

Senator Kevin T. Van Tassell proposes the following substitute bill:

COMPENSATORY MITIGATION PROGRAM FOR SAGE

GROUSE

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: Scott D. Sandall

LONG TITLE

General Description:

This bill enacts provisions related to the protection of sage grouse.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Sage Grouse Compensatory Mitigation Program;
- ▶ provides for the scope and administration of the program;
- ▶ provides requirements for the Department of Natural Resources; and
- ▶ grants rulemaking authority to the Department of Natural Resources.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

79-2-501, Utah Code Annotated 1953

79-2-502, Utah Code Annotated 1953



26 [79-2-503](#), Utah Code Annotated 1953
27 [79-2-504](#), Utah Code Annotated 1953
28 [79-2-505](#), Utah Code Annotated 1953

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

31 Section 1. Section [79-2-501](#) is enacted to read:

32 **Part 5. Sage Grouse Management and Protection**

33 **[79-2-501](#). Title.**

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

35 Section 2. Section [79-2-502](#) is enacted to read:

36 **[79-2-502](#). Definitions.**

37 As used in this part:

38 (1) "Compensatory mitigation" means avoiding, minimizing, rectifying, reducing, or
39 eliminating impacts on sage grouse habitat by providing substitute sage grouse habitat through
40 conservation projects or conservation banks.

41 (2) "Conservation plan" means the current version of the "Conservation Plan for
42 Greater Sage-grouse in Utah" developed by the state and approved by the governor.

43 (3) "Permanently disturb" means an action that disrupts the common activities of sage
44 grouse for a period of more than five years and includes all areas where the effects of the action
45 could be expected to disrupt the common activities of sage grouse for a period of more than
46 five years.

47 (4) "Person" means:

48 (a) an individual;

49 (b) a corporation;

50 (c) a limited liability company;

51 (d) a partnership;

52 (e) an association;

53 (f) a trust; or

54 (g) a voluntary organization.

55 (5) "Program" means the Sage Grouse Compensatory Mitigation Program created
56 under Section [79-2-504](#).

57 (6) "Sage grouse" means the greater sage-grouse, or the species centrocercus
58 urophasianus.

59 Section 3. Section **79-2-503** is enacted to read:

60 **79-2-503. Scope.**

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

63 Section 4. Section **79-2-504** is enacted to read:

64 **79-2-504. Program creation -- Administration.**

65 (1) There is created the Sage Grouse Compensatory Mitigation Program to mitigate the
66 impacts of development or disturbance of sage grouse habitat by:

67 (a) creating and preserving habitat for the long-term conservation of sage grouse in the
68 state in a manner that minimizes impacts to economic growth;

69 (b) establishing a mechanism by which conservation banks may operate in Utah to
70 achieve compensatory mitigation; and

71 (c) establishing a mechanism by which a person or a governmental entity may
72 voluntarily complete compensatory mitigation.

73 (2) (a) The department shall administer the program and may make rules in accordance
74 with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to administer the program in
75 accordance with the provisions of this part.

76 (b) A rule made under Subsection (2)(a) shall be consistent with:

77 (i) the requirements of Section [79-2-505](#);

78 (ii) the goals and objectives described in the conservation plan, including avoiding and
79 minimizing habitat disturbances and mitigation impacts to sage grouse habitat; and

80 (iii) to the greatest extent possible, any local programs for the conservation of sage
81 grouse habitat.

82 (c) Before making any rules under this chapter, the department shall:

83 (i) create a plan by which the requirements of this chapter will be met; and

84 (ii) before November 1, 2016, present the plan to the Natural Resources, Agriculture,
85 and Environment Interim Committee.

86 Section 5. Section **79-2-505** is enacted to read:

87 **79-2-505. Department duties.**

88 (1) In administering the program created in Section 79-2-504, the department shall:
89 (a) create a system through which:
90 (i) a person may:
91 (A) generate a mitigation credit from the department if the person creates a
92 conservation bank by enhancing and dedicating land for sage grouse habitat and conservation;
93 and
94 (B) sell a mitigation credit generated under Subsection (1)(a)(i)(A) to another person
95 that permanently disturbs sage grouse habitat;
96 (ii) the state may generate a mitigation credit by enhancing and dedicating land for sage
97 grouse habitat and conservation;
98 (iii) a person may purchase a mitigation credit generated by the state under Subsection
99 (1)(a)(ii) for no less than the state's total cost of enhancing and dedicating the land; and
100 (iv) a person may use a mitigation credit to permanently disturb sage grouse habitat to
101 the extent that the person possesses sufficient mitigation credits;
102 (b) create a system for tracking mitigation credits that are created, purchased, sold, or
103 used under Subsection (1);
104 (c) establish procedures and criteria to identify and approve land that a person or a
105 governmental entity may use for compensatory mitigation; and
106 (d) consistent with this chapter, integrate and coordinate the program with other state,
107 local, private, and non-profit plans to protect and manage sage grouse habitat.
108 (2) The state's total cost described under Subsection (1)(a)(iii) may include costs
109 associated with the department's administration of the program.