

NATURAL RESOURCES LEGACY FUNDING AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: _____

LONG TITLE

General Description:

This bill addresses natural resources related activities and the funding of those activities.

Highlighted Provisions:

This bill:

- ▶ enacts the Utah Natural Resources Legacy Fund Act, including:
 - defining terms;
 - addressing application to mineral estates;
 - creating the Utah Natural Resources Legacy Fund;
 - creating the Utah Natural Resources Legacy Fund Board; and
 - outlining the uses of the legacy fund;
- ▶ modifies the Radioactive Waste Facility Tax Act that provides funding to the legacy fund; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:



28 [59-24-103.7](#), as enacted by Laws of Utah 2019, Chapter 18
 29 [59-24-105](#), as last amended by Laws of Utah 2003, Chapter 295
 30 [79-2-201](#), as last amended by Laws of Utah 2017, Chapter 451

31 ENACTS:

32 [23-31-101](#), Utah Code Annotated 1953
 33 [23-31-102](#), Utah Code Annotated 1953
 34 [23-31-103](#), Utah Code Annotated 1953
 35 [23-31-104](#), Utah Code Annotated 1953
 36 [23-31-201](#), Utah Code Annotated 1953
 37 [23-31-202](#), Utah Code Annotated 1953
 38 [23-31-203](#), Utah Code Annotated 1953

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

41 Section 1. Section [23-31-101](#) is enacted to read:

42 **CHAPTER 31. UTAH NATURAL RESOURCES LEGACY FUND ACT**

43 **Part 1. General Provisions**

44 **23-31-101. Title.**

45 This chapter is known as the "Utah Natural Resources Legacy Fund Act."

46 Section 2. Section [23-31-102](#) is enacted to read:

47 **23-31-102. Definitions.**

48 As used in this chapter:

49 (1) "Board" means the Utah Natural Resources Legacy Fund Board created in Section
50 [23-31-202](#).

51 (2) "Department" means the Department of Natural Resources.

52 (3) "Legacy fund" means the Utah Natural Resources Legacy Fund created in Section
53 [23-31-201](#).

54 Section 3. Section [23-31-103](#) is enacted to read:

55 **23-31-103. Application to mineral estates.**

56 This chapter does not change law regarding:

57 (1) the primacy of a mineral estate;

58 (2) limiting access to a mineral estate; or

59 (3) limiting development of a mineral estate.

60 Section 4. Section **23-31-104** is enacted to read:

61 **23-31-104. Reporting.**

62 The division shall annually report to the governor and the Natural Resources,
63 Agriculture, and Environment Interim Committee on or before September 1 with respect to:

64 (1) federal grants, state appropriations, and other contributions, grants, gifts, transfers,
65 bequests, and donations received and credited to the legacy fund during the preceding fiscal
66 year; and

67 (2) expenditures from the legacy fund under Section [23-31-203](#).

68 Section 5. Section **23-31-201** is enacted to read:

69 **Part 2. Legacy Fund and Board**

70 **23-31-201. Utah Natural Resources Legacy Fund.**

71 (1) There is created an expendable special revenue fund known as the "Utah Natural
72 Resources Legacy Fund."

73 (2) The legacy fund consists of:

74 (a) taxes collected under Subsection [59-24-103.7\(3\)\(b\)](#);

75 (b) appropriations to the legacy fund by the Legislature;

76 (c) federal grants accepted by the department or a division of the department and
77 specifically directed to the legacy fund; and

78 (d) contributions, grants, gifts, transfers, bequests, and donations to the legacy fund
79 accepted by the department and specifically directed to the legacy fund.

80 (3) (a) The account shall earn interest.

81 (b) The interest described in Subsection (3)(a) shall be deposited into the account.

82 Section 6. Section **23-31-202** is enacted to read:

83 **23-31-202. Utah Natural Resources Legacy Fund Board.**

84 (1) There is created within the department the Utah Natural Resources Legacy Fund
85 Board that consists of eight members as follows:

86 (a) the following voting members:

87 (i) two members representing the agriculture industry, appointed by the commissioner
88 of the Department of Agriculture and Food;

89 (ii) one member representing a non-government entity that has as a primary purpose

90 conserving non-game wildlife and habitat, appointed by the director of the Division of Wildlife
91 Resources;

92 (iii) one member representing hunting, fishing, and trapping interests in Utah,

93 appointed by the director of the Division of Wildlife Resources;

94 (iv) one member representing mineral extraction and development interests, appointed
95 by the director of the Division of Oil, Gas, and Mining;

96 (v) one member representing water development and distribution interests, appointed
97 by the executive director of the department; and

98 (vi) one at-large member, appointed by the executive director of the department; and

99 (b) the director of the division as a nonvoting member.

100 (2) A voting member of the board shall be appointed for a three-year term.

101 (3) Notwithstanding Subsection (2), terms of board members are staggered as follows
102 so that approximately one-third of the board is appointed every year:

103 (a) the initial individuals appointed under Subsections (1)(a)(i) and (ii) shall be
104 appointed for three year terms;

105 (b) the initial individuals appointed under Subsections (1)(a)(iii) and (iv) shall be
106 appointed for two year terms; and

107 (c) the initial individuals appointed under Subsections (1)(a)(v) and (vi) shall be
108 appointed for one-year terms.

109 (4) An individual may be appointed to more than one term.

110 (5) When a vacancy occurs in the membership for any reason, an individual shall be
111 appointed in accordance with Subsection (1) to replace the member for the unexpired term.

112 (6) The board shall elect one member to serve as chair of the board.

113 (7) The board shall meet regularly as called by the chair.

114 (8) Four voting members constitute a quorum.

115 (9) An action by the majority of voting members present when a quorum is present is
116 an action of the board.

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

119 (a) Section [63A-3-106](#);

120 (b) Section [63A-3-107](#); and

121 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
122 63A-3-107.

123 (11) The division shall staff the board.

124 Section 7. Section **23-31-203** is enacted to read:

125 **23-31-203. Uses of legacy fund.**

126 (1) Each year, when the board creates a budget, the board shall allocate:

127 (a) 40% of the budget:

128 (i) for staff and expenses to administer the fund under this chapter;

129 (ii) to conduct research, monitoring, and management actions that benefit non-game
130 species; or

131 (iii) to otherwise reduce the likelihood of future species listings under the Endangered
132 Species Act, 16 U.S.C. Sec. 1531 et seq.; and

133 (b) 60% of the budget to fund the following projects that provide the following
134 landscape level conservation benefits:

135 (i) preserving open spaces, wildlife habitat, and critical agricultural lands by purchase
136 or acquisition of development rights or an easement on properties of 500 acres or more;

137 (ii) purchasing access or rights of access to provide perpetual public access for hunting,
138 fishing, or trapping;

139 (iii) addressing and mitigating impacts detrimental to wildlife habitat, the environment,
140 and the multiple use of renewable natural resources attributable to residential, mineral, and
141 industrial development;

142 (iv) engaging in land or water acquisitions for purposes described in Subsection (1)(a);

143 (v) promoting, preserving, and enhancing wildlife habitat; or

144 (vi) preserving a viable agricultural industry.

145 (2) (a) The board shall make recommendations to the division regarding expenditures
146 from the legacy fund for the purposes described in Subsection (1)(b).

147 (b) The division shall consider the board's recommendations in approving an
148 expenditure from the legacy fund under Subsection (1) and, if the division rejects the board's
149 recommendation, the director of the division shall provide the board with a written explanation
150 of the reason for the rejection.

151 (3) In making an expenditure under Subsection (2), the division:

152 (a) may acquire a property asset in the name of the division and, if the property asset is
153 not an easement that relates to critical agricultural lands, assume long-term management
154 responsibilities;

155 (b) may, if a property asset is not an easement that relates to critical agricultural lands,
156 transfer a property asset acquired with legacy fund money to another responsible entity if:

157 (i) the entity manages the property asset consistent with the purposes of this section;

158 and

159 (ii) the division retains a future interest in the property asset that protects the state's
160 conservation investment;

161 (c) shall, if a property asset is an easement that relates to critical agricultural lands,
162 transfer the easement to the Department of Agriculture and Food to manage the property asset
163 in accordance with this section; or

164 (d) transfer funding to another responsible entity to acquire a property asset if:

165 (i) the division approves the transactional documents before closing;

166 (ii) the responsible entity commits to manage the property asset consistent with the
167 purposes of this section; and

168 (iii) the division is conveyed a future interest in the acquired property asset that
169 protects the state's conservation investment.

170 (4) Before the division acquires fee title to privately-owned land using legacy fund
171 money, the division shall:

172 (a) publish notice in a newspaper of general circulation in the county in which the real
173 property interest is located in a manner consistent with Section [45-1-101](#);

174 (b) notify the county executive of the county in which the real property is located no
175 later than 30 days before the day on which the transfer is finalized;

176 (c) submit notice to the legislator of the legislative district in which the real property is
177 located no later than 30 days before the day on which the transfer is finalized; and

178 (d) obtain the written approval from the governor for the acquisition.

179 (5) (a) This section does not give the division the power of eminent domain.

180 (b) The division may not require public access to private land whose development
181 rights have been purchased or acquired through easement as a condition of receiving money
182 from the legacy fund.

183 (c) The division may not use assets from the legacy fund for litigation.

184 (d) Money in the legacy fund may not be used to develop or implement a habitat
185 conservation plan required under federal law unless the federal government pays for at least
186 one-third of the habitat conservation plan costs.

187 Section 8. Section **59-24-103.7** is amended to read:

188 **59-24-103.7. Radioactive waste facility disposal tax for concentrated depleted**
189 **uranium and specific site approved waste.**

190 (1) On and after July 1, 2019, there is imposed a tax on a radioactive waste facility as
191 provided in this section.

192 (2) The tax is equal to the sum of the following amounts:

193 (a) 12% of the gross receipts of a radioactive waste facility derived from the disposal
194 of ~~[(i) concentrated depleted uranium; and (ii)]~~ containerized waste disposed under
195 Subsection [19-3-103.7\(2\)](#);

196 (b) 10% of the gross receipts of a radioactive waste facility derived from the disposal
197 of processed waste disposed under Subsection [19-3-103.7\(2\)](#); ~~[and]~~

198 (c) 5% of the gross receipts of a radioactive waste facility derived from the disposal of
199 uncontainerized, unprocessed waste disposed under Subsection [19-3-103.7\(2\)](#) ~~[;]~~; and

200 (d) \$7 per cubic foot of concentrated depleted uranium.

201 (3) (a) For purposes of Subsection (2)(d), waste volume is equal to the net waste
202 volume listed on the applicable low-level radioactive waste manifest completed in accordance
203 with 10 C.F.R. Part 20, Appendix G, except that a fraction of a cubic foot is considered to be a
204 full cubic foot.

205 (b) The commission shall deposit revenue collected under Subsection (2)(d) in the
206 Utah Natural Resources Legacy Fund pursuant to Section [23-31-201](#).

207 Section 9. Section **59-24-105** is amended to read:

208 **59-24-105. Deposit of tax revenue.**

209 ~~[The]~~ Except as provided in Section [59-24-103.7](#), the commission shall deposit the tax
210 revenue collected under this chapter into the Uniform School Fund.

211 Section 10. Section **79-2-201** is amended to read:

212 **79-2-201. Department of Natural Resources created.**

213 (1) There is created the Department of Natural Resources.

- 214 (2) The department comprises the following:
- 215 (a) Board of Water Resources, created in Section [73-10-1.5](#);
- 216 (b) Board of Oil, Gas, and Mining, created in Section [40-6-4](#);
- 217 (c) Board of Parks and Recreation, created in Section [79-4-301](#);
- 218 (d) Wildlife Board, created in Section [23-14-2](#);
- 219 (e) Board of the Utah Geological Survey, created in Section [79-3-301](#);
- 220 (f) Water Development Coordinating Council, created in Section [73-10c-3](#);
- 221 (g) Division of Water Rights, created in Section [73-2-1.1](#);
- 222 (h) Division of Water Resources, created in Section [73-10-18](#);
- 223 (i) Division of Forestry, Fire, and State Lands, created in Section [65A-1-4](#);
- 224 (j) Division of Oil, Gas, and Mining, created in Section [40-6-15](#);
- 225 (k) Division of Parks and Recreation, created in Section [79-4-201](#);
- 226 (l) Division of Wildlife Resources, created in Section [23-14-1](#);
- 227 (m) Utah Geological Survey, created in Section [79-3-201](#);
- 228 (n) Heritage Trees Advisory Committee, created in Section [65A-8-306](#);
- 229 (o) Recreational Trails Advisory Council, authorized by Section [79-5-201](#);
- 230 (p) Boating Advisory Council, authorized by Section [73-18-3.5](#);
- 231 (q) Wildlife Board Nominating Committee, created in Section [23-14-2.5](#); [~~and~~]
- 232 (r) Wildlife Regional Advisory Councils, created in Section [23-14-2.6](#)[~~;~~]; and
- 233 (s) Utah Natural Resources Legacy Fund Board, created in Section [23-31-301](#).

234 **Section 11. Effective date.**

235 This bill takes effect on July 1, 2020.