

Title 65A. Forestry, Fire, and State Lands

Chapter 1 Division of Forestry, Fire, and State Lands

65A-1-1 Definitions.

As used in this title:

- (1) "Division" means the Division of Forestry, Fire, and State Lands.
- (2) "Initial attack" means action taken by the first resource to arrive at a wildland fire incident, including evaluating the wildland fire, patrolling, monitoring, holding action, or aggressive suppression action.
- (3) "Multiple use" means the management of various surface and subsurface resources in a manner that will best meet the present and future needs of the people of this state.
- (4) "Municipality" means a city, town, or metro township.
- (5) "Public trust assets" means those lands and resources, including sovereign lands, administered by the division.
- (6) "Sovereign lands" means those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.
- (7) "State lands" means all lands administered by the division.
- (8) "Sustained yield" means the achievement and maintenance of high level annual or periodic output of the various renewable resources of land without impairment of the productivity of the land.
- (9) "Wildland" means an area where:
 - (a) development is essentially non-existent, except for roads, railroads, powerlines, or similar transportation facilities; and
 - (b) structures, if any, are widely scattered.
- (10) "Wildland fire" means a fire that consumes:
 - (a) wildland; or
 - (b) wildland-urban interface, as defined in Section 65A-8a-102.

Amended by Chapter 174, 2016 General Session

65A-1-4 Division of Forestry, Fire, and State Lands -- Creation -- Power and authority.

- (1)
 - (a) The Division of Forestry, Fire, and State Lands is created within the Department of Natural Resources under the administration and general supervision of the executive director of the department.
 - (b) The division is the executive authority for the management of sovereign lands, and the state's mineral estates on lands other than school and institutional trust lands, and shall provide for forestry and fire control activities as required in Section 65A-8-101.
- (2) The division shall adopt rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to fulfill the purposes of this title.
- (3) The director of the Division of Forestry, Fire, and State Lands is the executive and administrative head of the division and shall be a person experienced in administration and management of natural resources.
- (4)

- (a) An aggrieved party to a final action by the director may appeal that action to the executive director of the Department of Natural Resources within 20 days after the action.
- (b) The executive director shall rule on the director's action within 20 days after receipt of the appeal.

Amended by Chapter 413, 2013 General Session

65A-1-5 Attorney general -- Role in affairs of the division.

- (1)
 - (a) The attorney general shall represent the division in any legal action relating to state lands and, upon request by the director, may institute action to enforce the provisions of this title.
 - (b) Whenever an action is brought contesting a decision or act of the division, the division may be named a party in the case rather than the individuals that comprise the division.
- (2) All leases, contracts, and agreements entered into by the division shall be approved as to form by the attorney general prior to execution.
- (3)
 - (a) All suits for the collection of rental and damages shall be instituted by the attorney general, upon request by the director, in the name of the state.
 - (b) The attorney general, upon request by the director, shall prosecute actions for suppression costs or other damage caused by fires on state lands.

Amended by Chapter 294, 1994 General Session

65A-1-6 Witnesses -- Subpoena and oaths.

- (1) The director may issue subpoenas to compel the attendance of witnesses and the production of documents in adjudicative proceedings authorized by law.
- (2) The director may administer oaths in the performance of the council's or division's official duties.

Amended by Chapter 294, 1994 General Session

65A-1-8 Division employees -- Prohibited from acquiring an interest in state lands.

Division employees may not directly or indirectly acquire any interest in state lands.

Amended by Chapter 294, 1994 General Session

65A-1-9 Application of Public Officers' and Employees' Ethics Act.

Employees and agents of the division are subject to Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

Amended by Chapter 413, 2013 General Session

65A-1-10 Proprietary geologic or financial information -- Confidentiality -- Division to adopt rules.

- (1) The division may keep geologic and financial information, which the provider and the division agree is of a proprietary nature, confidential unless the information is required by federal or state law to be of a nonproprietary nature.
- (2) The division shall adopt rules to determine when to accept confidential information.

Amended by Chapter 294, 1994 General Session

65A-1-11 Division's authority to examine records and inspect premises.

- (1) For the purpose of determining compliance with any rule or any performance or payment obligation under a lease, permit, or contract, the division may, at reasonable times, places, and intervals:
 - (a) require that the lessee, permittee, or contractor provide any pertinent books, records, or other documents of the lessee, permittee, or contractor; or
 - (b) inspect the property acquired, used, or developed under the lease, permit, or contract after reasonable notice or as provided in the lease, permit, or contract.
- (2) Nothing in the section shall be construed to limit or invalidate audits conducted by the division prior to the effective date of this act.

Enacted by Chapter 325, 1990 General Session

65A-1-12 Filing date of applications and bids.

Any application or bid required for the lease, permitting, or sale of state lands in a competitive process shall be considered filed or made on the date received by the appropriate division office, whether transmitted by the United States mail or in any other manner.

Enacted by Chapter 283, 1991 General Session

Chapter 2 Administration and Management of State Lands

65A-2-1 Administration of state lands -- Multiple-use sustained yield management.

The division shall administer state lands under comprehensive land management programs using multiple-use sustained yield principles.

Amended by Chapter 294, 1994 General Session

65A-2-2 State land management planning procedures for natural and cultural resources -- Assistance from other state agencies -- Division action.

The division:

- (1) shall develop planning procedures for natural and cultural resources on state lands; and
- (2) may request other state agencies to generate technical data or other management support services for the development and implementation of state land management plans.

Amended by Chapter 294, 1994 General Session

65A-2-3 Endangered or threatened plant species -- Division authorized to protect.

The division may make determinations concerning the management, protection, and conservation of plant species officially designated as endangered or threatened under the federal Endangered Species Act of 1973, as amended, on state lands.

Amended by Chapter 294, 1994 General Session

65A-2-4 State land management plans -- Division to adopt rules for notifying and consulting with interested parties.

- (1) The division shall adopt rules for notifying and consulting with interested parties including the general public, resources users, and federal, state, and local agencies on state land management plans.
- (2) Division rules shall provide:
 - (a) for reasonable notice and comment periods; and
 - (b) that the division respond to all commenting parties and give the rationale for the acceptance or nonacceptance of the comments.

Amended by Chapter 294, 1994 General Session

65A-2-5 Protection of leasehold interests.

The director of the Division of Forestry, Fire, and State Lands, in conjunction with the Wildlife Board, may restrict or limit public use of leased parcels of sovereign lands for hunting, trapping, or fishing:

- (1) upon the petition of the affected lessee;
- (2) after a public hearing; and
- (3) upon a determination that unrestricted public use for hunting, trapping, or fishing substantially interferes with the primary activities authorized by the lease.

Enacted by Chapter 156, 2000 General Session

65A-2-6 Permitted areas at Bear Lake for launching and retrieving watercraft -- Rulemaking authority.

- (1) As used in this section, "motorboat" means the same as that term is defined in Section 73-18-2.
- (2) The division shall issue a permit to an applicant that allows the applicant to launch or retrieve a motorboat on state lands surrounding Bear Lake.
- (3) A permit is required to launch or retrieve a motorboat on state lands surrounding Bear Lake.
- (4) A permit authorizes a person to launch or retrieve a motorboat if:
 - (a) the person owns private property adjacent to state lands surrounding Bear Lake, or has legal right to occupy or use private property adjacent to state lands surrounding Bear Lake, and the person accesses the water from that private property; or
 - (b) the person accesses the water from a recorded point of public access that allows motor vehicle traffic.
- (5) The division shall, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this section.

Amended by Chapter 390, 2015 General Session

65A-2-7 Development of Bear Lake.

The division shall:

- (1) designate state lands along Highway 30 from the Ideal Beach RV Park and Spinnaker Marina southward approximately four miles to Rendezvous Beach State Park, which lands are located in Township 13N, Range 5E, Sections 003, 010, 015, 022, and 023, as an area for the ongoing

- development of facilities for boating, fishing, beach going, swimming, parking, picnicking, and other recreational activities; and
- (2) develop the area described in Subsection (1):
 - (a) consistent with the division's Bear Lake comprehensive management plan; and
 - (b) as funding allows.

Enacted by Chapter 295, 2015 General Session

65A-2-8 Jordan River improvement projects.

- (1) As used in this section:
 - (a) "Commission" means the Jordan River Commission created by interlocal agreement.
 - (b) "Zone" means the Jordan River Recreation Area, the area 250 yards on each side of the Jordan River from the edge of the river between SR-201 and 5400 South.
- (2) The division, subject to applicable federal, state, and local laws and ordinances and Subsections (3) through (5), may:
 - (a) expend money for the following purposes:
 - (i) enhancing safety, recreation, and conservation in the zone;
 - (ii) capital improvements within the zone, including:
 - (A) lighting along the Jordan River and within the zone;
 - (B) completing construction of a paved pathway on both sides of the Jordan River within the zone;
 - (C) building a boat launch, picnic pavilion, bench, restroom, or other amenity within the zone; and
 - (D) supporting Tracy Aviary, a nature area, bike or boat rental concessionaire, or other partnerships to enhance recreation in the zone;
 - (iii) funding programs to clean the zone, remove invasive species, and restore riparian habitat;
 - (iv) hiring or contracting for personnel to perform tasks as directed by the commission;
 - (v) partnering or contracting with an urban ranger or conservation corp operated by a state institution of higher education or similar service-oriented organizations or programs:
 - (A) to provide trail, river, and parkway maintenance, invasive species removal and revegetation, emergency care, and environmental education for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and
 - (B) to report to the appropriate public official all health, safety, or law enforcement concerns that the organization encounters, as directed by the commission; and
 - (vi) partnering or contracting with local law enforcement or a certified peace officer to provide patrol, security, and law enforcement for the area 250 yards on each side of the Jordan River from the edge of the river for the entire length of the river; and
 - (b) purchase, lease, sell, or dispose of property or an easement within the zone to achieve the goals in Subsection (2)(a).
- (3)
 - (a) Before engaging in any activity described in Subsections (2)(a)(i) through (2)(a)(iii) or Subsection (2)(b), the division shall receive the approval of:
 - (i) the commission;
 - (ii) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone, including Salt Lake County Flood Control; and
 - (iii) the relevant municipality within the zone.

- (b) Before engaging in any activity described in Subsections (2)(a)(iv) through (2)(a)(vi), the division shall:
 - (i) receive the approval of the commission; and
 - (ii) consult with:
 - (A) any relevant governmental entity that owns or is responsible for the maintenance of real property within the zone; and
 - (B) the relevant municipality within the zone.
- (4) The commission shall work with the Department of Transportation, created in Section 72-1-201, to:
 - (a) have the Department of Transportation post by no later than July 1, 2025, as funding allows, consistent and attractive signs where a highway that is designated as a state highway under Title 72, Chapter 4, Designation of State Highways Act, but is not a freeway crosses the Jordan River; and
 - (b) advise in the development of methods to provide access from a state highway to the trails along the Jordan River where the trail can be safely accessed.
- (5)
 - (a) The programs described in this section may only be implemented as appropriations from the Legislature allow.
 - (b)
 - (i) Money appropriated to programs in this section is managed by the division in accordance with this section and may include the division dispersing money through issuing grants.
 - (ii) The division shall:
 - (A) before December 31, 2022, issue a five-year grant to a zoo, aviary, nature center, or other educational program located within the zone; and
 - (B) renew the grant described in Subsection (5)(b)(ii)(A) every five years.
 - (c) Money that the Legislature appropriates to programs described in this section is nonlapsing in accordance with Section 63J-1-602.2.

Amended by Chapter 223, 2022 General Session
Amended by Chapter 357, 2022 General Session

Chapter 3

Illegal Activities on State Lands and Wildland Fire Liability

65A-3-1 Trespassing on state lands -- Penalties.

- (1) As used in this section:
 - (a) "Anchored" means the same as that term is defined in Section 73-18-2.
 - (b) "Beached" means the same as that term is defined in Section 73-18-2.
 - (c) "Motorboat" means the same as that term is defined in Section 73-18-2.
 - (d) "Motor vehicle" means the same as that term is defined in Section 41-22-2.
 - (e) "Vessel" means the same as that term is defined in Section 73-18-2.
- (2) A person is guilty of a class B misdemeanor and liable for the civil damages prescribed in Subsection (4) if, without written authorization from the division, the person:
 - (a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, or improvement on state lands;
 - (b) grazes livestock on state lands;

- (c) uses, occupies, or constructs improvements or structures on state lands;
 - (d) uses or occupies state lands for more than 30 days after the cancellation or expiration of written authorization;
 - (e) knowingly and willfully uses state lands for commercial gain;
 - (f) appropriates, alters, injures, or destroys any historical, prehistorical, archaeological, or paleontological resource on state lands;
 - (g) starts or maintains a fire on state lands except in a posted and designated area;
 - (h) camps on state lands, except in posted or designated areas;
 - (i) camps on state lands for longer than 15 consecutive days at the same location or within one mile of the same location;
 - (j) camps on state lands for 15 consecutive days, and then returns to camp at the same location before 15 consecutive days have elapsed after the day on which the person left that location;
 - (k) leaves an anchored or beached vessel unattended for longer than 48 hours on state lands;
 - (l) anchors or beaches a vessel on state lands at the same location for longer than 72 hours or within two miles of the same location for longer than 72 hours;
 - (m) anchors or beaches a vessel on state lands at the same location for 72 hours, and then returns to anchor or beach the vessel at the same location or within two miles of the same location before 72 hours have elapsed after the day on which the person left that location;
 - (n) posts a sign claiming state land as private property;
 - (o) prohibits, prevents, or obstructs public entry to state land where public entry is authorized by the division; or
 - (p) parks or operates a motor vehicle on the bed of a navigable lake or river except in those areas:
 - (i) supervised by the Division of State Parks, the Division of Outdoor Recreation, or another state or local enforcement entity; and
 - (ii) which are posted as open to vehicle use.
- (3) A person is guilty of a class C misdemeanor and liable for civil damages described in Subsection (4) if, on state lands surrounding Bear Lake and without written authorization of the division, the person:
- (a) parks or operates a motor vehicle in an area on the exposed lake bed that is specifically posted by the division as closed for usage;
 - (b) camps, except in an area that is posted and designated as open to camping;
 - (c) exceeds a speed limit of 10 miles per hour while operating a motor vehicle;
 - (d) drives recklessly while operating a motor vehicle;
 - (e) parks or operates a motor vehicle within an area between the water's edge and 100 feet of the water's edge except as necessary to:
 - (i) launch or retrieve a motorboat, if the person is permitted to launch or retrieve a motorboat;
 - (ii) transport an individual with limited mobility; or
 - (iii) deposit or retrieve equipment to a beach site;
 - (f) travels in a motor vehicle parallel to the water's edge:
 - (i) in areas designated by the division as closed;
 - (ii) a distance greater than 500 yards; or
 - (iii) for purposes other than travel to or from a beach site;
 - (g) parks or operates a motor vehicle between the hours of 10 p.m. and 7 a.m.; or
 - (h) starts a campfire or uses fireworks.
- (4) A person who commits any act described in Subsection (2) or (3) is liable for damages in the amount of:
- (a) three times the value of the mineral or other resource removed, destroyed, or extracted;

- (b) three times the value of damage committed; or
 - (c) three times the consideration which would have been charged by the division for use of the land during the period of trespass.
- (5) In addition to the damages described in Subsection (4), a person found guilty of a misdemeanor under Subsection (2) or (3) is subject to the penalties provided in Section 76-3-204.
- (6) Money collected under this section shall be deposited in the fund in which similar revenues from that land would be deposited.

Amended by Chapter 68, 2022 General Session
Amended by Chapter 234, 2022 General Session

65A-3-2 Wildland fire prevention -- Prohibited acts.

- (1) A person is guilty of a class B misdemeanor who:
- (a) throws or places a lighted cigarette, cigar, firecracker, ashes, or other flaming or glowing substance that may cause a fire on a highway or a wildland fire;
 - (b) obstructs the state forester, an employee of the division, or an agent of the division, in the performance of controlling a fire;
 - (c) refuses, on proper request of the state forester, an employee of the division, or an agent of the division, to assist in the controlling of a fire, without good and sufficient reason; or
 - (d) fires a tracer or incendiary ammunition:
 - (i) anywhere except within the confines of established military reservations; or
 - (ii) except with the written permission of the director of the Division of Forestry, Fire, and State Lands, given upon written request, if the director:
 - (A) specifies a limited period of time and a limited area in which the ammunition may be used; and
 - (B) issues the written permission in accordance with this title and applicable rules.
- (2) Fines assessed under this section are deposited in the General Fund.

Amended by Chapter 78, 2015 General Session

65A-3-2.5 Wildland fire and unmanned aircraft.

- (1) As used in this section:
- (a) "Incident commander" means the government official or employee in command of the response to a wildland fire.
 - (b) "Neutralize" means to terminate the operation of an unmanned aircraft by:
 - (i) disabling or damaging the unmanned aircraft;
 - (ii) interfering with any portion of the unmanned aircraft system associated with the unmanned aircraft; or
 - (iii) otherwise taking control of the unmanned aircraft or the unmanned aircraft system associated with the unmanned aircraft.
 - (c) "Sanctioned entity" includes a person that oversees, is employed by, or is working under the direction of:
 - (i) a government entity;
 - (ii) a telecommunications provider;
 - (iii) a utility provider;
 - (iv) the owner or operator of a pipeline;
 - (v) an insurance provider;
 - (vi) a resource extraction entity;

- (vii) news media;
 - (viii) a person that operates an unmanned aircraft system under a certificate of waiver, a certificate of authorization, or any other grant of authority obtained from the Federal Aviation Administration that expressly authorizes operation of the unmanned aircraft system; or
 - (ix) a person similar to a person described in Subsections (1)(c)(i) through (vii).
- (d) "Unmanned aircraft" means an aircraft that is:
- (i) capable of sustaining flight; and
 - (ii) operated with no possible direct human intervention from on or within the aircraft.
- (e) "Unmanned aircraft system" means the entire system used to operate an unmanned aircraft, including:
- (i) the unmanned aircraft;
 - (ii) communications equipment;
 - (iii) navigation equipment;
 - (iv) controllers;
 - (v) support equipment; and
 - (vi) autopilot functionality.
- (2) A person may not operate an unmanned aircraft system in a manner that causes an unmanned aircraft to fly within an area that is under a temporary flight restriction that is issued by the Federal Aviation Administration as a result of the wildland fire, or an area designated as a wildland fire scene on a system managed by a federal, state, or local government entity that disseminates emergency information to the public, unless the person operates the unmanned aircraft system with the permission of, and in accordance with the restrictions established by, the incident commander.
- (3) A person, other than a government official or a government employee acting within the person's capacity as a government official or government employee, that recklessly operates an unmanned aircraft system in a manner that causes an unmanned aircraft to fly within an area described in Subsection (2) is guilty of:
- (a) except as provided in Subsection (3)(b), (c), or (d), a class B misdemeanor, punishable by imprisonment as provided in Section 76-3-204 and a fine not to exceed \$2,500;
 - (b) except as provided in Subsection (3)(c) or (d), a class A misdemeanor, punishable by imprisonment as provided in Section 76-3-204 and a fine not to exceed \$5,000, if the operation of the unmanned aircraft system:
 - (i) causes an aircraft being used to contain or control a wildland fire to drop a payload of water or fire retardant in a location other than the location originally designated for the aircraft to drop the payload;
 - (ii) causes an aircraft being used to contain or control a wildland fire to land without dropping a payload of water or fire retardant in the location originally designated for the aircraft to drop the payload; or
 - (iii) prevents an aircraft, intended for use in containing or controlling a wildland fire, from taking flight;
 - (c) except as provided in Subsection (3)(d), a third degree felony, punishable by imprisonment as provided in Section 76-3-203 and a fine not to exceed \$10,000, if the operation of the unmanned aircraft system causes the unmanned aircraft to come into direct physical contact with a manned aircraft; or
 - (d) a second degree felony, punishable by imprisonment as provided in Section 76-3-203 and a fine not to exceed \$15,000, if the operation of the unmanned aircraft is the proximate cause of a manned aircraft colliding with the ground, a structure, or another manned aircraft.

- (4) A judge may require a person convicted of a violation under Subsection (3) to pay restitution in an amount equal to damages resulting from the violation, including damages to person or property, the costs of a flight, and any loss of fire retardant.
- (5) The incident commander of a wildland fire shall grant reasonable access to the area of, and within three miles of, the wildland fire to a sanctioned entity if:
 - (a) the access is for a purpose related to the responsibilities or business of the sanctioned entity; and
 - (b) the access can be granted, with reasonable restrictions, without imposing a safety risk or impairing efforts to control the wildland fire.
- (6) The chief law enforcement officer for a jurisdiction located in an area described in Subsection (2) or the incident commander of a wildland fire may neutralize or authorize another to neutralize an unmanned aircraft that is flying in an area described in Subsection (2) if the chief law enforcement officer or the incident commander determines that the neutralization is reasonably necessary to terminate a violation described in Subsection (3).
- (7) A political subdivision of the state, or an entity within a political subdivision of the state, may not enact a law, ordinance, or rule governing the private use of an unmanned aircraft in relation to a wildland fire.

Amended by Chapter 3, 2016 Special Session 3

65A-3-3 Enforcement of laws -- City, county, or district attorney to prosecute.

- (1) It is the duty of the division, county sheriffs, their deputies, peace officers, and other law enforcement officers within the law enforcement jurisdiction to enforce the provisions of this chapter and to investigate and gather evidence that may indicate a violation under this chapter.
- (2)
 - (a) The city attorney, county attorney, or district attorney, as appropriate under Sections 10-3-928, 17-18a-202, and 17-18a-203, shall prosecute any criminal violations of this chapter.
 - (b) The counsel for an eligible entity, as defined in Section 65A-8-203, shall initiate a civil action to recover suppression costs incurred by the eligible entity for suppression of fire on private land.

Amended by Chapter 174, 2016 General Session

65A-3-4 Liability for causing wildland fires.

- (1) As used in this section:
 - (a) "Electric cooperative" means the same as that term is defined in Section 54-24-102.
 - (b) "Electrical transmission wildland fire protection plan" means a wildland fire protection plan, as defined in Section 54-24-102, that is:
 - (i) prepared and submitted by a qualified utility and approved as provided in Section 54-24-201; or
 - (ii) prepared and submitted by an electric cooperative and approved as provided in Section 54-24-203.
 - (c) "Qualified utility" means the same as that term is defined in Section 54-17-801.
- (2)
 - (a) Except as provided in Subsection (3), a person who negligently, recklessly, or intentionally causes or spreads a wildland fire shall be liable for the cost of suppressing that wildland fire, regardless of whether the fire begins on:
 - (i) private land;

- (ii) land owned by the state;
 - (iii) federal land; or
 - (iv) tribal land.
- (b) The conduct described in Subsection (2)(a) includes any negligent, reckless, or intentional conduct, and is not limited to conduct described in Section 65A-3-2.
- (3) In an action under this section to recover for property damage resulting from a wildland fire or to recover the cost of fire suppression resulting from a wildland fire, a qualified utility or electric cooperative may not be considered to have negligently caused a wildland fire if:
- (a)
 - (i) the electrical transmission wildland fire protection plan of the qualified utility or electric cooperative identifies and addresses the cause of the wildland fire for fire mitigation purposes; and
 - (ii) at the origin of the wildland fire, the qualified utility or electric cooperative has completed the fire mitigation work identified in the electrical transmission wildland fire protection plan, including:
 - (A) inspection, maintenance, and repair activities;
 - (B) modifications or upgrades to facilities or construction of new facilities;
 - (C) vegetation management work; and
 - (D) preventative programs; or
 - (b)
 - (i) the qualified utility or electric cooperative is denied or delayed access to a right-of-way on land owned by the state, a federal agency, or a tribal government after the qualified utility or electric cooperative requests access to the right-of-way to perform vegetation management or fire mitigation work in accordance with an electrical transmission wildland fire protection plan; and
 - (ii) the electrical transmission wildland fire protection plan identifies and addresses the cause of the wildland fire for fire mitigation purposes.
- (4) A person who incurs costs to suppress a wildland fire may bring an action under this section to recover those costs.
- (5)
 - (a) A property owner who suffers damages resulting from a wildland fire may bring an action under this section to recover those damages.
 - (b) An award for damages to real property resulting from a wildland fire, including the loss of vegetation, shall be the lesser of:
 - (i) the cost to restore the real property to its pre-wildland fire condition; or
 - (ii) the difference between:
 - (A) the fair market value of the real property before the wildland fire; and
 - (B) the fair market value of the real property after the wildland fire.
- (6) A person who suffers damage from a wildland fire may pursue all other legal remedies in addition to seeking damages under Subsection (4) or (5).

Amended by Chapter 162, 2020 General Session

Chapter 4

Acquisition and Disposition of Land by State Agencies

65A-4-1 Acquisition and disposition of land by state agencies.

- (1) All state agencies may acquire land by gift, devise, bequest, exchange, compensation for public resource value loss, or in satisfaction of a debt and are authorized to sell, lease, or otherwise dispose of land no longer needed for public purposes, unless otherwise provided by law.
- (2) The proceeds from the sale, lease, or other disposition of land shall go to the state agency using or holding the land unless:
 - (a) the governor or the Legislature order its deposit in the fund from which the state agency receives its appropriations; or
 - (b) the use or disposition of the proceeds is specified elsewhere in law.
- (3) Subsections (1) and (2) do not apply to division-owned property, as defined in Section 63A-5b-901.

Amended by Chapter 152, 2020 General Session

65A-4-2 Central index -- Division to maintain index of lands owned by agencies of the Department of Natural Resources -- Information to be furnished.

- (1) The division shall maintain a central index of all lands owned by agencies of the Department of Natural Resources and shall make that index available for the public.
- (2) All agencies of the Department of Natural Resources having any right, title, or interest in lands shall furnish the division with the following information:
 - (a) legal description of the land;
 - (b) when the land was acquired;
 - (c) where the abstracts, deeds, or other indicia of interest in the property may be found;
 - (d) name of agency acquiring or holding the mineral interest;
 - (e) name of the grantor; and
 - (f) nature of state's interest in the land including whether mineral interests were obtained.
- (3) This section does not apply to Board of Water Resources lands that are subject to a repurchase agreement by the water project sponsor.

Enacted by Chapter 121, 1988 General Session

65A-4-3 Mineral leases -- Made exclusively by division -- Disposition of state mineral lease revenues.

- (1) Mineral leases of all lands owned by the state, except school and institutional trust lands, shall be made exclusively through the division, pursuant to division rules, with the consent of the state agency using or holding the land.
- (2)
 - (a) All revenues from mineral leases of sovereign lands shall be deposited in the Sovereign Lands Management Account.
 - (b) That portion of all revenues from mineral leases on other lands managed by the division necessary to recover management costs shall be deposited in the Sovereign Lands Management Account.
 - (c) The balance of state mineral lease revenues shall be utilized as directed by the agency or donor.

Amended by Chapter 294, 1994 General Session

Chapter 5

Deposit and Allocation of Revenues from State Lands

65A-5-1 Sovereign Lands Management Account.

- (1) There is created within the General Fund a restricted account known as the "Sovereign Lands Management Account."
- (2) The Sovereign Lands Management Account shall consist of the following:
 - (a) the revenues derived from sovereign lands, except for revenues deposited into the Great Salt Lake Account under Section 73-32-304;
 - (b) that portion of the revenues derived from mineral leases on other lands managed by the division necessary to recover management costs;
 - (c) revenues derived from the Great Salt Lake Preservation support special group license plate described in Sections 41-1a-418 and 41-1a-422;
 - (d) fees deposited by the division; and
 - (e) amounts deposited into the account in accordance with Section 59-23-4.
- (3)
 - (a) The expenditures of the division relating directly to the management of sovereign lands shall be funded by appropriation by the Legislature from the Sovereign Lands Management Account or other sources.
 - (b) Money in the Sovereign Lands Management Account may be used only for the direct benefit of sovereign lands, including the management of sovereign lands.
 - (c) In appropriating money from the Sovereign Lands Management Account, the Legislature shall prefer appropriations that benefit the sovereign land from which the money is derived unless compelling circumstances require that money be appropriated for sovereign land other than the sovereign land from which the money is derived.
- (4) The division shall use the amount deposited into the account under Subsection (2)(d) for the Great Salt Lake as described in Section 65A-10-203 as directed by the Great Salt Lake Advisory Council created in Section 73-32-302.

Amended by Chapter 205, 2023 General Session
Amended by Chapter 208, 2023 General Session
Amended by Chapter 358, 2023 General Session

65A-5-2 Deposit and allocation of money received.

- (1)
 - (a) The division shall pay to the state treasurer money received, accompanied by a statement showing the respective sources of the money.
 - (b) Each source shall be classified as to sales, rentals, royalties, interest, fees, penalties, and forfeitures.
- (2)
 - (a) Money received by the division as a first or down payment on an application to purchase, permit, or lease state lands or minerals shall be paid to the state treasurer and held in suspense pending final action on the application.
 - (b) After final action a payment described in Subsection (2)(a) shall either be credited to the appropriate fund or account, or refunded to the applicant in accordance with the action taken.

Amended by Chapter 54, 2022 General Session

Chapter 6 Mineral Leases

65A-6-1 Coal and mineral deposits reserved -- Exceptions.

- (1)
 - (a) Except as otherwise expressly provided by law, coal and mineral deposits in state-owned lands are reserved to the state. Each certificate of sale and patent issued shall contain such a reservation.
 - (b) The purchaser of any lands belonging to the state:
 - (i) acquires no right, title, or interest in coal or mineral deposits; and
 - (ii) is subject to the conditions and limitations prescribed by law providing for the state and any person authorized by it to:
 - (A) prospect or mine;
 - (B) remove the deposits; and
 - (C) occupy and use as much of the surface of the lands as may be required for any purpose reasonably incident to the mining and removal of the deposits.
 - (c) Improved farm lands acquired by the state through foreclosure proceedings or conveyed to the state by deed in satisfaction of farm loan mortgages may be sold by the state without mineral reservations.
 - (d) Coal and mineral deposits in state-owned lands may not be sold but may be leased on a rental and royalty basis.
- (2) Except as otherwise prohibited by the Jones Act of January 25, 1927, 43 U.S.C. Sections 870-871, mineral interests in state-owned lands may be exchanged for mineral interests of comparable value or otherwise disposed of, if their retention would create a liability exceeding their value.
- (3)
 - (a) Salts and other minerals in the waters of navigable lakes and streams are reserved to the state and may be sold by the division only upon a royalty basis.
 - (b) A contract for the recovery of salts or minerals from navigable waters shall be subject to the use of the waters for public purposes.
 - (c) Before a contract for the recovery of salts or minerals from navigable waters is executed, the applicant shall provide evidence that:
 - (i) an application for the appropriation of water for that purpose has been filed with the state engineer; and
 - (ii) the application is pending or accepted in that office.
- (4) Common varieties of sand, gravel, and cinders are not considered to be minerals under this section. Common varieties do not include deposits which are valuable because the deposit contains other materials giving it distinct and special value.

Amended by Chapter 283, 1991 General Session

65A-6-2 Mineral leases -- Division to prescribe rules.

The division shall by rule prescribe:

- (1) the term of the lease;
- (2) the annual rental;

- (3) subject to Section 65A-6-4, the amount of royalty in addition to or in lieu of rental; and
- (4) the basis upon which the royalty shall be computed.

Amended by Chapter 208, 2023 General Session

65A-6-3 Applications for mineral leases -- Compliance with business laws.

Applicants for mineral leases shall fully comply with all of the laws of the state as to qualification to do business within this state and must not be in default under any such laws during the pendency of the application and throughout the duration of the lease.

Amended by Chapter 294, 1994 General Session

65A-6-4 Mineral leases -- Multiple leases on same land -- Rentals and royalties -- Lease terms -- Great Salt Lake.

(1) As used in this section:

(a) "Great Salt Lake element or mineral" means:

- (i) a rare earth element;
- (ii) a trace element or mineral; or
- (iii) a chemical compound that includes a rare earth element or trace element or mineral.

(b) "Rare earth element" is one of the following ores, minerals, or elements located in the brines or the sovereign lands of the Great Salt Lake:

- (i) lanthanum;
- (ii) cerium;
- (iii) praseodymium;
- (iv) neodymium;
- (v) samarium;
- (vi) europium;
- (vii) gadolinium;
- (viii) terbium;
- (ix) dysprosium;
- (x) holmium;
- (xi) erbium;
- (xii) thulium;
- (xiii) ytterbium;
- (xiv) lutetium; and
- (xv) yttrium.

(c) "Trace element or mineral" means an element or mineral that is located in the brines or the sovereign lands of the Great Salt Lake that is not in production by July 1, 2020, and for which the state has not received a royalty payment by July 1, 2020.

(2)

(a) Mineral leases, including oil, gas, and hydrocarbon leases, may be issued for prospecting, exploring, developing, and producing minerals covering any portion of state lands or the reserved mineral interests of the state.

(b)

- (i) Leases may be issued for different types of minerals on the same land.
- (ii) If leases are issued for different types of minerals on the same land, the leases shall include stipulations for simultaneous operations, except that for leases related to the Great Salt

Lake the leases shall include stipulations for simultaneous operations that will not interfere with, impede, limit, or require changes to pre-existing rights.

- (c) No more than one lease may be issued for the same resource on the same land.
 - (d) The division shall require a separate royalty agreement for extraction of minerals from brines of the Great Salt Lake when:
 - (i) a mineral lease, a royalty agreement, or both that are in effect before the operator seeks to extract a particular mineral or mineral compound do not expressly include the right to extract the particular mineral or mineral compound; or
 - (ii) the proposed operation will use brines from the Great Salt Lake, but will not occupy sovereign lands for the direct production of minerals other than for incidental structures such as pumps and intake and outflow pipelines.
- (3)
- (a) Each mineral lease issued by the division shall provide for an annual rental of not less than \$1 per acre per year, except that a mineral lease issued by the division involving the extraction of mineral from brines in the Great Salt Lake shall provide for an annual rental of not less than \$100 per acre per year.
 - (b) However, a lease may provide for a rental credit, minimum rental, or minimum royalty upon commencement of production, as prescribed by rule.
- (4) The primary term of a mineral lease may not exceed:
- (a) 20 years for oil shale and tar sands; and
 - (b) 10 years for oil and gas and any other mineral.
- (5)
- (a) Subject to the other provisions of this Subsection (5), for a mineral lease or royalty agreement involving the extraction of minerals from brines in the Great Salt Lake, the division shall ensure that the following terms are included:
 - (i) an extraction operation or extraction method shall adhere to commercially viable technologies that minimize water depletion;
 - (ii) an extraction operation or extraction method shall mitigate for the total amount of water depleted by providing water back into the Great Salt Lake that approximates the total volume of water depleted;
 - (iii) a provision authorizing the division to curtail or limit mineral production at any time the condition of the Great Salt Lake reaches the emergency trigger, as defined in Section 65A-10-201;
 - (iv) a provision authorizing the division to withdraw lands, operations, extraction methods, or technologies from mineral production or mineral operations; and
 - (v) a provision allowing the division to require an existing operator to use commercially viable, innovative technologies to minimize water depletions caused by the planned mineral extraction as a condition of continued operations.
 - (b) If as of May 3, 2023, an operator has a mineral lease but not a royalty agreement involving the extraction of minerals from brines in the Great Salt Lake, the extraction operation or extraction method shall mitigate the total water depleted as provided in Subsection (5)(a)(ii) only to the extent that the extraction operation or extraction method increases total depletions as compared to an estimated 10-year average of depletions as estimated by the Division of Water Resources' water budget model beginning on January 1, 2013, and ending on December 31, 2022.
 - (c) If under Subsection (5)(a)(v) the division requires an existing operator to use a commercially viable, innovative technology, the division may not require use of the technology to begin until after a reasonable period determined by the division not to exceed five years.

- (6)
- (a) Upon nomination from a prospective operator, the division shall by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish a royalty rate and calculation methodology for a Great Salt Lake element or mineral that:
 - (i) provides for a full and fair return to the state from the production of the Great Salt Lake element or mineral;
 - (ii) is consistent with market royalty rates applicable to the production of the Great Salt Lake element or mineral or of the production of oil and gas;
 - (iii) provides a base royalty rate;
 - (iv) provides a reduced royalty rate from the royalty rate under Subsection (6)(a)(iii) if the royalty agreement:
 - (A) relates to a non-evaporative method of producing the Great Salt Lake element or mineral; or
 - (B) provides an incentive to use commercially viable, innovative technology to minimize water depletion and evaporation as determined by the division; and
 - (v) provides for a royalty rate that is based on the highest market value prevailing at the time of the sale or disposal of the following:
 - (A) the Great Salt Lake element or mineral; or
 - (B) a product the lessee produces from the Great Salt Lake element or mineral.
 - (b) Before entering into a royalty agreement permitting the extraction of Great Salt Lake elements or minerals, the operator shall:
 - (i) demonstrate commercial viability;
 - (ii) certify before operation begins that the operator is not negatively impacting the biota or chemistry of the Great Salt Lake; and
 - (iii) obtain the approval of the division and the Department of Environmental Quality that the certification supports a finding that the operation will not negatively impact the biota or chemistry of the Great Salt Lake.
 - (c) A new mineral lease for a mineral in production in the Great Salt Lake as of May 3, 2023, is subject to new royalty rates due to emergent technologies.
 - (d) An operator who as of July 1, 2020, had a mineral lease with the division but not a royalty agreement and who is subject to a severance tax under Subsection 59-5-202(5) shall pay a royalty under this section in addition to the severance tax.
 - (7) An operator who extracts a Great Salt Lake element or mineral from tailings from the production of minerals from brines in the Great Salt Lake is subject to this section to the same extent as an operator producing a Great Salt Lake element or mineral from brines in the Great Salt Lake.
 - (8) The division shall annually report to the Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittee regarding the amount of money collected under this section from royalties provided for in Subsection (6).
 - (9) In the issuance of royalty agreements for the extraction of lithium from the Great Salt Lake, the division shall prioritize applicants that:
 - (a) do not use evaporative concentration of Great Salt Lake brines in any stage of the extractive process; and
 - (b) use commercially viable extractive processes.
 - (10) Except in relationship to mineral leases related to the Great Salt Lake, the division shall make rules regarding the continuation of a mineral lease after the primary term has expired, which shall provide that a mineral lease shall continue so long as:
 - (a) the mineral covered by the lease is being produced in paying quantities from:
 - (i) the leased premises;

- (ii) lands pooled, communitized, or unitized with the leased premises; or
 - (iii) lands constituting an approved mining or drilling unit with respect to the leased premises; or
- (b)
- (i) the lessee is engaged in diligent operations, exploration, research, or development which is reasonably calculated to advance development or production of the mineral covered by the lease from:
 - (A) the leased premises;
 - (B) lands pooled, communitized, or unitized with the leased premises; or
 - (C) lands constituting an approved mining or drilling unit with respect to the leased premises;and
 - (ii) the lessee pays a minimum royalty.
- (11) For the purposes of Subsection (10), diligent operations with respect to oil, gas, and other hydrocarbon leases may include cessation of operations not in excess of 90 days in duration.
- (12)
- (a) The division shall study and analyze each mineral lease and mineral royalty agreement issued on the Great Salt Lake and compare and evaluate whether the mineral leases and royalty agreements are representative of current market conditions. As part of this study, the division shall:
 - (i) make the following determinations for mineral leases:
 - (A) whether the entire surface area described within the mineral lease is being used; and
 - (B) whether the annual lease payments are representative of current market conditions; and
 - (ii) for royalty agreements, perform studies and comparative analyses to determine whether the state is receiving royalty rates consistent with current market conditions.
 - (b) By no later than the 2023 November interim meeting, the division shall report the division's findings of the study required by this Subsection (12) to the Natural Resources, Agriculture, and Environment Interim Committee.

Amended by Chapter 208, 2023 General Session

65A-6-5 Division may withdraw lands from leasing -- Mineral lease application procedures.

- (1) The division may at any time withdraw state lands from leasing.
- (2) Lands that are not encumbered by a current mineral lease for the same resource, a withdrawal order, or other division rule prohibiting the lease of the lands, shall be offered for lease as provided in this section.
- (3) A notice of the land available for leasing shall be posted in the office of the division. The notice shall:
 - (a) describe the land;
 - (b) indicate what mineral interest in each tract is available for leasing; and
 - (c) state the last date, which shall be no less than 15 days after the notice is posted, on which bids may be received.
- (4)
 - (a) Applications for the lease of lands filed before the closing date stated in the notice shall be considered to be filed simultaneously.
 - (b) The applications shall be:
 - (i) submitted in sealed envelopes; and
 - (ii) opened in the office of the division at 10:00 a.m. of the first business day following the last day on which bids may be received.

- (c) Leases shall be awarded to the highest responsible, qualified bidder, in terms of the bonus paid in addition to the first year's rental, who submitted a bid in the manner required.
- (d)
 - (i) In cases of identical bids of successful bidders, the right to lease shall be determined by drawing.
 - (ii) The drawing shall be held in public at the office of the division.
- (5)
 - (a) At the discretion of the division, mineral leases may be offered at an oral public auction.
 - (b) The division may set a minimum bid for a public auction.
- (6) The division may award a mineral lease without following the competitive bidding procedures specified in Subsections (3) and (4) or conducting an oral public auction, if the mineral lessee waives or relinquishes to the state a prior mining claim, mineral lease, or other right which in the opinion of the division might otherwise cloud the title to any of those lands.
- (7) Following the awarding of a lease to a successful bidder, deposits, except filing fees, made by unsuccessful bidders shall be returned.
- (8)
 - (a) Lands acquired through exchange from the federal government shall be subject to the vested rights of unpatented mining claimants under the Mining Law of 1872, as amended, and other federal vested rights, both surface and minerals.
 - (b) This provision does not prevent the state from negotiating the accommodation of vested rights through any method acceptable to the parties.
- (9) The division may lease lands in the order in which applications are filed if:
 - (a) the division offers newly acquired or existing state lands for lease for mineral purposes according to the procedures in Subsections (3) through (6) and the lands are not leased; or
 - (b) a period of time of one year or more has elapsed following:
 - (i) a revocation of a withdrawal; or
 - (ii) the date an existing mineral lease is canceled, relinquished, surrendered, or for any reason terminated.

Amended by Chapter 294, 1994 General Session

65A-6-6 Mineral lease covenants.

Each mineral lease shall contain the following covenants:

- (1) the lessee shall promptly pay any rent annually in advance;
- (2) waste may not be committed on the land;
- (3) the premises shall be surrendered at the expiration of the term;
- (4) the lessee may not assign or sublet without the written authorization of the director; and
- (5) where improvements have been placed on the land by any person other than the lessee, the lessee will allow the owner of the improvements to remove them within 90 days.

Amended by Chapter 283, 1991 General Session

65A-6-7 Mineral information to be furnished -- Confidentiality.

- (1) The division may require the lessee to furnish any information necessary to carry out the duties of this chapter, including geological and mine maps, well logs, and assays.
- (2) Any information submitted to the division which the lessee and the division agree is of a proprietary nature shall be classified as protected and may not be released without written permission from the lessee.

Amended by Chapter 294, 1994 General Session

65A-6-8 Mineral leases -- Cancellation -- Use of surface land -- Liability for damage.

- (1) Upon violation by the lessee of any lawful provision in a mineral lease, the division may cancel the lease after 30 days' notice by registered or certified return receipt mail, unless the lessee:
 - (a) remedies the violation;
 - (b) rectifies the condition; or
 - (c) requests a hearing within:
 - (i) the 30 days; or
 - (ii) any extension of time the division grants.
- (2)
 - (a) A mineral lessee, subject to conditions required by the division, shall have:
 - (i) the right at all times to enter upon the leasehold for prospecting, exploring, developing, and producing minerals; and
 - (ii) reasonable use of the surface.
 - (b) The lessee shall not injure, damage, or destroy the improvements of the surface owner or lessee.
 - (c) The lessee is liable to the surface owner or lessee for all damage to the surface of the land and improvements, except for reasonable use.
- (3) Any mineral lessee may occupy as much of the surface of the leased land as may be required for all purposes reasonably incident to the exercise of lessee's rights under the lease by:
 - (a) securing the written consent or waiver of the surface owner or lessee;
 - (b) payment for the damage to the surface of the land and improvements to the surface owner or lessee where there is agreement as to the amount of the damage; or
 - (c) upon the execution of a good and sufficient bond to the state for the use and benefit of the surface owner or lessee of the land to secure the payment of damages as may be determined and fixed by agreement or in action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties of the bond.
- (4) The bond required by Subsection (3)(c) shall be:
 - (a) in a form and amount as prescribed by the division; and
 - (b) filed with the division.

Amended by Chapter 136, 2007 General Session

65A-6-9 Shut-in gas wells.

- (1) Under a mineral lease for oil and gas, gas is considered to be produced in paying quantities from a shut-in gas well if the shut-in gas well is capable of producing gas in paying quantities, but the gas cannot be marketed at a reasonable price due to existing marketing or transportation conditions.
- (2)
 - (a) The division shall make rules establishing:
 - (i) a minimum rental or minimum royalty for a shut-in gas well that is considered to be producing gas in paying quantities; and
 - (ii) the basis upon which the minimum rental or minimum royalty shall be paid.
 - (b) The minimum rental or minimum royalty may not be less than twice the annual lease rental.

Amended by Chapter 294, 1994 General Session

65A-6-10 Unitization of mineral leases.

- (1) Mineral lessees, upon prior written authorization from the division, may commit leased state lands to unit, cooperative, or other plans of development with other lands.
- (2) The division may, with the consent of the mineral lessee, modify any term of a mineral lease for lands that are committed to a unit, cooperative, or other plan of development.
- (3) Production allocated to leased state lands under the terms of a unit, cooperative, or other plan of development shall be considered produced from the leased lands whether or not the point of production is located on the leased state lands.

Amended by Chapter 283, 1991 General Session

65A-6-11 Land subject to a federal mineral lease.

- (1) With respect to any tract of land in which the state acquires or has acquired any interest subject to an outstanding federal mineral lease or prospecting permit, the lessee or permittee may submit a petition seeking extension of the permit or lease or any other action as may be necessary to give to the lessee or permittee any and all rights, privileges, and benefits which he would have had under the permit or lease had the state not acquired its interest in the tract.
- (2) In consideration of the voluntary termination by the federal lessee or permittee of his lease or permit as it relates to that tract, the division may issue to that lessee or permittee a lease of the acquired tract or any portion of that tract for recovery of the same mineral substances upon terms that the lessee shall have all the rights, privileges, and benefits with reference to that tract which he would have had by reason of his lease or permit from the United States had the state not acquired its interest in the tract.

Enacted by Chapter 121, 1988 General Session

65A-6-12 Agreements for the administration of mineral leases by a federal agency.

- (1) If the state has succeeded or will succeed to the position of the United States under a federal mineral or prospecting permit in which only a portion of the lands are subject to the permit, agreements may be entered into with the federal agency having jurisdiction over the remaining portion providing for the continued administration by that agency of the entire lease or permit or any lease pursuant to that permit.
- (2) Consideration for continued administration of the federal agency may not exceed 10% of the revenue allocable to the state's portion.

Amended by Chapter 294, 1994 General Session

Chapter 7
Sale, Exchange, and Lease of State Lands

65A-7-1 Division to make rules for the sale, exchange, or lease of state lands.

The division shall establish criteria by rule for the sale, exchange, lease, or other disposition or conveyance of state lands including procedures for determining fair market value of those lands.

Amended by Chapter 294, 1994 General Session

65A-7-5 Surface leases -- Procedures for issuing leases -- Leases for the construction of a highway facility.

- (1) The division may issue surface leases of state lands for any period up to 99 years.
- (2) This section does not apply to leases for oil and gas, grazing, or mining purposes.
- (3) The division shall disclose any known geologic hazard affecting leased property.
- (4)
 - (a)
 - (i) Surface leases may be entered into by negotiation, public auction, or other public competitive bidding process as determined by rules of the division.
 - (ii) Requests for proposals (RFP) on state lands may be offered by the division after public notice.
 - (b)
 - (i) A notice of an invitation for bids or a public auction shall, prior to the auction or acceptance of a bid, be published at least once a week for three consecutive weeks in one or more newspapers of general circulation in the county in which the lease is offered.
 - (ii) The notice shall be sent, by certified mail, at least 30 days prior to the auction or acceptance of a bid, to each person who owns property adjoining the state lands offered for lease.
 - (c)
 - (i) Surface leases entered into through negotiation shall be published in the manner set forth in Subsection (4)(b) 30 days prior to final approval.
 - (ii) The notice shall include, at a minimum, a general description of the lands proposed for lease and the type of lease.
- (5)
 - (a) The division may not issue a lease to a private entity for the construction of a highway facility over sovereign lakebed lands unless the applicant for the lease submits an approval for the construction of a highway facility over sovereign lakebed lands from the Transportation Commission in accordance with Section 72-6-303 with the application for the lease.
 - (b) The division shall consider the information and analysis provided by the Transportation Commission under Section 72-6-303 when making its determination as to whether to issue a lease for the construction of a highway facility over sovereign lakebed lands.
 - (c) A lease for the construction of a highway facility over sovereign lakebed lands:
 - (i) may include an option to renew the lease upon expiration; and
 - (ii) shall include a provision that requires that at the termination of the lease:
 - (A) the ownership of the highway facility shall revert to the state;
 - (B) the highway facility shall be in a state of proper maintenance as outlined in the agreement under Subsection 72-6-303(5)(e) and determined by the Department of Transportation; and
 - (C) the highway facility shall be returned to the Department of Transportation in satisfactory condition at no further cost to the Department of Transportation, in a condition of good repair.
 - (d) The requirements under this Subsection (5) apply to all pending and future applications for a lease for the construction of a highway facility over sovereign lakebed lands.

Amended by Chapter 103, 2015 General Session
Amended by Chapter 258, 2015 General Session

65A-7-6 Lease covenants.

Each surface lease shall contain the following covenants:

- (1) the lessee shall promptly pay the rent annually in advance;
- (2) no waste shall be committed on the land;
- (3) the premises shall be surrendered at the expiration of the term;
- (4) the lessee may not sublet or assign without the written consent of the division;
- (5) a failure to pay the agreed rent for a period of one month from the time rent is due shall result in a forfeiture of the lease after notice; and
- (6) if improvements have been placed on the land by any person other than the lessee, the lessee shall allow the owner of the improvements to remove them within 90 days.

Amended by Chapter 294, 1994 General Session

65A-7-7 Exchanges of sovereign lands -- Based on equal value -- Lands encumbered by a lease.

- (1)
 - (a) In accordance with division rules and when in the best interest of the state, sovereign lands may be exchanged for other land or other assets within the state held by other proprietors.
 - (b) Upon request of the division, the governor shall execute and deliver the necessary patents to other proprietors and receive proper deeds of the lands so exchanged.
 - (c) An exchange may not be made by the division until a deed or patent for the land received in exchange has been issued by the proprietors.
- (2)
 - (a) If sovereign lands are encumbered by an existing lease, the division, upon approval of an exchange, may, with the consent of the lessee, terminate the existing lease and issue a lease of the same type, on lands of comparable acreage or value, which may be acquired in the same exchange in which the leased lands are used as base.
 - (b) Upon acceptance of exchanged lands, the state shall honor all vested rights.

Amended by Chapter 294, 1994 General Session

65A-7-8 Easements on state lands -- Division to make rules.

- (1) The division shall establish rules for the issuance of easements on, through, and over any state land, and shall establish price schedules.
- (2) A patent for state lands is subject to any existing easement or public right-of-way.

Repealed and Re-enacted by Chapter 294, 1994 General Session

**Chapter 8
Management of Forest Lands and Fire Control**

**Part 1
General Provisions**

65A-8-101 Division responsibilities for fire management and the conservation of forest, watershed, and other lands -- Reciprocal agreements for fire protection.

- (1) The division, in consultation with local authorities, shall determine and execute the best method for protecting private and public property by:
 - (a) except as provided by Subsection (1)(d), preventing, preparing for, or mitigating the origin and spread of fire on nonfederal forest, range, watershed, or wildland urban interface land in the state;
 - (b) encouraging a landowner to conserve, protect, and manage forest or other land throughout the state;
 - (c) taking action the division considers appropriate to manage wildland fire and protect life and property on nonfederal forest, range, watershed, or wildland urban interface land within the state; and
 - (d) implementing a limited fire suppression strategy, including allowing a fire to burn with limited or modified suppression, if the division determines that the strategy is appropriate for a specific area or circumstance.
- (2) The division may:
 - (a) enter into an agreement with a public or private agency or individual:
 - (i) for the purpose of protecting, managing, or rehabilitating land owned or managed by the agency or individual; and
 - (ii) establishing a predetermined fire suppression plan, including a limited fire suppression strategy, for a specific fire management area; and
 - (b) enter into a reciprocal agreement with a fire protection organization, including a federal agency, to provide fire protection for land, and an improvement on land, for which the organization normally provides fire protection.

Amended by Chapter 174, 2016 General Session

65A-8-102 State forester.

- (1) There is created the position of state forester to carry out the provisions of this chapter.
- (2) The state forester shall be a graduate of an accredited school of forestry, technically and professionally competent, and experienced in administration.
- (3) The state forester shall be responsible to the director of the division.
- (4) In all matters pertaining to forestry and fire control in which the state recognizes a responsibility, the state forester shall be the official representative of the state.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-103 Forestry and fire control funds.

- (1) The division shall use money available to it to meet the costs of:
 - (a) managing forest, range, watershed, and wildland urban interface fires;
 - (b) managing insect and disease epidemics;
 - (c) rehabilitating or reforesting nonfederal forest, range, and watershed lands;
 - (d) promoting wildfire preparedness, wildfire mitigation, and wildfire prevention;
 - (e) restoring and maintaining landscapes ensuring landscapes across the state are resilient to wildfire-related disturbances, in accordance with fire management objectives;
 - (f) creating fire-adapted communities, ensuring that human populations and infrastructure can withstand a wildfire without loss of life or property;
 - (g) improving wildfire response, ensuring that all political subdivisions can participate in making and implementing safe, effective, and efficient risk-based wildfire management decisions;
 - (h) reducing risks to wildlife such as the greater sage grouse; and

- (i) carrying on the purposes of this chapter.
- (2) All money available to the division to meet the costs of Subsections (1)(a) through (i) is nonlapsing and available to the division until expended.
- (3)
 - (a) The collection and disbursement of all money made available to the division shall be in accordance with the rules of the Division of Finance.
 - (b) Money collected by the division from fees, rentals, sales, contributions, reimbursements, and other such sources shall be deposited in the appropriate account.

Amended by Chapter 174, 2016 General Session

65A-8-105 Urban and community forestry program.

- (1) An urban and community forestry program is created within the division.
- (2) The purpose of the program is to encourage the planting and maintenance of trees within municipalities and unincorporated communities.
- (3) The division may:
 - (a) advise and assist municipalities, counties, and other public and private entities in developing and coordinating policies, programs, and activities promoting urban and community forestry;
 - (b) receive, by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, federal funds for the urban and community forestry program; and
 - (c) provide grants to municipalities and counties for urban and community forestry programs and cooperative projects.
- (4) The division shall:
 - (a) develop a public education program to inform tree care professionals and citizens of the hazards involved with the planting of new trees and the maintenance of existing trees near overhead power lines and highways; and
 - (b) develop and implement a program of public awareness to inform citizens about the benefits of planting trees in urban areas and how to maintain trees.

Amended by Chapter 382, 2008 General Session

**Part 2
Fire Control**

65A-8-201 Uncontrolled fire is a public nuisance.

Any fire on forest, range, watershed, or wildland urban interface land in the state burning uncontrolled and without proper and adequate action being taken to manage it is a public nuisance.

Amended by Chapter 174, 2016 General Session

65A-8-202 Fire control -- County responsibilities.

- (1) A county shall abate the public nuisance caused by wildfire on unincorporated, privately owned or county owned forest, range, watershed, and wildland urban interface lands within its boundaries.

- (2) A county may participate in the wildland fire protection system of the division and become eligible for assistance from the state by agreement under the provisions of this chapter.
- (3) A county shall:
 - (a) reduce the risk of wildfire to unincorporated, privately owned or county owned forest, range, watershed, and wildland urban interface land within the county's boundaries, with private landowner permission, through appropriate wildfire prevention, preparedness, and mitigation actions; and
 - (b) ensure effective wildfire initial attack on unincorporated privately owned or county owned forest, range, watershed, and wildland urban interface land within the county's boundaries.
- (4) A county may assign the responsibilities described in Subsections (1) and (3) to a fire service provider or an eligible entity, as defined in Section 65A-8-203, through contract, delegation, interlocal agreement, or another method.
- (5) The state forester shall make certain that appropriate action is taken to control wildland fires on unincorporated nonfederal forest, range, watershed, and wildland urban interface lands.
- (6) Nothing in this section excuses a private landowner from complying with an applicable county ordinance.

Amended by Chapter 174, 2016 General Session

65A-8-202.5 City and town responsibilities.

- (1) A municipality shall abate the public nuisance caused by wildfire on forest, range, watershed, and wildland urban interface land within the boundaries of the municipality if the land is:
 - (a) privately owned; or
 - (b) owned by the municipality.
- (2) A municipality may participate in the wildland fire protection system of the division and become eligible for assistance from the state by agreement under the provisions of this chapter.
- (3) A municipality shall:
 - (a) reduce the risk of wildfire to incorporated, privately owned and municipality owned forest, range, watershed, and wildland urban interface land, with private landowner permission, through appropriate wildfire prevention, preparedness, and mitigation actions; and
 - (b) ensure effective wildfire initial attack on forest, range, watershed, and wildland urban interface land within the municipality's fire protection boundary.
- (4) A municipality may assign the responsibilities described in Subsections (1) and (3) to a fire service provider or an eligible entity, as defined in Section 65A-8-203, through contract, delegation, interlocal agreement, or another method.
- (5) The state forester shall make certain that appropriate action is taken to control wildland fires on incorporated, nonfederal forest, range, watershed, and wildland urban interface lands.
- (6) Nothing in this section excuses a private landowner from complying with an applicable county ordinance.

Enacted by Chapter 174, 2016 General Session

65A-8-203 Cooperative fire protection agreements with counties, cities, towns, or special service districts.

- (1) As used in this section:
 - (a) "Eligible entity" means:
 - (i) a county, a municipality, or a special service district, special district, or service area with:
 - (A) wildland fire suppression responsibility as described in Section 11-7-1; and

- (B) wildland fire suppression cost responsibility and taxing authority for a specific geographic jurisdiction; or
 - (ii) upon approval by the director, a political subdivision established by a county, municipality, special service district, special district, or service area that is responsible for:
 - (A) providing wildland fire suppression services; and
 - (B) paying for the cost of wildland fire suppression services.
 - (b) "Fire service provider" means a public or private entity that fulfills the duties of Subsection 11-7-1(1).
- (2)
- (a) The governing body of any eligible entity may enter into a cooperative agreement with the division to receive financial and wildfire management cooperation and assistance from the division, as described in this part.
 - (b) A cooperative agreement shall last for a term of no more than five years and be renewable if the eligible entity continues to meet the requirements of this chapter.
- (3)
- (a) An eligible entity may not receive financial cooperation or financial assistance under Subsection (2)(a) until a cooperative agreement is executed by the eligible entity and the division.
 - (b) The state shall assume an eligible entity's cost of suppressing catastrophic wildfire as defined in the cooperative agreement if the eligible entity has entered into, and is in full compliance with, a cooperative agreement with the division, as described in this section.
 - (c) A county or municipality that is not covered by a cooperative agreement with the division, as described in this section, shall be responsible for wildland fire costs within the county or municipality's jurisdiction, as described in Section 65A-8-203.2.
- (4) In order to enter into a cooperative agreement with the division, the eligible entity shall:
- (a) if the eligible entity is a county, adopt and enforce on unincorporated land a wildland fire ordinance based upon minimum standards established by the division or Uniform Building Code Commission;
 - (b) require that the fire department or equivalent fire service provider under contract with, or delegated by, the eligible entity on unincorporated land meet minimum standards for wildland fire training, certification, and suppression equipment based upon nationally accepted standards as specified by the division;
 - (c) invest in prevention, preparedness, and mitigation efforts, as agreed to with the division, that will reduce the eligible entity's risk of catastrophic wildfire;
 - (d) file with the division an annual accounting of wildfire prevention, preparedness, mitigation actions, and associated costs;
 - (e) return the financial statement described in Subsection (6), signed by the chief executive of the eligible entity, to the division on or before the date set by the division; and
 - (f) if the eligible entity is a county, have a designated fire warden as described in Section 65A-8-209.1.
- (5)
- (a) The state forester may execute a cooperative agreement with the eligible entity.
 - (b) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the:
 - (i) cooperative agreements described in this section;
 - (ii) manner in which an eligible entity shall provide proof of compliance with Subsection (4);
 - (iii) manner by which the division may revoke a cooperative agreement if an eligible entity ceases to meet the requirements described in this section;

- (iv) accounting system for determining suppression costs;
 - (v) manner in which the division shall determine the eligible entity's participation commitment;
and
 - (vi) manner in which an eligible entity may appeal a division determination.
- (6)
- (a) The division shall send a financial statement to each eligible entity participating in a cooperative agreement that details the eligible entity's participation commitment for the coming fiscal year, including the prevention, preparedness, and mitigation actions agreed to under Subsection (4)(c).
 - (b) Each eligible entity participating in a cooperative agreement shall:
 - (i) have the chief executive of the eligible entity sign the financial statement, or the legislative body of the eligible entity approve the financial statement by resolution, confirming the eligible entity's participation for the upcoming year; and
 - (ii) return the financial statement to the division, on or before a date set by the division.
 - (c) A financial statement shall be effective for one calendar year, beginning on the date set by the division, as described in Subsection (6)(b).
- (7)
- (a) An eligible entity may revoke a cooperative agreement before the end of the cooperative agreement's term by:
 - (i) informing the division, in writing, of the eligible entity's intention to revoke the cooperative agreement; or
 - (ii) failing to sign and return its annual financial statement, as described in Subsection (6)(b), unless the director grants an extension.
 - (b) An eligible entity may not revoke a cooperative agreement before the end of the term of a signed annual financial statement, as described in Subsection (6)(c).
- (8) The division shall develop and maintain a wildfire risk assessment mapping tool that is online and publicly accessible.
- (9) By no later than the 2021 November interim meeting of the Natural Resources, Agriculture, and Environment Interim Committee, the division shall report on the eligible entities' adherence to and implementation of their participation commitment under this chapter.

Amended by Chapter 16, 2023 General Session

65A-8-203.1 Delegation of fire management authority.

- (1) As used in this section, "delegation of fire management authority" means the acceptance by the division of responsibility for:
 - (a) managing a wildfire; and
 - (b) the cost of fire suppression, as described in Section 65A-8-203.
- (2) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the process for delegation of fire management authority.
- (3) Upon delegation of fire management authority, the division and its named designee becomes the primary incident commander.

Enacted by Chapter 174, 2016 General Session

65A-8-203.2 Billing a county or municipality not covered by a cooperative agreement -- Calculating cost of wildfire suppression.

- (1) The division shall bill a county that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, for the cost of wildfire suppression within the jurisdiction of that county accrued by the state.
- (2) The division shall bill a municipality that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, for the cost of wildfire suppression within the jurisdiction of that municipality accrued by the state.
- (3) The cost of wildfire suppression to a county or municipality that is not covered by a cooperative agreement with the division, as described in Section 65A-8-203, shall be calculated by determining the number of acres burned within the borders of a county or municipality, dividing that number by the total number of acres burned by a wildfire, and multiplying the resulting percentage by the state's total cost of wildfire suppression for that wildfire.
- (4) A county or municipality that receives a bill from the division, pursuant to this section, shall pay the bill, or make arrangements to pay the bill, within 90 days of receipt of the bill, subject to the county or municipality's right to appeal, as described in Subsection 65A-8-203(5)(b)(vi).

Enacted by Chapter 174, 2016 General Session

65A-8-204 Wildland Fire Suppression Fund created.

- (1) There is created an expendable special revenue fund known as the "Wildland Fire Suppression Fund."
- (2) The Wildland Fire Suppression Fund shall be administered by the division to pay wildfire suppression costs on eligible lands, as wildfire suppression costs are defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including for an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203.
- (3) Subject to Section 65A-8-213, the contents of the Wildland Fire Suppression Fund shall include:
 - (a) interest and earnings from the investment of fund money;
 - (b) money appropriated by the Legislature;
 - (c) federal funds received by the division for wildfire management costs;
 - (d) suppression costs billed to an eligible entity that does not participate in a cooperative agreement;
 - (e) suppression costs paid to the division by another state agency;
 - (f) costs recovered from settlements and civil or administrative actions related to wildfire suppression;
 - (g) restitution payments ordered by a court following a criminal adjudication;
 - (h) the balance of the fund as of July 1, 2016;
 - (i) money deposited by the Division of Finance, pursuant to Section 59-21-2; and
 - (j) money transferred by the Division of Finance, pursuant to Section 63J-1-314.
- (4) Fund money shall be invested by the state treasurer with the earnings and interest accruing to the Wildland Fire Suppression Fund.

Amended by Chapter 153, 2023 General Session

65A-8-206 Disbursements from the Wildland Fire Suppression Fund.

- (1) Disbursements from the fund created in Section 65A-8-204 shall be made only upon written order of the state forester or the state forester's authorized representative.

- (2) If the state forester determines money in the fund may be insufficient to cover eligible costs in a program year, the state forester may:
 - (a) delay making disbursements from the fund until the close of the program year; and
 - (b) request supplemental appropriations from the Legislature.

Amended by Chapter 174, 2016 General Session

65A-8-207 Division to administer Wildland Fire Suppression Fund -- Rulemaking -- Procedures.

By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules to administer the Wildland Fire Suppression Fund.

Amended by Chapter 174, 2016 General Session

65A-8-209 Responsibilities of county sheriffs and fire wardens in controlling fires.

- (1) In a county that has not entered into a cooperative agreement as described in Section 65A-8-203, the county sheriff shall take appropriate action to suppress wildfires on state or private lands.
- (2) In all cases the county sheriff shall:
 - (a) report, as prescribed by the state forester, on wildland fire control action;
 - (b) investigate and report wildfire causes; and
 - (c) enforce the provisions of this chapter either independently or in cooperation with the state forester.
- (3) In an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203, the primary responsibility for wildfire management is the division, upon the delegation of fire management authority, as described in Section 65A-8-203.1.
- (4) The county sheriff and the county sheriff's organization shall maintain cooperative support of the fire management organization.

Amended by Chapter 174, 2016 General Session

65A-8-209.1 County fire warden.

- (1) As used in this section, "participating county" means a county that participates in a cooperative agreement with the division, as described in Section 65A-8-203.
- (2)
 - (a) A county fire warden who is employed by the division as a county fire warden full-time and year round shall represent a participating county, except as provided in Subsections (2)(b) and (c).
 - (b) A county of the fifth class that, as of January 1, 2016, is cost-sharing a county fire warden with an adjacent county may continue to do so with the approval of the state forester.
 - (c) A county of the sixth class may cost-share a county fire warden with an adjacent county, with the approval of the state forester.
- (3)
 - (a) The salary and benefits paid to a county fire warden shall be:
 - (i) divided by the division and the county; or
 - (ii) paid partly by the division with the remainder shared by agreement between the counties the county fire warden represents.
 - (b) The division may annually increase the amount agreed to for the county portion if:

- (i) the increase takes effect at the beginning of a calendar year;
 - (ii) the division provides the participating county six months notice before the increase takes effect; and
 - (iii) the increase is based on the Consumer Price Index for All Urban Consumers as published by the Bureau of Labor Statistics of the United States Department of Labor, in accordance with a formula established by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4)
- (a) The division shall employ the county fire wardens.
 - (b) An individual who is employed by a county as a county fire warden on or before January 1, 2016, is not subject to the requirement to be employed by the division.

Amended by Chapter 219, 2022 General Session

65A-8-210 Fire control on state-owned lands -- Responsibilities of state agencies.

- (1) The division shall abate the public nuisance caused by wildfire on state-owned forest, range, watershed, and wildland urban interface lands.
- (2) State agencies responsible for the administration of state-owned lands shall recognize the need for providing wildland fire protection and the responsibility for reducing the risk of wildfire through appropriate wildfire prevention, preparedness, and mitigation actions.

Amended by Chapter 174, 2016 General Session

65A-8-211 Closed fire season -- Notice -- Violations -- Red Flag Warnings -- Burning permits -- Personal liability -- Exemptions from burning permits.

- (1) As used in this section:
 - (a) "Applicable public safety answering point" means a public safety answering point or dispatch center, as those terms are defined in Section 63H-7a-103, for the jurisdiction where a burning occurs.
 - (b) "Cultivated land" means land that is not enrolled in a conservation reserve program that is readily identifiable as:
 - (i) land whose soil is loosened or broken up for the raising of crops;
 - (ii) land used for the raising of crops; or
 - (iii) pasturage that is artificially irrigated.
 - (c) "Field" means land where grass, grain, stubble, or hay may be burned in accordance with this section.
 - (d) "Red Flag Warning" means a weather forecast issued by the National Weather Service on a publicly available website or notification system indicating that weather conditions associated with the outbreak of wildfires are occurring.
- (2)
 - (a) The period from June 1 to October 31 of each year is a closed fire season throughout the state.
 - (b) The state forester may advance or extend the closed season wherever and whenever that action is necessary.
 - (c) The state forester shall notify the public of the alteration of the closed season by posting the appropriate proclamation on the division's website and on the Utah Public Notice Website, created in Section 63A-16-601, for at least seven days in advance of the date the change is effective.

- (3) During the closed fire season, an individual is guilty of a class C misdemeanor if the individual sets on fire, or causes to be set on fire:
 - (a)
 - (i) a forest;
 - (ii) brush;
 - (iii) range;
 - (iv) a field;
 - (v) cultivated land; or
 - (vi) a debris pile; and
 - (b) without:
 - (i) first securing a written permit from the state forester or a deputy designated by the state forester;
 - (ii) complying fully with the permit described in Subsection (3)(b)(i); and
 - (iii) subject to Subsection (10), first notifying the state forester, the state forester's designee, or the applicable public safety answering point of the approximate time the burning will occur.
- (4) During a period when a Red Flag Warning is issued, an individual is guilty of a class C misdemeanor if the individual sets on fire, or causes to be set on fire:
 - (a)
 - (i) a forest;
 - (ii) brush;
 - (iii) range;
 - (iv) a field;
 - (v) cultivated land;
 - (vi) a fence line;
 - (vii) a canal; or
 - (viii) an irrigation ditch; and
 - (b) without:
 - (i) first securing a written permit from the state forester or a deputy designated by the state forester;
 - (ii) complying fully with the permit described in Subsection (4)(b)(i); and
 - (iii) subject to Subsection (10), first notifying the state forester, the state forester's designee, or the applicable public safety answering point of the approximate time the burning will occur.
- (5) The state forester or the state forester's designee shall issue burning permits using the form prescribed by the division.
- (6)
 - (a) The burning permit does not relieve an individual from personal liability as a result of damage caused by the fire.
 - (b) A fire escaping control of the permittee that necessitates fire control action or does injury to the property of another is prima facie evidence that due care was not used in the burning and that the fire was not safe.
- (7) The following may refuse, revoke, postpone, or cancel a permit if the person finds that it is necessary in the interest of public safety:
 - (a) the state forester;
 - (b) a state forester's designee; or
 - (c) a county sheriff if there is no cooperative agreement with the division as described in Section 65A-8-203.
- (8)

- (a) Except for during a Red Flag Warning as described in Subsection (4)(a), a burning permit is not required:
 - (i) for the burning within 10 feet of:
 - (A) fence lines on cultivated lands;
 - (B) the banks of canals; or
 - (C) the banks of irrigation ditches; and
 - (ii) if:
 - (A) the burning does not pose a threat to forest, range, or watershed lands;
 - (B) due care is used in the control of the burning; and
 - (C) subject to Subsection (10), the individual notifies the state forester, the state forester's designee, or the applicable public safety answering point of the approximate time the burning will occur.
- (b) For a burning with or without a permit, an individual is guilty of a class C misdemeanor if the individual fails to notify, subject to Subsection (10), the state forester, the state forester's designee, or the applicable safety answering point of a burning as required by this section.
- (9) A burning conducted in accordance with Subsection (8) is not a reckless burning under Section 76-6-104 unless the fire escapes control and requires fire control action.
- (10)
 - (a) The state forester or state forester's designee shall annually determine the notification process for a jurisdiction after receiving approval from the following for the jurisdiction:
 - (i) the applicable municipal chief, county fire warden, or state forester's designee; and
 - (ii) the governing body of the one or more applicable public safety answering points.
 - (b) On June 1 of each year, beginning with June 1, 2023, the state forester or state forester's designee shall publish for each jurisdiction the notification process adopted under Subsection (10)(a) on the division's website and on the Utah Public Notice Website created in Section 63A-16-601.
 - (c) If the state forester or state forester's designee cannot determine the notification process for a jurisdiction, a person is required to notify the applicable public safety answering point.

Amended by Chapter 153, 2023 General Session

65A-8-212 Power of state forester to close hazardous areas -- Violations of an order closing an area.

- (1)
 - (a) If the state forester finds conditions in a given area in the state to be extremely hazardous, "extremely hazardous" means categorized as "extreme" under a nationally recognized standard for rating fire danger, he shall close those areas to any forms of use by the public, or to limit that use, except as provided in Subsection (5).
 - (b) The closure shall include, for the period of time the state forester considers necessary, the prohibition of open fires, and may include restrictions and prohibitions on:
 - (i) smoking;
 - (ii) the use of vehicles or equipment;
 - (iii) welding, cutting, or grinding of metals;
 - (iv) subject to Subsection (5), fireworks;
 - (v) explosives; or
 - (vi) the use of firearms for target shooting.
 - (c) Any restriction or closure relating to firearms use:

- (i) shall be done with support of the duly elected county sheriff of the affected county or counties;
 - (ii) shall undergo a formal review by the State Forester and County Sheriff every 14 days; and
 - (iii) may not prohibit a person from legally possessing a firearm or lawfully participating in a hunt.
- (d) The State Forester and County Sheriff shall:
- (i) agree to the terms of any restriction or closure relating to firearms use;
 - (ii) reduce the agreement to writing;
 - (iii) sign the agreement indicating approval of its terms and duration; and
 - (iv) complete the steps in Subsections (1)(d)(i) through (d)(iii) at each 14 day review and at termination of the restriction or closure.
- (2) Nothing in this chapter prohibits any resident within the area from full and free access to his home or property, or any legitimate use by the owner or lessee of the property.
- (3) The order or proclamation closing or limiting the use in the area shall set forth:
- (a) the exact area coming under the order;
 - (b) the date when the order becomes effective; and
 - (c) if advisable, the authority from whom permits for entry into the area may be obtained.
- (4) Any entry into or use of any area in violation of this section is a class B misdemeanor.
- (5) The state forester may not restrict or prohibit the discharge of fireworks within the municipal boundaries of a city, town, or metro township.

Amended by Chapter 189, 2018 General Session

65A-8-213 Creation of the Wildland Fire Preparedness Grants Fund -- Awarding of grants -- Rulemaking.

- (1)
- (a) There is created an expendable special revenue fund known as the "Wildland Fire Preparedness Grants Fund."
 - (b) The Wildland Fire Preparedness Grants Fund shall consist of:
 - (i) voluntary contributions received;
 - (ii) appropriations the Legislature makes to the Wildland Fire Preparedness Grants Fund;
 - (iii) 10% of the costs recovered annually related to wildfire suppression described in Subsections 65A-8-204(3)(f) and (g); and
 - (iv) interest or other earnings accrued in accordance with Subsection (1)(c)(ii).
 - (c) The state treasurer shall:
 - (i) invest the money in the Wildland Fire Preparedness Grants Fund described in Subsection (1)(a) following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and
 - (ii) deposit all interest or other earnings derived from each investment described in Subsection (1)(c)(i) into the Wildland Fire Preparedness Grants Fund.
- (2)
- (a) The state forester shall make one or more grants from the Wildland Fire Preparedness Grants Fund to one or more local fire departments or volunteer fire departments to assist in building capacity for the suppression of wildland fire.
 - (b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing criteria for receiving a grant under this section.

Amended by Chapter 153, 2023 General Session

65A-8-215 Wildland-urban interface fire prevention, preparedness, and mitigation.

- (1) As used in this section:
 - (a) "Prevention, preparedness, and mitigation fund" means the Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund created in this section.
 - (b) "Suppression fund" means the Wildland Fire Suppression Fund created in Section 65A-8-204.
 - (c) "Wildland-urban interface" means the zone where structures and other human development meets, or intermingles with, undeveloped wildland.
- (2)
 - (a) There is created an expendable special revenue fund known as the "Wildland-urban Interface Prevention, Preparedness, and Mitigation Fund."
 - (b) The prevention, preparedness, and mitigation fund shall consist of:
 - (i) interest and earnings from the investment of money from the prevention, preparedness, and mitigation fund;
 - (ii) money appropriated by the Legislature; and
 - (iii) money transferred to the prevention, preparedness, and mitigation fund under Section 63J-1-314.
 - (c) The division shall administer the prevention, preparedness, and mitigation fund to:
 - (i) pay costs of prevention and preparedness efforts on wildland-urban interface within the state, as defined by the division by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs of an eligible entity that has entered into a cooperative agreement, as described in Section 65A-8-203;
 - (ii) issue fire department assistance grants, which in the aggregate may not exceed 10% of the money in the prevention, preparedness, and mitigation fund each fiscal year; and
 - (iii) in cases of catastrophic need as determined by the state forester, pay costs that could be paid from the suppression fund under Section 65A-8-204.
 - (d) Disbursements from the prevention, preparedness, and mitigation fund may only be made upon written order of the state forester or the state forester's authorized representative.
- (3)
 - (a) The division may by rule, made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establish criteria for community wildfire preparedness plans addressing wildland-urban interface. The criteria shall require action that is:
 - (i) qualitative and quantitative; and
 - (ii) leads to reduced wildfire risk.
 - (b) An eligible entity, as defined in Section 65A-8-203, shall agree to implement prevention, preparedness, and mitigation actions identified in a community wildfire preparedness plan addressing wildland-urban interface that is approved by the division.

Enacted by Chapter 153, 2023 General Session

**Part 3
Heritage Trees**

65A-8-301 Legislative finding and purpose.

- (1) The Legislature finds the health and welfare of the people of the state require the preservation of certain rare, or threatened, or vanishing species of trees to preserve the state's scenic beauty and preserve its historic past as it relates to such trees.
- (2) It is the intent of this part to retain as many heritage trees as possible consistent with the reasonable and economic enjoyment of private property.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-302 Definitions.

As used in this part:

- (1) "Alter" means to change the configuration of a heritage tree by pruning, trimming, topping, cutting, or by any other means.
- (2) "Committee" means the Heritage Trees Advisory Committee.
- (3) "Division" means the Division of Forestry, Fire, and State Lands.
- (4) "Heritage tree" means any tree or group of trees designated as such by the division, in accordance with the following criteria:
 - (a) any live tree or group of trees indigenous to the state, or which has adapted exceptionally well to the climatic conditions of the state, or is one of a kind;
 - (b) any tree or group of trees that has exceptional national, state, or local historic significance;
 - (c) any tree or group of trees which has an exceptional size or exceptional form for its species;
 - (d) any tree or group of trees which has an exceptional age for its species; or
 - (e) any tree or group of trees in the state which is the sole representative of its species.
- (5) "Person" means any individual, partnership, corporation, or association.

Amended by Chapter 344, 2009 General Session

65A-8-303 Application to alter or remove trees.

- (1) Any person that desires to alter or remove one or more heritage trees from any public property within this state shall before altering or removing any such tree make application to the division on forms prescribed by it.
- (2) An application for alteration or removal shall be filed with the division at least 60 days before the actual alteration or removal of any such trees.
- (3) The application shall state:
 - (a) the name of the applicant;
 - (b) the number, location, and species of the trees proposed to be altered or removed;
 - (c) the reason for alteration or removal; and
 - (d) other information as the division may reasonably require.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-304 Guidelines and standards for granting or denying applications to alter or remove trees.

- (1) The committee shall develop published guidelines and standards to be used by the board in granting or denying applications for the alteration or removal of heritage trees.
- (2) In addition to the guidelines and standards developed by the committee, the division shall consider the following criteria in granting or denying an application:
 - (a) the physical condition of the heritage tree or trees with respect to:
 - (i) insect infestation;

- (ii) disease;
- (iii) danger of falling;
- (iv) proximity to existing or proposed structures; and
- (v) interference with utility services;
- (b) the necessity of alteration or removal of the heritage tree or trees in order to construct proposed improvements and allow economic enjoyment of property;
- (c) the topography of the land and the effect of removal of the heritage tree or trees on:
 - (i) erosion;
 - (ii) soil retention; and
 - (iii) the diversion or increased flow of surface waters resultant upon alteration or removal;
- (d) the number of heritage trees existing in the neighborhood on improved property;
- (e) the effect alteration or removal would have on established standards and property values in the area; and
- (f) the number of heritage trees the particular parcel can support according to good forestry practices.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-305 Powers of division.

The division may:

- (1) grant or deny applications for designation of heritage trees from individuals, local shade tree commissions, or local governments;
- (2) grant or deny applications for alteration or removal of heritage trees;
- (3) acquire land if one or more heritage trees are located on the land;
- (4) accept gifts, bequests, or donations; and
- (5) determine policies necessary to carry out this part.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-306 Heritage Trees Advisory Committee -- Members -- Officers -- Expenses -- Functions.

- (1) There is created a Heritage Trees Advisory Committee composed of five persons appointed by the division from among persons who are members of the Utah Community Forestry Council.
- (2)
 - (a) Except as required by Subsection (2)(b), as terms of current committee members expire, the division shall appoint each new member or reappointed member to a four-year term.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.
- (3) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (4)
 - (a) The committee shall elect a chair who is responsible to call and conduct meetings.
 - (b) Three members present at a duly called meeting constitute a quorum for the transaction of official business.
 - (c) Members of the committee may meet as often as considered necessary.
 - (d) The urban forestry staff person of the division shall serve as secretary to the committee.

- (5) 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.
- (6) The committee shall:
- (a) publish guidelines for division use in granting or denying applications for the designation of heritage trees;
 - (b) publish an annual register of designated heritage trees and distribute it to public utilities, tree service companies, municipal forestry and parks departments, and the public; and
 - (c) develop a system for visibly identifying designated heritage trees.

Amended by Chapter 286, 2010 General Session

65A-8-307 Exemption for emergency or permit.

This part shall not apply to any emergency when heritage trees constitute a danger to life or property, or to any person whose application for alteration or removal of a heritage tree has been granted by the division.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-308 Enforcement -- Prosecution of violations.

- (1) County sheriffs, police, and other law enforcement officers within their respective jurisdictions are responsible for the enforcement of this part.
- (2) The county attorney or district attorney shall prosecute any violation of this part.

Renumbered and Amended by Chapter 136, 2007 General Session

65A-8-309 Injury -- Violation of part -- Misdemeanor.

Any person who intentionally or knowingly alters, injures, damages, or causes death of a heritage tree or who otherwise violates this part is guilty of a class B misdemeanor.

Renumbered and Amended by Chapter 136, 2007 General Session

Amended by Chapter 229, 2007 General Session

**Chapter 8a
Utah Forest Practices Act**

65A-8a-101 Title.

This chapter is known as the "Utah Forest Practices Act."

Enacted by Chapter 80, 2001 General Session

65A-8a-102 Definitions.

As used in this chapter:

- (1) "Commercial tree species" means:
 - (a) *Abies concolor* (white fir);
 - (b) *Abies lasiocarpa* (subalpine fir);
 - (c) *Juniperus osteosperma* (Utah juniper);
 - (d) *Juniperus scopulorum* (Rocky Mountain juniper);
 - (e) *Picea engelmannii* (Engelmann spruce);
 - (f) *Picea pungens* (blue spruce);
 - (g) *Pinus contorta* (lodgepole pine);
 - (h) *Pinus edulis* (piñon pine);
 - (i) *Pinus flexilis* (limber pine);
 - (j) *Pinus longaeva* (bristlecone pine);
 - (k) *Pinus monophylla* (singleleaf piñon);
 - (l) *Pinus ponderosa* (ponderosa pine);
 - (m) *Populus tremuloides* (quaking aspen);
 - (n) *Pseudotsuga menziesii* (Douglas fir); or
 - (o) *Quercus gambelii* (gambel oak).
- (2)
 - (a) "Forest practice" means, except as provided in Subsection (2)(b):
 - (i) the harvesting of commercial tree species;
 - (ii) new road construction associated with harvesting or accessing trees;
 - (iii) site preparation for regeneration of a timber stand;
 - (iv) reforestation; or
 - (v) the management of logging slash.
 - (b) "Forest practice" does not include:
 - (i) the operation of a nursery or Christmas tree farm;
 - (ii) the harvest of Christmas trees;
 - (iii) the harvest of trees for the noncommercial, personal use by the owner of forested land from which the trees are harvested;
 - (iv) a harvesting operation encompassing fewer than five contiguous acres of forested land;
 - (v) clearing land for defensible space in a wildland-urban interface; or
 - (vi) fuel reduction for a wildland-urban interface or hazardous fuel reduction project.
- (3) "Forested land" means land, except land owned by the federal government or located within an incorporated city, growing commercial tree species that are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products.
- (4) "Forest Water Quality Guidelines" means the field-applicable practice guidelines adopted by the division for use during forestry activities to protect water quality and contained within a nonpoint source management plan.
- (5) "Landowner" means a person who holds an ownership interest in forested land.
- (6) "Operator" means a person who:
 - (a) is responsible for conducting forest practices; or
 - (b) through a contractual agreement with the landowner, is obligated to or entitled to conduct forest practices or to carry out a timber sale.
- (7) "Wildland-urban interface" means the zone where structures and other human development meets, or intermingles with, undeveloped wildland.

Amended by Chapter 40, 2010 General Session

65A-8a-103 Registration of operators.

- (1) An operator intending to conduct forest practices in Utah, except a landowner conducting forest practices on the landowner's own land, shall register with the division.
- (2) The operator shall submit the following information to the division:
 - (a) the name of the company;
 - (b) the name of the state where the company is incorporated; and
 - (c) the name, telephone number, and address of a company officer and an on-the-ground supervisor.
- (3) In consultation with industry representatives, the division may establish, by rule, minimum requirements for registration of operators in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) The division shall make available to landowners a list of registered operators.

Amended by Chapter 382, 2008 General Session

65A-8a-104 Notification of intent to conduct forest practices.

- (1) No later than 30 days before an operator commences forest practices, the operator shall notify the division of the operator's intent to conduct forest practices.
- (2) The notification shall include:
 - (a) the name and address of the operator;
 - (b) the name, address, and other current contact information of the landowner;
 - (c) a legal description of the area in which the forest practices are to be conducted;
 - (d) a description of the proposed forest practices to be conducted, including the number of acres with timber to be harvested; and
 - (e) an agreement granting the state forestry personnel permission to enter the area in which the forest practices are to be conducted to conduct an inspection, when the state forestry personnel reasonably consider an inspection necessary to ensure compliance with this chapter.
- (3) Upon the receipt of notification, the division shall, within 10 days, mail to the landowner and the operator:
 - (a) an acknowledgment of notification;
 - (b) information on Forest Water Quality Guidelines; and
 - (c) any other information the division believes would assist the landowner and operator in conducting forest practices.
- (4)
 - (a) Failure to notify the division in accordance with this section is a class B misdemeanor.
 - (b) The division may file an action in the district court of any county in which the area in which the forest practices are to be conducted is located to enjoin an operator engaged in conduct violating this chapter from operating until the operator complies with this chapter.
 - (c) In an action by the division in accordance with Subsection (4)(b), the operator shall pay reasonable attorney fees and all court costs incurred by the division because of the action.

Amended by Chapter 40, 2010 General Session

65A-8a-105 Division to promote implementation of Forest Water Quality Guidelines.

- (1) The division shall promote implementation of Forest Water Quality Guidelines before, during, and after the conduct of forest practices on forested land in order to:
 - (a) preserve water quality and soil stability;
 - (b) prevent the hazard of fire and insect infestation;

- (c) minimize waste of timber resources; and
 - (d) protect the regenerative and productive capacity of forested land.
- (2) The division, in cooperation with Utah State University Extension Services:
- (a) shall implement a program to develop demonstration areas, books, brochures, informational material, seminars and workshops, and other aids to display correct application of the Forest Water Quality Guidelines; and
 - (b) may aid private landowners by providing technical assistance to landowners and operators in implementing Forest Water Quality Guidelines.

Enacted by Chapter 80, 2001 General Session

65A-8a-106 Division to provide technical assistance -- Administrative rules.

- (1) The division may provide:
- (a) advice and technical assistance to landowners and operators by:
 - (i) developing forest stewardship plans;
 - (ii) developing harvest or forest management plans; and
 - (iii) developing programs and activities promoting stewardship of forest and other lands;
 - (b) information about tax incentives or other financial incentives designed to enhance the productive potential of forested land; or
 - (c) federal cost-share incentives to eligible nonindustrial, private forest landowners, if available.
- (2) The division, in cooperation with Utah State University Extension Services, shall:
- (a) develop and implement a public education and awareness program to inform citizens about the benefits of long-term stewardship of forest and other lands; and
 - (b) provide technical assistance to landowners in developing management plans that may be required for financial incentive programs.
- (3) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing the application, approval, implementation, and monitoring of a forest stewardship plan.

Amended by Chapter 40, 2010 General Session

Chapter 9 Management of Range Resources

65A-9-1 Responsibility of division to manage range resources.

- (1) The division is responsible for the efficient management of all range resources on lands under its administration.
- (2) Its management shall be based on sound conservation principles, including practices to improve range conditions.

Amended by Chapter 294, 1994 General Session

65A-9-2 Grazing leases -- Maximum term -- Treatment of leases on federal lands acquired by the state.

- (1) The division may issue grazing leases on state lands under terms and conditions established by rule.

- (2) Those terms shall be based on the fair market value of the lease.
- (3) No lease may be for a term in excess of 15 years.
- (4) The division shall determine the number and kind of stock that may be grazed each year on state land, and regulate the number of days that the land may be grazed.
- (5)
 - (a) Upon selecting, exchanging, or otherwise acquiring lands of the United States, the division shall honor all leases, permits, contracts, and terms and conditions of user agreements on United States' lands, including permitted stocking rates, grazing fee levels, access rights, and all existing activities that currently or historically have dictated an understanding of usage between the land user and the federal government.
 - (b) Improvements by the permittee or lessee to the land shall be honored by the state in the acquisition of federal lands.

Amended by Chapter 294, 1994 General Session

65A-9-3 Authority of division to control noxious weeds, plant species, and insects.

The division may enter into cooperative agreements with other public agencies and private landowners for the control of noxious weeds, new and invading plant species, insects, and disease infestations on state-owned and adjacent lands.

Amended by Chapter 294, 1994 General Session

Chapter 10 Management of Sovereign Lands

65A-10-1 Authority of division to manage sovereign lands.

- (1) Subject to Title 73, Chapter 32, Great Salt Lake Commissioner Act, the division is the management authority for sovereign lands, and may exchange, sell, or lease sovereign lands but only in the quantities and for the purposes as serve the public interest and do not interfere with the public trust.
- (2) Nothing in this section shall be construed as asserting state ownership of the beds of nonnavigable lakes, bays, rivers, or streams.
- (3) A lease for the construction of a highway facility over sovereign lakebed lands shall comply with the requirements described in Subsection 65A-7-5(5).

Amended by Chapter 205, 2023 General Session

65A-10-2 Recreational use of sovereign lands.

- (1) The division, with the approval of the executive director of the Department of Natural Resources and the governor, may set aside for public or recreational use any part of the lands claimed by the state as the beds of lakes or streams.
- (2) Management of those lands may be delegated to the Division of State Parks, the Division of Outdoor Recreation, the Division of Wildlife Resources, or any other state agency.

Amended by Chapter 68, 2022 General Session

65A-10-3 Establishment of sovereign land boundaries.

- (1) The division, after consultation with the attorney general and affected state agencies, shall develop plans for the resolution of disputes over the location of sovereign land boundaries.
- (2) The division, after notice to affected state agencies and any person with an ownership interest in the land, may enter into agreements with owners of land adjoining navigable lakes and streams to establish sovereign land boundaries.

Amended by Chapter 294, 1994 General Session

Part 2
Great Salt Lake Management

65A-10-201 Definitions.

As used in this part:

- (1) "Adaptive management berm" means a berm installed in the UP causeway breach to manage salinity to protect the ecosystem of Gilbert Bay.
- (2) "Emergency trigger" means that the salinity levels of the Gilbert Bay of the Great Salt Lake do not satisfy the ecological conditions required for healthy brine shrimp and brine fly reproduction.
- (3) "Healthy physical and ecological condition" means that the Gilbert Bay of the Great Salt Lake has sustained salinity levels that satisfy the ecological conditions required for healthy brine shrimp and brine fly reproduction.
- (4) "UP causeway breach" means a breach in the 21-mile Union Pacific Railroad causeway across the Great Salt Lake that separates the Great Salt Lake into Gunnison Bay and Gilbert Bay.

Enacted by Chapter 208, 2023 General Session

65A-10-202 Legislative findings.

The Legislature finds that:

- (1) under Section 65A-10-1 the division, as the manager of sovereign lands, has a duty to serve the public interest in managing the Great Salt Lake;
- (2) the Great Salt Lake is a critical resource owned and managed by the state;
- (3) the lake levels of the Great Salt Lake have reached historic lows, requiring action by the state to address significant risks and minimize dangers to protect the ecological integrity of the Great Salt Lake, the state's environment in general, and the welfare of the state's citizens; and
- (4) the management of the Great Salt Lake under this part, especially if the emergency trigger is reached, is reasonable and necessary to serve important public purposes and no reasonable alternative meets the interests described in Subsection (3).

Enacted by Chapter 208, 2023 General Session

65A-10-203 Great Salt Lake -- Management responsibilities of the division.

The division has the following powers and duties:

- (1) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the management of the Great Salt Lake that recognize and balance the following public trust values and public interest benefits and policies:
 - (a) strategies to effectively and efficiently manage the Great Salt Lake based on the Great Salt Lake's fluctuating lake levels;

- (b) development of the Great Salt Lake that balances, in a manner that promotes a healthy physical and ecological condition:
 - (i) migratory and shorebirds habitats;
 - (ii) wetlands;
 - (iii) brines, minerals, chemicals, and petro-chemicals;
 - (iv) brine shrimp;
 - (v) the protection of wildlife and wildlife habitat;
 - (vi) the protection of recreational access and facilities; and
 - (vii) search and rescue efforts;
 - (c) promote water quality management for the Great Salt Lake and the Great Salt Lake's tributary streams;
 - (d) public access to the Great Salt Lake for recreation, hunting, and fishing;
 - (e) temperature moderation, a stable role in the water cycle, and dust mitigation;
 - (f) maintain the Great Salt Lake's flood plain as a hazard zone;
 - (g) maintain the Great Salt Lake and the marshes as important shorebirds, waterfowl, and other waterbird flyway system;
 - (h) promote and maintain recreation areas on and surrounding the Great Salt Lake; and
 - (i) maintain and protect state, federal, and private marshlands, rookeries, and wildlife refuges.
- (2) The division shall prepare and maintain a comprehensive management plan for the Great Salt Lake that is consistent with the public trust values and public interest benefits described in Subsection (1) and policies established by rule made under Subsection (1).
 - (3) The division may employ personnel and purchase equipment and supplies that the Legislature authorizes through appropriations for the purposes of this chapter.
 - (4) The division may initiate studies of the Great Salt Lake and the Great Salt Lake's related resources.
 - (5) The division may publish scientific and technical information concerning the Great Salt Lake.
 - (6) The division shall define the Great Salt Lake's flood plain.
 - (7) The division may qualify for, accept, and administer grants, gifts, or other funds from the federal government and other sources, for carrying out any functions under this chapter.
 - (8) The division shall determine the need for public works and utilities for the lake area.
 - (9) The division may implement the comprehensive plan described in Subsection (2) through state and local entities or agencies.
 - (10) The division shall coordinate the activities of the various divisions within the Department of Natural Resources with respect to the Great Salt Lake.
 - (11) The division shall retain and encourage the continued activity of the Great Salt Lake technical team.
 - (12) The division shall administer Chapter 16, Great Salt Lake Watershed Enhancement Program.
 - (13) The division shall administer Section 65A-10-204 when the Great Salt Lake emergency trigger is reached.
 - (14) The division shall manage the adaptive management berm in the UP causeway breach to manage salinity to protect the ecosystem of Gilbert Bay. Unless salinity conditions in Gilbert Bay warrant raising the adaptive management berm, the policy of the state is to keep the UP causeway breach open so as to allow the exchange of water between Gilbert and Gunnison Bays.
 - (15) The division may perform acts other than those described in Subsections (1) through (14) that are reasonably necessary to carry out this chapter.
 - (16) This part may not be interpreted to override, supersede, or modify any water right within the state, or the role and authority of the state engineer.

Amended by Chapter 205, 2023 General Session
Renumbered and Amended by Chapter 208, 2023 General Session

65A-10-204 Emergency management responsibilities of the division.

- (1) When the Great Salt Lake reaches the emergency trigger, the division:
 - (a) may construct, operate, modify, and maintain the adaptive management berm;
 - (b) may construct, operate, modify, and maintain one or more additional berms, dikes, structures, or management systems consistent with the authority granted in this title;
 - (c) may enter into agreements as necessary to provide for all or a portion of a berm, dike, system, or structure;
 - (d) is exempt from Title 63G, Chapter 6a, Utah Procurement Code, when acting to manage the Great Salt Lake under this section;
 - (e) is not liable for a third-party claim resulting from the division's actions to manage the Great Salt Lake under this section;
 - (f) may decline to issue a new permit, authorization, or agreement and may curtail mineral production for leases that contain provisions contemplating curtailment or similar contractual remedies;
 - (g) may implement mineral lease withdrawal over one or more of the following:
 - (i) portions of the Great Salt Lake;
 - (ii) specific methods of extraction; or
 - (iii) specific minerals; and
 - (h) may require the implementation of one or more of the following:
 - (i) extraction methods that are non-depletive in nature;
 - (ii) mitigation to offset depletion; or
 - (iii) innovative extraction technologies.
- (2) The division shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, providing for the procedures the division shall follow in taking an action described in Subsection (1).

Enacted by Chapter 208, 2023 General Session

65A-10-205 Force majeure.

- (1) For purposes of managing the Great Salt Lake, the division may treat the fact that the Great Salt Lake has reached the emergency trigger as a triggering event for the purposes of invoking a force majeure provision in a contract, mineral lease, or royalty agreement.
- (2) In addition to the standard mechanisms whereby performance is excused by invocation of a force majeure provision, the division shall include language in a contract, mineral lease, or royalty agreement whereby the division may curtail or prohibit mineral production that results in a net depletion of water.
- (3) The division shall allow an operator to continue processing brines that have already been extracted from the Great Salt Lake that are residing in the operator's process, and selling products derived from brines that have already been extracted at the time the force majeure is invoked.
- (4) The division shall include standard mechanisms to promptly waive force majeure once salinity conditions improve by declining below the emergency trigger threshold.
- (5) If the division invokes a force majeure provision in a contract, mineral lease, or royalty agreement, the effected operator is relieved from performance of any contractual provision

requiring production to hold the contract, mineral lease, or royalty agreement for a maximum of two years. If the conditions creating the emergency trigger persist beyond a two-year period, the division shall terminate the contract, mineral lease, or royalty agreement and require the operator to engage in new contractual agreements whereby the operator represents and warrants that future operations will not amount to a net depletion of water.

Enacted by Chapter 208, 2023 General Session

Chapter 11 Flood Control and Prevention

65A-11-1 Authority of division to control and prevent floods.

- (1) The division may authorize surveys of any state lands or other areas of the state for the purpose of controlling and preventing floods.
- (2) If after a survey the division concludes that floods are likely to affect any state lands, and will endanger life, health, or property, then the division shall take action necessary to control or to prevent the occurrence of those floods.
- (3) For the purpose of controlling and preventing floods, the division may cooperate with public and private entities.
- (4) The division may authorize construction of necessary control works on a basis of equitable participation and for these purposes may acquire any additional lands, necessary for the control or the prevention of the floods, either by purchase, exchange, lease, condemnation, or gift.
- (5) The division may transfer these lands to any existing agencies or agencies created to maintain prevention or control works.
- (6) The division may cooperate with the federal government in acquiring watershed lands becoming barren and susceptible to flooding.

Repealed and Re-enacted by Chapter 294, 1994 General Session

Chapter 12 Lands Granted Under the Carey Act

65A-12-1 Authority of division to manage lands granted under the Carey Act.

The selection, management, and disposal of lands granted by Congress under the Carey Act is vested in the division, which is authorized to make rules and contracts necessary to carry out the provisions of this chapter.

Repealed and Re-enacted by Chapter 294, 1994 General Session

65A-12-2 Reclamation Trust Fund -- Carey Act Expense Fund.

- (1)
 - (a) All money received by the division from the sale of lands selected under this chapter shall be deposited with the state treasurer.

- (b) Any sums necessary shall be available for the payment of the expenses of the division in carrying out the provisions of this chapter.
- (2)
- (a) Any balance remaining over and above the expenses necessary to carry out the provisions of this chapter shall constitute a trust fund to be used only for the reclamation of other arid lands.
 - (b)
 - (i) Until there is sufficient money in the Reclamation Trust Fund, the expenses of the division in carrying out the provisions of this chapter may be paid from a Carey Act Expense Fund to be appropriated by the Legislature.
 - (ii) The Division of Finance shall register claims paid out of the expense fund in the order of their presentation.
 - (c) Whenever, except as provided in this chapter, money in the reclamation trust fund equals a claim which has been paid out of the Carey Act Expense Fund, the Division of Finance shall draw a warrant on the reclamation fund to reimburse the state for sums that have been paid out of the Carey Act Expense Fund.
- (3)
- (a) The division shall draw by requisition on the Division of Finance the sums necessary to pay the United States in order to obtain patent to lands accepted in this chapter.
 - (b) The Division of Finance shall draw this warrant on the Reclamation Trust Fund giving precedence to sums to be paid to the United States over warrants to reimburse the state for expenses.

Renumbered and Amended by Chapter 294, 1994 General Session

65A-12-3 Water rights to be appurtenant to land -- Lien for purchase price -- Foreclosure and redemption.

- (1)
- (a) The water rights to all lands acquired under this chapter shall attach to and become appurtenant to the land as soon as the title passes from the United States to the state.
 - (b) Any person furnishing water for any tract of land so acquired shall have a first and prior lien on those water rights and land upon which the water is used for all deferred payments for such water rights.
 - (c) The lien is to be in all respects prior to any and all other liens created or attempted to be created by the owner and possessor of the land.
 - (d) The lien shall remain in force and effect until the last deferred payment for the water rights is fully paid and settled according to the terms of the contract under which such water rights were acquired.
- (2)
- (a) The contract for the water rights upon which the lien is founded shall be recorded in the office of the county recorder of the county where the land is situated.
 - (b) Upon default of any deferred payments secured by any lien under this chapter, the person holding the lien may foreclose the lien according to the terms and conditions of the contract granting and selling to the settler the water rights.
 - (c) Foreclosure shall be in the manner in which mortgages are foreclosed in this state.
 - (d) The settler shall have the right, within one year from the date of foreclosure as provided in this section, to redeem the land and water rights, by payment of the sum of deferred payment with interest at not to exceed 12% per annum, with accrued cost of maintenance.

Renumbered and Amended by Chapter 294, 1994 General Session

Chapter 14 Utah Bioprospecting Act

Part 1 General Provisions

65A-14-101 Title.

This chapter is known as the "Utah Bioprospecting Act."

Enacted by Chapter 21, 2010 General Session

65A-14-102 Definitions.

As used in this chapter:

- (1)
 - (a) "Bioprospecting" means the removal from a natural environment for research or commercial use of:
 - (i) a naturally occurring microorganism, plant, or fungus; or
 - (ii) information concerning a naturally occurring microorganism's, plant's, or fungus' physical or genetic properties.
 - (b) "Bioprospecting" does not include:
 - (i) horticultural cultivation, except for horticultural genetic engineering conducted in a manner otherwise constituting bioprospecting;
 - (ii) an agricultural enterprise;
 - (iii) a forest and range management practice;
 - (iv) invasive weed management;
 - (v) Christmas tree and related sales; or
 - (vi) incidental removal of a microorganism, plant, or fungus while engaged in bona fide research or commercial enterprises.
- (2) "Nonfederal public land" means land in the state that:
 - (a) is not owned, controlled, or held in trust by the federal government; and
 - (b)
 - (i) is owned or controlled by:
 - (A) the state;
 - (B) a county, city, or town; or
 - (C) a governmental entity other than the federal government; or
 - (ii) is school and institutional trust lands, as defined in Section 53C-1-103.

Enacted by Chapter 21, 2010 General Session

65A-14-103 Scope of chapter.

- (1) This chapter does not modify or replace any other requirement under federal, state, or local law related to an act that under this chapter is considered bioprospecting, including any requirement to obtain the permission of a landowner.
- (2) This chapter applies only to non-federal public land.

Enacted by Chapter 21, 2010 General Session

65A-14-104 Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules necessary to fulfill the purposes of this chapter.

Enacted by Chapter 21, 2010 General Session

**Part 2
Registration for Bioprospecting**

65A-14-201 Registration for bioprospecting.

- (1)
 - (a) On and after July 1, 2011, before engaging in an act of bioprospecting, a person shall register with the division.
 - (b) A registration under this chapter expires on June 30 of each year.
- (2) To register with the division or renew a registration, a person shall:
 - (a) submit a registration form created by the division in accordance with Subsection (3); and
 - (b) pay a fee established by the division in accordance with Section 63J-1-504.
- (3) The division shall create, by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, a registration form for purposes of this chapter that includes:
 - (a) notice of the state's reservation of economic interests provided in Section 65A-14-202;
 - (b) a statement to be signed by a person who registers that states that the person agrees to negotiate as described in Section 65A-14-202; and
 - (c) a requirement that the person lists the locations at which the person anticipates bioprospecting during the 12-month period of the registration.

Enacted by Chapter 21, 2010 General Session

65A-14-202 Reservation of economic interests -- Agreement to negotiate in good faith.

- (1) The right of a person to engage in an act of bioprospecting in this state is subject to the state's reservation of any right the state may have to an economic benefit derived from:
 - (a) the act of bioprospecting;
 - (b) a microorganism, plant, or fungus removed from a natural environment in the state; or
 - (c) information concerning a microorganism's, plant's, or fungus' physical or genetic properties removed from a natural environment in the state.
- (2) A person may not engage in an act of bioprospecting in this state if the person, as part of the registration required under Section 65A-14-201, does not agree in writing to negotiate in good faith with the state if the state asserts an economic interest described in Subsection (1).

Enacted by Chapter 21, 2010 General Session

**Part 3
Penalties**

65A-14-301 Economic benefits of bioprospecting denied.

- (1) A person who engages in an act of bioprospecting in violation of this chapter is guilty of criminal trespass punishable in accordance with Section 76-6-206.
- (2) If found guilty of a violation under this chapter, a court may in addition to a penalty imposed under Section 76-6-206, order restitution that is proportional to the economic interests the state may have under Section 65A-14-202.

Enacted by Chapter 21, 2010 General Session

**Chapter 15
Utah Lake Restoration Act**

**Part 1
General Provisions**

65A-15-101 Title.

This chapter is known as the "Utah Lake Restoration Act."

Enacted by Chapter 381, 2018 General Session

65A-15-102 Definitions.

As used in this chapter:

- (1) "Restoration project" means a project for the comprehensive restoration of Utah Lake, as provided in this chapter.
- (2) "Restoration proposal" means a proposal submitted to the division for a restoration project.

Enacted by Chapter 381, 2018 General Session

65A-15-103 Legislative findings.

The Legislature finds that:

- (1) Utah Lake currently faces serious challenges, including:
 - (a) fluctuating lake levels;
 - (b) uncontrolled, toxic algal blooms;
 - (c) loss of native vegetation;
 - (d) invasive fish and plant species;
 - (e) loss of littoral zone plants;
 - (f) suspended silt on the lake bottom;
 - (g) poor water clarity;
 - (h) heavy nutrient loading of lake sediments and within the water column; and
 - (i) high wind and wave action;
- (2) initial conservation efforts are producing measurable results and demonstrate that conservation solutions can produce restoration objective on Utah Lake;
- (3) additional and significant conservation investments are needed to implement the comprehensive solutions needed to fully restore Utah Lake and its water quality;

- (4) there is not a reasonable public funding source to undertake the comprehensive solutions needed to restore Utah Lake; and
- (5) it is in the interest of the state to undertake a comprehensive restoration of Utah Lake for the benefit of public trust uses on the lake.

Enacted by Chapter 381, 2018 General Session

Part 2 Utah Lake Restoration Project

65A-15-201 Division recommendation on disposal of state land in exchange for Utah Lake restoration project -- Approval of Legislature and governor required -- Criteria -- Division recommendations for defining and meeting objectives.

- (1)
 - (a) The division may recommend the disposal of appropriately available state land in and around Utah Lake as compensation for the comprehensive restoration of Utah Lake under a restoration proposal if the division finds that the restoration project will enhance the following public benefits:
 - (i) restoring the clarity and quality of the water in Utah Lake;
 - (ii) conserving water resources in and around Utah Lake;
 - (iii) preserving the water storage and water supply functions of Utah Lake;
 - (iv) removing invasive plant and animal species, including phragmites and carp, from Utah Lake;
 - (v) restoring littoral zone and other plant communities in and around Utah Lake;
 - (vi) restoring and conserving native fish and other aquatic species in Utah Lake, including Bonneville cutthroat trout and June Sucker;
 - (vii) increasing the suitability of Utah Lake and its surrounding areas for shore birds, waterfowl, and other avian species;
 - (viii) improving navigability of Utah Lake;
 - (ix) maximizing, enhancing, and ensuring recreational access and opportunities on Utah Lake;
 - (x) preserving current water rights related to water associated with Utah Lake;
 - (xi) otherwise improving the use of Utah Lake for residents and visitors;
 - (xii) substantially accommodating an existing use on land in or around Utah Lake; and
 - (xiii) providing any other benefits identified by the division.
 - (b) If the division chooses to make a recommendation under Subsection (1)(a), the division shall make the recommendation in writing to the Legislature and governor.
- (2) In determining whether to recommend the disposal of state land in exchange for the execution of a restoration project, as provided in Subsection (1)(a) and pursuant to a restoration proposal, the division shall consider:
 - (a) the potential that the restoration project presents for additional revenue to state and local government entities;
 - (b) the ability of the proposed use of the state land given in exchange for the restoration project to enhance state property adjacent to Utah Lake;
 - (c) the proposed timetable for completion of the restoration project;
 - (d) the ability of the person who submits a restoration project to execute and complete the restoration project satisfactorily; and

- (e) the desirability of the proposed use of Utah Lake and the surrounding areas as a result of the restoration project.
- (3) The Legislature and governor may, through the adoption of a concurrent resolution, authorize the disposal of state land in and around Utah Lake as compensation for the comprehensive restoration of Utah Lake under a restoration proposal if:
 - (a) the division recommends the disposal as provided in Subsection (1); and
 - (b) the Legislature and governor make a determination, in a concurrent resolution adopted under this Subsection (3), that:
 - (i) the restoration project will accomplish the objectives listed in Subsection (1)(a); and
 - (ii) the disposal is:
 - (A) a fiscally sound and fair method of providing for the comprehensive restoration of Utah Lake; and
 - (B) constitutionally sound and legal.
- (4) In support of the required permitting application for a restoration project, the division shall:
 - (a) prepare recommendations for standards, criteria, and thresholds to define more specifically the objectives listed in Subsections (1)(a) and (3)(b)(ii) and how and when those objectives are to be met;
 - (b) report on the division's efforts under Subsection (4)(a) to the Natural Resources, Agriculture, and Environment Interim Committee, as requested by the committee chairs; and
 - (c) upon completion of recommendations under Subsection (4)(a), present the recommendations to the Natural Resources, Agriculture, and Environment Interim Committee.

Amended by Chapter 60, 2022 General Session

65A-15-202 Status of state lands after a change in ownership.

Once the division transfers ownership of state land to a private party in exchange for and in furtherance of a restoration project, the land becomes subject to, as applicable:

- (1) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act; or
- (2) Title 17, Chapter 27a, County Land Use, Development, and Management Act.

Enacted by Chapter 381, 2018 General Session

Chapter 16
Great Salt Lake Watershed Enhancement Program

Part 1
General Provisions

65A-16-101 Definitions.

As used in this chapter:

- (1) "Commissioner" means the Great Salt Lake commissioner appointed under Section 73-32-201.
- (2) "Conservation organization" means an institution, corporation, foundation, or association that is:
 - (a) private;
 - (b) nonprofit; and
 - (c) founded for the purpose of promoting conservation of natural resources.

- (3) "Council" means the Great Salt Lake Advisory Council created in Section 73-32-302.
- (4) "Division" means the Division of Forestry, Fire, and State Lands.
- (5) "Eligible applicant" means two or more conservation organizations that submit a joint grant application to the division under Section 65A-16-201 and meet the criteria listed in Subsection 65A-16-201(3)(a).
- (6) "Grant money" means money awarded to an eligible applicant pursuant to this chapter.
- (7) "Grantee" means an eligible applicant that receives a grant authorized under this chapter.
- (8) "Great Salt Lake watershed" means the area comprised of the Great Salt Lake, the Bear River watershed, the Jordan River watershed, the Utah Lake watershed, the Weber River watershed, and the West Desert watershed.
- (9) "Program" means the Great Salt Lake Watershed Enhancement Program created under Section 65A-16-201.

Amended by Chapter 205, 2023 General Session

65A-16-102 Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Subsection 65A-16-201(5)(c), the division may make rules to administer the program in accordance with this chapter.

Enacted by Chapter 78, 2022 General Session

**Part 2
Program Established**

65A-16-201 Great Salt Lake Watershed Enhancement Program established.

- (1) There is created the "Great Salt Lake Watershed Enhancement Program" to issue grant money to establish a water trust to implement projects, programs, or voluntary arrangements that:
 - (a) retain or enhance water flows to:
 - (i) sustain the Great Salt Lake and the Great Salt Lake's wetlands; and
 - (ii) improve water quality and quantity for the Great Salt Lake within the Great Salt Lake watershed;
 - (b) conserve and restore upstream habitats that are key to protecting the hydrology and health of the Great Salt Lake and the Great Salt Lake's surrounding ecosystem;
 - (c) attract or leverage other public or private funding to enhance and preserve the Great Salt Lake watershed;
 - (d) engage agricultural producers, local landowners, local planning authorities, and others to support the Great Salt Lake;
 - (e) support or benefit the Great Salt Lake's natural infrastructure;
 - (f) protect and restore uplands, wetlands, and habitats in the Great Salt Lake watershed that benefit hydrologic or ecosystem functions of the Great Salt Lake;
 - (g) support efforts to integrate water planning and management efforts that benefit the Great Salt Lake watershed;
 - (h) undertake assessments or studies as necessary, consistent with the goals of this Subsection (1);

- (i) support projects or programs to respond to low water levels and rising salinity in the Great Salt Lake;
 - (j) require the creation and operation of one or more endowments to sustain the water trust and fulfill the purposes of this chapter; or
 - (k) otherwise fulfill the purposes of this Subsection (1) to enhance, preserve, or protect the Great Salt Lake.
- (2)
- (a) Subject to legislative appropriations, the division shall award a one-time grant to one eligible applicant to establish a water trust authorized under this section.
 - (b) The amount of the one-time grant under this Subsection (2) shall be equal to the entire appropriation made to the division to implement this chapter.
 - (c) Notwithstanding the requirements for the division issuing a one-time grant under this section, after the grant is issued, the division may receive additional appropriations to be used for the purposes of this chapter, including providing money to the water trust created under this chapter.
- (3) To be considered for the one-time grant under Subsection (2), an eligible applicant shall submit a written application to the division within 60 days of March 21, 2022, that:
- (a) demonstrates that the eligible applicant meets the following criteria that are necessary to submit a written application, that the eligible applicant:
 - (i) has offices and staff located in Utah; and
 - (ii) individually or collectively possesses:
 - (A) a history and ability to attract private funding to implement water and land conservation projects;
 - (B) knowledge and experience with the Great Salt Lake and the Great Salt Lake watershed;
 - (C) knowledge and experience managing wetlands in the vicinity of the Great Salt Lake;
 - (D) knowledge and experience in the creation of three or more water trusts or water funds;
 - (E) knowledge and experience in securing approval from the Division of Water Rights for water right applications that support the beneficial use of water in the Great Salt Lake;
 - (F) knowledge and experience with Utah water laws; and
 - (G) participation in the development of studies and reports on the Great Salt Lake and Utah water policy;
 - (b) how the applicant will accomplish the objectives of Subsection (1);
 - (c) how the applicant will satisfy Part 3, Water Trust; and
 - (d) a description of the types of money, in-kind contributions, and other resources the applicant could contribute or attract to support the creation, operation, and administration of a water trust.
- (4) The division, in consultation with the council and the director of the Division of Water Quality, shall evaluate and rank the applications received under Subsection (3) according to each eligible applicant's experience and demonstrated ability to:
- (a) attract and secure public and private funding to implement water and land conservation projects;
 - (b) address water quality and hydrology issues of the Great Salt Lake and within the Great Salt Lake watershed;
 - (c) create and operate water trusts;
 - (d) secure approval from the Division of Water Rights for water right applications that support beneficial use of water in the Great Salt Lake;
 - (e) understand, use, and work to improve Utah water laws in a manner that benefits the Great Salt Lake watershed while protecting other beneficial uses of water; and

- (f) participate in collaborative efforts to develop strategies and recommendations to ensure adequate water for the Great Salt Lake and the Great Salt Lake watershed.
- (5)
- (a) Within 90 days of March 21, 2022, the division shall select the highest ranking eligible applicant as the grantee.
 - (b) The division shall distribute the appropriated money to the grantee as soon as reasonably practicable following the execution of an agreement or agreements that satisfy the requirements of Subsections 51-2a-201.5(4) and 63J-1-220(2).
 - (c) The division shall issue the grant within the time period required under this Subsection (5) notwithstanding whether the division has adopted rules to administer the program under Section 65A-16-102.
- (6) If the division does not receive an application from an eligible applicant that satisfies each of the evaluation criteria of Subsection (4), the division shall issue a request for proposals under a competitive award process and shall select the most qualified applicant to receive the grant.

Enacted by Chapter 78, 2022 General Session
Revisor instructions Chapter 78, 2022 General Session

65A-16-202 Oversight.

- (1)
- (a) The division shall oversee whether a grantee and the water trust that the grantee establishes comply with this chapter.
 - (b) In overseeing a grantee under this chapter, the division shall consult with the commissioner.
- (2)
- (a) The division, in consultation with the council and the Division of Water Quality, shall establish by rule made in accordance with Section 65A-16-102, interventions for a grantee or water trust that fails to comply with this chapter.
 - (b) The rules establishing interventions under Subsection (2)(a) shall include, among other actions, requiring the grantee or water trust to return unexpended grant money to the division for failure to comply with this chapter.
- (3) This section may not be construed as limiting the state auditor's enforcement authority under Section 51-2a-201.5.

Amended by Chapter 205, 2023 General Session

65A-16-203 Grantee requirements.

A grantee that receives grant money under this chapter shall:

- (1) comply with Section 51-2a-201.5, Subsection 63J-1-220(2), and other applicable laws, regulations, ordinances, or rules; and
- (2) use grant money to carry out the objectives of Subsection 65A-16-201(1) and to operate the water trust in a manner required by Section 65A-16-301, provided that this chapter may not be construed as limiting the grantee's ability to obtain funding from other public and private sources to assist in the establishment, operation, and administration of the water trust.

Enacted by Chapter 78, 2022 General Session

Part 3 Water Trust

65A-16-301 Water trust -- Powers and duties -- Advisory councils.

- (1) The grantee under this chapter shall establish a water trust that:
- (a) is organized:
 - (i) as a private nonprofit organization; or
 - (ii) as an agreement between two or more conservation organizations; and
 - (b) complies with this section.
- (2) A water trust created under this section shall:
- (a) use a fiduciary to hold and administer grant money appropriated under this chapter;
 - (b) subject to Subsection (6):
 - (i) register with the lieutenant governor as a limited purpose entity pursuant to Section 51-2a-201.5;
 - (ii) file with the state auditor on or before June 30 of each year the accounting report that:
 - (A) satisfies Subsection 51-2a-201.5(2);
 - (B) includes an itemized accounting of the in-kind contributions and other monetary contributions described in Subsection (4); and
 - (C) includes an itemized accounting of the costs incurred under Subsection (3)(a);
 - (iii) provide a copy of the accounting report described in Subsection (2)(b)(ii) to:
 - (A) the division;
 - (B) the commissioner;
 - (C) the Division of Water Quality;
 - (D) the council; and
 - (E) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee;
 - (iv) file with the division on or before January 31 of each year a report that satisfies the requirements of Subsections 51-2a-201.5(4) and 63J-1-220(2); and
 - (v) provide a copy of the report described in Subsection (2)(b)(iv) to:
 - (A) the Division of Water Quality;
 - (B) the council; and
 - (C) the Natural Resources, Agriculture, and Environment Quality Appropriations Subcommittee; and
 - (c) comply with applicable laws, regulations, ordinances, and rules.
- (3) A water trust established by a grantee under this section:
- (a) may use grant money for costs to establish, operate, or administer the water trust, including the hiring of staff or contractors;
 - (b) shall use no less than 25% of the grant money to protect and restore wetlands and habitats in the Great Salt Lake's surrounding ecosystem to benefit the hydrology of the Great Salt Lake; and
 - (c) may invest grant money the water trust receives under this chapter or any private money the water trust may receive, except that the water trust shall:
 - (i) invest and account for grant money and private money separately; and
 - (ii) use the earnings received from the investment of grant money to carry out the purposes described in Subsection 65A-16-201(1).

- (4) The water trust shall provide a significant match of in-kind contributions or other monetary contributions to support the water trust's operations and for the purposes described in Subsection 65A-16-201(1).
- (5)
 - (a) A water trust established under this section shall create and consult with one or more advisory councils on matters related to the mission and objectives of the water trust.
 - (b) At least one of the advisory councils shall consist of nine members with a representative from the following:
 - (i) agriculture;
 - (ii) a private land owner adjacent to the Great Salt Lake;
 - (iii) a conservation organization dedicated to the preservation of migratory waterfowl;
 - (iv) a conservation organization dedicated to the protection of non-game avian species;
 - (v) another conservation organization working on Great Salt Lake issues;
 - (vi) aquaculture;
 - (vii) mineral extraction;
 - (viii) a water conservancy district; and
 - (ix) wastewater treatment facilities.
- (6) The duties of the water trust under Subsection (2)(b) apply to the water trust notwithstanding whether the holdings, revenues, or expenditures of the water trust include grant money or other money from the state.

Amended by Chapter 205, 2023 General Session