

HB0157S01

inserted text shows text that was not in HB0157S01 but was inserted into HB0157S02

1

Department of Natural Resources Amendments

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Rex P. Shipp

Senate Sponsor:

- ▶ clarifies rulemaking authority related to rules enforced by the Division of Law Enforcement;

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- modifies the duties of the Utah Geological Survey;
- modifies the makeup of the Board of the Utah Geological Survey;
- changes the term "buffalo" to "bison" in certain circumstances;
- repeals section specifying funding sources of the Watershed Restoration Initiative;
- repeals the Alternative Energy Development Tax Credit Act; and
- makes technical and conforming amendments.

Money Appropriated in this Bill:

- **This bill appropriates \$5,000,000 in operating and capital budgets for fiscal year 2027, all of which is from the General Fund.**
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Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

- 9-8a-205** , as renumbered and amended by Laws of Utah 2023, Chapter 160
- 63A-17-502** , as last amended by Laws of Utah 2024, Chapter 151
- 63J-1-602.1** , as last amended by Laws of Utah 2025, First Special Session, Chapter 9
- 73-2-11** , as last amended by Laws of Utah 2024, Chapter 365
- 73-3-8 , as last amended by Laws of Utah 2024, Chapter 233**
- 73-3-30 , as last amended by Laws of Utah 2023, Chapters 34, 253**
- 73-10-34** , as last amended by Laws of Utah 2025, Chapter 102
- 73-10-36** , as last amended by Laws of Utah 2025, First Special Session, Chapter 15
- 79-2-406** , as last amended by Laws of Utah 2024, Chapter 88
- 79-2-702** , as enacted by Laws of Utah 2024, Chapter 80
- 79-3-202** , as last amended by Laws of Utah 2025, First Special Session, Chapter 15
- 79-3-302** , as last amended by Laws of Utah 2025, Chapter 57
- 79-4-402** , as last amended by Laws of Utah 2025, Chapters 77, 153
- 79-4-1001** , as last amended by Laws of Utah 2025, Chapter 153

ENACTS:

- 73-1-22 , Utah Code Annotated 1953**
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REPEALS:

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50 **79-2-604** , as enacted by Laws of Utah 2022, Chapter 51

51 **79-6-501** , as renumbered and amended by Laws of Utah 2021, Chapter 280

52 **79-6-502** , as renumbered and amended by Laws of Utah 2021, Chapter 280

53 **79-6-503** , as last amended by Laws of Utah 2021, Chapter 64 and renumbered and amended by
Laws of Utah 2021, Chapter 280

55 **79-6-504** , as renumbered and amended by Laws of Utah 2021, Chapter 280

56 **79-6-505** , as last amended by Laws of Utah 2022, Chapter 68

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

59 Section 1. Section **9-8a-205** is amended to read:

60 **9-8a-205. Cultural Site Stewardship Program -- Definitions -- Creation -- Objectives --**
Administration -- Activities.

53 (1) As used in this section:

54 (a)

(i) "Cultural site" means a significant archaeological or paleontological site in the state as determined
by the office.

56 (ii) "Cultural site" may include a:

57 (A) site as defined in Section 9-8a-302; and

58 (B) site as defined in Section 79-3-102.

59 (b) "Stewardship program" means the Cultural Site Stewardship Program created in this section.

61 (c) "Vandalism" means to damage, destroy, or commit any other act that defaces or harms a cultural
site without the consent of the owner or appropriate governmental agency, including inscribing,
marking, etching, scratching, drawing, painting on, or affixing to the cultural resource a mark,
figure, or design.

65 (2) There is created within the office the Cultural Site Stewardship Program.

66 (3) The office shall seek to accomplish the following objectives through administration of the
stewardship program:

68 (a) protect cultural sites located in the state;

69 (b) increase public awareness of the significance and value of cultural sites and the damage done to
cultural sites by vandalism;

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- (c) discourage vandalism and the unlawful sale and trade of archaeological artifacts and paleontological artifacts;
- 73 (d) support and encourage improved standards for investigating and researching cultural sites in the state;
- 75 (e) promote cooperation among governmental agencies, private landowners, Native American tribes, industry groups, and interested persons to protect cultural sites; and
- 77 (f) increase the inventory of cultural sites maintained in accordance with Subsections 9-8a-304(2)(b) and ~~[79-3-202(1)(m)]~~ 79-3-202(1)(p).
- 79 (4) The office shall:
 - 80 (a) maintain a position to oversee the operation of the stewardship program; and
 - 81 (b) provide administrative services to the stewardship program.
- 82 (5) The office shall select, train, and certify volunteers to participate in the stewardship program, based on rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 85 (6) To accomplish the stewardship program's objectives, the office shall:
 - 86 (a) enter into agreements with the entities described in Subsection (3)(e) to promote the protection of cultural sites;
 - 88 (b) establish a list of cultural sites suitable for monitoring, in cooperation with the entities described in Subsection (3)(e);
 - 90 (c) schedule periodic monitoring activities by volunteers of each cultural site included on the list described in Subsection (6)(b), after obtaining approval of the landowner or manager;
 - 93 (d) establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for reporting vandalism of a cultural site to the appropriate authority; and
 - 96 (e) establish programs for educating members of the public about the significance and value of cultural sites and the loss to members of the public resulting from vandalism of cultural sites.
- 99 (7) The office shall coordinate the activities of governmental agencies, private landowners, and Native American tribes, as necessary, to carry out the stewardship program.
- 101 (8) A volunteer participating in the stewardship program may not receive compensation, benefits, per diem allowance, or travel expenses for the volunteer's service.
- 103 (9) The office may accept gifts, grants, donations, or contributions from any source to assist the division in the administration of the stewardship program.

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- 105 (10) Nothing in this section may be construed to alter or affect the office's duties under Section
9-8a-404.
- 116 Section 2. Section **63A-17-502** is amended to read:
- 117 **63A-17-502. Overtime policies for state employees.**
- 109 (1) As used in this section:
- 110 (a) "Accrued overtime hours" means:
- 111 (i) for a nonexempt employee, overtime hours earned during a fiscal year that, at the end of the fiscal
year, have not been paid and have not been taken as time off by the nonexempt state employee who
accrued them; and
- 114 (ii) for an exempt employee, overtime hours earned during an overtime year.
- 115 (b) "Appointed official" means:
- 116 (i) each department executive director and deputy director, each division director, and each member of a
board or commission; and
- 118 (ii) any other person employed by a department who is appointed by, or whose appointment is required
by law to be approved by, the governor and who:
- 120 (A) is paid a salary by the state; and
- 121 (B) who exercises managerial, policy-making, or advisory responsibility.
- 122 (c) "Department" means, except as otherwise provided in this section, the Department of Government
Operations, the Department of Corrections, the Department of Financial Institutions, the Department
of Alcoholic Beverage Services, the Insurance Department, the Public Service Commission, the
Labor Commission, the Department of Agriculture and Food, the Department of Human Services,
the Department of Natural Resources, the Department of Transportation, the Department of
Commerce, the Department of Workforce Services, the State Tax Commission, the Department
of Cultural and Community Engagement, the Department of Health, the National Guard, the
Department of Environmental Quality, the Department of Public Safety, the Commission on
Criminal and Juvenile Justice, all merit employees except attorneys in the Office of the Attorney
General, merit employees in the Office of the State Treasurer, merit employees in the Office of the
State Auditor, Department of Veterans and Military Affairs, and the Board of Pardons and Parole.
- 135 (d) "Elected official" means any person who is an employee of the state because the person was elected
by the registered voters of Utah to a position in state government.
- 137 (e) "Exempt employee" means a state employee who is exempt as defined by the FLSA.

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- 138 (f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.
- 139 (g) "FLSA agreement" means the agreement authorized by the FLSA by which a nonexempt employee
elects the form of compensation the nonexempt employee will receive for overtime.
- 142 (h) "Nonexempt employee" means a state employee who is nonexempt as defined by the division
applying FLSA requirements.
- 144 (i) "Overtime" means actual time worked in excess of an employee's defined work period.
- 146 (j) "Overtime year" means the year determined by a department under Subsection (5)(b) at the end of
which an exempt employee's accrued overtime lapses.
- 148 (k) "State employee" means every person employed by a department who is not:
- 149 (i) an appointed official;
- 150 (ii) an elected official; or
- 151 (iii) a member of a board or commission who is paid only for per diem or travel expenses.
- 153 (l) "Uniform annual date" means the date when an exempt employee's accrued overtime lapses.
- 155 (m) "Work period" means:
- 156 (i) for a nonexempt employee, except a nonexempt law enforcement or hospital employee, a
consecutive seven day, 24 hour work period of 40 hours;
- 158 (ii) for an exempt employee, a 14 day, 80 hour payroll cycle;
- 159 (iii) for a nonexempt hospital employee, the period the division establishes by rule according to the
requirements of the FLSA; or
- 161 (iv) for a nonexempt law enforcement employee as defined in the FLSA[;]
- 162 [~~(A) who is employed by the Department of Natural Resources, the period the division establishes by
rule according to the requirements of the FLSA; or~~]
- 164 [~~(B) who is employed by a department other than the Department of Natural Resources~~], the period the
division establishes by rule in accordance with Subsection (2).
- 167 (2) [~~Except for the Department of Natural Resources, the~~] The division shall require each department
employing a nonexempt law enforcement employee to designate one of the following work periods
applicable to that employee:
- 170 (a) 80 hours in a 14 consecutive day payroll cycle; or
- 171 (b) 160 hours in a 28 consecutive day payroll cycle.
- 172 (3) Each department shall compensate each state employee who works overtime by complying with the
requirements of this section.

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- 174 (4)
- (a) Each department shall negotiate and obtain a signed FLSA agreement from each nonexempt employee.
- 176 (b) In the FLSA agreement, the nonexempt employee shall elect either to be compensated for overtime by:
- 178 (i) taking time off work at the rate of one and one-half hour off for each overtime hour worked; or
- 180 (ii) being paid for the overtime worked at the rate of one and one-half times the employee's regular hourly wage.
- 182 (c) A nonexempt employee who elects to take time off under this Subsection (4) shall be paid for any overtime worked in excess of the cap established by the division.
- 184 (d) Before working any overtime, a nonexempt employee shall obtain authorization to work overtime from the employee's immediate supervisor.
- 186 (e) Each department shall:
- 187 (i) for an employee who elects to be compensated with time off for overtime, allow overtime earned during a fiscal year to be accumulated; and
- 189 (ii) for an employee who elects to be paid for overtime worked, pay them for overtime worked in the paycheck for the pay period in which the employee worked the overtime.
- 192 (f) If a department pays a nonexempt employee for overtime, that department shall charge that payment to that department's budget.
- 194 (g) At the end of each fiscal year, the Division of Finance shall total all the accrued overtime hours for nonexempt employees and charge that total against the appropriate fund or subfund.
- 197 (5)
- (a)
- (i) Except as provided in Subsection (5)(a)(ii), each department shall compensate each exempt employee who works overtime by granting the employee time off at the rate of one hour off for each hour of overtime worked.
- 200 (ii) The director of the division may grant limited exceptions to the compensation requirement described in Subsection (5)(a)(i), where work circumstances dictate, by authorizing a department to pay an exempt employee for overtime worked at the employee's regular hourly wage if that department has funds available.
- 204 (b)

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(i) Each department shall:

(A) establish in its written human resource policies a uniform annual date for each division that is at the end of any pay period; and

(B) communicate the uniform annual date to its employees.

(ii) If any department fails to establish a uniform annual date as required by this Subsection (5), the director of the division, in conjunction with the director of the Division of Finance, shall establish the date for that department.

(c) The overtime authorized for an exempt employee under this Subsection (5) is not an entitlement, a benefit, or a vested right.

(d) At the end of the overtime year, upon transfer to another department at any time, and upon termination, retirement, or other situations where the employee will not return to work before the end of the overtime year:

(i) any of an exempt employee's overtime that is more than the maximum established by division rule lapses; and

(ii) unless authorized by the director of the division under Subsection (5)(a)(ii), a department may not compensate the exempt employee for that lapsed overtime by paying the employee for the overtime or by granting the employee time off for the lapsed overtime.

(e) Before working any overtime, each exempt employee shall obtain authorization to work overtime from the exempt employee's immediate supervisor.

(f) If a department pays an exempt employee for overtime under authorization from the director of the division, that department shall charge that payment to that department's budget in the pay period earned.

(6) The division shall:

(a) ensure that the provisions of the FLSA and this section are implemented throughout state government;

(b) determine, for each state employee, whether the employee is exempt, nonexempt, law enforcement, or has some other status under the FLSA;

(c) in coordination with modifications to the systems operated by the Division of Finance, make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:

(i) establishing procedures for recording overtime worked that comply with FLSA requirements;

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- (ii) establishing requirements governing overtime worked while traveling and procedures for recording that overtime that comply with FLSA requirements;
- 239 (iii) establishing requirements governing overtime worked if the employee is "on call" and procedures for recording that overtime that comply with FLSA requirements;
- 242 (iv) establishing requirements governing overtime worked while an employee is being trained and procedures for recording that overtime that comply with FLSA requirements;
- 245 (v) subject to the FLSA and Subsection (2), establishing the maximum number of hours that a nonexempt employee may accrue before a department is required to pay the employee for the overtime worked;
- 248 (vi) subject to the FLSA, establishing the maximum number of overtime hours for an exempt employee that do not lapse; and
- 250 (vii) establishing procedures for adjudicating appeals of an FLSA determination made by the division as required by this section;
- 252 (d) monitor departments for compliance with the FLSA; and
- 253 (e) recommend to the Legislature and the governor any statutory changes necessary because of federal government action.
- 255 (7)
- (a) In coordination with the procedures for recording overtime worked established in rule by the division, the Division of Finance shall modify its payroll and human resource systems to accommodate those procedures.
- 258 (b) Notwithstanding the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, Section 63A-17-602, and Section 67-19a-301, an employee who is aggrieved by the FLSA designation made by the division as required by this section may appeal that determination to the director of the division by following the procedures and requirements established in division rule.
- 263 (c) Upon receipt of an appeal under this section, the director shall notify the executive director of the employee's department that the appeal has been filed.
- 265 (d) If the employee is aggrieved by the decision of the director, the employee shall appeal that determination to the Department of Labor, Wage and Hour Division, according to the procedures and requirements of federal law.
- 277 Section 3. Section **63J-1-602.1** is amended to read:

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278 **63J-1-602.1. List of nonlapsing appropriations from accounts and funds.**

Appropriations made from the following accounts or funds are nonlapsing:

- 271 (1) The Native American Repatriation Restricted Account created in Section 9-9-407.
- 272 (2) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided
under Title 9, Chapter 23, Pete Suazo Utah Athletic Commission Act.
- 274 (3) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.
- 276 (4) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.
- 277 (5) The Commerce Electronic Payment Fee Restricted Account created in Section 13-1-17.
- 278 (6) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.
- 280 (7) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section
19-5-126.
- 282 (8) State funds for matching federal funds in the Children's Health Insurance Program as provided in
Section 26B-3-906.
- 284 (9) Funds collected from the program fund for local health department expenses incurred in responding
to a local health emergency under Section 26B-7-111.
- 286 (10) The Technology Development Restricted Account created in Section 31A-3-104.
- 287 (11) The Criminal Background Check Restricted Account created in Section 31A-3-105.
- 288 (12) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that
Section 31A-3-304 makes the money received under that section free revenue.
- 290 (13) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.
- 291 (14) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.
- 293 (15) The State Mandated Insurer Payments Restricted Account created in Section 31A-30-118.
- 295 (16) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.
- 296 (17) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in
Section 32B-2-306.
- 298 (18) The School Readiness Restricted Account created in Section 35A-15-203.
- 299 (19) Money received by the Utah State Office of Rehabilitation for the sale of certain products or
services, as provided in Section 35A-13-202.
- 301 (20) The Property Loss Related to Homelessness Compensation Enterprise Fund created in Section
35A-16-212.
- 303 (21) The Homeless Shelter Cities Mitigation Restricted Account created in Section 35A-16-402.

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- 305 (22) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.
- 306 (23) The Oil and Gas Conservation Account created in Section 40-6-14.5.
- 307 (24) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.
- 308 (25) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor
Vehicle Division.
- 310 (26) The License Plate Restricted Account created by Section 41-1a-122.
- 311 (27) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by
Section 41-3-110 to the State Tax Commission.
- 313 (28) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as
provided in Section 53-2a-603.
- 315 (29) The Disaster Response, Recovery, and Mitigation Restricted Account created in Section
53-2a-1302.
- 317 (30) The Emergency Medical Services Critical Needs Account created in Section 53-2d-110.
- 318 (31) The Department of Public Safety Restricted Account to the Department of Public Safety, as
provided in Section 53-3-106.
- 320 (32) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.
- 321 (33) The DNA Specimen Restricted Account created in Section 53-10-407.
- 322 (34) The Technical Colleges Capital Projects Fund created in Section 53H-9-605.
- 323 (35) The Higher Education Capital Projects Fund created in Section 53H-9-502.
- 324 (36) A certain portion of money collected for administrative costs under the School Institutional Trust
Lands Management Act, as provided under Section 53C-3-202.
- 326 (37) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to
Subsection 54-5-1.5(4)(d).
- 328 (38) Funds collected from a surcharge fee to provide certain licensees with access to an electronic
reference library, as provided in Section 58-3a-105.
- 330 (39) Certain fines collected by the Division of Professional Licensing for violation of unlawful or
unprofessional conduct that are used for education and enforcement purposes, as provided in Section
58-17b-505.
- 333 (40) Funds collected from a surcharge fee to provide certain licensees with access to an electronic
reference library, as provided in Section 58-22-104.

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- (41) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.
- 337 (42) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.
- 339 (43) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.
- 342 (44) The Relative Value Study Restricted Account created in Section 59-9-105.
- 343 (45) The Cigarette Tax Restricted Account created in Section 59-14-204.
- 344 (46) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.
- 346 (47) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.
- 349 (48) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.
- 351 (49) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.
- 353 (50) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.
- 355 (51) The Immigration Act Restricted Account created in Section 63G-12-103.
- 356 (52) Money received by the military installation development authority, as provided in Section 63H-1-504.
- 358 (53) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.
- 359 (54) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.
- 360 (55) The Utah Capital Investment Restricted Account created in Section 63N-6-204.
- 361 (56) The Motion Picture Incentive Account created in Section 63N-8-103.
- 362 (57) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).
- 364 (58) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.
- 366 (59) The following funds or accounts created in Section 72-2-124:
- 367 (a) Transportation Investment Fund of 2005;

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- 368 (b) Transit Transportation Investment Fund;
369 (c) Cottonwood Canyons Transportation Investment Fund;
370 (d) Active Transportation Investment Fund; and
371 (e) Commuter Rail Subaccount.
372 (60) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.
373 (61) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as
provided in Section 73-3-25.
375 (62) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.
377 (63) Award money under the State Asset Forfeiture Grant Program, as provided under Section
77-11b-403.
379 (64) Funds donated or paid to a juvenile court by private sources, as provided in Subsection
78A-6-203(1)(c).
381 (65) Fees for certificate of admission created under Section 78A-9-102.
382 (66) Funds collected for adoption document access as provided in Sections 81-13-103, 81-13-504, and
81-13-505.
384 (67) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent
Defense Commission.
386 (68) The Utah Geological Survey Restricted Account created in Section 79-3-403.
387 (69) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green
River State Park, as provided under Section 79-4-403.
389 (70) Certain funds received by the Division of State Parks from the sale or disposal of [~~buffalo~~] bison,
as provided under Section 79-4-1001.

400 Section 4. Section 4 is enacted to read:

401 **73-1-22. Litigation expenses.**

The Department of Natural Resources may fund general litigation expenses and other costs incurred by the state related to litigation concerning the state's interests in water, including interests related to conservation, the right to use water, and the development of water resources.

406 Section 5. Section **73-2-11** is amended to read:

407 **73-2-11. Records -- Certified copies -- Evidence.**

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(1) The state engineer shall keep on file in the state engineer's office a full and proper [records] record, in physical or electronic form, of the state engineer's work, including [all field notes, computations and facts made or collected by the state engineer, all of which shall be part of the records of the state engineer's office and the property of the state. All records, maps and papers] the following made or collected by the state engineer:

(a) a field note;

(b) a computation; or

(c) a fact.

(2) Subject to Subsection (3), a record, including a map or document, whether physical or electronic, recorded or filed in the office of the state engineer [shall be open to the public during business hours] is a public record.

(3) A record described in Subsection (1) or (2) is:

(a) a record of the state engineer's office;

(b) property of the state; and

(c) made public by the state engineer, except a record classified as private, controlled, or protected in accordance with Title 63G, Chapter 2, Government Records Access and Management Act, and this title.

(4) The office of the state engineer is ~~[hereby declared to be]~~an office of public record, and ~~[none of the files, records or documents shall be removed therefrom]~~ a file or record may not be removed from the office of the state engineer, except in the custody of the state engineer or one of the state engineer's deputies.~~[Certified copies of any record or document shall be furnished by the state engineer]~~

(5)

(a) The state engineer shall furnish a certified copy of a record on demand, upon payment of the reasonable cost of making the [same] certified copy, together with the legal fee for certification.~~[Such copies shall be]~~

(b) A certified copy under this Subsection (5) is competent evidence, and [shall have] has the same force and effect as the [originals] original.

Section 6. Section 73-3-8 is amended to read:

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73-3-8. Approval or rejection of application -- Requirements for approval -- Application for specified period of time -- Filing of royalty contract for removal of salt or minerals -- Request for agency action.

(1)

(a) ~~[It shall be the duty of the state engineer to]~~ The state engineer shall approve an application if there is reason to believe that:

(i) for an application to appropriate, there is unappropriated water in the proposed source;

(ii) the proposed use will not impair existing rights or interfere with the more beneficial use of the water;

(iii) the proposed plan:

(A) is physically and economically feasible, unless the application is filed by the United States Bureau of Reclamation; and

(B) would not prove detrimental to the public welfare;

(iv) the applicant has the financial ability to complete the proposed works;

(v) the application was filed in good faith and not for purposes of speculation or monopoly; and

(vi) if applicable, the application complies with a groundwater management plan adopted under Section 73-5-15.

(b) If the state engineer, because of information in the state engineer's possession obtained either by the state engineer's own investigation or otherwise, has reason to believe that an application will interfere with the water's more beneficial use for irrigation, municipal and industrial, domestic or culinary, stock watering, power or mining development, or manufacturing, or will unreasonably affect public recreation or the natural stream environment, or will prove detrimental to the public welfare, the state engineer shall withhold approval or rejection of the application until the state engineer has investigated the matter.

(c) If an application does not meet the requirements of this section, it shall be rejected.

(2)

(a) An application to appropriate water for industrial, power, mining development, manufacturing purposes, agriculture, or municipal purposes may be approved for a specific and certain period from the time the water is placed to beneficial use under the application, but in no event may an application be granted for a period of time less than that ordinarily needed to satisfy the essential

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and primary purpose of the application or until the water is no longer available as determined by the state engineer.

(b) At the expiration of the period fixed by the state engineer the water shall revert to the public and is subject to appropriation as provided by this title.

(c) No later than 60 calendar days before the expiration date of the fixed time period, the state engineer shall send notice by mail or by any form of electronic communication through which receipt is verifiable, to the applicant of record.

(d) Except as provided by Subsection (2)(e), the state engineer may extend any limited water right upon a showing that:

(i) the essential purpose of the original application has not been satisfied;

(ii) the need for an extension is not the result of any default or neglect by the applicant; and

(iii) the water is still available.

(e) An extension may not exceed the time necessary to satisfy the primary purpose of the original application.

(f) A request for extension of the fixed time period must be filed in writing in the office of the state engineer on or before the expiration date of the application.

(3)

(a) Before the approval of any application to divert water from navigable lakes or streams of the state that contemplates the recovery of salts and other minerals or elements, as defined in Section 65A-17-101, ~~[therefrom]~~ from the navigable lakes or streams by precipitation or otherwise, the applicant shall file with the state engineer a copy of:

(i) a contract for the payment of royalties to the state; and

(ii) any mineral lease.

~~(b) [The approval of an application shall be reversed if the applicant fails to comply with terms of the royalty contract or mineral lease.]~~ Upon written notice to the state engineer of termination or noncompliance of a royalty contract or mineral lease described in Subsection (3)(a), the state engineer shall:

(i) reverse the approval of an application; or

(ii) indicate on the water right in the records of the state engineer the default if the written notice states that the royalty contract or mineral lease has a reversionary provision related to the water right.

(4)

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(a) The state engineer shall investigate all temporary change applications.

(b) The state engineer shall:

(i) approve the temporary change if the state engineer finds there is reason to believe that the temporary change will not impair an existing right; and

(ii) deny the temporary change if the state engineer finds there is reason to believe the temporary change would impair an existing right.

(5)

(a) With respect to a change application for a permanent or fixed time change:

(i) the state engineer shall follow the same procedures provided in this title for approving an application to appropriate water; and

(ii) the rights and duties of a change applicant are the same as the rights and duties of a person who applies to appropriate water under this title.

(b) The state engineer may waive notice for a permanent or fixed time change application if the application only involves a change in point of diversion of 660 feet or less.

(c) The state engineer may condition approval of a change application, including to:

(i) prevent an enlargement of the quantity of water depleted by the nature of the proposed use when compared with the nature of the currently approved use of water proposed to be changed; and

(ii) ensure that the recognition and subsequent use of saved water, as defined in Section 73-3-3:

(A) is quantified, reported, and verified;

(B) does not lead to an enlargement of the depletion or diversion amounts in the underlying water right that serves as the basis of the saved water, or an increase in the authorized number of irrigated acres unless depletion is accounted for and regulated in the condition;

(C) is limited to the net decrease in depletion and net reduction in diversion of the underlying water right that serves as the basis of the saved water;

(D) is limited to the volume of water that will be sustained over time from the net decrease in depletion or net reduction in diversion of the underlying water right that serves as the basis of the saved water;

(E) does not violate an existing water agreement; and

(F) when based solely on a net reduction in diversion, the subsequent use is limited to nonconsumptive beneficial uses and does not increase the depletion allowed by the underlying water right that serves as the basis of the saved water or otherwise cause quantity impairment to an existing water right when the saved water is beneficially used separate from the underlying water right.

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- 536 (d) Except for an application proposing to quantify saved water, a condition described in Subsection
(5)(c) may not include a reduction in the currently approved diversion rate of water under the water
right identified in the change application solely to account for the difference in depletion under the
nature of the proposed use when compared with the nature of the currently approved use.
- 541 (6)
- (a) Except as provided in Subsection (6)(b), the state engineer shall reject a permanent or fixed time
change application if the person proposing to make the change is unable to meet the burden
described in Subsection 73-3-3(5).
- 544 (b) If otherwise proper, the state engineer may approve a change application upon one or more of the
following conditions:
- 546 (i) for part of the water involved;
- 547 (ii) that the applicant acquire a conflicting right; or
- 548 (iii) that the applicant provide and implement a plan approved by the state engineer to mitigate
impairment of an existing right.
- 550 (c)
- (i) There is a rebuttable presumption of quantity impairment, as defined in Section 73-3-3, to the extent
that, for a period of at least seven consecutive years, a portion of the right identified in a change
application has not been:
- 553 (A) diverted from the approved point of diversion; or
- 554 (B) beneficially used at the approved place of use.
- 555 (ii) The rebuttable presumption described in Subsection (6)(c)(i) does not apply if the beneficial use
requirement is excused by:
- 557 (A) Subsection 73-1-4(2)(e);
- 558 (B) an approved nonuse application under Subsection 73-1-4(2)(b);
- 559 (C) Subsection 73-3-30(7); or
- 560 (D) the passage of time under Subsection 73-1-4(2)(c)(i).
- 561 (d) The state engineer may not consider quantity impairment based on the conditions described in
Subsection (6)(c) unless the issue is raised in a:
- 563 (i) timely protest that identifies which of the protestant's existing rights the protestant reasonably
believes will experience quantity impairment; or
- 565

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(ii) written notice provided by the state engineer to the applicant within 90 days after the change application is filed.

(e) The written notice described in Subsection (6)(d)(ii) shall:

(i) specifically identify an existing right the state engineer reasonably believes may experience quantity impairment; and

(ii) be mailed to the owner of an identified right, as shown by the state engineer's records, if the owner has not protested the change application.

(f) The state engineer is not required to include all rights the state engineer believes may be impaired by the proposed change in the written notice described in Subsection (6)(d)(ii).

(g) The owner of a right who receives the written notice described in Subsection (6)(d)(ii) may not become a party to the administrative proceeding if the owner has not filed a timely protest.

(h) If a change applicant, the protestants, and the persons identified by the state engineer under Subsection ~~[(6)(d)(ii)]~~ (6)(d)(i) come to a written agreement regarding how the issue of quantity impairment shall be mitigated, the state engineer may incorporate the terms of the agreement into a change application approval.

Section 7. Section 73-3-30 is amended to read:

73-3-30. Change application for an instream flow -- Change application for delivery to a reservoir.

(1) As used in this section:

(a) "Colorado River System" means the same as that term is defined in Sections 73-12a-2 and 73-13-10.

(b) "Division" means the Division of Wildlife Resources created in Section 23A-2-201, the Division of State Parks created in Section 79-4-201, or the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.

(c) "Person entitled to the use of water" means the same as that term is defined in Section 73-3-3.

(d) "Sovereign lands" means the same as that term is defined in Section 65A-1-1.

(e) "Wildlife" means species of animals, including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, that are protected or regulated by a statute, law, regulation, ordinance, or administrative rule.

(2)

(a) Pursuant to Section 73-3-3, a division may file a permanent change application, a fixed time change application, or a temporary change application, or a person entitled to the use of water may file a

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fixed time change application or a temporary change application, to provide water within the state for:

(i) an instream flow within a specified section of a natural or altered stream; or

(ii) use on sovereign lands.

(b) The state engineer may not approve a change application filed under this Subsection (2) unless the proposed instream flow or use on sovereign lands will contribute to:

(i) the propagation or maintenance of wildlife;

(ii) the management of state parks; or

(iii) the reasonable preservation or enhancement of the natural aquatic environment.

(c) A division may file a change application on:

(i) a ~~[perfected]~~ water right:

(A) presently owned by the division;

(B) purchased by the division for the purpose of providing water for an instream flow or use on sovereign lands, through funding provided for that purpose by legislative appropriation; or

(C) secured by lease, agreement, gift, exchange, or contribution; or

(ii) an appurtenant water right acquired with the acquisition of real property by the division.

(d) A division may:

(i) purchase a water right for the purposes described in Subsection (2)(a) only with funds specifically appropriated by the Legislature for water rights purchases; or

(ii) accept a donated water right without legislative approval.

(e) A division may not acquire water rights by eminent domain for an instream flow, use on sovereign lands, or for any other purpose.

(3)

(a) A person entitled to the use of water shall obtain a division director's approval of the proposed change before filing a fixed time change application or a temporary change application with the state engineer.

(b) By approving a proposed fixed time change application or temporary change application, a division director attests that the water that is the subject of the application can be used consistent with the statutory mandates of the director's division.

(4)

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- (a) Pursuant to Section 73-3-3, a person entitled to the use of water may file a fixed time change application or a temporary change application for a project to deliver water to a reservoir located partially or entirely within the Colorado River System in the state in accordance with:
- (i) Colorado River Drought Contingency Plan Authorization Act, Public Law 116-14;
 - (ii) a water conservation program funded by the Bureau of Reclamation; or
 - (iii) a water conservation program authorized by the state.
- (b) Before filing a change application under this Subsection (4), a person entitled to the use of water shall obtain the approval from the executive director of the Colorado River Authority of Utah, appointed under Section 63M-14-401.
- (c) By approving a proposed fixed time change application or temporary change application, the executive director of the Colorado River Authority of Utah attests that the water that is the subject of the application can be used consistent with this section.
- (5) In addition to the requirements of Section 73-3-3, an application authorized by this section shall include:
- (a) a legal description of:
 - (i) the segment of the natural or altered stream that will be the place of use for an instream flow;
 - (ii) the location where the water will be used on sovereign lands; or
 - (iii) the reservoir located partially or entirely within the Colorado River System in the state that the water will be delivered to; and
 - (b) appropriate studies, reports, or other information required by the state engineer demonstrating:
 - (i) the projected benefits to the public resulting from the change; and
 - (ii) the necessity for the proposed instream flow or use on sovereign lands.
- (6) A person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow or use on sovereign lands.
- (7) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.
- (8) A physical structure or physical diversion from the stream is not required to implement a change under this section.
- (9) An approved change application described in this section does not create a right of access across private property or allow any infringement of a private property right.

Section 8. Section **73-10-34** is amended to read:

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665 **73-10-34. Secondary water metering -- Loans and grants.**

422 (1) As used in this section:

423 (a) "Agriculture use" means water used on land assessed under Title 59, Chapter 2, Part 5, Farmland
Assessment Act.

425 (b)

(i) "Commercial user" means a secondary water user that is a place of business.

426 (ii) "Commercial user" does not include a multi-family residence, an agricultural user, or a customer
that falls within the industrial or institutional classification.

428 (c) "Critical area" means an area:

429 (i) serviced by one of the four largest water conservancy districts, as defined in Section 17B-1-102,
measured by operating budgets; or

431 (ii) within the Great Salt Lake basin, which includes:

432 (A) the surveyed meander line of the Great Salt Lake;

433 (B) the drainage areas of the Bear River or the Bear River's tributaries;

434 (C) the drainage areas of Bear Lake or Bear Lake's tributaries;

435 (D) the drainage areas of the Weber River or the Weber River's tributaries;

436 (E) the drainage areas of the Jordan River or the Jordan River's tributaries;

437 (F) the drainage areas of Utah Lake or Utah Lake's tributaries;

438 (G) other water drainages lying between the Bear River and the Jordan River that are tributary to the
Great Salt Lake and not included in the drainage areas described in Subsections (1)(c)(ii)(B) through
(F); and

441 (H) the drainage area of Tooele Valley.

442 (d) "Full metering" means that use of secondary water is accurately metered by a meter that is installed
and maintained on every secondary water connection of a secondary water supplier.

445 (e)

(i) "Industrial user" means a secondary water user that manufactures or produces materials.

447 (ii) "Industrial user" includes a manufacturing plant, an oil and gas producer, and a mining company.

449 (f)

(i) "Institutional user" means a secondary water user that is dedicated to public service, regardless of
ownership.

451 (ii) "Institutional user" includes a school, church, hospital, park, golf course, and government facility.

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- 453 (g) "Power generation use" means water used in the production of energy, such as use in an electric
generation facility, natural gas refinery, or coal processing plant.
- 455 (h)
- (i) "Residential user" means a secondary water user in a residence.
- 456 (ii) "Residential user" includes a single-family or multi-family home, apartment, duplex, twin home,
condominium, or planned community.
- 458 (i) "Secondary water" means water that is:
- 459 (i) not culinary or water used on land assessed under Title 59, Chapter 2, Part 5, Farmland Assessment
Act; and
- 461 (ii) delivered to and used by an end user for the irrigation of landscaping or a garden.
- 462 (j) "Secondary water connection" means the location at which the water leaves the secondary water
supplier's pipeline and enters into the remainder of the pipes that are owned by another person to
supply water to an end user.
- 465 (k) "Secondary water supplier" means an entity that supplies pressurized secondary water.
- 467 (l) "Small secondary water retail supplier" means an entity that:
- 468 (i) supplies pressurized secondary water only to the end user of the secondary water; and
- 470 (ii)
- (A) is a city or town; or
- 471 (B) supplies 5,000 or fewer secondary water connections.
- 472 (2)
- (a)
- (i) A secondary water supplier that supplies secondary water within a county of the first or second
class and begins design work for new service on or after April 1, 2020, to a commercial,
industrial, institutional, or residential user shall meter the use of pressurized secondary water by
the users receiving that new service.
- 476 (ii) A secondary water supplier that supplies secondary water within a county of the third, fourth,
fifth, or sixth class and begins design work for new service on or after May 4, 2022, to a
commercial, industrial, institutional, or residential user shall meter the use of pressurized
secondary water by the users receiving that new service.

481

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- (b) By no later than January 1, 2030, a secondary water supplier shall install and maintain a meter of the use of pressurized secondary water by each user receiving secondary water service from the secondary water supplier.
- 484 (c) Beginning January 1, 2022, a secondary water supplier shall establish a meter installation reserve for metering installation and replacement projects.
- 486 (d) A secondary water supplier, including a small secondary water retail supplier, may not raise the rates charged for secondary water:
- 488 (i) by more than 10% in a calendar year for costs associated with metering secondary water unless the rise in rates is necessary because the secondary water supplier experiences a catastrophic failure or other similar event; or
- 491 (ii) unless, before raising the rates on the end user, the entity charging the end user provides a statement explaining the basis for why the needs of the secondary water supplier required an increase in rates.
- 494 (e)
- (i) A secondary water supplier that provides pressurized secondary water to a commercial, industrial, institutional, or residential user shall develop a plan, or if the secondary water supplier previously filed a similar plan, update the plan for metering the use of the pressurized water.
- 498 (ii) The plan required by this Subsection (2)(e) shall be filed or updated with the Division of Water Resources by no later than December 31, 2025, and address the process the secondary water supplier will follow to implement metering, including:
- 501 (A) the costs of full metering by the secondary water supplier;
- 502 (B) how long it would take the secondary water supplier to complete full metering, including an anticipated beginning date and completion date, except a secondary water supplier shall achieve full metering by no later than January 1, 2030; and
- 506 (C) how the secondary water supplier will finance metering.
- 507 (3) A secondary water supplier shall on or before March 31 of each year, report to the Division of Water Rights:
- 509 (a) for commercial, industrial, institutional, and residential users whose pressurized secondary water use is metered, the number of acre feet of pressurized secondary water the secondary water supplier supplied to the commercial, industrial, institutional, and residential users during the preceding 12-month period;
- 513 (b) the number of secondary water meters within the secondary water supplier's service boundary;

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- 515 (c) a description of the secondary water supplier's service boundary;
- 516 (d) the number of secondary water connections in each of the following categories through which the
secondary water supplier supplies pressurized secondary water:
- 518 (i) commercial;
- 519 (ii) industrial;
- 520 (iii) institutional; and
- 521 (iv) residential;
- 522 (e) the total volume of water that the secondary water supplier receives from the secondary water
supplier's sources; and
- 524 (f) the dates of service during the preceding 12-month period in which the secondary water supplier
supplied pressurized secondary water.
- 526 (4)
- (a) Beginning July 1, 2019, the Board of Water Resources may make [~~up to \$10,000,000 in~~] low-
interest loans available each year:
- 528 (i) from the Water Resources Conservation and Development Fund, created in Section 73-10-24;
and
- 530 (ii) for financing the cost of secondary water metering.
- 531 (b) The Division of Water Resources and the Board of Water Resources shall make rules in accordance
with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing the criteria and
process for receiving a loan described in this Subsection (4), except the rules may not include
prepayment penalties.
- 535 (5)
- (a) Beginning July 1, 2021, subject to appropriation, the Division of Water Resources may make
matching grants each year for financing the cost of secondary water metering for a commercial,
industrial, institutional, or residential user by a small secondary water retail supplier that:
- 539 (i) is not for new service described in Subsection (2)(a); and
- 540 (ii) matches the amount of the grant.
- 541 (b) For purposes of issuing grants under this section, the division shall prioritize the small secondary
water retail suppliers that can demonstrate the greatest need or greatest inability to pay the entire
cost of installing secondary water meters.
- 544 (c) The amount of a grant under this Subsection (5) may not:

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- 545 (i) exceed 50% of the small secondary water retail supplier's cost of installing secondary water meters;
or
- 547 (ii) supplant federal, state, or local money previously allocated to pay the small secondary water retail
supplier's cost of installing secondary water meters.
- 549 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Board of Water
Resources shall make rules establishing:
- 551 (i) the procedure for applying for a grant under this Subsection (5); and
- 552 (ii) how a small secondary water retail supplier can establish that the small secondary water retail
supplier meets the eligibility requirements of this Subsection (5).
- 554 (6) Nothing in this section affects a water right holder's obligation to measure and report water usage as
described in Sections 73-5-4 and 73-5-8.
- 556 (7) If a secondary water supplier fails to comply with Subsection (2)(b), the secondary water supplier:
- 558 (a) beginning January 1, 2030, may not receive state money for water related purposes until the
secondary water supplier completes full metering; and
- 560 (b) is subject to an enforcement action of the state engineer in accordance with Subsection (8).
- 562 (8)
- (a)
- (i) The state engineer shall commence an enforcement action under this Subsection (8) if the state
engineer receives a referral from the director of the Division of Water Resources.
- 565 (ii) The director of the Division of Water Resources shall submit a referral to the state engineer if
the director:
- 567 (A) finds that a secondary water supplier fails to fully meter secondary water as required by this section;
and
- 569 (B) determines an enforcement action is necessary to conserve or protect a water resource in the state.
- 571 (b) To commence an enforcement action under this Subsection (8), the state engineer shall issue
a notice of violation that includes notice of the administrative fine to which a secondary water
supplier is subject.
- 574 (c) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G,
Chapter 4, Administrative Procedures Act.
- 576 (d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer
shall make rules necessary to enforce a notice of violation, that includes:

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- 579 (i) provisions consistent with this Subsection (8) for enforcement of the notice if a secondary water
supplier to whom a notice is issued fails to respond to the notice or abate the violation;
- 582 (ii) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued;
and
- 584 (iii) provisions for timely issuance of a final order after the secondary water supplier to whom the notice
is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection
(8)(d)(ii).
- 587 (e) A person may not intervene in an enforcement action commenced under this section.
- 588 (f) After issuance of a final order under rules made pursuant to Subsection (8)(d), the state engineer
shall serve a copy of the final order on the secondary water supplier against whom the order is
issued by:
- 591 (i) personal service under Utah Rules of Civil Procedure, Rule 5; or
- 592 (ii) certified mail.
- 593 (g)
- (i) The state engineer's final order may be reviewed by trial de novo by the court with jurisdiction in
Salt Lake County or the county where the violation occurred.
- 595 (ii) A secondary water supplier shall file a petition for judicial review of the state engineer's final order
issued under this section within 20 days from the day on which the final order was served on the
secondary water supplier.
- 598 (h) The state engineer may bring suit in a court [~~of competent~~] with jurisdiction to enforce a final order
issued under this Subsection (8).
- 600 (i) If the state engineer prevails in an action brought under Subsection (8)(g) or (h), the state may
recover court costs and a reasonable attorney fee.
- 602 (j) As part of a final order issued under this Subsection (8), the state engineer shall order that a
secondary water supplier to whom an order is issued pay an administrative fine equal to:
- 605 (i) \$10 for each non-metered secondary water connection of the secondary water supplier for failure to
comply with full metering by January 1, 2030;
- 607 (ii) \$20 for each non-metered secondary water connection of the secondary water supplier for failure to
comply with full metering by January 1, 2031;
- 609 (iii) \$30 for each non-metered secondary water connection of the secondary water supplier for failure to
comply with full metering by January 1, 2032;

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- 611 (iv) \$40 for each non-metered secondary water connection of the secondary water supplier for failure to
comply with full metering by January 1, 2033; and
- 613 (v) \$50 for each non-metered secondary water connection of the secondary water supplier for failure
to comply with full metering by January 1, 2034, and for each subsequent year the secondary water
supplier fails to comply with full metering.
- 616 (k) Money collected under this Subsection (8) shall be deposited into the Water Resources Conservation
and Development Fund, created in Section 73-10-24.
- 618 (9) A secondary water supplier located within a county of the fifth or sixth class is exempt from
Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) if:
- 620 (a) the owner or operator of the secondary water supplier seeks an exemption under this Subsection
(9) by establishing with the Division of Water Resources that the cost of purchasing, installing,
and upgrading systems to accept meters exceeds 25% of the total operating budget of the owner or
operator of the secondary water supplier;
- 624 (b) the secondary water supplier agrees to not add a new secondary water connection to the secondary
water supplier's system on or after May 4, 2022;
- 626 (c) within six months of when the secondary water supplier seeks an exemption under Subsection
(9)(a), the secondary water supplier provides to the Division of Water Resources a plan for
conservation within the secondary water supplier's service area that does not require metering;
- 630 (d) the secondary water supplier annually reports to the Division of Water Resources on the results of
the plan described in Subsection (9)(c); and
- 632 (e) the secondary water supplier submits to evaluations by the Division of Water Resources of the
effectiveness of the plan described in Subsection (9)(c).
- 634 (10) A secondary water supplier is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8) to
the extent that the secondary water supplier:
- 636 (a) is unable to obtain a meter that a meter manufacturer will warranty because of the water quality
within a specific location served by the secondary water supplier;
- 638 (b) submits reasonable proof to the Division of Water Resources that the secondary water supplier is
unable to obtain a meter as described in Subsection (10)(a);
- 640 (c) within six months of when the secondary water supplier submits reasonable proof under Subsection
(10)(b), provides to the Division of Water Resources a plan for conservation within the secondary
water supplier's service area that does not require metering;

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- 644 (d) annually reports to the Division of Water Resources on the results of the plan described in
Subsection (10)(c); and
- 646 (e) submits to evaluations by the Division of Water Resources of the effectiveness of the plan described
in Subsection (10)(c).
- 648 (11) A secondary water supplier that is located within a critical management area that is subject to a
groundwater management plan adopted or amended under Section 73-5-15 on or after May 1, 2006,
is exempt from Subsections (2)(a), (2)(b), (2)(c), (2)(e), (7), and (8).
- 652 (12) If a secondary water supplier is required to have a water conservation plan under Section 73-10-32,
that water conservation plan satisfies the requirements of Subsection (9)(c) or (10)(c).
- 655 (13)
- (a) Notwithstanding the other provisions of this section and unless exempt under Subsection (9), (10),
or (11), to comply with this section, a secondary water supplier is not required to meter every
secondary water connection of the secondary water supplier's system, but shall meter at strategic
points of the system as approved by the state engineer under this Subsection (13) if:
- 660 (i) the system has no or minimal storage and relies primarily on stream flow;
- 661 (ii)
- (A) the majority of secondary water users on the system are associated with agriculture use or power
generation use; and
- 663 (B) less than 50% of the secondary water is used by residential secondary water users; or
- 665 (iii) the system has a mix of pressurized lines and open ditches and:
- 666 (A) 1,000 or fewer users if any part of the system is within a critical area; or
- 667 (B) 2,500 or fewer users for a system not described in Subsection (13)(a)(iii)(A).
- 668 (b)
- (i) A secondary water supplier may obtain the approval by the state engineer of strategic points where
metering is to occur as required under this Subsection (13) by filing an application with the state
engineer in the form established by the state engineer.
- 672 (ii) The state engineer may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative
Rulemaking Act, establish procedures for approving strategic points for metering under this
Subsection (13).
- 675 (14)

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- (a) A contract entered into or renewed on or after July 1, 2025, between a secondary water supplier and an end user shall allow for billing by tiered conservation rates.
- 677 (b) Except as provided in Subsection (14)(f), by no later than July 1, 2030, regardless of whether the secondary water supplier is fully metered or has modified existing contracts with end users, a secondary water supplier shall begin billing an end user using a tiered conservation rate that considers:
- 681 (i) revenue stability;
- 682 (ii) water conservation; and
- 683 (iii) cost of service.
- 684 (c) A secondary water supplier may comply with Subsection (14)(b) by entering into a contract with a third-party, including the public water system that serves an end user of the secondary water supplier, to bill the end user according to end user's usage of secondary water and the secondary water supplier's tiered conservation rate.
- 688 (d) By no later than April 1, 2030, a secondary water supplier shall provide an educational component for end users as determined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, either on a monthly statement or by an end user specific Internet portal that provides information on the end user's usage more frequently than monthly.
- 693 (e) A public water system:
- 694 (i) shall enter into a contract with a secondary water supplier described in Subsection (14)(c) upon request from the secondary water supplier if the secondary water supplier agrees to provide water use and other data necessary for accurate billing in a file format compatible with the public water supplier's billing system;
- 698 (ii) may collect the costs associated with billing on behalf of a secondary water supplier under this section from the secondary water end users, including reasonable administrative and overhead expenses; and
- 701 (iii) shall, as the public water supplier and the secondary water supplier find necessary or convenient, exchange with the secondary water supplier, for the purpose of maintaining accurate records, relevant information with regard to an end user of the secondary water supplier, such as:
- 705 (A) a billing address;
- 706 (B) an address where the secondary water is delivered;
- 707 (C) a parcel identification number; and

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- 708 (D) ownership information.
709 (f)
(i) A secondary water supplier is not required to bill an end user a tiered conservation rate if the
secondary water supplier is:
711 (A) exempt from metering under Subsection (9), (10), or (11); or
712 (B) authorized to meter at strategic points of the system under Subsection (13).
713 (ii) Notwithstanding the other provisions of this section, on or after July 1, 2030, a secondary water
supplier with a tiered conservation rate under this Subsection (14) shall charge an end user at the
lowest rate of the tiered conservation rate if the end user is using a portion of the water to grow
food, including growing a garden, fruit trees, or pasture for grazing.
718 (g)
(i) If a secondary water supplier violates this Subsection (14) on or after April 1, 2030, the secondary
water supplier:
720 (A) may not receive state money for water related purposes until the secondary water supplier
complies with this Subsection (14); and
722 (B) is subject to an enforcement action of the state engineer in accordance with this Subsection (14)
(g).
724 (ii) The state engineer shall commence an enforcement action under this Subsection (14)(g) if the state
engineer receives a referral from the director of the Division of Water Resources.
727 (iii) The director of the Division of Water Resources shall submit a referral to the state engineer if the
director:
729 (A) finds that a secondary water supplier fails to comply with this Subsection (14); and
731 (B) determines an enforcement action is necessary to conserve or protect a water resource in the state.
733 (iv) To commence an enforcement action under this Subsection (14)(g), the state engineer shall issue
a notice of violation that includes notice of the administrative fine described in Subsection (14)(g)
(xiii) to which a secondary water supplier is subject.
737 (v) The state engineer's issuance and enforcement of a notice of violation is exempt from Title 63G,
Chapter 4, Administrative Procedures Act.
739 (vi) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the state engineer
shall make rules necessary to enforce a notice of violation, that includes:
742

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(A) provisions consistent with this Subsection (14)(g) for enforcement of the notice if a secondary water supplier to whom a notice is issued fails to respond to the notice or abate the violation;

(B) the right to a hearing, upon request by a secondary water supplier against whom the notice is issued; and

(C) provisions for timely issuance of a final order after the secondary water supplier to whom the notice is issued fails to respond to the notice or abate the violation, or after a hearing held under Subsection (14)(g)(vi)(B).

(vii) A person may not intervene in an enforcement action commenced under this Subsection (14)(g).

(viii) After issuance of a final order under rules made pursuant to Subsection (14)(g)(vi), the state engineer shall serve a copy of the final order on the secondary water supplier against whom the order is issued by:

(A) personal service under Utah Rules of Civil Procedure, Rule 5; or

(B) certified mail.

(ix) The state engineer's final order may be reviewed by trial de novo by a court with jurisdiction in Salt Lake County or the county where the violation occurred.

(x) A secondary water supplier shall file a petition for judicial review of the state engineer's final order issued under this Subsection (14)(g) within 20 days from the day on which the final order was served on the secondary water supplier.

(xi) The state engineer may bring suit in a court to enforce a final order issued under this Subsection (14)(g).

(xii) If the state engineer prevails in an action brought under Subsection (14)(g)(x) or (xi), the state may recover court costs and reasonable attorney fees.

(xiii) The administrative fine imposed under this section shall be an amount not to exceed the sum of any money received by the secondary water supplier under this section or Section 73-10-34.5 to fund costs related to metering.

(xiv) Money collected under this Subsection (14) shall be deposited into the Water Resources Conservation and Development Fund, created in Section 73-10-24.

Section 9. Section **73-10-36** is amended to read:

73-10-36. Division to provide technical assistance in local government planning.

(1) As used in this section:

(a) "Division" means the Division of Water Resources.

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- 775 (b) "General plan":
776 (i) for a municipality, means the same as that term is defined in Section 10-20-102; and
778 (ii) for a county, means the same as that term is defined in Section 17-79-102.
779 (c) "Local government" means a county or a municipality, as defined in Section 10-1-104.
780 (d) "Watershed council" means a council created under Chapter 10g, Part 3, Watershed Councils Act.
782 (2) The division shall provide technical assistance to a local government to support the local
government's adoption of a water use and preservation element in a general plan.
784 (3) When consulted by a local government for information and technical resources regarding regional
water conservation goals under Subsection 10-20-404(2)(d) or [~~17-79-403(2)(e)~~] 17-79-403(2)(d),
the division may seek input from the appropriate watershed council or councils.
- 1032 Section 10. Section **79-2-406** is amended to read:
1033 **79-2-406. Wetlands -- In-lieu fee program study.**
- 790 (1) As used in this section, "committee" means the Natural Resources, Agriculture, and Environment
Interim Committee.
792 (2) The department shall publish, on the department's website, the land use permits collected by the
Utah Geological Survey pursuant to Subsection [~~79-3-202(1)(q)~~] 79-3-202(1)(t).
795 (3)
(a) The department shall study and make recommendations to the committee on the viability of an in-
lieu fee program for wetland mitigation, including:
797 (i) the viability of the state establishing and administering an in-lieu fee program; and
798 (ii) the viability of the state partnering with a private organization to establish and administer an in-
lieu fee program.
800 (b) As part of the study described in Subsection (3)(a), the department shall consult with public
and private individuals and entities that may be necessary or helpful to the establishment or
administration of an in-lieu fee program for wetland mitigation, which may include:
804 (i) the Utah Department of Environmental Quality;
805 (ii) the United States Army Corps of Engineers;
806 (iii) the United States Fish and Wildlife Service;
807 (iv) the United States Environmental Protection Agency; or
808 (v) a non-profit entity that has experience with the establishment and administration of in-lieu fee
programs.

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810 (c) The department shall provide a report on the status of the department's study during or before the
committee's November interim meeting in 2022.

812 (d) The department shall provide a final report of the department's study and recommendations,
including any recommended legislation, during or before the committee's first interim meeting in
2023.

1059 Section 11. Section **79-2-702** is amended to read:

1060 **79-2-702. Division creation -- Purpose.**

817 (1) There is created within the department a Division of Law Enforcement.

818 (2) Subject to the priorities defined by the director, the primary function of the division is to enforce:

820 (a) Title 23A, Wildlife Resources Act;

821 (b) Title 41, Chapter 22, Off-highway Vehicles;

822 (c) Title 65A, Forestry, Fire, and State Lands;

823 (d) Title 73, Chapter 18, State Boating Act;

824 (e) this title; and

825 (f) an administrative rule enacted by ~~[an advisory]~~ a board within ~~[any]~~ one of the department's
divisions or by one of the department's divisions.

827 (3) The division shall coordinate with county sheriffs, police, and other law enforcement officers within
a law enforcement jurisdiction the division operates to enforce this part.

829 (4) This part does not limit or modify the powers and duties of other law enforcement officers in the
state.

1075 Section 12. Section **79-3-202** is amended to read:

1076 **79-3-202. Powers and duties of survey.**

833 (1) The survey shall:

834 (a) assist and advise state and local agencies and state educational institutions on geologic,
paleontologic, and mineralogic subjects;

836 (b) collect and distribute reliable information regarding the mineral industry and mineral resources,
topography, paleontology, and geology of the state;

838 (c) survey the geology of the state, including mineral occurrences and the ores of metals, energy
resources, industrial minerals and rocks, mineral-bearing waters, and surface and ground water
resources, with special reference to ~~[their]~~ economic contents, values, uses, kind, and availability ~~[in
order]~~ to facilitate ~~[their]~~ economic use;

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- 842 (d) investigate the kind, amount, and availability of mineral substances contained in lands owned and
controlled by the state, to contribute to the most effective and beneficial administration of ~~[these]~~ the
lands for the state;
- 845 (e) determine and investigate areas of geologic and topographic hazards that could affect the safety of,
or cause economic loss to, the citizens of the state;
- 847 (f) assist local and state agencies in ~~[their-]~~planning, zoning, and building regulation functions by
publishing maps, delineating appropriately wide special earthquake risk areas, and, at the request of
state agencies or other governmental agencies, review the siting of critical facilities;
- 851 (g) cooperate with state agencies, political subdivisions of the state, quasi-governmental agencies,
federal agencies, schools of higher education, and others in fields of mutual concern, which may
include field investigations and preparation, publication, and distribution of reports and maps;
- 855 (h) collect and preserve data pertaining to mineral resource exploration and development programs
and construction activities, such as claim maps, location of drill holes, location of surface and
underground workings, geologic plans and sections, drill logs, and assay and sample maps,
including the maintenance of a sample library of cores and cuttings;
- 860 (i) assist as requested by a state or local agency to measure, analyze, and report on the quantity, quality,
and seasonal and long-term viability of a groundwater and surface water resource in the state;
- 863 (j) provide data that supports scientific understanding, resource planning, and resource development
related to groundwater and surface water;
- 865 (k) assess the function, distribution, and ecological characteristic of a wetland to regional hydrology,
historic change, and resource capacity to enhance resource management or a planning effort;
- 868 ~~[(i)]~~ (l) study and analyze other scientific, economic, or aesthetic problems as, in the judgment of
the board, should be undertaken by the survey to serve the needs of the state and to support the
development of natural resources and ~~[utilization]~~ use of lands within the state;
- 872 ~~[(j)]~~ (m) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the work
accomplished by the survey, directly or in collaboration with others, and collect and prepare exhibits
of the geological and mineral resources of this state and interpret ~~[their]~~ the geological and mineral
resources' significance;
- 876 ~~[(k)]~~ (n) collect, maintain, and preserve data and information~~[-in-order]~~ to accomplish the purposes of
this section and act as a repository for information concerning the geology of this state;
- 879 ~~[(4)]~~ (o) stimulate research, study, and activities in the field of paleontology;

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- 880 ~~[(m)]~~ (p) mark, protect, and preserve critical paleontological sites;
- 881 ~~[(n)]~~ (q) collect, preserve, and administer critical paleontological specimens until the specimens are
placed in a repository or curation facility;
- 883 ~~[(o)]~~ (r) administer critical paleontological site excavation records;
- 884 ~~[(p)]~~ (s) edit and publish critical paleontological records and reports; and
- 885 ~~[(q)]~~ (t) collect the land use permits described in Sections 10-20-611 and 17-79-608.
- 886 (2)
- 887 (a) The survey may maintain as confidential, and not as a public record, information provided to the
survey by any source.
- 888 (b) The board shall adopt rules~~[-in order]~~ to determine whether to accept the information described in
Subsection (2)(a) and to maintain the confidentiality of the accepted information.
- 891 (c) The survey shall maintain information received from any source at the level of confidentiality
assigned to ~~[it]~~ the information by the source.
- 893 (3) Upon approval of the board, the survey shall undertake other activities consistent with Subsection
(1).
- 895 (4)
- 896 (a) Subject to the authority granted to the department, the survey may enter into cooperative agreements
with the entities specified in Subsection (1)(g), if approved by the board, and may accept or commit
allocated or budgeted ~~[funds]~~ money in connection with ~~[those]~~ the agreements.
- 899 (b) The survey may undertake joint projects with private entities if:
- 900 (i) the action is approved by the board;
- 901 (ii) the projects are not inconsistent with the state's objectives; and
- 902 (iii) the results of the projects are available to the public.
- 1147 Section 13. Section **79-3-302** is amended to read:
- 1148 **79-3-302. Members of board -- Qualifications and appointment -- Vacancies -- Organization**
-- Meetings -- Financial gain prohibited -- Expenses.
- 906 (1) The board consists of seven members appointed by the governor, with the advice and consent of the
Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies.
- 908 (2) In addition to the requirements of Section 79-2-203, the members shall have the following
qualifications:
- 910

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- (a) one member knowledgeable in the field of geology as applied to the practice of ~~[civil]~~engineering geology;
- 912 (b) ~~[four]~~ three members knowledgeable and representative of various segments of the mineral industry or energy industry throughout the state, such as hydrocarbons, geothermal, solid fuels, metals, and industrial minerals;
- 915 (c) one member knowledgeable ~~[of the economic or scientific interests of the mineral industry in the state]~~ about the economic and scientific focus of areas over which the survey has duties or powers under Section 79-3-202;~~[-and]~~
- 918 (d) one member knowledgeable about groundwater or water resources; and
- 919 ~~[(d)]~~ (e) one member ~~[who is]~~ :
- 920 (i) interested in the goals of the survey; and
- 921 (ii) from the public at large.
- 922 (3) The director of the School and Institutional Trust Lands Administration is an ex officio member of the board but without~~[-any]~~ voting privileges.
- 924 (4)
- (a) Except as required by Subsection (4)(b), ~~[members are appointed for terms]~~ the governor shall appoint a member to a term of four years.
- 926 (b) Notwithstanding ~~[the requirements of]~~ Subsection (4)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.
- 930 (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term by the governor with the advice and consent of the Senate.
- 933 (5) The board shall select from ~~[its]~~ the board's members a chair and such officers and committees as ~~[it]~~ the board considers necessary.
- 935 (6)
- (a) The board shall hold meetings at least quarterly on ~~[such dates as may be]~~ dates set by ~~[its]~~ the board's chair.
- 937 (b) Special meetings may be held upon notice of the chair or by a majority of ~~[its]~~ the board's members.
- 939 (c) A majority of the members of the board present at a meeting constitutes a quorum for the transaction of business.
- 941 (7)

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(a) ~~[Members]~~ A member of the board may not obtain financial gain by reason of information obtained during the course of ~~[their]~~ the member's official duties.

(b) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

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

(a) Section 63A-3-106;

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

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

Section 14. Section **79-4-402** is amended to read:

79-4-402. State Parks Restricted Account.

(1) There is created within the General Fund a restricted account known as the State Parks Restricted Account.

(2)

(a) Except as provided in Subsection (2)(b), the account consists of revenue from:

(i) ~~[all]~~ charges allowed under Section 79-4-203;

(ii) proceeds from the sale or disposal of ~~[buffalo]~~ bison under Subsection 79-4-1001(2)(b);

(iii) civil damages collected under Section 76-6-206.2; and

(iv) interest on money deposited in the account as follows:

(A) 25% of total interest beginning on July 1, 2025, through June 30, 2026;

(B) 50% of total interest beginning on July 1, 2026, through June 30, 2027;

(C) 75% of total interest beginning on July 1, 2027, through June 30, 2028; and

(D) 100% of total interest beginning on July 1, 2028, and each year thereafter.

(b) The account ~~[shall]~~ may not include revenue the division receives under Section 79-4-403 and Subsection 79-4-1001(2)(a).

(3) The division shall use funds in this account for the purposes described in Section 79-4-203.

Section 15. Section **79-4-1001** is amended to read:

79-4-1001. Purchase, trade, sale, or disposal of bison -- Proceeds.

(1) In accordance with a plan approved by the division to manage ~~[buffalo]~~ bison herds on Antelope Island, the division may purchase, trade, sell, or dispose of ~~[buffalo]~~ bison obtained from Antelope Island through:

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- 974 (a) competitive bidding; or
975 (b) a means as established by rule.
976 (2) Proceeds received from the sale or disposal of [~~buffalo~~] bison under this section shall be deposited
as follows:
978 (a) the first \$75,000 shall accrue to the division for the management of Antelope Island [~~buffalo~~] bison
herds as dedicated credits; and
980 (b) proceeds in excess of \$75,000 shall be deposited into the State Parks Restricted Account created in
Section 79-4-402.

1226 Section 16. **Repealer.**

This Bill Repeals:

- 1227 This bill repeals:
1228 Section **79-2-604, Funding.**
1229 Section **79-6-501, Title.**
1230 Section **79-6-502, Definitions.**
1231 Section **79-6-503, Tax credits.**
1232 Section **79-6-504, Qualifications for tax credit -- Procedure.**
1233 Section **79-6-505, Report to the Legislature.**

1234 Section . **FY 2027 Appropriations.**

1235 The following sums of money are appropriated for the fiscal year beginning July 1,
1236 2026, and ending June 30, 2027. These are additions to amounts previously appropriated for
1237 fiscal year 2027.

1238 Subsection 17(a). **Operating and Capital Budgets**

1239 Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the
1240 Legislature appropriates the following sums of money from the funds or accounts indicated for
1241 the use and support of the government of the state of Utah.

1242 To Department of Natural Resources - Administration

1243 5,000,000

1244 Schedule of Programs:

1245 5,000,000

1246 The Legislature intends that money appropriated
1247 by this item be expended by the Department of Natural

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1248 Resources in accordance with Section 73-1-22 enacted in
1249 this bill.

1250 Section 18. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

2-3-26 2:51 PM