

## Chapter 2 Department of Natural Resources

### Part 1 General Provisions

#### **79-2-101 Title.**

This chapter is known as the "Department of Natural Resources."

Enacted by Chapter 344, 2009 General Session

#### ***Superseded 1/1/2025***

#### **79-2-102 Definitions.**

As used in this chapter:

- (1) "Conservation officer" is as defined in Section 23A-1-101.
- (2) "Volunteer" means a person who donates a service to the department or a division of the department without pay or other compensation.

Amended by Chapter 88, 2024 General Session

#### ***Effective 1/1/2025***

#### **79-2-102 Definitions.**

As used in this chapter:

- (1) "Natural resources officer" means the same as that term is defined in Section 79-2-701.
- (2) "Volunteer" means a person who donates a service to the department or a division of the department without pay or other compensation.

Amended by Chapter 80, 2024 General Session

### Part 2 Department Creation and Administration

#### **79-2-201 Department of Natural Resources created.**

- (1) There is created the Department of Natural Resources.
- (2) The department comprises the following:
  - (a) Board of Water Resources, created in Section 73-10-1.5;
  - (b) Board of Oil, Gas, and Mining, created in Section 40-6-4;
  - (c) Office of Energy Development, created in Section 79-6-401;
  - (d) Wildlife Board, created in Section 23A-2-301;
  - (e) Board of the Utah Geological Survey, created in Section 79-3-301;
  - (f) Water Development Coordinating Council, created in Section 73-10c-3;
  - (g) Division of Water Rights, created in Section 73-2-1.1;
  - (h) Division of Water Resources, created in Section 73-10-18;
  - (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
  - (j) Division of Oil, Gas, and Mining, created in Section 40-6-15;
  - (k) Division of State Parks, created in Section 79-4-201;

- (l) Division of Outdoor Recreation, created in Section 79-7-201;
  - (m) Division of Wildlife Resources, created in Section 23A-2-201;
  - (n) Utah Geological Survey, created in Section 79-3-201;
  - (o) Utah Outdoor Recreation Infrastructure Advisory Committee, created in Section 79-7-206;
  - (p)
    - (i) an advisory council that includes in the advisory council's duties advising on state boating policy, authorized by Section 73-18-3.5; or
    - (ii) an advisory council that includes in the advisory council's duties advising on off-highway vehicle use, authorized by Section 41-22-10;
  - (q) Wildlife Board Nominating Committee, created in Section 23A-2-302;
  - (r) Wildlife Regional Advisory Councils, created in Section 23A-2-303;
  - (s) Utah Watersheds Council, created in Section 73-10g-304;
  - (t) Utah Natural Resources Legacy Fund Board, created in Section 23A-3-305; and
  - (u) Public Lands Policy Coordinating Office created in Section 63L-11-201.
- (3) The department shall provide office space, furnishings, and supplies to the Great Salt Lake commissioner appointed under Section 73-32-201, the Office of the Great Salt Lake Commissioner created in Section 73-32-301, and support staff for the Office of the Great Salt Lake Commissioner.

Amended by Chapter 507, 2024 General Session

**79-2-202 Executive director -- Appointment -- Removal -- Compensation -- Responsibilities.**

- (1)
- (a) The chief administrative officer of the department is an executive director appointed by the governor with the advice and consent of the Senate.
  - (b) The executive director may be removed at the will of the governor.
  - (c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.
- (2) The executive director shall:
- (a) administer and supervise the department and provide for coordination and cooperation among the boards, divisions, councils, and committees of the department;
  - (b) approve the budget of each board and division;
  - (c) participate in regulatory proceedings as appropriate for the functions and duties of the department;
  - (d) report at the end of each fiscal year to the governor on department, board, and division activities;
  - (e) ensure that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:
    - (i) under this title;
    - (ii) by the department; or
    - (iii) by an agency or division within the department; and
  - (f) perform other duties as provided by statute.
- (3) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the executive director, may accept an executive or legislative provision that is enacted by the federal government, whereby the state may participate in the distribution, disbursement, or administration of a fund or service from the federal government for purposes consistent with the powers and duties of the department.

- (4)
  - (a) The executive director, in cooperation with the governmental entities having policymaking authority regarding natural resources, may engage in studies and comprehensive planning for the development and conservation of the state's natural resources.
  - (b) The executive director shall submit any plan to the governor for review and approval.
- (5) The executive director may coordinate and enter agreements with other state agencies regarding state conservation efforts as defined in Section 4-46-102.

Amended by Chapter 68, 2022 General Session

**79-2-203 Policy board members.**

- (1) Members of a policy board within the department shall be appointed consistent with the following criteria:
  - (a) geographical distribution;
  - (b) expertise or personal experience with subject matter;
  - (c) diversity of opinion and political preference; and
  - (d) gender, cultural, and ethnic representation.
- (2) The governor may remove a member at any time for official misconduct, habitual or willful neglect of duty, or for other good and sufficient cause.
- (3) No member of the Legislature may serve as a member of a division policy board.
- (4)
  - (a) In addition to the disclosures required by Section 67-16-7, a board member shall disclose any conflict of interest to the board.
  - (b) Notwithstanding Section 67-16-9, a board member with a substantial conflict may serve on the board if the member refrains from voting on a board action when the conflict involves:
    - (i) a direct financial interest in the subject under consideration; or
    - (ii) an entity or asset that could be substantially affected by the outcome of board action.

Renumbered and Amended by Chapter 344, 2009 General Session

***Superseded 1/1/2025***

**79-2-204 Division directors -- Appointment -- Removal -- Jurisdiction of executive director.**

- (1)
  - (a) The chief administrative officer of a division within the department is a director appointed by the executive director with the concurrence of the board having policy authority for the division.
  - (b) The director of a division may be removed from office by the executive director.
  - (c) The appointment and term of office of the state engineer, notwithstanding anything to the contrary contained in this section, shall be in accordance with Section 73-2-1.
- (2)
  - (a) The executive director has administrative jurisdiction over a division director for the purpose of implementing department policy as established by the division's board.
  - (b) The executive director may:
    - (i) consolidate personnel and service functions in the divisions to effectuate efficiency and economy in the operations of the department;
    - (ii) establish a departmental services division to perform service functions; and

- (iii) employ law enforcement officers and special function officers within the department that have all of the powers of a conservation officer and law enforcement officer, with the exception of the power to serve civil process.

Renumbered and Amended by Chapter 344, 2009 General Session

**Effective 1/1/2025**

**79-2-204 Division directors -- Appointment -- Removal -- Jurisdiction of executive director.**

- (1)
  - (a) The chief administrative officer of a division within the department is a director appointed by the executive director with the concurrence of the board having policy authority for the division.
  - (b) The director of a division may be removed from office by the executive director.
  - (c) The appointment and term of office of the state engineer, notwithstanding anything to the contrary contained in this section, shall be in accordance with Section 73-2-1.
- (2)
  - (a) The executive director has administrative jurisdiction over a division director for the purpose of implementing department policy as established by the division's board.
  - (b) The executive director may:
    - (i) consolidate personnel and service functions in the divisions to effectuate efficiency and economy in the operations of the department;
    - (ii) establish a departmental services division to perform service functions; and
    - (iii) employ law enforcement officers within the department that have all of the powers of a natural resources officer and law enforcement officer, with the exception of the power to serve civil process.

Amended by Chapter 80, 2024 General Session

**79-2-205 Procedures -- Adjudicative proceedings.**

Except as provided by Sections 40-10-13, 63G-4-102, and 73-2-25, a division, board, council, or committee referred to in Subsection 79-2-201(2) shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in an adjudicative proceeding.

Amended by Chapter 205, 2023 General Session

**79-2-206 Transition.**

- (1) In accordance with Laws of Utah 2021 Chapter 280, the Department of Natural Resources assumes the policymaking functions, regulatory, and enforcement powers, rights, and duties of the Office of Energy Development existing on June 30, 2021.
- (2)
  - (a) Rules issued by the Office of Energy Development that are in effect on June 30, 2021, are not modified by Laws of Utah 2021 Chapter 280, and remain in effect until modified by the Department of Natural Resources, except that the agency administering the rule shall be transferred to the Department of Natural Resources in the same manner as the statutory responsibility is transferred under Laws of Utah 2021 Chapter 280.
  - (b) Rules issued by the Board of Parks and Recreation that are in effect on June 30, 2021, are not modified by Laws of Utah 2021 Chapter 280, and remain in effect until modified by

the appropriate entity within the Department of Natural Resources, except that the agency administrating the rule shall be transferred to the appropriate entity within the Department of Natural Resources in the same manner as the statutory responsibility is transferred under Laws of Utah 2021 Chapter 280.

- (c) Rules issued by the Office of Outdoor Recreation that are in effect on June 30, 2022, are not modified by Laws of Utah 2022 Chapter 68, and remain in effect until modified by the Department of Natural Resources, except that the agency administrating the rule shall be transferred to the Department of Natural Resources in the same manner as the statutory responsibility is transferred under Laws of Utah 2022 Chapter 68.
- (3) A grant, contract, or agreement in effect on June 30, 2021, that is entered into by or issued by the Office of Energy Development remains in effect, except that:
  - (a) the agency administrating the grant, contract, or agreement shall be transferred to the Department of Natural Resources in the same manner as the statutory responsibility is transferred under Laws of Utah 2021 Chapter 280; and
  - (b) the grant, contract, or agreement is subject to its terms and may be terminated under the terms of the grant, contract, or agreement.
- (4)
  - (a) A grant that is entered into or issued by the Utah Office of Outdoor Recreation remains in effect, except that:
    - (i) the agency administrating the grant shall be transferred to the Division of Outdoor Recreation in the same manner as the statutory responsibility is transferred under Laws of Utah 2021 Chapter 280 and Laws of Utah 2022 Chapter 68; and
    - (ii) the grant is subject to the terms of the grant and may be terminated under the terms of the grant.
  - (b) In accordance with Laws of Utah 2022 Chapter 68, the Department of Natural Resources assumes the policymaking functions, regulatory, and enforcement powers, rights, and duties of the Office of Outdoor Recreation existing on June 30, 2022.

Amended by Chapter 68, 2022 General Session  
Revisor instructions Chapter 68, 2022 General Session

### **Part 3 Finances**

#### **79-2-301 Budget.**

- (1) The department shall prepare and submit to the governor, to be included in the budget to be submitted to the Legislature, a budget of the department's requirements for expenses in carrying out the provisions of law during the fiscal year next following the convening of the Legislature.
- (2) The director of each division shall prepare, with the advice of the division's policy board, a budget of expenses for the next fiscal year, which shall be submitted to the executive director to aid in the preparation of the departmental budget.

Renumbered and Amended by Chapter 344, 2009 General Session

#### **79-2-302 Fees.**

- (1) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department.
- (2) A fee described in Subsection (1) shall:
  - (a) be reasonable and fair; and
  - (b) reflect the cost of services provided.
- (3) The department shall submit a fee established under this section to the Legislature as part of the department's annual appropriations request.
- (4) The department may not charge or collect a fee established under this section without approval of the Legislature.

Enacted by Chapter 344, 2009 General Session

***Renumbered 7/1/2024***

**79-2-303 Species Protection Account.**

- (1) There is created within the General Fund a restricted account known as the Species Protection Account.
- (2) The account shall consist of:
  - (a) revenue generated by the brine shrimp tax provided for in Title 59, Chapter 23, Brine Shrimp Royalty Act; and
  - (b) interest earned on money in the account.
- (3) Money in the account may be appropriated by the Legislature to:
  - (a) develop and implement species status assessments and species protection measures;
  - (b) obtain biological opinions of proposed species protection measures;
  - (c) conduct studies, investigations, and research into the effects of proposed species protection measures;
  - (d) verify species protection proposals that are not based on valid biological data;
  - (e) implement Great Salt Lake wetlands mitigation projects in connection with the western transportation corridor;
  - (f) pay for the state's voluntary contributions to the Utah Reclamation Mitigation and Conservation Account under the Central Utah Project Completion Act, Pub. L. No. 102-575, Titles II-VI, 106 Stat. 4605-4655; and
  - (g) pay for expenses of the State Tax Commission under Title 59, Chapter 23, Brine Shrimp Royalty Act.
- (4) The purposes specified in Subsections (3)(a) through (3)(d) may be accomplished by the state or, in an appropriation act, the Legislature may authorize the department to award grants to political subdivisions of the state to accomplish those purposes.
- (5) Money in the account may not be used to develop or implement a habitat conservation plan required under federal law unless the federal government pays for at least 1/3 of the habitat conservation plan costs.

Renumbered and Amended by Chapter 344, 2009 General Session

**Part 4  
Miscellaneous**

**79-2-401 Volunteer workers authorized.**

- (1) The department and its divisions may use volunteer workers to supplement the salaried work force.
- (2) A volunteer may be reimbursed for expenses actually and necessarily incurred, including transportation, meals, lodging, uniforms, and other items as approved by the Division of Finance, in the amounts and in accordance with the rules of the Division of Finance.
- (3) A volunteer is considered an employee of the state for the purposes stated in Section 67-20-3.
- (4) A volunteer may not donate a service to the department or a division unless the work program in which the volunteer would serve has first been approved, in writing, by the executive director and the director of the Division of Human Resource Management.
- (5) Volunteer services shall comply with the rules adopted by the Division of Human Resource Management relating to the services that are not inconsistent with this section.

Amended by Chapter 344, 2021 General Session

**79-2-403 Rulemaking for sale of real property -- Licensed or certified appraisers -- Exceptions.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the department buys, sells, or exchanges real property, the department shall make rules to ensure that the value of the real property is congruent with the proposed price and other terms of the purchase, sale, or exchange.
- (2) The rules:
  - (a) shall establish procedures for determining the value of the real property;
  - (b) may provide that an appraisal, as defined under Section 61-2g-102, demonstrates the real property's value; and
  - (c) may require that the appraisal be completed by a state-certified general appraiser, as defined under Section 61-2g-102.
- (3) Subsection (1) does not apply to the purchase, sale, or exchange of real property, or to an interest in real property:
  - (a) that is under a contract or other written agreement before May 5, 2008; or
  - (b) with a value of less than \$100,000, as estimated by the state agency.

Amended by Chapter 289, 2011 General Session

***Superseded 7/1/2024***

**79-2-404 Contracting powers of department -- Health insurance coverage.**

- (1) As used in this section:
  - (a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.
  - (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
  - (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:
    - (i) works at least 30 hours per calendar week; and
    - (ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.
  - (d) "Health benefit plan" means:
    - (i) the same as that term is defined in Section 31A-1-301; or
    - (ii) an employee welfare benefit plan:

- (A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;
  - (B) for an employer with 100 or more employees; and
  - (C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.
  - (e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.
  - (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
  - (g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.
- (2) Except as provided in Subsection (3), the requirements of this section apply to:
- (a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and
  - (b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.
- (3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:
- (a) the application of this section jeopardizes the receipt of federal funds;
  - (b) the contract or agreement is between:
    - (i) the department or a division, board, or council of the department; and
    - (ii)
      - (A) another agency of the state;
      - (B) the federal government;
      - (C) another state;
      - (D) an interstate agency;
      - (E) a political subdivision of this state; or
      - (F) a political subdivision of another state; or
  - (c) the contract or agreement is:
    - (i) for the purpose of disbursing grants or loans authorized by statute;
    - (ii) a sole source contract; or
    - (iii) an emergency procurement.
- (4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.
- (5)
- (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:
    - (i) the contractor offers qualified health coverage that complies with Section 26B-3-909;
    - (ii) is from:
      - (A) an actuary selected by the contractor or the contractor's insurer;
      - (B) an underwriter who is responsible for developing the employer group's premium rates; or
      - (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
    - (iii) was created within one year before the day on which the statement is submitted.
  - (b)

- (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.
- (ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:
  - (A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and
  - (B) the department.
- (c) A contractor that is subject to the requirements of this section shall:
  - (i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and
  - (ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:
    - (A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;
    - (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and
    - (C) was created within one year before the day on which the contractor obtains the statement.
- (d)
  - (i)
    - (A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
    - (B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).
  - (ii)
    - (A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).
    - (B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).
- (6) The department shall adopt administrative rules:
  - (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
  - (b) in coordination with:
    - (i) the Department of Environmental Quality in accordance with Section 19-1-206;
    - (ii) a public transit district in accordance with Section 17B-2a-818.5;
    - (iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;
    - (iv) the State Capitol Preservation Board in accordance with Section 63O-2-403;
    - (v) the Department of Transportation in accordance with Section 72-6-107.5; and
    - (vi) the Legislature's Rules Review and General Oversight Committee created in Section 36-35-102; and

- (c) that establish:
  - (i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:
    - (A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;
    - (B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and
    - (C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);
  - (ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:
    - (A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;
    - (B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;
    - (C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and
    - (D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and
  - (iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).
- (7)
  - (a)
    - (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.
    - (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
      - (A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or
      - (B) the department determines that compliance with this section is not required under the provisions of Subsection (3).
  - (b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).
- (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Restricted Account created in Section 26B-1-309.
- (9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:
  - (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:
    - (i) Section 63G-6a-1602; or
    - (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
  - (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.

- (10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):
- (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;
  - (b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and
  - (c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Amended by Chapter 178, 2024 General Session

Amended by Chapter 425, 2024 General Session

***Effective 7/1/2024***

**79-2-404 Contracting powers of department -- Health insurance coverage.**

(1) As used in this section:

- (a) "Aggregate" means the sum of all contracts, change orders, and modifications related to a single project.
- (b) "Change order" means the same as that term is defined in Section 63G-6a-103.
- (c) "Employee" means, as defined in Section 34A-2-104, an "employee," "worker," or "operative" who:
  - (i) works at least 30 hours per calendar week; and
  - (ii) meets employer eligibility waiting requirements for health care insurance, which may not exceed the first day of the calendar month following 60 days after the day on which the individual is hired.
- (d) "Health benefit plan" means:
  - (i) the same as that term is defined in Section 31A-1-301; or
  - (ii) an employee welfare benefit plan:
    - (A) established under the Employee Retirement Income Security Act of 1974, 29 U.S.C. Sec. 1001 et seq.;
    - (B) for an employer with 100 or more employees; and
    - (C) in which the employer establishes a self-funded or partially self-funded group health plan to provide medical care for the employer's employees and dependents of the employees.
- (e) "Qualified health coverage" means the same as that term is defined in Section 26B-3-909.
- (f) "Subcontractor" means the same as that term is defined in Section 63A-5b-605.
- (g) "Third party administrator" or "administrator" means the same as that term is defined in Section 31A-1-301.

(2) Except as provided in Subsection (3), the requirements of this section apply to:

- (a) a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the prime contract is in an aggregate amount equal to or greater than \$2,000,000; and
- (b) a subcontractor of a contractor of a design or construction contract entered into by, or delegated to, the department or a division, board, or council of the department on or after July 1, 2009, if the subcontract is in an aggregate amount equal to or greater than \$1,000,000.

(3) This section does not apply to contracts entered into by the department or a division, board, or council of the department if:

- (a) the application of this section jeopardizes the receipt of federal funds;
- (b) the contract or agreement is between:

- (i) the department or a division, board, or council of the department; and
- (ii)
  - (A) another agency of the state;
  - (B) the federal government;
  - (C) another state;
  - (D) an interstate agency;
  - (E) a political subdivision of this state; or
  - (F) a political subdivision of another state; or
- (c) the contract or agreement is:
  - (i) for the purpose of disbursing grants or loans authorized by statute;
  - (ii) a sole source contract; or
  - (iii) an emergency procurement.
- (4) A person that intentionally uses change orders, contract modifications, or multiple contracts to circumvent the requirements of this section is guilty of an infraction.
- (5)
  - (a) A contractor subject to the requirements of this section shall demonstrate to the department that the contractor has and will maintain an offer of qualified health coverage for the contractor's employees and the employees' dependents during the duration of the contract by submitting to the department a written statement that:
    - (i) the contractor offers qualified health coverage that complies with Section 26B-3-909;
    - (ii) is from:
      - (A) an actuary selected by the contractor or the contractor's insurer;
      - (B) an underwriter who is responsible for developing the employer group's premium rates; or
      - (C) if the contractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by a third party administrator; and
    - (iii) was created within one year before the day on which the statement is submitted.
  - (b)
    - (i) A contractor that provides a health benefit plan described in Subsection (1)(d)(ii) shall provide the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), sufficient information to determine whether the contractor's contribution to the health benefit plan and the actuarial value of the health benefit plan meet the requirements of qualified health coverage.
    - (ii) A contractor may not make a change to the contractor's contribution to the health benefit plan, unless the contractor provides notice to:
      - (A) the actuary or underwriter selected by an administrator, as described in Subsection (5)(a)(ii)(C), for the actuary or underwriter to update the written statement described in Subsection (5)(a) in compliance with this section; and
      - (B) the department.
  - (c) A contractor that is subject to the requirements of this section shall:
    - (i) place a requirement in each of the contractor's subcontracts that a subcontractor that is subject to the requirements of this section shall obtain and maintain an offer of qualified health coverage for the subcontractor's employees and the employees' dependents during the duration of the subcontract; and
    - (ii) obtain from a subcontractor that is subject to the requirements of this section a written statement that:
      - (A) the subcontractor offers qualified health coverage that complies with Section 26B-3-909;
      - (B) is from an actuary selected by the subcontractor or the subcontractor's insurer, an underwriter who is responsible for developing the employer group's premium rates, or

if the subcontractor provides a health benefit plan described in Subsection (1)(d)(ii), an actuary or underwriter selected by an administrator; and

(C) was created within one year before the day on which the contractor obtains the statement.

(d)

(i)

(A) A contractor that fails to maintain an offer of qualified health coverage described in Subsection (5)(a) during the duration of the contract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A contractor is not subject to penalties for the failure of a subcontractor to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c)(i).

(ii)

(A) A subcontractor that fails to obtain and maintain an offer of qualified health coverage described in Subsection (5)(c) during the duration of the subcontract is subject to penalties in accordance with administrative rules adopted by the department under Subsection (6).

(B) A subcontractor is not subject to penalties for the failure of a contractor to maintain an offer of qualified health coverage described in Subsection (5)(a).

(6) The department shall adopt administrative rules:

(a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(b) in coordination with:

(i) the Department of Environmental Quality in accordance with Section 19-1-206;

(ii) a public transit district in accordance with Section 17B-2a-818.5;

(iii) the Division of Facilities Construction and Management in accordance with Section 63A-5b-607;

(iv) the State Capitol Preservation Board in accordance with Section 63O-2-403;

(v) the Department of Transportation in accordance with Section 72-6-107.5; and

(vi) the Legislature's Rules Review and General Oversight Committee created in Section 36-35-102; and

(c) that establish:

(i) the requirements and procedures a contractor and a subcontractor shall follow to demonstrate compliance with this section, including:

(A) that a contractor or subcontractor's compliance with this section is subject to an audit by the department or the Office of the Legislative Auditor General;

(B) that a contractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(a); and

(C) that a subcontractor that is subject to the requirements of this section shall obtain a written statement described in Subsection (5)(c)(ii);

(ii) the penalties that may be imposed if a contractor or subcontractor intentionally violates the provisions of this section, which may include:

(A) a three-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the first violation;

(B) a six-month suspension of the contractor or subcontractor from entering into future contracts with the state upon the second violation;

(C) an action for debarment of the contractor or subcontractor in accordance with Section 63G-6a-904 upon the third or subsequent violation; and

(D) monetary penalties which may not exceed 50% of the amount necessary to purchase qualified health coverage for an employee and a dependent of an employee of the contractor or subcontractor who was not offered qualified health coverage during the duration of the contract; and

- (iii) a website on which the department shall post the commercially equivalent benchmark, for the qualified health coverage identified in Subsection (1)(e), provided by the Department of Health and Human Services, in accordance with Subsection 26B-3-909(2).
- (7)
- (a)
    - (i) In addition to the penalties imposed under Subsection (6)(c)(ii), a contractor or subcontractor who intentionally violates the provisions of this section is liable to the employee for health care costs that would have been covered by qualified health coverage.
    - (ii) An employer has an affirmative defense to a cause of action under Subsection (7)(a)(i) if:
      - (A) the employer relied in good faith on a written statement described in Subsection (5)(a) or (5)(c)(ii); or
      - (B) the department determines that compliance with this section is not required under the provisions of Subsection (3).
  - (b) An employee has a private right of action only against the employee's employer to enforce the provisions of this Subsection (7).
- (8) Any penalties imposed and collected under this section shall be deposited into the Medicaid Growth Reduction and Budget Stabilization Account created in Section 63J-1-315.
- (9) The failure of a contractor or subcontractor to provide qualified health coverage as required by this section:
- (a) may not be the basis for a protest or other action from a prospective bidder, offeror, or contractor under:
    - (i) Section 63G-6a-1602; or
    - (ii) any other provision in Title 63G, Chapter 6a, Utah Procurement Code; and
  - (b) may not be used by the procurement entity or a prospective bidder, offeror, or contractor as a basis for any action or suit that would suspend, disrupt, or terminate the design or construction.
- (10) An administrator, including an administrator's actuary or underwriter, who provides a written statement under Subsection (5)(a) or (c) regarding the qualified health coverage of a contractor or subcontractor who provides a health benefit plan described in Subsection (1)(d)(ii):
- (a) subject to Subsection (10)(b), is not liable for an error in the written statement, unless the administrator commits gross negligence in preparing the written statement;
  - (b) is not liable for any error in the written statement if the administrator relied in good faith on information from the contractor or subcontractor; and
  - (c) may require as a condition of providing the written statement that a contractor or subcontractor hold the administrator harmless for an action arising under this section.

Amended by Chapter 439, 2024 General Session

**79-2-405 Radon study.**

- (1) As used in this section:
  - (a) "Committee" means the Natural Resources, Agriculture, and Environment Interim Committee.
  - (b) "Department" means the Department of Natural Resources.
- (2) The department shall study and make recommendations to the committee on:
  - (a) ways to increase public education and outreach regarding the risks of radon gas, consistent with best available science and taking into account divergent scientific views; and
  - (b) ways to mitigate Utah residents' exposure to radon based on a scientifically sound cost benefit analysis.
- (3) The department may recommend legislation to the committee.

- (4) As part of the study described in Subsection (2), the department shall consult with public and private individuals and entities that may be necessary or helpful to accomplishing the goals described in Subsection (2), which may include:
  - (a) the Utah Department of Environmental Quality;
  - (b) the Utah Department of Health;
  - (c) an individual or entity that possesses expertise in the field of radon testing and mitigation;
  - (d) an individual or entity that represents the real estate field;
  - (e) an individual or entity that represents the construction industry;
  - (f) an individual or entity that represents a local health department;
  - (g) the state geologist or another individual or entity that possesses expertise in geology; or
  - (h) a non-profit entity that is engaged in radon gas education or mitigation efforts.
- (5)
  - (a) The department shall provide a report on the status of the department's study during or before the November interim meeting in 2021.
  - (b) The department shall provide a final report of the department's study and recommendations, including any recommended legislation, during or before the first interim meeting in 2022.

Enacted by Chapter 87, 2021 General Session

**79-2-406 Wetlands -- In-lieu fee program study.**

- (1) As used in this section, "committee" means the Natural Resources, Agriculture, and Environment Interim Committee.
- (2) The department shall publish, on the department's website, the land use permits collected by the Utah Geological Survey pursuant to Subsection 79-3-202(1)(q).
- (3)
  - (a) The department shall study and make recommendations to the committee on the viability of an in-lieu fee program for wetland mitigation, including:
    - (i) the viability of the state establishing and administering an in-lieu fee program; and
    - (ii) the viability of the state partnering with a private organization to establish and administer an in-lieu fee program.
  - (b) As part of the study described in Subsection (3)(a), the department shall consult with public and private individuals and entities that may be necessary or helpful to the establishment or administration of an in-lieu fee program for wetland mitigation, which may include:
    - (i) the Utah Department of Environmental Quality;
    - (ii) the United States Army Corps of Engineers;
    - (iii) the United States Fish and Wildlife Service;
    - (iv) the United States Environmental Protection Agency; or
    - (v) a non-profit entity that has experience with the establishment and administration of in-lieu fee programs.
  - (c) The department shall provide a report on the status of the department's study during or before the committee's November interim meeting in 2022.
  - (d) The department shall provide a final report of the department's study and recommendations, including any recommended legislation, during or before the committee's first interim meeting in 2023.

Amended by Chapter 88, 2024 General Session

**79-2-407 Study of funding for water infrastructure costs.**

- (1) The department shall:
  - (a) study the use of property tax revenue for payment of costs related to supplying drinking and irrigation water, including infrastructure, treatment, and delivery; and
  - (b) make recommendations for funding of the costs described in Subsection (1)(a).
- (2) As part of the study and to prepare the recommendations described in Subsection (1), the department shall:
  - (a) analyze the use of tax revenue for water infrastructure in other states with similar climate and water supply challenges as the state of Utah;
  - (b) review the use of property tax revenue for construction, operation, maintenance, repair, and replacement of water facilities, including facilities related to:
    - (i) diversion, treatment, and storage of drinking and irrigation water; and
    - (ii) the delivery of drinking and irrigation water to end users;
  - (c) investigate policies that would ensure all users contribute to the cost of water infrastructure;
  - (d) identify methods of developing tiered water rate structures that promote water conservation and ensure reasonable revenue stability;
  - (e) analyze the effect of eliminating or reducing property tax revenue as a funding source for costs related to water infrastructure, treatment, or delivery, including:
    - (i) the effect on retail water rates and retail customer water use and demand;
    - (ii) wholesale water suppliers' ability to prepare for anticipated local and regional water demand; and
    - (iii) water development costs associated with new growth; and
  - (f) identify and study any water conservancy district or special service district that levies a property tax for a purpose described in Subsection (1)(a) but does not provide water service.
- (3) The department shall convene a working group consisting of a wide range of stakeholders with diverse interests, including those with expertise in water development and delivery, tax policy, and water funding, to help the department conduct the study and develop the recommendations described in this section.
- (4) On or before October 30, 2024, the department shall provide a written report of the department's findings, including any recommended legislative action, to the Natural Resources, Agriculture, and Environment Interim Committee and the Revenue and Taxation Interim Committee.

Enacted by Chapter 221, 2023 General Session

**79-2-408 Utah Water Ways.**

- (1) As used in this section:
  - (a) "Partnership" means the nonprofit, statewide partnership described in Subsections (2) and (3).
  - (b) "Water supply entity" means an entity supplying either culinary or irrigation water to a water user.
- (2) The department shall oversee:
  - (a) the creation of a nonprofit, statewide partnership in accordance with this section; and
  - (b) the state's participation in the partnership.
- (3) The partnership shall:
  - (a) be known as "Utah Water Ways";
  - (b) have as core purposes to:
    - (i) facilitate coordination of efforts to optimize the use of water by:
      - (A) sponsoring policy discussions about the state's water supply;

- (B) engaging the private sector to help support efforts to optimize the use of water and related activities;
  - (C) coordinating with the Department of Agriculture and Food and the Department of Environmental Quality on water related issues;
  - (D) maintaining communication among partners in the partnership;
  - (E) providing a line of communication from partners to state leaders; and
  - (F) promoting coordination of grants, rebate programs, or sponsorships that support the optimal use of water; and
- (ii) encourage residents of the state to make changes to optimize the use of water and care for the state's water supply by:
    - (A) providing public education and public awareness campaigns and helping consolidate campaigns about the state's water supply, water quality, and water use; and
    - (B) providing residents of the state with tools to understand what can be done to optimize the use of water;
- (c) consistent with Subsection (3)(b)(ii)(A) and subject to Subsection (8), coordinate with the State Board of Education to create standards-aligned resources and professional development opportunities to be used in select grades in kindergarten through grade 12 of the public education system, including:
    - (i) an overview of the water cycle;
    - (ii) an overview of Utah's water systems, including reference to watersheds, watershed health, groundwater, river systems, and major water infrastructure;
    - (iii) an overview on how water is used in Utah, such as in the residential, agricultural, and industrial sectors, including information regarding:
      - (A) the pass-through of water used in households to terminal lakes like the Great Salt Lake;
      - (B) the pass-through of water used in many industries to terminal lakes like the Great Salt Lake;
      - (C) the jobs and products created by industrial sections that use water;
      - (D) the importance of agriculture in providing food; and
      - (E) water recycling in areas that do not have terminal lakes like the Great Salt Lake;
    - (iv) information on the geological and climate changes for the last 30,000 years that created and changed the Great Salt Lake;
    - (v) strategies for individuals to protect water quality;
    - (vi) strategies for individuals to optimize the use of water, and the reasons optimization is needed; and
    - (vii) hands-on methods to help students learn the information described in this Subsection (3)(c); and
  - (d) seek grants, gifts, donations, devises, and bequests.
- (4) The board of directors for the partnership shall:
    - (a) consist of 13 individuals as follows:
      - (i) the executive director of the department, or the executive director's designee;
      - (ii) the director of the Division of Water Resources, or the director's designee;
      - (iii) the executive director of the Department of Environmental Quality, or the executive director's designee;
      - (iv) the commissioner of the Department of Agriculture and Food, or the commissioner's designee;
      - (v) a representative of rural Utah selected jointly by the governor, the speaker of the House of Representatives, and the president of the Senate;

- (vi) the general managers for four water conservancy districts selected jointly by the governor, the speaker of the House of Representatives, and the president of the Senate; and
- (vii) four members of the business community selected jointly by the governor, the speaker of the House of Representatives, and the president of the Senate;
- (b) hire an executive director by August 1, 2023, who shall serve for an initial term of four years; and
- (c) adopt policies concerning the board of directors' internal organization and procedures.
- (5) The partnership may, consistent with this section, receive a grant, gift, donation, devise, or bequest.
- (6) The partnership shall annually report to the Natural Resources, Agriculture, and Environment Interim Committee.
- (7) Notwithstanding the creation of the partnership, a water supply entity may maintain an important role with water supply users to encourage the optimized use of water such as through localized messaging, rebate programs, or other activities.
- (8) The standards-aligned resources created under Subsection (3)(c) may not include information on human-caused climate change.

Amended by Chapter 38, 2024 General Session

## **Part 5**

### **Sage Grouse Management and Protection**

#### **79-2-501 Title.**

This part is known as "Sage Grouse Management and Protection."

Enacted by Chapter 358, 2016 General Session

#### **79-2-502 Definitions.**

As used in this part:

- (1) "Compensatory mitigation" means avoiding, minimizing, rectifying, reducing, or eliminating impacts on sage grouse habitat by providing substitute sage grouse habitat through conservation projects or conservation banks.
- (2) "Conservation plan" means the current version of the "Conservation Plan for Greater Sage-grouse in Utah" developed by the state and approved by the governor.
- (3) "Permanently disturb" means an action that disrupts the common activities of sage grouse for a period of more than five years and includes all areas where the effects of the action could be expected to disrupt the common activities of sage grouse for a period of more than five years.
- (4) "Person" means:
  - (a) an individual;
  - (b) a corporation;
  - (c) a limited liability company;
  - (d) a partnership;
  - (e) an association;
  - (f) a trust; or
  - (g) a voluntary organization.

- (5) "Program" means the Sage Grouse Compensatory Mitigation Program created under Section 79-2-504.
- (6) "Sage grouse" means the greater sage-grouse, or the species *centrocercus urophasianus*.

Enacted by Chapter 358, 2016 General Session

**79-2-503 Scope.**

Nothing in this part requires a person, whether public or private, to participate in the program.

Enacted by Chapter 358, 2016 General Session

**79-2-504 Program creation -- Administration.**

- (1) There is created the Sage Grouse Compensatory Mitigation Program to mitigate the impacts of development or disturbance of sage grouse habitat by:
  - (a) creating and preserving habitat for the long-term conservation of sage grouse in the state in a manner that minimizes impacts to economic growth;
  - (b) establishing a mechanism by which conservation banks may operate in Utah to achieve compensatory mitigation; and
  - (c) establishing a mechanism by which a person or a governmental entity may voluntarily complete compensatory mitigation.
- (2)
  - (a) The department shall administer the program and may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program in accordance with the provisions of this part.
  - (b) A rule made under Subsection (2)(a) shall be consistent with:
    - (i) the requirements of Section 79-2-505;
    - (ii) the goals and objectives described in the conservation plan, including avoiding and minimizing habitat disturbances and mitigation impacts to sage grouse habitat; and
    - (iii) to the greatest extent possible, any local programs for the conservation of sage grouse habitat.
  - (c) Before making any rules under this chapter, the department shall:
    - (i) create a plan by which the requirements of this chapter will be met; and
    - (ii) before November 1, 2016, present the plan to the Natural Resources, Agriculture, and Environment Interim Committee.

Enacted by Chapter 358, 2016 General Session

**79-2-505 Department duties.**

- (1) In administering the program created in Section 79-2-504, the department shall:
  - (a) create a system through which:
    - (i) a person may:
      - (A) generate a mitigation credit from the department if the person creates a conservation bank by enhancing and dedicating land for sage grouse habitat and conservation; and
      - (B) sell a mitigation credit generated under Subsection (1)(a)(i)(A) to another person that permanently disturbs sage grouse habitat;
    - (ii) the state may generate a mitigation credit by enhancing and dedicating land for sage grouse habitat and conservation;

- (iii) a person may purchase a mitigation credit generated by the state under Subsection (1)(a)(ii) for no less than the state's total cost of enhancing and dedicating the land; and
  - (iv) a person may use a mitigation credit to permanently disturb sage grouse habitat to the extent that the person possesses sufficient mitigation credits;
  - (b) create a system for tracking mitigation credits that are created, purchased, sold, or used under Subsection (1);
  - (c) establish procedures and criteria to identify and approve land that a person or a governmental entity may use for compensatory mitigation; and
  - (d) consistent with this chapter, integrate and coordinate the program with other state, local, private, and non-profit plans to protect and manage sage grouse habitat.
- (2) The state's total cost described under Subsection (1)(a)(iii) may include costs associated with the department's administration of the program.

Enacted by Chapter 358, 2016 General Session

## **Part 6**

### **Watershed Restoration Initiative**

#### **79-2-601 Definitions.**

As used in this part:

- (1) "Administrative costs" means the costs of administering the initiative, including costs for staffing, rent, data processing, legal, finance, accounting, travel, maintenance, and office supplies.
- (2) "Director" means the director of the initiative who is appointed under Section 79-2-602.
- (3) "Division" means the Division of Wildlife Resources created in Section 23A-2-201.
- (4) "Initiative" means the Watershed Restoration Initiative created in Section 79-2-602.
- (5) "Restoration" means to assist the recovery of ecosystems and ecosystem services that have been mismanaged, degraded, or destroyed.
- (6) "Watershed" means the geographical surface area that drains water into a stream, river, or other body of water.

Amended by Chapter 34, 2023 General Session

#### **79-2-602 Watershed Restoration Initiative -- Creation -- Objectives.**

- (1) There is created within the department the Watershed Restoration Initiative under the general supervision of the executive director.
- (2) The policies and objectives of the initiative are to manage, restore, and improve watershed ecosystems throughout the state by focusing on improving:
  - (a) watershed health and biological diversity;
  - (b) water quality and yield; and
  - (c) opportunities for sustainable uses of natural resources.
- (3) Consistent with this part, the initiative may integrate, coordinate, or partner with federal, state, local, private, and non-profit plans and programs to further the initiative's objectives.
- (4) To achieve and implement the policies and objectives under Subsection (2), the initiative shall:
  - (a) develop and oversee a watershed restoration project proposal process to develop statewide watershed restoration priorities, including ranking criteria;

- (b) maintain a website that includes:
  - (i) an events calendar;
  - (ii) tracking of watershed restoration projects;
  - (iii) a description of the watershed restoration project proposal process, including applicable ranking criteria; and
  - (iv) the name and contact information of each person with decision-making responsibilities related to ranking and selecting watershed restoration project proposals;
- (c) organize and oversee a biennial statewide watershed restoration workshop;
- (d) assign funding to watershed restoration projects, and manage and track project budgets;
- (e) provide initiative partners with contract support, reporting, and tracking assistance regarding incoming and outgoing watershed restoration project funds;
- (f) ensure that watershed restoration projects meet applicable cultural resource requirements;
- (g) upon request and as appropriate, provide performance reporting and initiative information to the media, partners, and the executive and legislative branches of state government;
- (h) prepare and provide training and technical support for watershed restoration project managers; and
- (i) provide the executive director with reports and recommendations regarding the initiative's performance and funding.

Enacted by Chapter 51, 2022 General Session

**79-2-603 Director -- Appointment -- Qualifications -- Staff.**

- (1) The executive director shall appoint a director to administer the initiative.
- (2) The director shall:
  - (a) be the executive and administrative head of the initiative; and
  - (b) have demonstrated the necessary administrative and professional ability through education and experience to efficiently and effectively manage the initiative's affairs.
- (3) The director is appointed by the executive director.
- (4)
  - (a) The department shall staff the initiative.
  - (b) With approval of the executive director and the division director, and under the direction of the director, division staff with relevant expertise or experience may assist the director with administering the initiative.

Enacted by Chapter 51, 2022 General Session

**79-2-604 Funding.**

The initiative is funded from the following sources:

- (1) appropriations made to the initiative by the Legislature; and
- (2) contributions, including in-kind assistance, from other public and private sources.

Enacted by Chapter 51, 2022 General Session

**79-2-605 Reporting.**

The initiative shall prepare and submit to the Natural Resources, Agriculture, and Environment Interim Committee, on or before November 1 of each year, an annual report that includes:

- (1) by source, the initiative's total annual resources, including partner funds;
- (2) the initiative's historical annual funding amounts from year to year;

- (3) the total amount of state funding used to leverage non-state partner resources;
- (4) the total administrative costs related to the initiative, including the costs of each initiative partner that receives funds through the initiative; and
- (5) performance metrics that demonstrate the initiative's impact and effectiveness.

Enacted by Chapter 51, 2022 General Session

**79-2-606 Watershed Restoration Expendable Special Revenue Fund -- Creation -- Source of funds -- Use of funds.**

- (1) As used in this section, "fund" means the Watershed Restoration Expendable Special Revenue Fund created in Subsection (2).
- (2) There is created an expendable special revenue fund known as the "Watershed Restoration Expendable Special Revenue Fund."
- (3) The fund consists of:
  - (a) gifts, grants, donations, contributions, or any other conveyance of money that may be made to the fund from public or private sources; and
  - (b) interest and earnings on fund money.
- (4) The state treasurer shall:
  - (a) invest money in the fund in accordance with the Title 51, Chapter 7, State Money Management Act; and
  - (b) deposit interest and earnings derived from investing fund money into the fund.
- (5) The director may only use fund money for a watershed restoration project designated or approved by the donor.

Enacted by Chapter 51, 2022 General Session

***Effective 1/1/2025***

**Part 7  
Division of Law Enforcement**

***Effective 1/1/2025***

**79-2-701 Definitions.**

As used in this part:

- (1) "Division" means the Division of Law Enforcement.
- (2) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.
- (3)
  - (a) "Natural resources officer" means a full-time, permanent employee of the division who is POST certified as a peace officer.
  - (b) "Natural resources officer" includes a wildlife officer, as that term is defined in Section 23A-2-502.
- (4) "Peace officer" means any officer certified in accordance with Title 53, Chapter 13, Peace Officer Classifications.

Enacted by Chapter 80, 2024 General Session

***Effective 1/1/2025***

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

- (1) There is created within the department a Division of Law Enforcement.
- (2) Subject to the priorities defined by the director, the primary function of the division is to enforce:
  - (a) Title 23A, Wildlife Resources Act;
  - (b) Title 41, Chapter 22, Off-highway Vehicles;
  - (c) Title 65A, Forestry, Fire, and State Lands;
  - (d) Title 73, Chapter 18, State Boating Act;
  - (e) this title; and
  - (f) an administrative rule enacted by an advisory board within any of the department's divisions.
- (3) The division shall coordinate with county sheriffs, police, and other law enforcement officers within a law enforcement jurisdiction the division operates to enforce this part.
- (4) This part does not limit or modify the powers and duties of other law enforcement officers in the state.

Enacted by Chapter 80, 2024 General Session

***Effective 1/1/2025***

**79-2-703 Division director -- Qualifications -- Duties -- Special deputies.**

- (1) The director is the executive and administrative head of the division, appointed in accordance with Section 79-2-204.
- (2) The director shall demonstrate:
  - (a) experience as a sworn law enforcement officer; and
  - (b) law enforcement leadership ability.
- (3) The director shall:
  - (a) enforce the policies and rules of the department's divisions; and
  - (b) perform the duties necessary to:
    - (i) coordinate, prioritize, and direct the law enforcement needs of the divisions within the department;
    - (ii) properly care for and maintain any property under the jurisdiction of the division; and
    - (iii) carry out the purposes of this part.
- (4)
  - (a) The director may appoint an individual, on a temporary basis, as a special deputy.
  - (b) A special deputy may enforce this part and rules made under this part.
- (5) The director may deputize an individual who is a peace officer to assist the division on a seasonal or temporary basis.

Enacted by Chapter 80, 2024 General Session

***Effective 1/1/2025***

**79-2-704 Powers and duties of division -- Enforcement authority -- Ability to initiate civil proceedings.**

- (1) An employee of the division who is a POST certified law enforcement officer:
  - (a) has all the powers of a law enforcement officer and natural resources officer in the state;
  - (b) may arrest and prosecute violators of any law of this state;
  - (c) has the same right as other peace officers to require aid in executing the peace officer's duties;
  - (d) may take wildlife in performance of official duties, in accordance with Section 23A-2-207;

- (e) may protect property under the jurisdiction of the department or the department's divisions from misuse or damage;
  - (f) may preserve the peace on property under the jurisdiction of the department or the department's divisions;
  - (g) may serve criminal process; and
  - (h) may not serve civil process.
- (2) The powers and duties conferred upon the director and members of the division are supplementary to and not a limitation on the powers and duties of other peace officers in the state.
- (3) The division shall have the authority to initiate civil proceedings, in addition to criminal proceedings provided for in this part, to:
- (a) recover damages;
  - (b) compel performance;
  - (c) compel substitution;
  - (d) restrain or enjoin;
  - (e) initiate any other appropriate action; and
  - (f) seek appropriate remedies in the division's capacity as the primary law enforcement authority for the department.

Enacted by Chapter 80, 2024 General Session

***Effective 1/1/2025***

**79-2-705 Division authorized to enter into contracts and agreements.**

- (1) The division, with the approval of the executive director, may enter into contracts and agreements as needed to:
- (a) support law enforcement operations for the department;
  - (b) improve and maintain the property under the jurisdiction of the division; and
  - (c) secure labor, quarters, materials, services, or facilities for the division according to procedures established by the Division of Finance.
- (2) All departments, agencies, officers, and employees of the state shall give to the division the consultation and assistance that the division may reasonably request.

Enacted by Chapter 80, 2024 General Session

***Effective 1/1/2025***

**79-2-706 Aquatic Invasive Species Interdiction Account.**

- (1) There is created within the General Fund a restricted account known as the "Aquatic Invasive Species Interdiction Account."
- (2) The Aquatic Invasive Species Interdiction Account shall consist of:
- (a) nonresident aquatic invasive species fees collected under Subsection 23A-10-304(2);
  - (b) resident aquatic invasive species fees collected under Subsection 23A-10-304(1); and
  - (c) other amounts deposited in the Aquatic Invasive Species Interdiction Account from donations, appropriations, contractual agreements, and accrued interest.
- (3) Upon appropriation, the division shall use the aquatic invasive species fees collected under Subsections 23A-10-304(1) and (2) and deposited in the Aquatic Invasive Species Account to fund aquatic invasive species prevention and containment efforts.

Renumbered and Amended by Chapter 80, 2024 General Session

