~~such commercial~~]
467 fertilizers or soil amendments.

468 (19) "Lot" means a definite quantity identified by a combination of numbers, letters,
469 characters, or amount represented by a weight certificate from which every part is uniform
470 within recognized tolerances from which the distributor can be determined.

471 (20) "Micro plant nutrient" means boron, chlorine, cobalt, copper, iron, manganese,
472 molybdenum, nickel, sodium, and zinc.

473 ~~[(11)]~~ (21) "Mixed fertilizer" means a [~~commercial~~] fertilizer containing any
474 combination or mixture of fertilizer materials.

475 (22) "Nonplant food ingredient" means a substance or compound other than the
476 primary, secondary, or micro nutrients.

477 ~~[(12)]~~ (23) "Official sample" means [~~any~~] a sample of [~~commercial~~] fertilizer or soil
478 amendment taken by the department and designated as "official."

479 (24) "Other ingredients" means the non-soil amending ingredients present in soil
480 amendments.

481 ~~[(13)]~~ (25) "Percent" or "percentage" means the percentage by weight.

482 (26) "Plant amendment" means a substance applied to plants or seeds that is intended
483 to improve growth, yield, product quality, reproduction, flavor, or other favorable
484 characteristics of plants except fertilizer, soil amendments, agricultural liming materials,
485 animal and vegetable manure, pesticides, or plant regulators.

486 (27) "Primary nutrient" includes total nitrogen, available phosphate, and soluble
487 potash.

488 ~~[(14)]~~ (28) "Registrant" means [~~any~~] a person who registers a [~~commercial~~] fertilizer or
489 a soil amendment under [~~the provisions of~~] this chapter.

490 ~~[(15) (a) "Soil amendment" means any substance that is intended to improve the~~
491 ~~physical characteristics of soil.]~~

492 ~~[(b) "Soil amendment" does not include any commercial fertilizer, agriculture liming~~
493 ~~materials, unmanipulated animal manure, unmanipulated vegetable manure, pesticides, or other~~
494 ~~material exempt by rule of the department.]~~

495 (29) "Secondary nutrient" includes calcium, magnesium, and sulfur.

496 (30) "Slow release fertilizer" means a fertilizer in a form that releases, or converts to a
497 plant-available form, plant nutrients at a slower rate relative to an appropriate reference soluble
498 product.

499 (31) "Soil amending ingredient" means a substance that will improve the physical,
500 chemical, biochemical, biological, or other characteristics of the soil.

501 (32) "Soil amendment" means a substance or a mixture of substances that is intended
502 to improve the physical, chemical, biochemical, biological, or other characteristics of the soil,
503 except fertilizers, agricultural liming materials, unmanipulated animal manures, unmanipulated
504 vegetable manures, or pesticides.

505 ~~[(16)] (33) "Specialty fertilizer" means [any commercial] fertilizer distributed primarily~~
506 ~~for non-farm use, such as home gardens, lawns, shrubbery, flowers, golf courses, municipal~~
507 ~~parks, cemeteries, greenhouses, and nurseries.~~

508 ~~[(17)] (34) "Ton" means a net weight of 2,000 pounds avoirdupois.~~

509 Section 7. Section **4-13-103** is amended to read:

510 **4-13-103. Distribution of fertilizer or soil amendment -- Registration required --**
511 **Application -- Fees -- Expiration -- Renewal -- Exemptions specified -- Blenders and**
512 **mixers.**

513 (1) (a) ~~[Each]~~ A brand and grade of ~~[commercial]~~ fertilizer or soil amendment shall be
514 registered in the name of the person whose name appears upon the label before being
515 distributed in this state.

516 (b) The application for registration shall be submitted to the department on a form
517 prescribed and furnished by ~~[it]~~ the department, and shall be accompanied by a fee determined
518 by the department pursuant to Subsection **4-2-103(2)** for each brand and grade.

519 (c) Upon approval by the department, a copy of the registration shall be furnished to
520 the applicant.

521 (d) (i) ~~[Each]~~ A registration expires at midnight on December 31 of the year in which
522 issued.

523 (ii) ~~[Each]~~ A registration is renewable for a period of one year upon the payment of an
524 annual registration renewal fee in an amount equal to the current applicable original
525 registration fee.

526 (iii) ~~[Each]~~ A renewal fee shall be paid on or before December 31 of each year.

527 ~~[(2) The application for registration shall include the following information:]~~

528 ~~[(a) the net weight;]~~

529 ~~[(b) the brand and grade;]~~

530 ~~[(c) the guaranteed analysis;]~~

531 ~~[(d) the name and address of the registrant; and]~~

532 ~~[(e) any other information as the department may prescribe by rule.]~~

533 ~~[(3)]~~ (2) A distributor is not required to register ~~[any commercial fertilizer which]~~
534 fertilizer that has been registered by another person under this chapter if the label does not
535 differ in any respect.

536 ~~[(4)]~~ (3) (a) A ~~[distributor]~~ blender is not required to register each grade of
537 ~~[commercial]~~ fertilizer or soil amendment formulated according to specifications provided by a
538 consumer before mixing, but is required to:

539 (i) ~~[register]~~ license the name under which the business of blending or mixing is
540 conducted;

541 (ii) pay an annual blenders license fee determined by the department pursuant to
542 Subsection 4-2-103(2); and

543 (iii) label the ~~[mixed]~~ fertilizer or soil amendment as provided in Section 4-13-104.

544 (b) (i) A blenders license ~~[shall expire]~~ expires at midnight on December 31 of the year
545 in which ~~[it]~~ the license is issued.

546 (ii) A blenders license is renewable for a period of one year upon the payment of an
547 annual license renewal fee in an amount equal to the current applicable original blenders
548 license fee.

549 (iii) ~~[Each]~~ A renewal fee shall be paid on or before December 31 of each year.

550 ~~[(5)]~~ (4) (a) A tonnage fee shall be assessed on fertilizer and soil amendment products
551 sold in the state.

552 (b) The fee shall be~~[-(f)]~~ determined by the department pursuant to Subsection
553 ~~4-2-103(2)[;and]~~.

554 ~~[(ii) paid by the manufacturer or distributor on a schedule specified by rule.]~~

555 (c) When more than one person is involved in the distribution of a fertilizer or soil
556 amendment, the final person who has the fertilizer or soil amendment registered and distributed
557 to a non-registrant or consumer is responsible for reporting the tonnage and paying the tonnage
558 fee, unless the report and payment is made by a prior distributor of the fertilizer or soil
559 amendment.

560 (d) The tonnage report shall be submitted on a form provided by the department on or
561 before December 31 annually covering shipments made during the preceding 12-month period
562 from November 1 to October 31.

563 ~~[(e)]~~ (e) Revenue generated by the fee shall be deposited [in] into the General Fund as
564 dedicated credits to be used by the department for education and research about and promotion
565 of proper fertilizer and soil amendment distribution, handling, and use.

566 Section 8. Section ~~4-13-104~~ is amended to read:

567 **4-13-104. Labeling requirements for fertilizer and soil amendments specified.**

568 (1) A container of fertilizer distributed in this state shall bear a label in clearly legible
569 and conspicuous form setting forth the:

570 (a) brand name and grade;

571 (b) guaranteed analysis, except that:

572 (i) sources of nutrients, when shown on the label, shall be listed below the completed
573 guaranteed analysis in order of predominance;

574 (ii) guarantees of zeros may not be made and may not appear in statement except in
575 nutrient guarantee breakdowns; and

576 (iii) if chemical forms of nitrogen are claimed or required, the form shall be shown, but
577 no implied order of the forms of nitrogen is intended;

578 (c) derivation statement of guaranteed nutrients, nonplant food ingredients, and
579 beneficial substances or compounds if present;

580 (d) directions for use when applicable;

581 (e) caution or warning statement when applicable;

582 (f) name and address of the registrant or the manufacturer, if different from the

583 registrant;

584 (g) net weight or volume; and

585 (h) lot number.

586 ~~[(1)]~~ (2) [Each] A container of specialty [commercial] fertilizer distributed in this state
587 shall bear a label in clear, legible, and conspicuous form setting forth[:] the information
588 specified in Subsections (1)(a) through (h).

589 ~~[(a) its net weight;]~~

590 ~~[(b) brand and grade;]~~

591 ~~[(c) guaranteed analysis;]~~

592 ~~[(d) the name and address of the registrant; and]~~

593 ~~[(e) the lot number.]~~

594 ~~[(2)(a) Each bulk shipment of commercial fertilizer distributed in this state shall be~~
595 ~~accompanied by a printed or written statement setting forth the information specified in~~
596 ~~Subsections (1)(a) through (e).]~~

597 ~~[(b) The statement shall be delivered to the purchaser at the time the bulk fertilizer is~~
598 ~~delivered.]~~

599 ~~[(3) Each sale of packaged mixed fertilizer shall be labeled, or labeling furnished the~~
600 ~~consumer, to show its net weight, guaranteed analysis, lot number, and the name and address of~~
601 ~~the distributor.]~~

602 ~~[(4)(a) Each container of soil amendment shall conform to the requirements of~~
603 ~~Subsection (1), and if distributed in bulk, with Subsection (2).]~~

604 ~~[(b) The name or chemical designation and content of the soil amending ingredient or~~
605 ~~any other information prescribed by rule of the department shall appear whether distributed in a~~
606 ~~container or in bulk.]~~

607 (3) A shipment of custom blend fertilizer shall be accompanied by a printed or written
608 statement setting forth the:

609 (a) information specified in Subsections (1)(a) through (c);

610 (b) name and address of the licensed blender;

611 (c) net weight or volume; and

612 (d) lot number.

613 (4) A shipment of fertilizer material shall be accompanied by a printed or written

614 statement setting forth the:

615 (a) information specified in Subsections (1)(a) through (c);

616 (b) name and address of the registrant if different from the supplier or shipper;

617 (c) net weight or volume; and

618 (d) lot number.

619 (5) The grade is not required on a fertilizer label when no primary nutrients are claimed
620 or are less than one percent.

621 (6) Additional nutrient guarantees may not be an extension of the grade statement and
622 shall be a separate line or include terms such as "plus," "with," or "including."

623 (7) A soil amendment distributed in the state shall bear a label in clearly legible and
624 conspicuous form setting forth the:

625 (a) brand name;

626 (b) guaranteed analysis, which includes:

627 (i) nonplant food ingredients separated out by soil amending ingredients and other total
628 ingredients, in that order, by percentages; and

629 (ii) nonsoil amending ingredients separating out beneficial substances and beneficial
630 compounds, in that order, by percentage or acceptable units;

631 (c) purpose of product;

632 (d) direction for application;

633 (e) caution or warning statement when applicable;

634 (f) name and address of registrant; and

635 (g) net weight or volume.

636 (8) The department may require proof of claims made, usefulness, and value of the soil
637 amendments.

638 (9) For evidence of proof the department may rely on experimental data, evaluations,
639 or advice supplied from such sources as the director of the Agricultural Experiment Station.
640 The experimental design shall be related to state conditions for which the product is intended.

641 (10) Information or a statement may not appear on a package, label, delivery slip, or
642 advertising matter that is false or misleading to the purchaser as to the use, value, quality,
643 analysis, type, or composition of the soil amendment.

644 (11) A fertilizer is misbranded if:

- 645 (a) the fertilizer's labeling is false or misleading in any particular;
646 (b) the fertilizer is distributed under the name of another fertilizer product;
647 (c) the fertilizer is not labeled as required; or
648 (d) the fertilizer purports to be or is represented as fertilizer, or is represented as
649 containing a plant nutrient fertilizer that does not conform with the definition of identity or any
650 commonly accepted definitions of official fertilizer terms.

651 Section 9. Section **4-13-105** is amended to read:

652 **4-13-105. Enforcement -- Inspection and samples authorized -- Methods for**
653 **sampling and analysis prescribed -- Warrants.**

654 (1) The department shall periodically sample, inspect, analyze, and test [commercial]
655 fertilizers and soil amendments distributed within this state to determine if they comply with
656 this chapter.

657 [~~(2) Methods of analysis and sampling shall be in accordance with those adopted by the~~
658 ~~department from sources such as the Association of Official Analytical Chemists Journal.]~~

659 (2) (a) The methods of sampling and analysis shall be those adopted by the AOAC
660 International.

661 (b) In a case not covered by the methods adopted under Subsection (2)(a), or in a case
662 when a method is available in which improved applicability has been demonstrated, the
663 department may adopt appropriate methods from other sources.

664 (3) In determining whether a [commercial] fertilizer or soil amendment is deficient, the
665 department shall be guided solely by the official sample.

666 (4) (a) The department [~~is authorized to~~] may enter any public or private premises or
667 carriers during regular business hours [~~in order~~] to have access to [commercial] fertilizers or
668 soil amendments and records relating to the distribution of fertilizers and soil amendments
669 subject to this chapter.

670 (b) If admittance is refused, the department may proceed immediately to obtain an ex
671 parte warrant from the nearest court of competent jurisdiction to allow entry upon the premises
672 for the purpose of making inspections and obtaining samples.

673 (5) The department shall distribute the results of an official sample.

674 (6) The department shall retain an official sample for a minimum of 90 days from the
675 issuance of a report.

676 Section 10. Section **4-13-106** is amended to read:

677 **4-13-106. Distribution of fertilizers not complying with labeling requirements**
 678 **prohibited -- Penalty assessed -- Court action to vacate or amend finding authorized.**

679 (1) ~~[No]~~ A person [shall] may not distribute in this state a ~~[commercial]~~ fertilizer,
 680 fertilizer material, soil amendment, or specialty fertilizer if the official sample thereof
 681 establishes that the ~~[commercial]~~ fertilizer, fertilizer material, soil amendment, or specialty
 682 fertilizer is deficient in the nutrients or ingredients guaranteed on the label by an amount
 683 exceeding the values established by rule ~~[or if the overall index value of the official sample is~~
 684 ~~below the level established by rule].~~

685 ~~[(2) If an official sample, after analysis, demonstrates the guaranteed analysis is~~
 686 ~~deficient in one or more of its primary plant foods (NPK) beyond the investigational allowance~~
 687 ~~prescribed by rule, or if the over-all index value of the official sample is below the level~~
 688 ~~established by rule, a penalty of three times the commercial value of the deficiency or~~
 689 ~~deficiencies of the lot represented by the official sample may be assessed against the~~
 690 ~~registrant.]~~

691 ~~[(3) All penalties assessed under this section shall be paid to the department within~~
 692 ~~three months after notice from the department.]~~

693 (2) The department shall evaluate and take administrative action the department
 694 prescribes for a deficiency beyond the investigational allowances established by the
 695 department.

696 ~~[(4)]~~ (3) ~~[Any]~~ A registrant aggrieved by the finding of an official sample deficiency
 697 may file a complaint with a court of competent jurisdiction to vacate or amend the finding of
 698 the department.

699 Section 11. Section **4-13-108** is amended to read:

700 **4-13-108. Denial, suspension, or revocation authorized -- Grounds -- Stop sale,**
 701 **use, or removal order authorized -- Court action -- Procedure -- Costs.**

702 (1) The department may deny, revoke, or suspend the license for a blender or the
 703 registration of [any] a brand of [commercial] fertilizer or soil amendment~~[, or refuse to register~~
 704 ~~any brand of commercial fertilizer or soil amendment]~~ upon satisfactory evidence that the
 705 licensee or registrant has used fraudulent or deceptive practices in licensure, registration, or
 706 distribution in this state.

707 (2) (a) The department may issue a "stop sale, use, or removal order" to the owner or
708 person in possession of any designated lot of ~~[commercial]~~ fertilizer or soil amendment ~~[which~~
709 ~~it]~~ that the department finds or has reason to believe is being offered or exposed for sale in
710 violation of this chapter.

711 (b) The order shall be in writing and ~~[no-commercial]~~ fertilizer or soil amendment
712 subject to ~~[it shall]~~ the order may not be moved or offered or exposed for sale, except upon the
713 subsequent written release of the department.

714 (c) Before a release is issued, the department may require the owner or person in
715 possession of the "stopped" lot to pay the expense incurred by the department in connection
716 with the withdrawal of the product from the market.

717 (3) (a) The department ~~[is authorized]~~ may seek in a court of competent jurisdiction ~~[to~~
718 ~~seek]~~ an order of seizure or condemnation of ~~[any fertilizer which]~~ any fertilizer that violates
719 this chapter or, upon proper grounds, to obtain a temporary restraining order or permanent
720 injunction, to prevent violation of this chapter.

721 (b) ~~[No]~~ A bond ~~[shall]~~ may not be required of the department in any injunctive
722 proceeding under this section.

723 (4) If condemnation is ordered, the fertilizer or soil amendment shall be disposed of as
724 the court directs~~;~~ ~~provided, that in no event shall it],~~ except that the court may not order
725 condemnation without giving the claimant of the fertilizer or soil amendment an opportunity to
726 apply to the court for permission to relabel, reprocess, or otherwise bring the product into
727 conformance, or to remove ~~[it]~~ the fertilizer or soil amendment from the state.

728 (5) If the court orders condemnation of the ~~[commercial]~~ fertilizer or soil amendment,
729 court costs, fees, storage, and other expenses shall be awarded against the claimant of the
730 fertilizer or soil amendment.

731 Section 12. Section **4-13-109** is amended to read:

732 **4-13-109. Sales or exchanges of fertilizers or soil amendments between**
733 **manufacturers, importers, or manipulators permitted.**

734 ~~[Nothing in this]~~ This chapter ~~[shall]~~ may not be construed to restrict or avoid sales or
735 exchanges of ~~[commercial]~~ fertilizers or soil amendments to each other by importers,
736 manufacturers, or manipulators who mix fertilizer or soil amendment materials for sale or as
737 preventing the free and unrestricted shipment of ~~[commercial]~~ fertilizer or soil amendments to

738 manufacturers or manipulators who have registered their brands as required by this chapter.

739 Section 13. Section **4-13-110** is enacted to read:

740 **4-13-110. Department may make and enforce rules -- Cooperation with state and**
741 **federal agencies authorized.**

742 (1) (a) The department may make rules in accordance with Title 63G, Chapter 3, Utah
743 Administrative Rulemaking Act, and enforce the rules to administer and enforce this chapter.

744 (b) The department shall by rule adopt the official terms, tables, definitions, and
745 statements adopted by the Association of American Plant Food Control officials and published
746 in the official publications of that organization.

747 (2) The department may enter into agreements with other agencies of the state, other
748 states, and agencies of the federal government to administer and enforce this chapter.

749 (3) The department may use the following terms in rule made in accordance with Title
750 63G, Chapter 3, Utah Administrative Rulemaking Act, to the extent that the department is
751 authorized to make rules by a provision other than this Subsection (3):

752 (a) biostimulant;

753 (b) bulk fertilizer;

754 (c) plant amendment;

755 (d) secondary nutrient; and

756 (e) slow release fertilizer.

757 Section 14. Section **4-23-106** is amended to read:

758 **4-23-106. Department to issue licenses and permits -- Department to issue**
759 **aircraft use permits -- Aerial hunting.**

760 (1) The department is responsible for the issuance of permits and licenses for the
761 purposes of the federal Fish and Wildlife Act of 1956.

762 (2) A private person may not use [~~any~~] an aircraft for the prevention of damage without
763 first obtaining a use permit from the department.

764 (3) The department may issue an annual permit for aerial hunting to a private person
765 for the protection of land, water, wildlife, livestock, domesticated animals, human life, or
766 crops, if the person shows that the person or the person's designated pilot, along with the
767 aircraft to be used in the aerial hunting, are licensed and qualified in accordance with the
768 requirements of the department set by rule.

769 (4) The department may predicate the issuance or retention of a permit for aerial
770 hunting upon the permittee's full and prompt disclosure of information as the department may
771 request for submission pursuant to rules made by the department.

772 (5) The department shall collect an annual fee, set in accordance with Section
773 [63J-1-504](#), from a person who has an aircraft for which a permit is issued or renewed under this
774 section.

775 (6) Aerial hunting activity under a permit issued by the department is restricted to:

776 (a) (i) private lands that are owned or managed by the permittee;

777 (ii) state grazing allotments where the permittee is permitted by the state or the State
778 Institutional Trust Lands Administration to graze livestock; or

779 (iii) federal grazing allotments where the permittee is permitted by the United States
780 Bureau of Land Management or United States Forest Service to graze livestock; and

781 (b) only during the time period[~~:(i) for purposes of Subsection (6)(a)(ii) or (iii), that~~
782 ~~under an active permit the permittee may graze or run livestock on the land; and (ii)] for which
783 the private land owner has provided written permission for the aerial hunting.~~

784 (7) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah
785 Administrative Rulemaking Act, that are necessary to carry out the purpose of this section.

786 (8) The issuance of an aerial hunting permit or license under this section does not
787 authorize the holder to use aircraft to hunt, pursue, shoot, wound, kill, trap, capture, or collect
788 protected wildlife, as defined in Section [23-13-2](#), unless also authorized by the Division of
789 Wildlife Resources under Section [23-20-12](#).

790 Section 15. Section **17D-3-102** is amended to read:

791 **17D-3-102. Definitions.**

792 As used in this chapter:

793 (1) "Commission" means the Conservation Commission, created in Section [4-18-104](#).

794 (2) "Commissioner" means the commissioner of the department.

795 [~~2~~] (3) "Conservation district" means a limited purpose local government entity, as
796 described in Section [17D-3-103](#), that operates under, is subject to, and has the powers set forth
797 in this chapter.

798 [~~3~~] (4) "Department" means the Department of Agriculture and Food, created in
799 Section [4-2-102](#).

800 Section 16. Section **17D-3-103** is amended to read:
801 **17D-3-103. Conservation district status, authority, and duties.**
802 (1) A conservation district created under this chapter:
803 (a) is a body corporate and politic;
804 (b) is a political subdivision of the state; and
805 (c) may sue and be sued.
806 (2) (a) A conservation district may:
807 (i) survey, investigate, and research soil erosion, floodwater, nonpoint source water
808 pollution, flood control, water pollution, sediment damage, and watershed development;
809 (ii) subject to Subsection (2)(b), devise and implement on state or private land a
810 measure to prevent soil erosion, floodwater or sediment damage, nonpoint source water
811 pollution, or other degradation of a watershed or of property affecting a watershed;
812 (iii) subject to Subsection (2)(b), devise and implement a measure to conserve,
813 develop, utilize, or dispose of water on state or private land;
814 (iv) construct, improve, operate, and maintain a structure that the board of supervisors
815 considers necessary or convenient for the conservation district to carry out its purposes under
816 this chapter;
817 (v) acquire property, real or personal, by purchase or otherwise, and maintain, improve,
818 and administer that property consistent with the purposes of this chapter;
819 (vi) enter into a contract in the name of the conservation district;
820 (vii) receive money from:
821 (A) a federal or state agency;
822 (B) a county, municipality, or other political subdivision of the state; or
823 (C) a private source;
824 (viii) subject to Subsection (2)(c), make recommendations governing land use within
825 the conservation district, including:
826 (A) the observance of particular methods of cultivation;
827 (B) the use of specific crop programs and tillage practices;
828 (C) the avoidance of tilling and cultivating highly erosive areas where erosion may not
829 be adequately controlled if cultivated;
830 (D) the construction of terraces, terrace outlets, check dams, dikes, ponds, or other

831 structures; and

832 (E) the development or restoration, or both, of range or forest lands or other natural
833 resources, whether in private, state, or federal ownership;

834 (ix) plan watershed and flood control projects in cooperation with local, state, and
835 federal authorities, and coordinate flood control projects in the state;

836 (x) make recommendations for county and municipal land use authorities within the
837 conservation district to consider with respect to land use applications and other development
838 proposals;

839 (xi) employ clerical and other staff personnel, including legal staff, subject to available
840 [~~funds~~] money; and

841 (xii) perform any other act that the board of supervisors considers necessary or
842 convenient for the efficient and effective administration of the conservation district.

843 (b) A conservation district's authority under Subsections (2)(a)(ii) and (iii) is subject to
844 the consent of:

845 (i) the land occupier or owner; and

846 (ii) in the case of school and institutional trust lands, as defined in Section [53C-1-103](#),
847 the director of the School and Institutional Trust Lands Administration, in accordance with
848 Sections [53C-1-102](#) and [53C-1-303](#).

849 (c) (i) [~~Each~~] A recommendation under Subsection (2)(a)(viii) shall be uniform
850 throughout the conservation district or, if the board of supervisors classifies land under
851 Subsection (2)(c)(ii), throughout each land classification.

852 (ii) The board of supervisors may uniformly classify land within the conservation
853 district with respect to soil type, degree of slope, degree of threatened or existing erosion,
854 cropping and tillage practices in use, or other relevant factors.

855 (3) (a) [~~Each~~] A conservation district shall annually submit to the commission, no later
856 than the date that the commission prescribes:

857 (i) a copy of the minutes of each conservation district meeting;

858 (ii) a copy of the conservation district's annual work plan; and

859 (iii) an accounting of the conservation district's financial affairs, as provided in
860 Subsection (3)(b).

861 (b) The accounting required under Subsection (3)(a)(iii) shall:

862 (i) be prepared by a disinterested person; and
863 (ii) show the conservation district's debits and credits, including accounts payable and
864 accounts receivable, the purpose of each debit, the source of each credit, and the actual cash
865 balance on hand.

866 (4) (a) ~~[Each]~~ A conservation district shall register and maintain the conservation
867 district's registration as a limited purpose entity, in accordance with Section 67-1a-15.

868 (b) A conservation district that fails to comply with Subsection (4)(a) or Section
869 67-1a-15 is subject to enforcement by the state auditor, in accordance with Section 67-3-1.

870 Section 17. Section 17D-3-203 is amended to read:

871 **17D-3-203. Considerations in determining whether to approve conservation**
872 **district creation, consolidation, division, or dissolution -- Denial or approval -- Notice and**
873 **plat to lieutenant governor -- Recording requirements -- Prohibition against considering**
874 **similar creation, consolidation, division, or dissolution if previously denied.**

875 (1) In determining whether to approve the creation of a conservation district, the
876 consolidation of existing conservation districts, or the division or dissolution of an existing
877 conservation district, the commission shall consider:

878 (a) the demonstrated necessity and administrative practicality of the creation,
879 consolidation, division, or dissolution;

880 (b) the topography of and soil compositions and prevailing land use practices within
881 the area of the proposed or existing conservation district or districts;

882 (c) the hydrologic unit code of the watershed in which the area of the proposed or
883 existing conservation district or districts is located;

884 (d) the relationship of the area of the proposed or existing conservation district or
885 districts to existing watersheds and agricultural regions; and

886 (e) the sentiment expressed by persons within the area of the proposed or existing
887 conservation district or districts with respect to the proposed creation, consolidation, division,
888 or dissolution.

889 (2) After holding a public hearing as required under Subsection 17D-3-201(2)(b) and
890 considering the factors listed in Subsection (1), the commission shall:

891 (a) (i) disapprove the creation of a conservation district, the consolidation of existing
892 conservation districts, or the division or dissolution of an existing conservation district, ~~as the~~

893 ~~case may be,]~~ if the commission determines that creation, consolidation, division, or
894 dissolution is not necessary or administratively practical; or

895 (ii) approve the creation of a conservation district, the consolidation of existing
896 conservation districts, or the division or dissolution of an existing conservation district, [~~as the~~
897 ~~case may be,]~~ if the commission determines that creation, consolidation, division, or
898 dissolution is necessary and administratively practical; and

899 (b) set forth in writing the reasons for the commission's action.

900 (3) (a) If the commission approves the creation, consolidation, division, or dissolution,
901 the commission shall:

902 (i) deliver to the lieutenant governor:

903 (A) a copy of a notice of an impending boundary action, as defined in Section
904 67-1a-6.5, that meets the requirements of Subsection 67-1a-6.5(3); and

905 (B) except in the case of a dissolution, a copy of an approved final local entity plat, as
906 defined in Section 67-1a-6.5; and

907 (ii) upon the lieutenant governor's issuance of a certificate of boundary action under
908 Section 67-1a-6.5:

909 (A) if the conservation district is or, in the case of dissolution, was located within the
910 boundary of a single county, submit to the recorder of that county:

911 (I) the original:

912 (Aa) notice of an impending boundary action;

913 (Bb) certificate of boundary action; and

914 (Cc) except in the case of dissolution, approved final local entity plat; and

915 (II) a certified copy of the document that the commission adopted approving the
916 boundary action; or

917 (B) if the conservation district is or, in the case of a dissolution, was located within the
918 boundaries of more than a single county:

919 (I) submit to the recorder of one of those counties:

920 (Aa) the original of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb), and
921 (Cc); and

922 (Bb) a certified copy of the document that the commission adopted approving the
923 boundary action; and

924 (II) submit to the recorder of each other county:

925 (Aa) a certified copy of the documents listed in Subsections (3)(a)(ii)(A)(I)(Aa), (Bb),
926 and (Cc); and

927 (Bb) a certified copy of the document that the commission adopted approving the
928 boundary action.

929 (b) Upon the lieutenant governor's issuance of the certificate of creation, consolidation,
930 division, or dissolution under Section 67-1a-6.5, ~~[as the case may be,]~~ the conservation district
931 is created and incorporated, consolidated, divided, or dissolved, respectively.

932 (4) If the commission disapproves a creation, consolidation, division, or dissolution
933 under Subsection (2)(a)(i), the commission may not, for six months following the denial,
934 consider a similar proposal to create, divide, or dissolve the conservation district or to
935 consolidate the conservation districts, as the case may be.

936 Section 18. Section 17D-3-301 is amended to read:

937 **17D-3-301. Board of supervisors -- Number -- Term -- Chair and officers --**
938 **Quorum -- Compensation.**

939 (1) ~~[Each]~~ A board of supervisors shall govern a conservation district ~~[shall be~~
940 ~~governed by a board of supervisors].~~

941 (2) ~~[(a)]~~ The board of supervisors of a conservation district consists of five members
942 ~~[elected]~~ appointed as provided in this part, at least three of whom shall be private agricultural
943 land operators.

944 ~~[(b) If the board of supervisors divides the conservation district into watershed voting~~
945 ~~areas under Section 17D-3-308, at least one member of the board of supervisors shall reside~~
946 ~~within each watershed voting area.]~~

947 (3) (a) ~~[The]~~ Subject to Subsection (3)(c), the term of office of ~~[each]~~ a member of a
948 board of supervisors is four years.

949 (b) Notwithstanding Subsection (3)(a), if multiple conservation districts are
950 consolidated or a single conservation district divided or dissolved under Part 2, Creation,
951 Consolidation, Division, and Dissolution of Conservation Districts:

952 (i) the term of each member of the board of supervisors of the consolidated
953 conservation districts or the divided or dissolved conservation district terminates immediately
954 upon consolidation, division, or dissolution; and

955 (ii) (A) the ~~[commission shall hold an election]~~ commissioner shall appoint a new
956 board of supervisors, as provided in this part, ~~[for all board of supervisors members of]~~ for the
957 consolidated conservation district or divided conservation districts, as the case may be; and

958 (B) subject to Subsection (3)(c), the term of ~~[the two candidates receiving the highest~~
959 ~~number of votes at an election under Subsection (3)(b)(ii)(A) shall be four years, and the term~~
960 ~~of the three candidates receiving the next highest number of votes shall be two years]~~ office of
961 a member of the board of supervisors appointed is four years.

962 (c) Notwithstanding the other provisions of this Subsection (3), the commissioner may,
963 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
964 of board members are staggered so that approximately half of the board is appointed every two
965 years.

966 (4) The board of supervisors shall elect a chair from among their number for a term of
967 one year, and may elect other officers from among their number that the board considers
968 necessary.

969 (5) A majority of the board of supervisors constitutes a quorum for the transaction of
970 board business, and action by a majority of a quorum present at a meeting of the board
971 constitutes action of the board.

972 (6) For performing official duties, ~~[each]~~ a member of the board of supervisors of a
973 conservation district shall receive:

974 (a) per diem and travel expenses in accordance with Section [11-55-103](#); and

975 (b) actual and necessary expenses as determined by the department.

976 Section 19. Section **17D-3-302** is amended to read:

977 **17D-3-302. Board of supervisors members to be appointed -- Candidates**
978 **nominated by nominating committee -- Candidate qualifications -- Nomination**
979 **committee.**

980 (1) As provided in this part, ~~[each]~~ the commissioner shall appoint a member of a
981 board of supervisors of a conservation district ~~[shall be elected at large within the conservation~~
982 ~~district]~~ from candidates nominated by~~[-(a)-]~~ a nominating committee consisting of:

983 ~~[(i)]~~ (a) the chair of the commission or council of the county in which the conservation
984 district is located;

985 ~~[(ii)]~~ (b) the chair of the USDA Farm Service Agency Committee of the county in

986 which the conservation district is located;

987 ~~[(iii)-(A)]~~ (c) (i) the chair of the board of supervisors of the conservation district; or

988 ~~[(B)]~~ (ii) the chair's designee, if the chair wishes to be a candidate for ~~[reelection;]~~

989 reappointment; and

990 ~~[(iv)]~~ (d) the agricultural extension service designated representative of the county in

991 which the conservation district is located~~[-or]~~.

992 ~~[(b) petition under Section 17D-3-304.]~~

993 (2) The commissioner may remove an individual from the nominating committee upon

994 the request of the group the individual represents.

995 ~~[(2)]~~ (3) ~~[Each candidate for election]~~ A candidate for appointment to the board of

996 supervisors of a conservation district shall be:

997 (a) at least 18 years of age; and

998 (b) a resident within the conservation district.

999 Section 20. Section 17D-3-303 is amended to read:

1000 **17D-3-303. Nominating committee nomination of candidates for appointment to**
1001 **the board of supervisors.**

1002 The nominating committee under Subsection 17D-3-302(1)~~[(a)]~~ shall:

1003 (1) nominate for ~~[each]~~ a conservation district ~~[election]~~ a slate of candidates for

1004 ~~[election]~~ appointment to the board of supervisors of the conservation district equal

1004a ~~H~~ → or greater ← ~~H~~ in number

1005 to ~~H~~ → ~~[at least one more than]~~ ← ~~H~~ the number of board of supervisors members to be ~~[elected]~~

1006 appointed; and

1007 (2) submit the names of candidates to the ~~[commission]~~ commissioner no later than the

1008 date set by the commission as the close of nominations.

1009 Section 21. Section 17D-3-304 is amended to read:

1010 **17D-3-304. Petition to nominate candidates for appointment to the board of**
1011 **supervisors.**

1012 (1) ~~[A]~~ In addition to the procedure in Section 17D-3-302, a person may be nominated

1013 to be a candidate for ~~[election]~~ appointment as a member of a board of supervisors of a

1014 conservation district by a petition filed with the ~~[commission]~~ department no later than the date

1015 set by the commission as the close of nominations.

1016 (2) ~~[Each]~~ A petition under Subsection (1) shall~~[-(a)]~~ state:

1017 [(i)] (a) the candidate's name;

1018 [(ii)] (b) that the candidate is at least 18 years of age; [~~and~~]

1019 [(iii)] (c) that the candidate for appointment is a resident of the conservation district for
1020 which the [~~election~~] nomination for candidacy is to be held; and

1021 [(b)] (d) contain the [~~signatures of at least six persons who reside and are registered~~
1022 ~~voters within the conservation district; and (c) list the name, address, and voting precinct~~
1023 ~~number of each person who signs the petition.~~] notarized signature of the candidate.

1024 (3) The department shall forward a petition received under this section to the
1025 nominating committee for consideration under Sections [17D-3-302](#) and [17D-3-303](#).

1026 Section 22. Section **17D-3-305** is amended to read:

1027 **17D-3-305. Setting the date of nomination of the board of supervisors -- Notice**
1028 **requirements.**

1029 (1) The commission shall set the date of the [~~election~~] nomination of members of the
1030 board of supervisors of a conservation district.

1031 (2) The commission shall publish notice of the [~~election~~] nomination day described in
1032 Subsection (1):

1033 (a) (i) in a newspaper of general circulation within the conservation district at least
1034 once, no later than four weeks before the day of the [~~election~~] nomination; or

1035 (ii) if there is no newspaper of general circulation in the conservation district, at least
1036 four weeks before the [~~day of the election~~] nomination day, by posting one notice, and at least
1037 one additional notice per 2,000 population of the conservation district, in places within the
1038 conservation district that are most likely to give notice to the [~~voters~~] residents in the
1039 conservation district; [~~or~~]

1040 [(iii) ~~at least four weeks before the day of the election, by mailing notice to each~~
1041 ~~registered voter in the conservation district;~~]

1042 (b) on the Utah Public Notice Website created in Section [63F-1-701](#), for four weeks
1043 before the day of the [~~election~~] nomination;

1044 (c) in accordance with Section [45-1-101](#), for four weeks before the day of the [~~election~~]
1045 nomination; and

1046 (d) if the conservation district has a website, on the conservation district's website for
1047 four weeks before the day of the [~~election~~] nomination.

1048 (3) The ~~[date set for an election under Subsection (1) may not be]~~ commissioner shall
 1049 appoint the board of members by no later than six weeks after the date set by the commission
 1050 for the close of nominations.

1051 (4) The notice required under Subsection (2) shall~~[(a)]~~ state:

1052 ~~[(i)]~~ (a) the nomination date ~~[of the election]; and~~

1053 ~~[(ii)]~~ ~~the names of all candidates; and]~~

1054 ~~[(iii)]~~ ~~that a ballot request form for the election may be obtained from the commission~~
 1055 ~~office or from any other place that the commission designates; and]~~

1056 ~~[(b)]~~ ~~specify the address of the commission office or other place where a ballot request~~
 1057 ~~form may be obtained.]~~

1058 (b) the number of open board member positions for the conservation district.

1059 Section 23. Section **17D-3-310** is amended to read:

1060 **17D-3-310. Vacancies in the board of supervisors.**

1061 If a vacancy occurs in the office of board of supervisors member, the remaining
 1062 members of the board of supervisors shall ~~[appoint a person]~~ nominate an individual to the
 1063 commissioner to appoint to fill the vacancy, to serve the remainder of the unexpired term of the
 1064 member creating the vacancy.

1065 Section 24. Section **17D-3-311** is amended to read:

1066 **17D-3-311. Training for board members.**

1067 (1) A member of a board of supervisors shall, within one year after ~~[taking office]~~
 1068 appointment, complete the training described in Subsection (2).

1069 (2) The state auditor shall, with the assistance of the commission and an association
 1070 that represents conservation districts, develop a training curriculum for a member of the board
 1071 of supervisors and conduct the training.

1072 Section 25. Section **26-15-1** is amended to read:

1073 **26-15-1. Definitions.**

1074 As used in this chapter:

1075 (1) (a) "Food handler" means any person working part-time or full-time in a food
 1076 service establishment who:

1077 (i) moves food or food containers, prepares, stores, or serves food;

1078 (ii) comes in contact with any food, utensil, tableware or equipment; or

- 1079 (iii) washes the same. [~~The term also~~]
- 1080 (b) "Food handler" includes:
- 1081 (i) owners, supervisors, and management persons, and any other person working in a
- 1082 food-service establishment[~~. The term also includes any~~]; or
- 1083 (ii) an operator or person:
- 1084 (A) employed by one who handles food dispensed through vending machines; [~~or~~]
- 1085 (B) who comes into contact with food contact surfaces or containers, equipment,
- 1086 utensils, or packaging materials used in connection with vending machine operations; or
- 1087 (C) who otherwise services or maintains one or more vending machines.
- 1088 [~~(b)~~] (c) "Food handler" does not include a producer of food products selling food at a
- 1089 farmers market as defined in [~~Subsection~~] Section 4-5-102[~~(5)~~].
- 1090 (2) "Pest" means a noxious, destructive, or troublesome organism whether plant or
- 1091 animal, when found in and around places of human occupancy, habitation, or use which
- 1092 threatens the public health or well being of the people within the state.
- 1093 (3) "Vector" means any organism, such as insects or rodents, that transmits a pathogen
- 1094 that can affect public health.
- 1095 Section 26. Section **59-10-1304** is amended to read:
- 1096 **59-10-1304. Removal of designation and prohibitions on collection for certain**
- 1097 **contributions on income tax return -- Conditions for removal and prohibitions on**
- 1098 **collection -- Commission publication requirements.**
- 1099 (1) (a) If a contribution or combination of contributions described in Subsection (1)(b)
- 1100 generate less than \$30,000 per year for three consecutive years, the commission shall remove
- 1101 the designation for the contribution from the individual income tax return and may not collect
- 1102 the contribution from a resident or nonresident individual beginning two taxable years after the
- 1103 three-year period for which the contribution generates less than \$30,000 per year.
- 1104 (b) The following contributions apply to Subsection (1)(a):
- 1105 (i) the contribution provided for in Section 59-10-1306;
- 1106 (ii) the sum of the contributions provided for in Subsection 59-10-1307(1);
- 1107 (iii) the contribution provided for in Section 59-10-1308;
- 1108 [~~(iv) the contribution provided for in Section 59-10-1310;~~]
- 1109 [~~(v)~~] (iv) the contribution provided for in Section 59-10-1315;

1110 [~~(vi)~~] (v) the contribution provided for in Section 59-10-1318;
1111 [~~(vii)~~] (vi) the contribution provided for in Section 59-10-1319; or
1112 [~~(viii)~~] (vii) the contribution provided for in Section 59-10-1320.
1113 (2) If the commission removes the designation for a contribution under Subsection (1),
1114 the commission shall report to the Revenue and Taxation Interim Committee by electronic
1115 means that the commission removed the designation on or before the November interim
1116 meeting of the year in which the commission determines to remove the designation.
1117 (3) (a) Within a 30-day period after making the report required by Subsection (2), the
1118 commission shall publish a list in accordance with Subsection (3)(b) stating each contribution
1119 that the commission will remove from the individual income tax return.
1120 (b) The list shall:
1121 (i) be published on:
1122 (A) the commission's website; and
1123 (B) the public legal notice website in accordance with Section 45-1-101;
1124 (ii) include a statement that the commission:
1125 (A) is required to remove the contribution from the individual income tax return; and
1126 (B) may not collect the contribution;
1127 (iii) state the taxable year for which the removal described in Subsection (3)(a) takes
1128 effect; and
1129 (iv) remain available for viewing and searching until the commission publishes a new
1130 list in accordance with this Subsection (3).
1131 **Section 27. Repealer.**
1132 This bill repeals:
1133 Section 4-13-107, **Department to publish commercial values applied to components**
1134 **of commercial fertilizer.**
1135 Section 4-40-101, **Title.**
1136 Section 4-40-102, **Cat and Dog Community Spay and Neuter Program Restricted**
1137 **Account -- Interest -- Use of contributions and interest.**
1138 Section 17D-3-306, **Eligibility to vote in an election for board of supervisors**
1139 **members.**
1140 Section 17D-3-307, **Supervisor's election mailing list.**

- 1141 Section **17D-3-308**, Watershed voting areas.
- 1142 Section **17D-3-309**, Election of board of supervisors members -- Ballots --
- 1143 **Commission duties regarding elections -- Election expenses.**
- 1144 Section **59-10-1310**, Contribution to Cat and Dog Community Spay and Neuter
- 1145 **Program Restricted Account.**