

## HB0305S03 compared with HB0305S02

~~text~~ shows text that was in HB0305S02 but was deleted in HB0305S03.

text shows text that was not in HB0305S02 but was inserted into HB0305S03.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative ~~Casey Smider~~Joel Ferry proposes the following substitute bill:

### NATURAL RESOURCES REVISIONS

2022 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Joel Ferry**

Senate Sponsor: ~~\_\_\_\_\_~~Michael K. McKell

---

#### LONG TITLE

##### General Description:

This bill modifies provisions related to the management, regulation, conservation, and use of natural resources.

##### Highlighted Provisions:

This bill:

- ▶ changes the name of the Division of Recreation to the Division of Outdoor Recreation;
- ▶ merges the Office of Outdoor Recreation into the Division of Outdoor Recreation, including addressing:
  - powers and duties;
  - administration of grants; and
  - a transition;

## HB0305S03 compared with HB0305S02

- ▶ addresses reporting requirements, including reporting by the Office of Energy Development and reporting by the Division of Outdoor Recreation;
- ▶ modifies provisions related to off-highway vehicles, including use of certain money;
- ▶ amends authority to appoint off-highway vehicle and boating advisory councils;
- ▶ addresses the Zion National Park Support Programs Restricted Account;
- ▶ modifies the Division of Outdoor Recreation's authority to create recreational trails and outdoor recreation advisory bodies;
- ▶ creates the Utah Outdoor Recreation Infrastructure Advisory Committee to replace other advisory committees and requires consultation with the Division of Outdoor Recreation;
- ▶ addresses criteria related to certain recreational grants;
- ▶ addresses the Bonneville Shoreline Trail Program;
- ▶ modifies the makeup of the Outdoor Adventure Commission and changes consultation requirements;
- ▶ modifies the makeup of the Resource Development Coordinating Committee;
- ▶ addresses the relationship with the Division of Wildlife Resources and the Wildlife Board;
- ▶ repeals the Utah Outdoor Recreation Grant Advisory Committee;
- ▶ establishes policy related to conservation;
- ▶ addresses coordination of state conservation efforts, including authorizing agreements;
- ▶ repeals the Quality Growth Commission and replaces the commission with the Land Conservation Board, including moving the board within the Department of Agriculture and Food, addressing the board's powers and duties, and moving definitions related to housing;
- ▶ modifies the LeRay McAllister Critical Land Conservation Program, including addressing ~~{county}~~local action in some circumstances;
- ~~{~~ → requires counties to remit to the state rollback taxes and related payments to fund the LeRay McAllister Critical Land Conservation Program;
- ~~}~~ ▶ creates the Division of Conservation within the Department of Agriculture and Food;

## HB0305S03 compared with HB0305S02

- ▶ provides for coordination of conservation efforts;
- ▶ addresses rulemaking authority, including requiring rulemaking related to off-highway vehicles, clarifying rulemaking by the Division of Outdoor Recreation, and rulemaking related to grants;
- ▶ modifies sunset and repeal dates;
- ▶ modifies definition provisions;
- ▶ provides for transition; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ to the Department of Natural Resources -- ~~{Conservation}~~Pass Through, as an ongoing appropriation:
  - from General Fund, \$130,000;
- ▶ to the Department of Natural Resources -- ~~{Outdoor}~~Recreation Management, as an ongoing appropriation:
  - from General Fund, \$150,000;
- ▶ to the Department of Agriculture and Food -- Conservation, as an ongoing appropriation:
  - from General Fund, \$120,000;
- ▶ to the Governor's Office of Economic Opportunity, as an ongoing appropriation:
  - from General Fund, (\$338,700); and
- ▶ to the Department of Natural Resources -- ~~{Outdoor}~~Recreation Management, as an ongoing appropriation:
  - from General Fund, \$338,700.

### Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

### Utah Code Sections Affected:

AMENDS:

**4-2-103**, as last amended by Laws of Utah 2018, Chapter 200

**4-18-102**, as last amended by Laws of Utah 2021, Chapter 178

## HB0305S03 compared with HB0305S02

4-18-105, as last amended by Laws of Utah 2019, Chapter 178

9-9-112, as enacted by Laws of Utah 2021, Chapter 380 and last amended by  
Coordination Clause, Laws of Utah 2021, Chapter 280

23-14-14.2, as enacted by Laws of Utah 2007, Chapter 189

35A-8-2105, as renumbered and amended by Laws of Utah 2018, Chapter 182

41-1a-418, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378

41-1a-422, as last amended by Laws of Utah 2021, Chapters 219, 280, and 378

41-6a-1509, as last amended by Laws of Utah 2021, Chapter 280

41-22-2, as last amended by Laws of Utah 2021, Chapter 280

41-22-5.1, as last amended by Laws of Utah 2021, Chapter 280

41-22-5.5, as last amended by Laws of Utah 2021, Chapter 280

41-22-8, as last amended by Laws of Utah 2021, Chapter 280

41-22-10, as last amended by Laws of Utah 2021, Chapter 280

41-22-10.7, as last amended by Laws of Utah 2021, Chapter 280

41-22-19, as last amended by Laws of Utah 2012, Chapter 71

41-22-31, as last amended by Laws of Utah 2021, Chapter 280

41-22-33, as last amended by Laws of Utah 2021, Chapter 280

41-22-35, as last amended by Laws of Utah 2021, Chapter 280

53-2a-1102, as last amended by Laws of Utah 2021, Chapter 395

57-14-204, as last amended by Laws of Utah 2021, Chapter 280

~~59-2-506, as last amended by Laws of Utah 2017, Chapter 319~~

~~59-2-511, as last amended by Laws of Utah 2007, Chapter 329~~

~~59-2-1705, as last amended by Laws of Utah 2017, Chapter 319~~

~~59-2-1710, as enacted by Laws of Utah 2012, Chapter 197~~

‡ 59-13-201, as last amended by Laws of Utah 2021, Chapter 280

59-21-2, as last amended by Laws of Utah 2021, Chapter 280

59-28-103, as last amended by Laws of Utah 2021, Chapter 280

63C-21-201, as last amended by Laws of Utah 2021, Chapter 280

63C-21-202, as last amended by Laws of Utah 2021, Chapter 280

63I-1-241, as last amended by Laws of Utah 2020, Chapters 84 and 154

63I-1-263, as last amended by Laws of Utah 2021, Chapters 70, 72, 84, 90, 171, 196,

## **HB0305S03 compared with HB0305S02**

260, 280, 282, 345, 382, 401, 421 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

**63I-1-273**, as last amended by Laws of Utah 2021, Chapter 229

**63I-1-279**, as last amended by Laws of Utah 2021, Chapter 280

**63I-2-204**, as last amended by Laws of Utah 2018, Chapter 51

**63I-2-279**, as enacted by Laws of Utah 2021, Chapter 280

**63J-1-601**, as last amended by Laws of Utah 2021, Chapter 280

**63J-1-602.2**, as last amended by Laws of Utah 2021, Chapters 179, 344, 412, 421, and 424

**63L-7-104**, as last amended by Laws of Utah 2021, Chapter 280

**63L-11-402**, as last amended by Laws of Utah 2021, Chapters 184, 280 and renumbered and amended by Laws of Utah 2021, Chapter 382 and last amended by Coordination Clause, Laws of Utah 2021, Chapter 382

**63N-3-602**, as enacted by Laws of Utah 2021, Chapter 411

**65A-3-1**, as last amended by Laws of Utah 2021, Chapter 280

**65A-10-2**, as last amended by Laws of Utah 2021, Chapter 280

**72-11-204**, as last amended by Laws of Utah 2021, Chapter 280

**73-3-31**, as last amended by Laws of Utah 2021, Chapter 280

**73-18-2**, as last amended by Laws of Utah 2021, Chapter 280

**73-18-3.5**, as last amended by Laws of Utah 2021, Chapter 280

**73-18-4**, as last amended by Laws of Utah 2021, Chapter 280

**73-18-7**, as last amended by Laws of Utah 2021, Chapters 135 and 280

**73-18-8**, as last amended by Laws of Utah 2021, Chapter 280

**73-18-11**, as last amended by Laws of Utah 2021, Chapter 280

**73-18-13**, as last amended by Laws of Utah 2021, Chapter 280

**73-18-13.5**, as last amended by Laws of Utah 2021, Chapter 280

**73-18-15**, as last amended by Laws of Utah 2021, Chapter 280

**73-18-16**, as last amended by Laws of Utah 2021, Chapter 280

**73-18a-1**, as last amended by Laws of Utah 2021, Chapter 280

**73-18a-4**, as last amended by Laws of Utah 2021, Chapter 280

**73-18a-5**, as last amended by Laws of Utah 2021, Chapter 280

## **HB0305S03 compared with HB0305S02**

**73-18a-12**, as last amended by Laws of Utah 2021, Chapter 280  
**73-18b-1**, as last amended by Laws of Utah 2021, Chapter 280  
**73-18c-102**, as last amended by Laws of Utah 2021, Chapter 280  
**73-18c-201**, as last amended by Laws of Utah 2021, Chapter 280  
**77-2-4.3**, as last amended by Laws of Utah 2021, Chapter 280  
**78A-5-110**, as last amended by Laws of Utah 2021, Chapter 280  
**78A-7-120**, as last amended by Laws of Utah 2021, Chapter 280  
**79-2-201**, as last amended by Laws of Utah 2021, Chapters 280 and 382  
**79-2-202**, as last amended by Laws of Utah 2020, Chapter 352  
**79-2-206**, as enacted by Laws of Utah 2021, Chapter 280 and further amended by  
Revisor Instructions, Laws of Utah 2021, Chapter 280  
**79-4-203**, as last amended by Laws of Utah 2021, Chapter 280  
**79-4-1103**, as last amended by Laws of Utah 2021, Chapter 282  
**79-5-102**, as last amended by Laws of Utah 2021, Chapter 280  
**79-5-501**, as last amended by Laws of Utah 2021, Chapter 280  
**79-5-503**, as last amended by Laws of Utah 2011, Chapter 342  
**79-6-302**, as renumbered and amended by Laws of Utah 2021, Chapter 280  
**79-6-505**, as renumbered and amended by Laws of Utah 2021, Chapter 280  
**79-6-605**, as renumbered and amended by Laws of Utah 2021, Chapter 280  
**79-7-102**, as enacted by Laws of Utah 2021, Chapter 280  
**79-7-201**, as enacted by Laws of Utah 2021, Chapter 280  
**79-7-203**, as enacted by Laws of Utah 2021, Chapter 280  
**79-8-102**, as enacted by Laws of Utah 2021, Chapter 280  
**79-8-103**, as enacted by Laws of Utah 2021, Chapter 280  
**79-8-106**, as renumbered and amended by Laws of Utah 2021, Chapter 280  
**79-8-201**, as renumbered and amended by Laws of Utah 2021, Chapter 280  
**79-8-202**, as renumbered and amended by Laws of Utah 2021, Chapter 280  
**79-8-302**, as renumbered and amended by Laws of Utah 2021, Chapter 280  
**79-8-303**, as last amended by Laws of Utah 2021, Chapter 282 and renumbered and  
amended by Laws of Utah 2021, Chapter 280 and last amended by Coordination  
Clause, Laws of Utah 2021, Chapter 280

## **HB0305S03 compared with HB0305S02**

**79-8-304**, as renumbered and amended by Laws of Utah 2021, Chapter 280

### ENACTS:

**4-46-101**, Utah Code Annotated 1953

**4-46-103**, Utah Code Annotated 1953

**4-46-104**, Utah Code Annotated 1953

**4-46-201**, Utah Code Annotated 1953

**4-46-401**, Utah Code Annotated 1953

**4-46-402**, Utah Code Annotated 1953

**4-46-403**, Utah Code Annotated 1953

**79-1-104**, Utah Code Annotated 1953

**79-7-206**, Utah Code Annotated 1953

### RENUMBERS AND AMENDS:

**4-46-102**, (Renumbered from 11-38-102, as last amended by Laws of Utah 2021, Chapters 181 and 344)

**4-46-202**, (Renumbered from 11-38-202, as last amended by Laws of Utah 2021, Chapter 181)

**4-46-301**, (Renumbered from 11-38-301, as last amended by Laws of Utah 2009, Chapter 368)

**4-46-302**, (Renumbered from 11-38-302, as last amended by Laws of Utah 2021, Chapter 181)

**4-46-303**, (Renumbered from 11-38-304, as last amended by Laws of Utah 2017, Chapter 51)

**79-7-103**, (Renumbered from 63N-9-103, as renumbered and amended by Laws of Utah 2015, Chapter 283)

**79-7-303**, (Renumbered from 79-4-404, as renumbered and amended by Laws of Utah 2009, Chapter 344)

**79-8-401**, (Renumbered from 63N-9-202, as last amended by Laws of Utah 2021, Chapter 280)

**79-8-402**, (Renumbered from 63N-9-203, as last amended by Laws of Utah 2021, Chapter 282)

### REPEALS:

## HB0305S03 compared with HB0305S02

11-38-101, as enacted by Laws of Utah 1999, Chapter 24

11-38-201, as last amended by Laws of Utah 2021, Chapter 382

11-38-203, as last amended by Laws of Utah 2021, Chapter 382

63N-9-101, as renumbered and amended by Laws of Utah 2015, Chapter 283

63N-9-102, as last amended by Laws of Utah 2021, Chapter 280

63N-9-104, as last amended by Laws of Utah 2021, Chapters 282 and 382

63N-9-105, as last amended by Laws of Utah 2016, Chapter 88

63N-9-106, as last amended by Laws of Utah 2021, Chapters 280 and 282

63N-9-201, as enacted by Laws of Utah 2016, Chapter 88

79-5-201, as last amended by Laws of Utah 2021, Chapter 280

79-5-202, as last amended by Laws of Utah 2010, Chapters 256 and 286

79-7-101, as enacted by Laws of Utah 2021, Chapter 280

79-8-104, as enacted by Laws of Utah 2021, Chapter 280

79-8-105, as renumbered and amended by Laws of Utah 2021, Chapter 280

### Utah Code Sections Affected by Revisor Instructions:

4-46-104, Utah Code Annotated 1953

79-2-206, as enacted by Laws of Utah 2021, Chapter 280 and further amended by Revisor Instructions, Laws of Utah 2021, Chapter 280

---

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

Section 1. Section **4-2-103** is amended to read:

**4-2-103. Functions, powers, and duties of department -- Fees for services --**

**Marketing orders -- Procedure -- Purchasing and auditing.**

(1) The department shall:

(a) inquire into and promote the interests and products of agriculture and allied industries;

(b) promote methods for increasing the production and facilitating the distribution of the agricultural products of the state;

(c) (i) inquire into the cause of contagious, infectious, and communicable diseases among livestock and the means for their prevention and cure; and

(ii) initiate, implement, and administer plans and programs to prevent the spread of



## HB0305S03 compared with HB0305S02

diseases among livestock;

(d) encourage experiments designed to determine the best means and methods for the control of diseases among domestic and wild animals;

(e) issue marketing orders for any designated agricultural product to:

(i) promote orderly market conditions for any product;

(ii) give the producer a fair return on the producer's investment at the marketplace; and

(iii) only promote and not restrict or restrain the marketing of Utah agricultural commodities;

(f) administer and enforce all laws assigned to the department by the Legislature;

(g) establish standards and grades for agricultural products and fix and collect reasonable fees for services performed by the department in conjunction with the grading of agricultural products;

(h) establish operational standards for any establishment that manufactures, processes, produces, distributes, stores, sells, or offers for sale any agricultural product;

(i) adopt, according to Title 63G, Chapter 3, Utah Administrative Rulemaking Act, rules necessary for the effective administration of the agricultural laws of the state;

(j) when necessary, make investigations, subpoena witnesses and records, conduct hearings, issue orders, and make recommendations concerning [aH] matters related to agriculture;

(k) (i) inspect any nursery, orchard, farm, garden, park, cemetery, greenhouse, or any private or public place that may become infested or infected with harmful insects, plant diseases, noxious or poisonous weeds, or other agricultural pests;

(ii) establish and enforce quarantines;

(iii) issue and enforce orders and rules for the control and eradication of pests, wherever they may exist within the state; and

(iv) perform other duties relating to plants and plant products considered advisable and not contrary to law;

(l) inspect apiaries for diseases inimical to bees and beekeeping;

(m) take charge of any agricultural exhibit within the state, if considered necessary by the department, and award premiums at that exhibit;

(n) [assist] provide for the coordination of state conservation efforts, including by:

## HB0305S03 compared with HB0305S02

(i) assisting the Conservation Commission in the administration of [~~Title 4,~~] Chapter 18, Conservation Commission Act[ ~~and administer and disburse any funds~~];

(ii) implementing Chapter 46, Conservation Coordination Act, including entering into agreements with other state agencies; and

(iii) administering and disbursing money available to assist conservation districts in the state in the conservation of the state's soil and water resources;

(o) participate in the United States Department of Agriculture certified agricultural mediation program, in accordance with 7 U.S.C. Sec. 5101 and 7 C.F.R. Part 785;

(p) promote and support the multiple use of public lands;

(q) 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~~] entity within the department; and

(r) perform any additional functions, powers, and duties provided by law.

(2) The department, by following the procedures and requirements of Section 63J-1-504, may adopt a schedule of fees assessed for services provided by the department.

(3) (a) [~~No~~] A marketing order issued under Subsection (1)(e) [~~shall~~] may not take effect until:

(i) the department gives notice of the proposed order to the producers and handlers of the affected product;

(ii) the commissioner conducts a hearing on the proposed order; and

(iii) at least 50% of the registered producers and handlers of the affected products vote in favor of the proposed order.

(b) (i) The department may establish boards of control to administer marketing orders and the proceeds derived from any order.

(ii) A board of control shall:

(A) ensure that [~~all~~] proceeds are placed in an account in the board of control's name in a depository institution; and

(B) ensure that the account is annually audited by an accountant approved by the

## HB0305S03 compared with HB0305S02

commissioner.

(4) [~~Funds~~] Money collected by grain grading, as provided by Subsection (1)(g), shall be deposited into the General Fund as dedicated credits for the grain grading program.

(5) In fulfilling [~~its~~] the department's duties in this chapter, the department may:

- (a) purchase, as authorized or required by law, services that the department is responsible to provide for legally eligible persons;
- (b) take necessary steps, including legal action, to recover money or the monetary value of services provided to a recipient who is not eligible;
- (c) examine and audit the expenditures of any public funds provided to a local authority, agency, or organization that contracts with or receives funds from those authorities or agencies; and
- (d) accept and administer grants from the federal government and from other sources, public or private.

Section 2. Section **4-18-102** is amended to read:

### **4-18-102. Findings and declarations -- Duties.**

(1) [~~The~~] In addition to the policy provided in Section 4-46-101, the Legislature finds and declares that:

(a) the soil and water resources of this state constitute one of the state's basic assets;  
and

(b) the preservation of soil and water resources requires planning and programs to ensure:

- (i) the development and [~~utilization~~] use of soil and water resources; and
- (ii) soil and water resources' protection from the adverse effects of wind and water erosion, sediment, and sediment related pollutants.

(2) The Legislature finds that local production of food is essential for:

- (a) the security of the state's food supply; and
- (b) the self-sufficiency of the state's citizens.

(3) The Legislature finds that sustainable agriculture is critical to:

- (a) the success of rural communities;
- (b) the historical culture of the state;
- (c) maintaining healthy farmland;

## HB0305S03 compared with HB0305S02

- (d) maintaining high water quality;
- (e) maintaining abundant wildlife;
- (f) high-quality recreation for citizens of the state; and
- (g) helping to stabilize the state economy.

(4) The Legislature finds that livestock grazing on public lands is important for the proper management, maintenance, and health of public lands in the state.

(5) The Legislature encourages each agricultural producer in the state to operate in a reasonable and responsible manner to maintain the integrity of soil, water, and air.

(6) The department shall administer the Utah Agriculture Certificate of Environmental Stewardship Program, created in Section 4-18-107, to encourage each agricultural producer in this state to operate in a reasonable and responsible manner to maintain the integrity of the state's resources.

(7) The Legislature finds that soil health is essential to protecting the state's soil and water resources, bolstering the state's food supply, and sustaining the state's agricultural industry.

Section 3. Section **4-18-105** is amended to read:

### **4-18-105. Conservation Commission -- Functions and duties.**

- (1) The commission shall:
  - (a) facilitate the development and implementation of the strategies and programs necessary to:
    - (i) protect, conserve, use, and develop the soil, water, and air resources of the state; and
    - (ii) promote the protection, integrity, and restoration of land for agricultural and other beneficial purposes;
  - (b) disseminate information regarding districts' activities and programs;
  - (c) supervise the formation, reorganization, or dissolution of districts according to the requirements of Title 17D, Chapter 3, Conservation District Act;
  - (d) prescribe uniform accounting and recordkeeping procedures for districts and require each district to submit annually the information required in Section 17D-3-103;
  - (e) approve and make loans for agricultural purposes, through the loan advisory [subcommittee] board described in Section 4-18-106, from the Agriculture Resource Development Fund;

## HB0305S03 compared with HB0305S02

(f) seek to obtain and administer federal or state money in accordance with applicable federal or state guidelines and make loans or grants from that money to an eligible entity, as defined by the department by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the preservation of soil, water, and air resources, or for a reason set forth in Section 4-18-108;

(g) seek to coordinate soil and water protection, conservation, and development activities and programs of state agencies, local governmental units, other states, special interest groups, and federal agencies; ~~and~~

(h) when assigned by the governor, when required by contract with the Department of Environmental Quality, or when required by contract with the United States Environmental Protection Agency:

(i) develop programs for the prevention, control, or abatement of new or existing pollution to the soil, water, or air of the state;

(ii) advise, consult, and cooperate with affected parties to further the purpose of this chapter;

(iii) conduct studies, investigations, research, and demonstrations relating to agricultural pollution issues;

(iv) give reasonable consideration in the exercise of its powers and duties to the economic impact on sustainable agriculture;

(v) meet the requirements of federal law related to water and air pollution in the exercise of the commission's powers and duties; and

(vi) establish administrative penalties relating to agricultural discharges as defined in Section 4-18-103 that are proportional to the seriousness of the resulting environmental harm[-]; ~~and~~

(i) coordinate with the Division of Conservation created in Section 4-46-401.

(2) The commission may:

(a) employ, with the approval of the department, an administrator and necessary technical experts and employees;

(b) execute contracts or other instruments necessary to exercise the commission's powers;

(c) take necessary action to promote and enforce the purpose and findings of Section

## HB0305S03 compared with HB0305S02

4-18-102;

(d) sue and be sued; and

(e) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to carry out the powers and duties described in Subsection (1) and Subsections (2)(b) and (c).

Section 4. Section ~~4-46-101~~ is enacted to read:

### CHAPTER 46. CONSERVATION COORDINATION ACT

#### Part 1. General Provisions

##### 4-46-101. Policy.

It is the policy of this state that land conservation should be promoted to protect the state's agricultural industry and natural resources.

Section 5. Section ~~4-46-102~~, which is renumbered from Section 11-38-102 is renumbered and amended to read:

##### ~~[11-38-102].~~      4-46-102. Definitions.

As used in this chapter:

~~[(1) "Affordable housing" means housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.]~~

~~[(2)] (1) "Agricultural land" has the same meaning as "land in agricultural use" under Section 59-2-502.~~

~~[(3) "Brownfield sites" means abandoned, idled, or underused commercial or industrial land where expansion or redevelopment is complicated by real or perceived environmental contamination.]~~

~~[(4)] (2) ["Commission" means the Quality Growth Commission] "Board" means the Land Conservation Board established in Section [11-38-201] 4-46-201.~~

~~[(5) "Infill development" means residential, commercial, or industrial development on unused or underused land, excluding open land and agricultural land, within existing, otherwise developed urban areas:]~~

(3) "Conservation commission" means the Conservation Commission created in Section 4-18-104.

(4) "Conservation district" means a limited purpose local government entity created

## HB0305S03 compared with HB0305S02

under Title 17D, Chapter 3, Conservation District Act.

~~{ (5) "County land use authority" means a land use authority, as defined in Section 17-27a-103, of a county.~~

‡ ~~(6) (5) "Director" means the director of the Division of Conservation.~~

~~(7) (6) "Division" means the Division of Conservation created in Section 4-46-401.~~

(7) "Land use authority" means:

(a) a land use authority, as defined in Section 10-9a-103, of a municipality; or

(b) a land use authority, as defined in Section 17-27a-103, of a county.

~~(6) (8) "Local entity" means a county, city, or town.~~

~~(7) (9) (a) "Open land" means land that is:~~

(i) preserved in or restored to a predominantly natural, open, and undeveloped condition; and

(ii) used for:

(A) wildlife habitat;

(B) cultural or recreational use;

(C) watershed protection; or

(D) another use consistent with the preservation of the land in or restoration of the land to a predominantly natural, open, and undeveloped condition.

(b) (i) "Open land" does not include land whose predominant use is as a developed facility for active recreational activities, including baseball, tennis, soccer, golf, or other sporting or similar activity.

(ii) The condition of land does not change from a natural, open, and undeveloped condition because of the development or presence on the land of facilities, including trails, waterways, and grassy areas, that:

(A) enhance the natural, scenic, or aesthetic qualities of the land; or

(B) facilitate the public's access to or use of the land for the enjoyment of ~~[its]~~ the land's natural, scenic, or aesthetic qualities and for compatible recreational activities.

~~(8) (10) "Program" means the LeRay McAllister Critical Land Conservation Program established in Section [11-38-301] 4-46-301.~~

~~(9) "Surplus land" means real property owned by the Department of Government Operations, the Department of Agriculture and Food, the Department of Natural Resources, or~~

## HB0305S03 compared with HB0305S02

~~the Department of Transportation that the individual department determines not to be necessary for carrying out the mission of the department.]~~

(11) (a) "State conservation efforts" includes:

(i) efforts to optimize and preserve the uses of land for the benefit of the state's agricultural industry and natural resources; and

(ii) conservation of working landscapes that if conserved, preserves the state's agricultural industry and natural resources, such as working agricultural land.

(b) "State conservation efforts" does not include the purpose of opening private property to public access without the consent of the owner of the private property.

~~[(10)]~~ (12) (a) "Working agricultural land" means agricultural land for which an owner or producer engages in the activity of producing for commercial purposes crops, orchards, livestock, poultry, aquaculture, livestock products, or poultry products and the facilities, equipment, and property used to facilitate the activity.

(b) "Working agricultural land" includes an agricultural protection area established under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas.

Section 6. Section **4-46-103** is enacted to read:

### **4-46-103. Application of chapter to wildlife issues.**

This chapter may not be construed or applied to supersede or interfere with the powers and duties of the Division of Wildlife Resources or the Wildlife Board under Title 23, Wildlife Resources Code of Utah, over:

(1) conservation and management of protected wildlife within the state;

(2) a program or initiative to restore and conserve habitat for fish and wildlife; or

(3) acquisition, ownership, management, and control of real property or a real property interest, including a leasehold estate, an easement, a right-of-way, or a conservation easement.

Section 7. Section **4-46-104** is enacted to read:

### **4-46-104. Transition.**

(1) A grant that is entered into or issued by the Quality Growth Commission on or before July 1, 2022, remains in effect, except that:

(a) the agency administrating the grant shall be transferred to the board in the same manner as the statutory responsibility is transferred under this bill; and



## HB0305S03 compared with HB0305S02

(b) the grant is subject to the terms of the grant and may be terminated under the terms of the grant.

(2) In accordance with this bill, the department assumes the policymaking functions, regulatory, and enforcement powers, rights, and duties of the Quality Growth Commission existing on June 30, 2022.

Section 8. Section **4-46-201** is enacted to read:

### **Part 2. Land Conservation Board**

#### **4-46-201. Land Conservation Board.**

(1) There is created a Land Conservation Board consisting of:

(a) the director of the Division of Conservation or the director's designee;

(b) the commissioner of the Department of Agriculture and Food or the commissioner's designee;

(c) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee;

(d) four elected officials at the local government level, two of whom may not be residents of a county of the first or second class; and

(e) seven persons from the profit and nonprofit private sector:

(i) two of whom may not be residents of a county of the first or second class;

~~{ (ii) no more than three of whom may be from the same political party;~~

~~{ (iii) ii}~~ (ii) one of whom shall be from the residential construction industry, nominated by an association representing Utah home builders;

~~{ (iv) iii}~~ (iii) one of whom shall be from the real estate industry, nominated by an association representing Utah realtors;

~~{ (v) iv}~~ (iv) one representative of an association representing farmers, selected from a list of nominees submitted by at least one association representing farmers;

~~{ (vi) v}~~ (v) one representative of an association representing cattlemen, selected from a list of nominees submitted by at least one association representing cattlemen;

~~{ (vii) vi}~~ (vi) one representative of an association representing wool growers, selected from a list of nominees submitted by at least one association representing wool growers;

~~{ (viii) vii}~~ (vii) one representative of land trusts; and

~~{ (ix) viii}~~ (viii) one representative of an association representing conservation districts

## HB0305S03 compared with HB0305S02

created under Title 17D, Chapter 3, Conservation District Act, selected from a list of nominees submitted by at least one association representing conservation districts.

(2) (a) The governor shall appoint a board member under Subsection (1)(d) or (e) with the advice and consent of the Senate.

(b) The governor shall select:

(i) two of the four members under Subsection (1)(d) from a list of names provided by the Utah League of Cities and Towns; and

(ii) two of the four members under Subsection (1)(d) from a list of names provided by the Utah Association of Counties.

(3) (a) The term of office of a member appointed under Subsection (1)(d) or (e) is four years.

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

(c) A member of the board appointed under Subsection (1)(d) or (e) may not serve more than two consecutive four-year terms.

(4) A mid-term vacancy shall be filled for the unexpired term in the same manner as an appointment under Subsection (2).

(5) ~~f-Board~~ (a) Subject to Subsection (5)(b), board members shall elect a chair from their number and establish rules for the organization and operation of the board.

(b) The board member who is chair may not vote during the board member's tenure as chair, except the chair may vote if there is a tie vote of board members.

(6) 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.

(7) A member is not required to give bond for the performance of official duties.

(8) Staff services to the board shall be provided by the Division of Conservation.

## HB0305S03 compared with HB0305S02

Section 9. Section ~~4-46-202~~, which is renumbered from Section 11-38-202 is renumbered and amended to read:

~~[11-38-202].~~            **4-46-202. Board duties and powers -- No regulatory authority -- Criteria.**

(1) The [~~commission~~] board shall:

~~[(a) make recommendations to the Legislature on how to define more specifically quality growth areas within the general guidelines provided to the commission by the Legislature;]~~

~~[(b) advise the Legislature on growth management issues;]~~

~~[(c) make recommendations to the Legislature on refinements to this chapter;]~~

~~[(d) conduct a review in 2002 and each year thereafter to determine progress statewide on accomplishing the purposes of this chapter, and give a report of each review to the Political Subdivisions Interim Committee of the Legislature by November 30 of the year of the review;]~~

~~[(e)]~~ (a) administer the program as provided in this chapter; and

~~[(f) assist as many local entities as possible, at their request, to identify principles of growth that the local entity may consider implementing to help achieve the highest possible quality of growth for that entity;]~~

~~[(g)]~~ (b) fulfill other responsibilities imposed on the [~~commission~~] board by the Legislature~~;~~ and~~].~~

~~[(h) fulfill all other duties imposed on the commission by this chapter.]~~

~~[(2) The commission may sell, lease, or otherwise dispose of equipment or personal property belonging to the program, the proceeds from which shall return to the fund.]~~

~~[(3)]~~ (2) The [~~commission~~] board may not exercise any regulatory authority.

~~[(4)]~~ (3) In carrying out the [~~commission's~~] board's powers and duties under this chapter, the [~~commission~~] board shall adopt ranking criteria that is substantially similar to the ranking criteria used by the Agriculture Conservation Easement Program and Agriculture Land Easement as determined by the Natural Resources Conservation Service under the United States Department of Agriculture.

Section 10. Section ~~4-46-301~~, which is renumbered from Section 11-38-301 is renumbered and amended to read:

### **Part 3. LeRay McAllister Critical Land Conservation Program**

## HB0305S03 compared with HB0305S02

~~[11-38-301].~~            4-46-301. **LeRay McAllister Critical Land Conservation Program.**

(1) There is created a program entitled the "LeRay McAllister Critical Land Conservation Program."

(2) Funding for the program shall be a line item in the budget of the [~~Quality Growth Commission~~] board. The line item shall be nonlapsing.

Section 11. Section ~~4-46-302~~, which is renumbered from Section 11-38-302 is renumbered and amended to read:

~~[11-38-302].~~            4-46-302. **Use of money in program -- Criteria -- Administration.**

(1) Subject to Subsection (2), the [~~commission~~] board may authorize the use of money in the program, by grant, to:

- (a) a local entity;
- (b) the Department of Natural Resources created under Section 79-2-201;
- (c) [~~the Department of Agriculture and Food created under Section 4-2-102~~] an entity within the department; or
- (d) a charitable organization that qualifies as being tax exempt under Section 501(c)(3), Internal Revenue Code.

(2) (a) The money in the program shall be used for preserving or restoring open land and agricultural land.

(b) (i) Except as provided in Subsection (2)(b)(ii), money from the program may not be used to purchase a fee interest in real property [~~in order~~] to preserve open land or agricultural land, but may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land.

(ii) Notwithstanding Subsection (2)(b)(i), money from the [~~fund~~] program may be used to purchase a fee interest in real property to preserve open land or agricultural land if:

- (A) the parcel to be purchased is no more than 20 acres in size; and
- (B) with respect to a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that

## HB0305S03 compared with HB0305S02

purchased the fee interest in real property.

(iii) Eminent domain may not be used or threatened in connection with any purchase using money from the program.

(iv) A parcel of land larger than 20 acres in size may not be divided into separate parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).

(c) A local entity, department, or organization under Subsection (1) may not receive money from the program unless the local entity, department, or organization provides matching funds equal to or greater than the amount of money received from the program.

(d) In granting money from the program, the [~~commission~~] board may impose conditions on the recipient as to how the money is to be spent.

(e) The [~~commission~~] board shall give priority to:

(i) working agricultural land; and

(ii) after giving priority to working agricultural land under Subsection (2)(e)(i), requests from the Department of Natural Resources for up to 20% of each annual increase in the amount of money in the program if the money is used for the protection of wildlife or watershed.

(f) (i) The [~~commission~~] board may not make a grant from the program that exceeds \$1,000,000 until after making a report to the Legislative Management Committee about the grant.

(ii) The Legislative Management Committee may make a recommendation to the [~~commission~~] board concerning the intended grant, but the recommendation is not binding on the [~~commission~~] board.

(3) In determining the amount and type of financial assistance to provide [~~an~~] a local entity, department, or organization under Subsection (1) and subject to Subsection (2)(f), the [~~commission~~] board shall consider:

(a) the nature and amount of open land and agricultural land proposed to be preserved or restored;

(b) the qualities of the open land and agricultural land proposed to be preserved or restored;

(c) the cost effectiveness of the project to preserve or restore open land or agricultural land;

## HB0305S03 compared with HB0305S02

- (d) the funds available;
  - (e) the number of actual and potential applications for financial assistance and the amount of money sought by those applications;
  - (f) the open land preservation plan of the local entity where the project is located and the priority placed on the project by that local entity;
  - (g) the effects on housing affordability and diversity; and
  - (h) whether the project protects against the loss of private property ownership.
- (4) If a local entity, department, or organization under Subsection (1) seeks money from the program for a project whose purpose is to protect critical watershed, the [commission] board shall require that the needs and quality of that project be verified by the state engineer.
- (5) An interest in real property purchased with money from the program shall be held and administered by the state or a local entity.

(6) (a) The board may not authorize the use of money under this section for a project unless the {county} land use authority for the {county} land in which the project is located consents to the project.

(b) To obtain consent to a project, the person who is seeking money from the program shall submit a request for consent to a project with the applicable {county} land use authority. The {county} land use authority may grant or deny consent. If the {county} land use authority does not take action within {30}60 days from the day on which the request for consent is filed with the {county} land use authority under this Subsection (6), the board shall treat the project as having the consent of the {county} land use authority.

(c) An action of a {county} land use authority under this Subsection (6) is not a land use decision subject to:

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

Section 12. Section **4-46-303**, which is renumbered from Section 11-38-304 is renumbered and amended to read:

~~**[11-38-304].**~~            **4-46-303. Board to report annually.**

The [commission] board shall submit an annual report to the Infrastructure and General Government and Natural Resources, Agriculture, and Environmental Quality Appropriations Subcommittees:

## HB0305S03 compared with HB0305S02

- (1) specifying the amount of each disbursement from the program;
- (2) identifying the recipient of each disbursement and describing the project for which money was disbursed; and
- (3) detailing the conditions, if any, placed by the [~~commission~~] board on disbursements from the program.

Section 13. Section **4-46-401** is enacted to read:

### **Part 4. Division of Conservation**

#### **4-46-401. Division of Conservation created -- Director.**

- (1) Within the department there is created the Division of Conservation.
- (2) (a) The director is the executive and administrative head of the division.  
(b) The director shall administer this part subject to the administration and general supervision of the commissioner.
- (3) The division shall coordinate state conservation efforts by:
  - (a) staffing the board created in Section 4-46-201;
  - (b) coordinating with a conservation district in accordance with Section 4-46-402;
  - (c) coordinating with an agency or division within the department, the Department of Natural Resources, other state agencies, counties, cities, towns, local land trust entities, and federal agencies;
  - (d) facilitating obtaining federal funds in addition to state funds used for state conservation efforts;
  - (e) monitoring and providing for the management of conservation easements on state lands, including coordination with the Division of Wildlife Resources in the Division of Wildlife Resources' administration of Section 23-14-14.2; and
  - (f) implementing rules made by the department in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and Section 4-46-403.
- (4) The division may cooperate with, or enter into agreements with, other agencies of this state and federal agencies in the administration and enforcement of this chapter.

Section 14. Section **4-46-402** is enacted to read:

#### **4-46-402. Training -- Coordination with conservation districts.**

- (1) The division shall provide training to the conservation commission concerning:
  - (a) funding state conservation efforts; and

## HB0305S03 compared with HB0305S02

(b) coordinating state conservation efforts.

(2) The division shall work with the conservation commission in coordinating with a conservation district.

Section 15. Section **4-46-403** is enacted to read:

### **4-46-403. Conservation rules.**

The department may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to:

(1) establish requirements for the training described in Section 4-46-402; and

(2) establish the procedures the division shall follow in coordinating state conservation efforts.

Section 16. Section **9-9-112** is amended to read:

### **9-9-112. Bears Ears Visitor Center Advisory Committee.**

(1) Utah extends an invitation to the Navajo Nation, the Ute Mountain Ute Tribe, the Hopi Nation, the Zuni Tribe, and the Ute Indian Tribe of the Uintah Ouray to form an advisory committee for the purpose of exploring the feasibility, location, functions, and other important matters surrounding the creation of a visitor center at Bears Ears.

(2) As used in this section:

(a) "Advisory committee" means the Bears Ears Visitor Center Advisory Committee created by this section.

(b) "Bears Ears" means the Bears Ears National Monument.

(3) (a) Subject to Subsection (3)(b), there is created the Bears Ears Visitor Center Advisory Committee consisting of the following eight members:

(i) five voting members as follows:

(A) a representative of the Navajo Nation, appointed by the Navajo Nation;

(B) a representative of the Ute Mountain Ute Tribe, appointed by the Ute Mountain Ute Tribe;

(C) a representative of the Hopi Nation, appointed by the Hopi Nation;

(D) a representative of the Zuni Tribe, appointed by the Zuni Tribe; and

(E) a representative of the Ute Indian Tribe of the Uintah Ouray, appointed by the Ute Indian Tribe of the Uintah Ouray; and

(ii) subject to Subsection (4), three nonvoting members as follows:



## HB0305S03 compared with HB0305S02

(A) one member of the Senate, appointed by the president of the Senate; and

(B) two members of the House of Representatives, appointed by the speaker of the House of Representatives.

(b) The advisory committee is formed when all of the tribes described in Subsection (1) have communicated to the other tribes and to the Division of Indian Affairs that the tribe has appointed a member to the advisory committee.

(4) At least one of the three legislative members appointed under Subsection (3)(a)(ii) shall be from a minority party.

(5) The advisory committee may select from the advisory committee members the chair or other officers of the advisory committee.

(6) (a) If a vacancy occurs in the membership of the advisory committee appointed under Subsection (3), the member shall be replaced in the same manner in which the original appointment was made.

(b) A member appointed under Subsection (3) serves until the member's successor is appointed and qualified.

(7) (a) A majority of the voting members of the advisory committee constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the advisory committee.

(8) (a) The salary and expenses of an advisory committee member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

(b) An advisory committee member who is not a legislator may not receive compensation or benefits for the member's service on the advisory committee, but may receive per diem and reimbursement for travel expenses incurred as an advisory committee member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

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

(9) The advisory committee may invite the United States Forest Service, the Bureau of Land Management, the Division of State Parks, the Division of Outdoor Recreation, and the

## HB0305S03 compared with HB0305S02

Utah Office of Tourism within the Governor's Office of Economic Opportunity, to serve as technical advisors to the advisory committee.

(10) The Division of Indian Affairs shall staff the advisory committee.

(11) The advisory committee shall study and make recommendations concerning:

(a) the need for a visitor center associated with Bears Ears;

(b) the feasibility of a visitor center associated with Bears Ears, including investigating:

(i) potential locations for the visitor center;

(ii) purposes for the visitor center; and

(iii) sources of funding to build and maintain the visitor center;

(c) whether a visitor center will increase visitorship to Bears Ears; and

(d) whether a visitor center at Bears Ears could function as a repository of traditional knowledge and practices.

(12) The advisory committee may contract with one or more consultants to conduct work related to the issues raised in Subsection (11) if the Legislature appropriates money expressly for the purpose of the advisory committee contracting with a consultant.

(13) The advisory committee shall hold at least one public hearing to obtain public comment on the creation of a Bears Ears visitor center.

(14) The advisory committee shall report the advisory committee's recommendations to one or more of the following:

(a) the Economic Development and Workforce Services Interim Committee;

(b) the House Economic Development and Workforce Services Committee; or

(c) the Senate Economic Development and Workforce Services Committee.

Section 17. Section ~~23-14-14.2~~ is amended to read:

### **23-14-14.2. Wildlife Resources Conservation Easement Restricted Account.**

(1) There is created within the General Fund a restricted account known as the "Wildlife Resources Conservation Easement Account."

(2) The Wildlife Resources Conservation Easement Account consists of:

(a) grants from private foundations;

(b) grants from local governments, the state, or the federal government;

(c) grants from the [~~Quality Growth Commission~~] Land Conservation Board created under Section [~~41-38-201~~] 4-46-201;

## HB0305S03 compared with HB0305S02

- (d) donations from landowners for monitoring and managing conservation easements;
- (e) donations from any other person; and
- (f) interest on account money.

(3) Upon appropriation by the Legislature, the Division of Wildlife Resources shall use money from the account to monitor and manage conservation easements held by the division.

(4) The division may not receive or expend donations from the account to acquire conservation easements.

Section 18. Section **35A-8-2105** is amended to read:

### **35A-8-2105. Allocation of volume cap.**

(1) (a) Subject to Subsection (1)(b), the volume cap for each year shall be distributed by the board of review to the allotment accounts as described in Section 35A-8-2106.

(b) The board of review may distribute up to 50% of each increase in the volume cap for use in development that occurs in quality growth areas, depending upon the board's analysis of the relative need for additional volume cap between development in quality growth areas and the allotment accounts under Section 35A-8-2106.

(2) To obtain an allocation of the volume cap, issuing authorities shall submit to the board of review an application containing information required by the procedures and processes of the board of review.

(3) (a) The board of review shall establish criteria for making allocations of volume cap that are consistent with the purposes of the code and this part.

(b) In making an allocation of volume cap the board of review shall consider the following:

- (i) the principal amount of the bonds proposed to be issued;
- (ii) the nature and the location of the project or the type of program;
- (iii) the likelihood that the bonds will be sold and the timeframe of bond issuance;
- (iv) whether the project or program could obtain adequate financing without an allocation of volume cap;
- (v) the degree to which an allocation of volume cap is required for the project or program to proceed or continue;
- (vi) the social, health, economic, and educational effects of the project or program on the local community and state as a whole;

## HB0305S03 compared with HB0305S02

(vii) the anticipated economic development created or retained within the local community and the state as a whole;

(viii) the anticipated number of jobs, both temporary and permanent, created or retained within the local community and the state as a whole; and

(ix) if the project is a residential rental project, the degree to which the residential rental project:

(A) targets lower income populations; and

(B) is accessible housing[~~;~~and].

~~[(x) whether the project meets the principles of quality growth recommended by the Quality Growth Commission created in Section 11-38-201.]~~

(4) The board of review shall provide evidence of an allocation of volume cap by issuing a certificate in accordance with Section 35A-8-2107.

(5) (a) From January 1 to June 30 of each year, the board of review shall set aside at least 50% of the Small Issue Bond Account that may only be allocated to manufacturing projects.

(b) From July 1 to August 15 of each year, the board of review shall set aside at least 50% of the Pool Account that may only be allocated to manufacturing projects.

Section 19. Section **41-1a-418** is amended to read:

### **41-1a-418. Authorized special group license plates.**

(1) The division shall only issue special group license plates in accordance with this section through Section 41-1a-422 to a person who is specified under this section within the categories listed as follows:

(a) disability special group license plates issued in accordance with Section 41-1a-420;

(b) honor special group license plates, as in a war hero, which plates are issued for a:

(i) survivor of the Japanese attack on Pearl Harbor;

(ii) former prisoner of war;

(iii) recipient of a Purple Heart;

(iv) disabled veteran;

(v) recipient of a gold star award issued by the United States Secretary of Defense; or

(vi) recipient of a campaign or combat theater award determined by the Department of Veterans and Military Affairs;

## HB0305S03 compared with HB0305S02

(c) unique vehicle type special group license plates, as for historical, collectors value, or other unique vehicle type, which plates are issued for:

(i) a special interest vehicle;

(ii) a vintage vehicle;

(iii) a farm truck; or

(iv) (A) until Subsection (1)(c)(iv)(B) or (4) applies, a vehicle powered by clean fuel as defined in Section 59-13-102; or

(B) beginning on the effective date of rules made by the Department of Transportation authorized under Subsection 41-6a-702(5)(b) and until Subsection (4) applies, a vehicle powered by clean fuel that meets the standards established by the Department of Transportation in rules authorized under Subsection 41-6a-702(5)(b);

(d) recognition special group license plates, which plates are issued for:

(i) a current member of the Legislature;

(ii) a current member of the United States Congress;

(iii) a current member of the National Guard;

(iv) a licensed amateur radio operator;

(v) a currently employed, volunteer, or retired firefighter until June 30, 2009;

(vi) an emergency medical technician;

(vii) a current member of a search and rescue team;

(viii) a current honorary consulate designated by the United States Department of State;

(ix) an individual supporting commemoration and recognition of women's suffrage;

(x) an individual supporting a fraternal, initiatic order for those sharing moral and metaphysical ideals, and designed to teach ethical and philosophical matters of brotherly love, relief, and truth;

(xi) an individual supporting the Utah Wing of the Civil Air Patrol; or

(xii) an individual supporting the recognition and continuation of the work and life of Dr. Martin Luther King, Jr.; or

(e) support special group license plates, as for a contributor to an institution or cause, which plates are issued for a contributor to:

(i) an institution's scholastic scholarship fund;

## HB0305S03 compared with HB0305S02

- (ii) the Division of Wildlife Resources;
- (iii) the Department of Veterans and Military Affairs;
- (iv) [~~the Division of State Parks or~~] the Division of Outdoor Recreation;
- (v) the Department of Agriculture and Food;
- (vi) the Guardian Ad Litem Services Account and the Children's Museum of Utah;
- (vii) the Boy Scouts of America;
- (viii) spay and neuter programs through No More Homeless Pets in Utah;
- (ix) the Boys and Girls Clubs of America;
- (x) Utah public education;
- (xi) programs that provide support to organizations that create affordable housing for those in severe need through the Division of Real Estate;
- (xii) the Department of Public Safety;
- (xiii) programs that support Zion National Park;
- (xiv) beginning on July 1, 2009, programs that provide support to firefighter organizations;
- (xv) programs that promote bicycle operation and safety awareness;
- (xvi) programs that conduct or support cancer research;
- (xvii) programs that create or support autism awareness;
- (xviii) programs that create or support humanitarian service and educational and cultural exchanges;
- (xix) until September 30, 2017, programs that conduct or support prostate cancer awareness, screening, detection, or prevention;
- (xx) programs that support and promote adoptions;
- (xxi) programs that support issues affecting women and children through an organization affiliated with a national professional men's basketball organization;
- (xxii) programs that strengthen youth soccer, build communities, and promote environmental sustainability through an organization affiliated with a professional men's soccer organization;
- (xxiii) programs that support children with heart disease;
- (xxiv) programs that support the operation and maintenance of the Utah Law Enforcement Memorial;

## HB0305S03 compared with HB0305S02

(xxv) programs that provide assistance to children with cancer;

(xxvi) programs that promote leadership and career development through agricultural education;

(xxvii) the Utah State Historical Society;

(xxviii) programs to transport veterans to visit memorials honoring the service and sacrifices of veterans;

(xxix) programs that promote motorcycle safety awareness;

(xxx) organizations that promote clean air through partnership, education, and awareness;

(xxxi) programs dedicated to strengthening the state's Latino community through education, mentoring, and leadership opportunities;

(xxxii) organizations dedicated to facilitating, connecting, registering, and advocating for organ donors and donor families; or

(xxxiii) public education on behalf of the Kiwanis International clubs.

(2) (a) The division may not issue a new type of special group license plate or decal unless the division receives:

(i) (A) a private donation for the start-up fee established under Section 63J-1-504 for the production and administrative costs of providing the new special group license plates or decals; or

(B) a legislative appropriation for the start-up fee provided under Subsection (2)(a)(i)(A); and

(ii) beginning on January 1, 2012, and for the issuance of a support special group license plate authorized in Section 41-1a-422, at least 500 completed applications for the new type of support special group license plate or decal to be issued with all fees required under this part for the support special group license plate or decal issuance paid by each applicant.

(b) (i) Beginning on January 1, 2012, each participating organization shall collect and hold applications for support special group license plates or decals authorized in Section 41-1a-422 on or after January 1, 2012, until it has received at least 500 applications.

(ii) Once a participating organization has received at least 500 applications, it shall submit the applications, along with the necessary fees, to the division for the division to begin working on the design and issuance of the new type of support special group license plate or

## HB0305S03 compared with HB0305S02

decal to be issued.

(iii) Beginning on January 1, 2012, the division may not work on the issuance or design of a new support special group license plate or decal authorized in Section 41-1a-422 until the applications and fees required under this Subsection (2) have been received by the division.

(iv) The division shall begin issuance of a new support special group license plate or decal authorized in Section 41-1a-422 on or after January 1, 2012, no later than six months after receiving the applications and fees required under this Subsection (2).

(c) (i) Beginning on July 1, 2009, the division may not renew a motor vehicle registration of a motor vehicle that has been issued a firefighter recognition special group license plate unless the applicant is a contributor as defined in Subsection 41-1a-422(1)(a)(ii)(D) to the Firefighter Support Restricted Account.

(ii) A registered owner of a vehicle that has been issued a firefighter recognition special group license plate prior to July 1, 2009, upon renewal of the owner's motor vehicle registration shall:

(A) be a contributor to the Firefighter Support Restricted Account as required under Subsection (2)(c)(i); or

(B) replace the firefighter recognition special group license plate with a new license plate.

(3) Beginning on July 1, 2011, if a support special group license plate or decal type authorized in Section 41-1a-422 and issued on or after January 1, 2012, has fewer than 500 license plates issued each year for a three consecutive year time period that begins on July 1, the division may not issue that type of support special group license plate or decal to a new applicant beginning on January 1 of the following calendar year after the three consecutive year time period for which that type of support special group license plate or decal has fewer than 500 license plates issued each year.

(4) Beginning on July 1, 2011, the division may not issue to an applicant a unique vehicle type license plate for a vehicle powered by clean fuel under Subsection (1)(c)(iv).

(5) (a) Beginning on October 1, 2017, the division may not issue a new prostate cancer support special group license plate.

(b) A registered owner of a vehicle that has been issued a prostate cancer support special group license plate before October 1, 2017, may renew the owner's motor vehicle



## HB0305S03 compared with HB0305S02

registration, with the contribution allocated as described in Section 41-1a-422.

Section 20. Section **41-1a-422** is amended to read:

**41-1a-422. Support special group license plates -- Contributor -- Voluntary contribution collection procedures.**

(1) As used in this section:

(a) (i) except as provided in Subsection (1)(a)(ii), "contributor" means a person who has donated or in whose name at least \$25 has been donated to:

(A) a scholastic scholarship fund of a single named institution;

(B) the Department of Veterans and Military Affairs for veterans programs;

(C) the Division of Wildlife Resources for the Wildlife Resources Account created in Section 23-14-13, for conservation of wildlife and the enhancement, preservation, protection, access, and management of wildlife habitat;

(D) the Department of Agriculture and Food for the benefit of conservation districts;

(E) the Division of Outdoor Recreation for the benefit of snowmobile programs;

(F) the Guardian Ad Litem Services Account and the Children's Museum of Utah, with the donation evenly divided between the two;

(G) the Boy Scouts of America for the benefit of a Utah Boy Scouts of America council as specified by the contributor;

(H) No More Homeless Pets in Utah for distribution to organizations or individuals that provide spay and neuter programs that subsidize the sterilization of domestic animals;

(I) the Utah Alliance of Boys and Girls Clubs, Inc. to provide and enhance youth development programs;

(J) the Utah Association of Public School Foundations to support public education;

(K) the Utah Housing Opportunity Restricted Account created in Section 61-2-204 to assist people who have severe housing needs;

(L) the Public Safety Honoring Heroes Restricted Account created in Section 53-1-118 to support the families of fallen Utah Highway Patrol troopers and other Department of Public Safety employees;

(M) the Division of [~~State Parks~~] Outdoor Recreation for distribution to organizations that provide support for Zion National Park;

(N) the Firefighter Support Restricted Account created in Section 53-7-109 to support

## HB0305S03 compared with HB0305S02

firefighter organizations;

(O) the Share the Road Bicycle Support Restricted Account created in Section 72-2-127 to support bicycle operation and safety awareness programs;

(P) the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(Q) Autism Awareness Restricted Account created in Section 53F-9-401 to support autism awareness programs;

(R) Humanitarian Service and Educational and Cultural Exchange Restricted Account created in Section 9-17-102 to support humanitarian service and educational and cultural programs;

(S) Upon renewal of a prostate cancer support special group license plate, to the Cancer Research Restricted Account created in Section 26-21a-302 to support cancer research programs;

(T) the Choose Life Adoption Support Restricted Account created in Section 62A-4a-608 to support programs that promote adoption;

(U) the National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 62A-1-202;

(V) the Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120;

(W) the Children with Cancer Support Restricted Account created in Section 26-21a-304 for programs that provide assistance to children with cancer;

(X) the National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102;

(Y) the Children with Heart Disease Support Restricted Account created in Section 26-58-102;

(Z) the Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102;

(AA) the Division of Wildlife Resources (for the Support for State-Owned Shooting Ranges Restricted Account created in Section 23-14-13.5, for the creation of new, and operation and maintenance of existing, state-owned firearm shooting ranges;

(BB) the Utah State Historical Society to further the mission and purpose of the Utah

## HB0305S03 compared with HB0305S02

State Historical Society;

(CC) the Motorcycle Safety Awareness Support Restricted Account created in Section 72-2-130;

(DD) the Transportation of Veterans to Memorials Support Restricted Account created in Section 71-14-102;

(EE) clean air support causes, with half of the donation deposited into the Clean Air Support Restricted Account created in Section 19-1-109, and half of the donation deposited into the Clean Air Fund created in Section 59-10-1319;

(FF) the Latino Community Support Restricted Account created in Section 13-1-16;

(GG) the Allyson Gamble Organ Donation Contribution Fund created in Section 26-18b-101; or

(HH) public education on behalf of the Kiwanis International clubs, with the amount of the donation required to cover the costs of issuing, ordering, or reordering Kiwanis support special group plates, as determined by the State Tax Commission, deposited into the Kiwanis Education Support Fund created in Section 53F-9-403, and all remaining donation amounts deposited into the Education Fund.

(ii) (A) For a veterans special group license plate described in Subsection (4) or 41-1a-421(1)(a)(v) [~~or 41-1a-422(4)~~], "contributor" means a person who has donated or in whose name at least a \$25 donation at the time of application and \$10 annual donation thereafter has been made.

(B) For a Utah Housing Opportunity special group license plate, "contributor" means a person who:

(I) has donated or in whose name at least \$30 has been donated at the time of application and annually after the time of application; and

(II) is a member of a trade organization for real estate licensees that has more than 15,000 Utah members.

(C) For an Honoring Heroes special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(D) For a firefighter support special group license plate, "contributor" means a person who:

## HB0305S03 compared with HB0305S02

(I) has donated or in whose name at least \$15 has been donated at the time of application and annually after the time of application; and

(II) is a currently employed, volunteer, or retired firefighter.

(E) For a cancer research special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually after the time of application.

(F) For a Utah Law Enforcement Memorial Support special group license plate, "contributor" means a person who has donated or in whose name at least \$35 has been donated at the time of application and annually thereafter.

(b) "Institution" means a state institution of higher education as defined under Section 53B-3-102 or a private institution of higher education in the state accredited by a regional or national accrediting agency recognized by the United States Department of Education.

(2) (a) An applicant for original or renewal collegiate special group license plates under Subsection (1)(a)(i) must be a contributor to the institution named in the application and present the original contribution verification form under Subsection (2)(b) or make a contribution to the division at the time of application under Subsection (3).

(b) An institution with a support special group license plate shall issue to a contributor a verification form designed by the commission containing:

(i) the name of the contributor;

(ii) the institution to which a donation was made;

(iii) the date of the donation; and

(iv) an attestation that the donation was for a scholastic scholarship.

(c) The state auditor may audit each institution to verify that the money collected by the institutions from contributors is used for scholastic scholarships.

(d) After an applicant has been issued collegiate license plates or renewal decals, the commission shall charge the institution whose plate was issued, a fee determined in accordance with Section 63J-1-504 for management and administrative expenses incurred in issuing and renewing the collegiate license plates.

(e) If the contribution is made at the time of application, the contribution shall be collected, treated, and deposited as provided under Subsection (3).

(3) (a) An applicant for original or renewal support special group license plates under

## HB0305S03 compared with HB0305S02

this section must be a contributor to the sponsoring organization associated with the license plate.

(b) This contribution shall be:

(i) unless collected by the named institution under Subsection (2), collected by the division;

(ii) considered a voluntary contribution for the funding of the activities specified under this section and not a motor vehicle registration fee;

(iii) deposited into the appropriate account less actual administrative costs associated with issuing the license plates; and

(iv) for a firefighter special group license plate, deposited into the appropriate account less:

(A) the costs of reordering firefighter special group license plate decals; and

(B) the costs of replacing recognition special group license plates with new license plates under Subsection 41-1a-1211(13).

(c) The donation described in Subsection (1)(a) must be made in the 12 months [~~prior to~~] before registration or renewal of registration.

(d) The donation described in Subsection (1)(a) shall be a one-time donation made to the division when issuing original:

(i) snowmobile license plates; or

(ii) conservation license plates.

(4) Veterans license plates shall display one of the symbols representing the Army, Navy, Air Force, Marines, Coast Guard, or American Legion.

Section 21. Section **41-6a-1509** is amended to read:

**41-6a-1509. Street-legal all-terrain vehicle -- Operation on highways --  
Registration and licensing requirements -- Equipment requirements.**

(1) (a) Except as provided in Subsection (1)(b), an individual may operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle, that meets the requirements of this section as a street-legal ATV on a street or highway.

(b) An individual may not operate an all-terrain type I vehicle, all-terrain type II vehicle, or all-terrain type III vehicle as a street-legal ATV on a highway if:

(i) the highway is an interstate system as defined in Section 72-1-102; or

## HB0305S03 compared with HB0305S02

(ii) the highway is in a county of the first class and both of the following criterion is met:

(A) the highway is near a grade separated portion of the highway; and

(B) the highway has a posted speed limit higher than 50 miles per hour.

(c) Nothing in this section authorizes the operation of a street-legal ATV in an area that is not open to motor vehicle use.

(2) A street-legal ATV shall comply with Section 59-2-405.2, Subsection 41-1a-205(1), Subsection 53-8-205(1)(b), and the same requirements as:

(a) a motorcycle for:

(i) traffic rules under [~~Title 41, Chapter 6a, Traffic Code~~] this chapter;

(ii) titling, odometer statement, vehicle identification, license plates, and registration, excluding registration fees, under [~~Title 41,~~] Chapter 1a, Motor Vehicle Act; and

(iii) the county motor vehicle emissions inspection and maintenance programs under Section 41-6a-1642;

(b) a motor vehicle for:

(i) driver licensing under Title 53, Chapter 3, Uniform Driver License Act; and

(ii) motor vehicle insurance under [~~Title 41,~~] Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act; and

(c) an all-terrain type I or type II vehicle for off-highway vehicle provisions under [~~Title 41,~~] Chapter 22, Off-Highway Vehicles, and [~~Title 41,~~] Chapter 3, Motor Vehicle Business Regulation Act, unless otherwise specified in this section.

(3) (a) The owner of an all-terrain type I vehicle being operated as a street-legal ATV shall ensure that the vehicle is equipped with:

(i) one or more headlamps that meet the requirements of Section 41-6a-1603;

(ii) one or more tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) one or more stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of

## HB0305S03 compared with HB0305S02

Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section 41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers; and

(xiv) tires that:

(A) are not larger than the tires that the all-terrain vehicle manufacturer made available for the all-terrain vehicle model; and

(B) have at least  $2/32$  inches or greater tire tread.

(b) The owner of an all-terrain type II vehicle or all-terrain type III vehicle being operated as a street-legal all-terrain vehicle shall ensure that the vehicle is equipped with:

(i) two headlamps that meet the requirements of Section 41-6a-1603;

(ii) two tail lamps;

(iii) a tail lamp or other lamp constructed and placed to illuminate the registration plate with a white light;

(iv) one or more red reflectors on the rear;

(v) two stop lamps on the rear;

(vi) amber or red electric turn signals, one on each side of the front and rear;

(vii) a braking system, other than a parking brake, that meets the requirements of Section 41-6a-1623;

(viii) a horn or other warning device that meets the requirements of Section 41-6a-1625;

(ix) a muffler and emission control system that meets the requirements of Section 41-6a-1626;

(x) rearview mirrors on the right and left side of the driver in accordance with Section

## HB0305S03 compared with HB0305S02

41-6a-1627;

(xi) a windshield, unless the operator wears eye protection while operating the vehicle;

(xii) a speedometer, illuminated for nighttime operation;

(xiii) for vehicles designed by the manufacturer for carrying one or more passengers, a seat designed for passengers;

(xiv) for vehicles with side-by-side or tandem seating, seatbelts for each vehicle occupant;

(xv) a seat with a height between 20 and 40 inches when measured at the forward edge of the seat bottom; and

(xvi) tires that:

(A) do not exceed 44 inches in height; and

(B) have at least 2/32 inches or greater tire tread.

(c) The owner of a street-legal all-terrain vehicle is not required to equip the vehicle with wheel covers, mudguards, flaps, or splash aprons.

(4) (a) Subject to the requirements of Subsection (4)(b), an operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway, may not exceed the lesser of:

(i) the posted speed limit; or

(ii) 50 miles per hour.

(b) An operator of a street-legal all-terrain vehicle, when operating a street-legal all-terrain vehicle on a highway with a posted speed limit higher than 50 miles per hour, shall:

(i) operate the street-legal all-terrain vehicle on the extreme right hand side of the roadway; and

(ii) equip the street-legal all-terrain vehicle with a reflector or reflective tape to the front and back of both sides of the vehicle.

(5) (a) A nonresident operator of an off-highway vehicle that is authorized to be operated on the highways of another state has the same rights and privileges as a street-legal ATV that is granted operating privileges on the highways of this state, subject to the restrictions under this section and rules made by the Division of Outdoor Recreation, after [~~consulting~~] notifying the Outdoor Adventure Commission, if the other state offers reciprocal operating privileges to Utah residents.



## HB0305S03 compared with HB0305S02

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Division of Outdoor Recreation, after [~~consultation with~~] notifying the Outdoor Adventure Commission, shall establish eligibility requirements for reciprocal operating privileges for nonresident users granted under Subsection (5)(a).

(6) Nothing in this chapter restricts the owner of an off-highway vehicle from operating the off-highway vehicle in accordance with Section 41-22-10.5.

(7) A violation of this section is an infraction.

Section 22. Section **41-22-2** is amended to read:

### **41-22-2. Definitions.**

As used in this chapter:

(1) "Advisory council" means [~~the Off-highway Vehicle Advisory Council~~] an advisory council appointed by the Division of Outdoor Recreation that has within the advisory council's duties advising on policies related to the use of off-highway vehicles.

(2) "All-terrain type I vehicle" means any motor vehicle 52 inches or less in width, having an unladen dry weight of 1,500 pounds or less, traveling on three or more low pressure tires, having a seat designed to be straddled by the operator, and designed for or capable of travel over unimproved terrain.

(3) (a) "All-terrain type II vehicle" means any motor vehicle 80 inches or less in width, traveling on four or more low pressure tires, having a steering wheel, non-straddle seating, a rollover protection system, and designed for or capable of travel over unimproved terrain, and is:

(i) an electric-powered vehicle; or

(ii) a vehicle powered by an internal combustion engine and has an unladen dry weight of 2,500 pounds or less.

(b) "All-terrain type II vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or farm tractors as defined under Section 41-1a-102.

(4) (a) "All-terrain type III vehicle" means any other motor vehicle, not defined in Subsection (2), (3), (12), or (22), designed for or capable of travel over unimproved terrain.

(b) "All-terrain type III vehicle" does not include golf carts, any vehicle designed to carry a person with a disability, any vehicle not specifically designed for recreational use, or

## HB0305S03 compared with HB0305S02

farm tractors as defined under Section 41-1a-102.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Cross-country" means across natural terrain and off an existing highway, road, route, or trail.

(7) "Dealer" means a person engaged in the business of selling off-highway vehicles at wholesale or retail.

(8) "Division" means the Division of Outdoor Recreation.

(9) "Low pressure tire" means any pneumatic tire six inches or more in width designed for use on wheels with rim diameter of 14 inches or less and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

(10) "Manufacturer" means a person engaged in the business of manufacturing off-highway vehicles.

(11) (a) "Motor vehicle" means every vehicle which is self-propelled.

(b) "Motor vehicle" includes an off-highway vehicle.

(12) "Motorcycle" means every motor vehicle having a saddle for the use of the operator and designed to travel on not more than two tires.

(13) "Off-highway implement of husbandry" means every all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, motorcycle, or snowmobile that is used by the owner or the owner's agent for agricultural operations.

(14) "Off-highway vehicle" means any snowmobile, all-terrain type I vehicle, all-terrain type II vehicle, all-terrain type III vehicle, or motorcycle.

(15) "Operate" means to control the movement of or otherwise use an off-highway vehicle.

(16) "Operator" means the person who is in actual physical control of an off-highway vehicle.

(17) "Organized user group" means an off-highway vehicle organization incorporated as a nonprofit corporation in the state under Title 16, Chapter 6a, Utah Revised Nonprofit Corporation Act, for the purpose of promoting the interests of off-highway vehicle recreation.

(18) "Owner" means a person, other than a person with a security interest, having a property interest or title to an off-highway vehicle and entitled to the use and possession of that vehicle.

## HB0305S03 compared with HB0305S02

(19) "Public land" means land owned or administered by any federal or state agency or any political subdivision of the state.

(20) "Register" means the act of assigning a registration number to an off-highway vehicle.

(21) "Roadway" is used as defined in Section 41-6a-102.

(22) "Snowmobile" means any motor vehicle designed for travel on snow or ice and steered and supported in whole or in part by skis, belts, cleats, runners, or low pressure tires.

(23) "Street or highway" means the entire width between boundary lines of every way or place of whatever nature, when any part of it is open to the use of the public for vehicular travel.

(24) "Street-legal all-terrain vehicle" or "street-legal ATV" has the same meaning as defined in Section 41-6a-102.

Section 23. Section **41-22-5.1** is amended to read:

### **41-22-5.1. Rules of division relating to display of registration stickers.**

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after ~~[consultation with]~~ notifying the commission, shall make rules for the display of a registration sticker on an off-highway vehicle in accordance with Section 41-22-3.

Section 24. Section **41-22-5.5** is amended to read:

### **41-22-5.5. Off-highway husbandry vehicles.**

(1) (a) (i) The owner of an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile used for agricultural purposes may apply to the Motor Vehicle Division for an off-highway implement of husbandry sticker.

(ii) Each application under Subsection (1)(a)(i) shall be accompanied by:

(A) evidence of ownership;

(B) a title or a manufacturer's certificate of origin; and

(C) a signed statement certifying that the off-highway vehicle is used for agricultural purposes.

(iii) The owner shall receive an off-highway implement of husbandry sticker upon production of:

(A) the documents required under this Subsection (1); and

(B) payment of an off-highway implement of husbandry sticker fee established by the

## HB0305S03 compared with HB0305S02

division, after [~~consultation with~~] notifying the commission, not to exceed \$10.

(b) If the vehicle is also used for recreational purposes on public lands, trails, streets, or highways, it shall also be registered under Section 41-22-3.

(c) The off-highway implement of husbandry sticker shall be displayed in a manner prescribed by the division and shall identify the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile as an off-highway implement of husbandry.

(2) The off-highway implement of husbandry sticker is valid only for the life of the ownership of the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile and is not transferable.

(3) The off-highway implement of husbandry sticker is valid for an all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile that is being operated adjacent to a roadway:

(a) when the all-terrain type I vehicle, motorcycle, all-terrain type II vehicle, all-terrain type III vehicle, or snowmobile is only being used to travel from one parcel of land owned, operated, permitted, or leased for agricultural purposes by the owner of the vehicle to another parcel of land owned, operated, permitted, or leased for agricultural purposes by the owner; and

(b) when this operation is necessary for the furtherance of agricultural purposes.

(4) If the operation of an off-highway implement of husbandry adjacent to a roadway is impractical, it may be operated on the roadway if the operator exercises due care towards conventional motor vehicle traffic.

(5) It is unlawful to operate an off-highway implement of husbandry along, across, or within the boundaries of an interstate freeway.

(6) A violation of this section is an infraction.

Section 25. Section **41-22-8** is amended to read:

### **41-22-8. Registration fees.**

(1) The division, after [~~consultation with~~] notifying the commission, shall establish the fees [~~which~~] that shall be paid in accordance with this chapter, subject to the following:

(a) (i) Except as provided in Subsection (1)(a)(ii) or (iii), the fee for each off-highway vehicle registration may not exceed \$35.

(ii) The fee for each snowmobile registration may not exceed \$26.

## HB0305S03 compared with HB0305S02

(iii) The fee for each street-legal all-terrain vehicle may not exceed \$72.

(b) The fee for each duplicate registration card may not exceed \$3.

(c) The fee for each duplicate registration sticker may not exceed \$5.

(2) A fee may not be charged for an off-highway vehicle that is owned and operated by the United States Government, this state, or its political subdivisions.

(3) (a) In addition to the fees under this section, Section 41-22-33, and Section 41-22-34, the Motor Vehicle Division shall require a person to pay one dollar to register an off-highway vehicle under Section 41-22-3.

(b) The Motor Vehicle Division shall deposit the fees the Motor Vehicle Division collects under Subsection (3)(a) into the Spinal Cord and Brain Injury Rehabilitation Fund described in Section 26-54-102.

Section 26. Section **41-22-10** is amended to read:

### **41-22-10. Powers of division relating to off-highway vehicles.**

~~[(+)]~~ The division may:

~~[(a)]~~ (1) appoint and seek recommendations from the ~~[Off-highway Vehicle Advisory Council]~~ advisory council representing the various off-highway vehicle, conservation, and other appropriate interests; and

~~[(b)]~~ (2) adopt a uniform marker and sign system for use by agents of appropriate federal, state, county, and city agencies in areas of off-highway vehicle use.

~~[(2) The division shall receive and distribute voluntary contributions collected under Section 41-1a-230.6 in accordance with Section 41-22-19.5.]~~

Section 27. Section **41-22-10.7** is amended to read:

### **41-22-10.7. Vehicle equipment requirements -- Rulemaking -- Exceptions.**

(1) Except as provided under Subsection (3), an off-highway vehicle shall be equipped with:

(a) brakes adequate to control the movement of and to stop and hold the vehicle under normal operating conditions;

(b) headlights and taillights when operated between sunset and sunrise;

(c) a noise control device and except for a snowmobile, a spark arrestor device; and

(d) when operated on sand dunes designated by the division, a safety flag that is:

(i) red or orange in color;

## HB0305S03 compared with HB0305S02

(ii) a minimum of six by 12 inches; and

(iii) attached to:

(A) the off-highway vehicle so that the safety flag is at least eight feet above the surface of level ground; or

(B) the protective headgear of a person operating a motorcycle so that the safety flag is at least 18 inches above the top of the person's head.

(2) A violation of Subsection (1) is an infraction.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules, after ~~[consultation with]~~ notifying the commission, which set standards for the equipment and which designate sand dunes where safety flags are required under Subsection (1).

(4) An off-highway implement of husbandry used only in agricultural operations and not operated on a highway, is exempt from the provisions of this section.

Section 28. Section **41-22-19** is amended to read:

**41-22-19. Deposit of fees and related money in Off-highway Vehicle Account -- Use for facilities, costs and expenses of division, and education -- Request for matching funds.**

(1) Except as provided under Subsections (3) and (4) and Sections 41-22-34 and 41-22-36, ~~[a]~~ registration fees and related money collected by the Motor Vehicle Division or any agencies designated to act for the Motor Vehicle Division under this chapter shall be deposited as restricted revenue in the Off-highway Vehicle Account in the General Fund less the costs of collecting off-highway vehicle registration fees by the Motor Vehicle Division. The balance of the money may be used by the division ~~[as follows]~~:

(a) for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities, including public access facilities;

(b) for the mitigation of impacts associated with off-highway vehicle use;

~~[(c) as grants or as matching funds with any federal agency, state agency, political subdivision of the state, or organized user group for the construction, improvement, operation, acquisition, or maintenance of publicly owned or administered off-highway vehicle facilities including public access facilities;]~~

## HB0305S03 compared with HB0305S02

~~[(d) for the administration and enforcement of the provisions of this chapter; and]~~

~~[(e)] (c) for the education of off-highway vehicle users[-];~~

(d) for off-highway vehicle access protection;

(e) to support off-highway vehicle search and rescue activities and programs;

(f) to promote and encourage off-highway vehicle tourism;

(g) for other uses that further the policy set forth in Section 41-22-1;

(h) as grants or matching funds with a federal agency, state agency, political subdivision of the state, or organized user group for any of the uses described in Subsections (1)(a) through (g); and

(i) for the administration and enforcement of this chapter.

(2) ~~[All agencies or political subdivisions]~~ An agency or political subdivision requesting matching funds shall submit plans for proposed off-highway vehicle facilities to the division for review and approval.

(3) (a) One dollar and 50 cents of each annual registration fee collected under Subsection 41-22-8(1) and each off-highway vehicle user fee collected under Subsection 41-22-35(2) shall be deposited in the Land Grant Management Fund created under Section 53C-3-101.

(b) The Utah School and Institutional Trust Lands Administration shall use the money deposited under Subsection (3)(a) for costs associated with off-highway vehicle use of legally accessible lands within its jurisdiction as follows:

(i) to improve recreational opportunities on trust lands by constructing, improving, maintaining, or perfecting access for off-highway vehicle trails; and

(ii) to mitigate impacts associated with off-highway vehicle use.

(c) ~~[Any]~~ An unused balance of the money deposited under Subsection (3)(a) exceeding \$350,000 at the end of each fiscal year shall be deposited in the Off-highway Vehicle Account under Subsection (1).

(4) One dollar of each off-highway vehicle registration fee collected under Subsection 41-22-8(1) shall be deposited in the Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(5) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after notifying the commission, shall make rules as necessary to implement this

## HB0305S03 compared with HB0305S02

section.

Section 29. Section **41-22-31** is amended to read:

**41-22-31. Division to set standards for safety program -- Safety certificates issued -- Cooperation with public and private entities -- State immunity from suit.**

(1) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules, after [~~consultation with~~] notifying the commission, that establish curriculum standards for a comprehensive off-highway vehicle safety education and training program and shall implement this program.

(b) The program shall be designed to develop and instill the knowledge, attitudes, habits, and skills necessary for the safe operation of an off-highway vehicle.

(c) Components of the program shall include the preparation and dissemination of off-highway vehicle information and safety advice to the public and the training of off-highway vehicle operators.

(d) Off-highway vehicle safety certificates shall be issued to those who successfully complete training or pass the knowledge and skills test established under the program.

(2) The division shall cooperate with appropriate private organizations and associations, private and public corporations, and local government units to implement the program established under this section.

(3) In addition to the governmental immunity granted in Title 63G, Chapter 7, Governmental Immunity Act of Utah, the state is immune from suit for any act, or failure to act, in any capacity relating to the off-highway vehicle safety education and training program. The state is also not responsible for any insufficiency or inadequacy in the quality of training provided by this program.

Section 30. Section **41-22-33** is amended to read:

**41-22-33. Fees for safety and education program -- Penalty -- Unlawful acts.**

(1) A fee set by the division, after [~~consultation with~~] notifying the commission, in accordance with Section 63J-1-504 shall be added to the registration fee required to register an off-highway vehicle under Section 41-22-8 to help fund the off-highway vehicle safety and education program.

(2) If the division modifies the fee under Subsection (1), the modification shall take effect on the first day of the calendar quarter after 90 days from the day on which the division



## HB0305S03 compared with HB0305S02

provides the State Tax Commission:

- (a) notice from the division stating that the division will modify the fee; and
- (b) a copy of the fee modification.

Section 31. Section **41-22-35** is amended to read:

**41-22-35. Off-highway vehicle user fee -- Decal -- Agents -- Penalty for fraudulent issuance of decal -- Deposit and use of fee revenue.**

(1) (a) Except as provided in Subsection (1)(b), any person owning or operating a nonresident off-highway vehicle who operates or gives another person permission to operate the nonresident off-highway vehicle on any public land, trail, street, or highway in this state shall:

(i) apply for an off-highway vehicle decal issued exclusively for an off-highway vehicle owned by a nonresident of the state;

(ii) pay an annual off-highway vehicle user fee; and

(iii) provide evidence that the owner is a nonresident.

(b) The provisions of Subsection (1)(a) do not apply to an off-highway vehicle if the off-highway vehicle is:

(i) used exclusively as an off-highway implement of husbandry;

(ii) used exclusively for the purposes of a scheduled competitive event sponsored by a public or private entity or another event sponsored by a governmental entity under rules made by the division, after [~~consultation with~~] notifying the commission;

(iii) owned and operated by a state government agency and the operation of the off-highway vehicle within the boundaries of the state is within the course and scope of the duties of the agency; or

(iv) used exclusively for the purpose of an off-highway vehicle manufacturer sponsored event within the state under rules made by the division.

(2) The off-highway vehicle user fee is \$30.

(3) Upon compliance with the provisions of Subsection (1)(a), the nonresident shall:

(a) receive a nonresident off-highway vehicle user decal indicating compliance with the provisions of Subsection (1)(a); and

(b) display the decal on the off-highway vehicle in accordance with rules made by the division.

## HB0305S03 compared with HB0305S02

(4) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after [~~consultation with~~] notifying the commission, shall make rules establishing:

(a) procedures for:

(i) the payment of off-highway vehicle user fees; and

(ii) the display of a decal on an off-highway vehicle as required under Subsection

(3)(b);

(b) acceptable evidence indicating compliance with Subsection (1);

(c) eligibility for scheduled competitive events or other events under Subsection

(1)(b)(ii); and

(d) eligibility for an off-highway vehicle manufacturer sponsored event under Subsection (1)(b)(iv).

(5) (a) An off-highway vehicle user decal may be issued and the off-highway vehicle user fee may be collected by the division or agents of the division.

(b) An agent shall retain 10% of all off-highway vehicle user fees collected.

(c) The division may require agents to obtain a bond in a reasonable amount.

(d) On or before the tenth day of each month, each agent shall:

(i) report all sales to the division; and

(ii) submit all off-highway vehicle user fees collected less the remuneration provided in Subsection (5)(b).

(e) (i) If an agent fails to pay the amount due, the division may assess a penalty of 20% of the amount due.

(ii) Delinquent payments shall bear interest at the rate of 1% per month.

(iii) If the amount due is not paid because of bad faith or fraud, the division shall assess a penalty of 100% of the total amount due together with interest.

(f) All fees collected by an agent, except the remuneration provided in Subsection (5)(b), shall:

(i) be kept separate and apart from the private funds of the agent; and

(ii) belong to the state.

(g) An agent may not issue an off-highway vehicle user decal to any person unless the person furnishes evidence of compliance with the provisions of Subsection (1)(a).

(h) A violation of any provision of this Subsection (5) is a class B misdemeanor and

## HB0305S03 compared with HB0305S02

may be cause for revocation of the agent authorization.

(6) Revenue generated by off-highway vehicle user fees shall be deposited in the Off-highway Vehicle Account created in Section 41-22-19.

Section 32. Section **53-2a-1102** is amended to read:

### **53-2a-1102. Search and Rescue Financial Assistance Program -- Uses --**

#### **Rulemaking -- Distribution.**

(1) As used in this section:

(a) "Assistance card program" means the Utah Search and Rescue Assistance Card Program created within this section.

(b) "Card" means the Search and Rescue Assistance Card issued under this section to a participant.

(c) "Participant" means an individual, family, or group who is registered pursuant to this section as having a valid card at the time search, rescue, or both are provided.

(d) "Program" means the Search and Rescue Financial Assistance Program created within this section.

(e) (i) "Reimbursable base expenses" means those reasonable expenses incidental to search and rescue activities.

(ii) "Reimbursable base expenses" include:

(A) rental for fixed wing aircraft, snowmobiles, boats, and generators;

(B) replacement and upgrade of search and rescue equipment;

(C) training of search and rescue volunteers;

(D) costs of providing life insurance and workers' compensation benefits for volunteer search and rescue team members under Section 67-20-7.5; and

(E) any other equipment or expenses necessary or appropriate for conducting search and rescue activities.

(iii) "Reimbursable base expenses" do not include any salary or overtime paid to an individual on a regular or permanent payroll, including permanent part-time employees of any agency of the state.

(f) "Rescue" means search services, rescue services, or both search and rescue services.

(2) There is created the Search and Rescue Financial Assistance Program within the division.

## HB0305S03 compared with HB0305S02

(3) (a) The financial program and the assistance card program shall be funded from the following revenue sources:

(i) any voluntary contributions to the state received for search and rescue operations;

(ii) money received by the state under Subsection (11) and under Sections 23-19-42, 41-22-34, and 73-18-24;

(iii) money deposited under Subsection 59-12-103(14);

(iv) contributions deposited in accordance with Section 41-1a-230.7; and

(v) appropriations made to the program by the Legislature.

(b) [~~All money~~] Money received from the revenue sources in Subsections (3)(a)(i), (ii), and (iv), and 90% of the money described in Subsection (3)(a)(iii), shall be deposited into the General Fund as a dedicated credit to be used solely for the program.

(c) [~~10%~~] Ten percent of the money described in Subsection (3)(a)(iii) shall be deposited into the General Fund as a dedicated credit to be used solely to promote the assistance card program.

(d) [~~All funding~~] Funding for the program is nonlapsing.

(4) Subject to Subsections (3)(b) and (c), the director shall use the money described in this section to reimburse counties for all or a portion of each county's reimbursable base expenses for search and rescue operations, subject to:

(a) the approval of the Search and Rescue Advisory Board as provided in Section 53-2a-1104;

(b) money available in the program; and

(c) rules made under Subsection (7).

(5) Money described in Subsection (3) may not be used to reimburse for any paid personnel costs or paid man hours spent in emergency response and search and rescue related activities.

(6) The Legislature finds that these funds are for a general and statewide public purpose.

(7) The division, with the approval of the Search and Rescue Advisory Board, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and consistent with this section:

(a) specifying the costs that qualify as reimbursable base expenses;

## HB0305S03 compared with HB0305S02

- (b) defining the procedures of counties to submit expenses and be reimbursed;
- (c) defining a participant in the assistance card program, including:
  - (i) individuals; and
  - (ii) families and organized groups who qualify as participants;
- (d) defining the procedure for issuing a card to a participant;
- (e) defining excluded expenses that may not be reimbursed under the program, including medical expenses;
- (f) establishing the card renewal cycle for the Utah Search and Rescue Assistance Card Program;
- (g) establishing the frequency of review of the fee schedule;
- (h) providing for the administration of the program; and
- (i) providing a formula to govern the distribution of available money among the counties for uncompensated search and rescue expenses based on:
  - (i) the total qualifying expenses submitted;
  - (ii) the number of search and rescue incidents per county population;
  - (iii) the number of victims that reside outside the county; and
  - (iv) the number of volunteer hours spent in each county in emergency response and search and rescue related activities per county population.
- (8) (a) The division shall, in consultation with the [~~Outdoor Recreation Office~~] Division of Outdoor Recreation, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection 63J-1-504(6).
- (b) The division shall provide a discount of not less than 10% of the card fee under Subsection (8)(a) to a person who has paid a fee under Section 23-19-42, 41-22-34, or 73-18-24 during the same calendar year in which the person applies to be a participant in the assistance card program.
- (9) Counties may not bill reimbursable base expenses to an individual for costs incurred for the rescue of an individual, if the individual is a current participant in the Utah Search and Rescue Assistance Card Program at the time of rescue, unless:
  - (a) the rescuing county finds that the participant acted recklessly in creating a situation resulting in the need for the county to provide rescue services; or
  - (b) the rescuing county finds that the participant intentionally created a situation

## HB0305S03 compared with HB0305S02

resulting in the need for the county to provide rescue services.

(10) (a) There is created the Utah Search and Rescue Assistance Card Program. The program is located within the division.

(b) The program may not be [~~utilized~~] used to cover any expenses, such as medically related expenses, that are not reimbursable base expenses related to the rescue.

(11) (a) To participate in the program, a person shall purchase a search and rescue assistance card from the division by paying the fee as determined by the division in Subsection (8).

(b) The money generated by the fees shall be deposited into the General Fund as a dedicated credit for the Search and Rescue Financial Assistance Program created in this section.

(c) Participation and payment of fees by a person under Sections 23-19-42, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the [~~Outdoor Recreation Office~~] Division of Outdoor Recreation regarding:

- (a) administration of the assistance card program; and
- (b) outreach and marketing strategies.

(13) Pursuant to Subsection 31A-1-103(7), the Utah Search and Rescue Assistance Card Program under this section is exempt from being considered insurance as that term is defined in Section 31A-1-301.

Section 33. Section ~~57-14-204~~ is amended to read:

**~~57-14-204. Liability not limited where willful or malicious conduct involved or admission fee charged.~~**

(1) Nothing in this part limits any liability that otherwise exists for:

(a) willful or malicious failure to guard or warn against a dangerous condition, use, structure, or activity;

(b) deliberate, willful, or malicious injury to persons or property; or

(c) an injury suffered where the owner of land charges a person to enter or go on the land or use the land for any recreational purpose.

(2) For purposes of Subsection (1)(c), if the land is leased to the state or a subdivision of the state, any consideration received by the owner for the lease is not a charge within the

## HB0305S03 compared with HB0305S02

meaning of this section.

(3) Any person who hunts upon a cooperative wildlife management unit, as authorized by Title 23, Chapter 23, Cooperative Wildlife Management Units, is not considered to have paid a fee within the meaning of this section.

(4) Owners of a dam or reservoir who allow recreational use of the dam or reservoir and its surrounding area and do not themselves charge a fee for that use, are considered not to have charged for that use within the meaning of Subsection (1)(c), even if the user pays a fee to the Division of State Parks or the Division of Outdoor Recreation for the use of the services and facilities at that dam or reservoir.

(5) The state or a subdivision of the state that owns property purchased for a railway corridor is considered not to have charged for use of the railway corridor within the meaning of Subsection (1)(c), even if the user pays a fee for travel on a privately owned rail car that crosses or travels over the railway corridor of the state or a subdivision of the state:

- (a) allows recreational use of the railway corridor and its surrounding area; and
- (b) does not charge a fee for that use.

Section 34. Section ~~{59-2-506}~~59-13-201 is amended to read:

~~{~~ **59-2-506. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution.**

~~———— (1) Except as provided in this section, Section 59-2-506.5, or Section 59-2-511, if land is withdrawn from this part, the land is subject to a rollback tax imposed in accordance with this section.~~

~~———— (2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.~~

~~———— (b) An owner that fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:~~

~~———— (i) \$10; or~~

~~———— (ii) 2% of the rollback tax due for the last year of the rollback period.~~

~~———— (3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:~~

~~———— (i) the tax paid while the land was assessed under this part; and~~

~~———— (ii) the tax that would have been paid had the property not been assessed under this~~

## HB0305S03 compared with HB0305S02

part:

~~—— (b) For purposes of this section, the rollback period is a time period that:~~

~~—— (i) begins on the later of:~~

~~—— (A) the date the land is first assessed under this part; or~~

~~—— (B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and~~

~~—— (ii) ends the day on which the county assessor mails the notice required by Subsection (5):~~

~~—— (4) (a) The county treasurer shall:~~

~~—— (i) collect the rollback tax; and~~

~~—— (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien on the property has been satisfied by:~~

~~—— (A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and~~

~~—— (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recordation.~~

~~—— (b) The county treasurer shall [pay] remit monthly to the state treasurer the money that the county treasurer received during the preceding month from the rollback tax collected under this section[:].~~

~~—— [(i) into the county treasury; and]~~

~~—— [(ii) to the various taxing entities pro rata in accordance with the property tax levies for the current year.]~~

~~—— (c) The state treasurer shall transfer the money received from a county treasurer under Subsection (4)(b) to the Land Conservation Board created in Section 4-46-201 for use under the LeRay McAllister Critical Land Conservation Program established in Section 4-46-301.~~

~~—— (5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:~~

~~—— (i) the land is withdrawn from this part;~~

~~—— (ii) the land is subject to a rollback tax under this section; and~~

~~—— (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice described in this Subsection~~



## HB0305S03 compared with HB0305S02

~~(5)(a):~~

~~—— (b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a):~~

~~—— (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a):~~

~~—— (6) (a) Subject to Subsection (6)(b), the following are a lien on the land assessed under this part:~~

~~—— (i) the rollback tax; and~~

~~—— (ii) interest imposed in accordance with Subsection (7):~~

~~—— (b) The lien described in Subsection (6)(a) shall:~~

~~—— (i) arise upon the imposition of the rollback tax under this section;~~

~~—— (ii) end on the day on which the rollback tax and interest imposed in accordance with Subsection (7) are paid in full; and~~

~~—— (iii) relate back to the first day of the rollback period described in Subsection (3)(b):~~

~~—— (7) (a) A delinquent rollback tax under this section shall accrue interest:~~

~~—— (i) from the date of delinquency until paid; and~~

~~—— (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs:~~

~~—— (b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317:~~

~~—— (8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part:~~

~~—— (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax:~~

~~—— (9) Except as provided in Section 59-2-511, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land~~

## HB0305S03 compared with HB0305S02

~~meets the requirements of Section 59-2-503 to be assessed under this part.~~

~~—— (10) Land that becomes ineligible for assessment under this part only as a result of a split estate mineral rights owner exercising the right to extract a mineral is not subject to the rollback tax:~~

~~—— (a) (i) for the portion of the land required by a split estate mineral rights owner to extract a mineral if, after the split estate mineral rights owner exercises the right to extract a mineral, the portion of the property that remains in agricultural production still meets the acreage requirements of Section 59-2-503 for assessment under this part; or~~

~~—— (ii) for the entire acreage that would otherwise qualify for assessment under this part if, after the split estate mineral rights owner exercises the right to extract a mineral, the entire acreage that would otherwise qualify for assessment under this part no longer meets the acreage requirements of Section 59-2-503 for assessment under this part only due to the extraction of the mineral by the split estate mineral rights owner; and~~

~~—— (b) for the period of time that the property described in Subsection (10)(a) is ineligible for assessment under this part due to the extraction of a mineral by the split estate mineral rights owner.~~

~~—— Section 35. Section 59-2-511 is amended to read:~~

~~—— **59-2-511. Acquisition of land by governmental entity -- Requirements -- Rollback tax -- One-time in lieu fee payment -- Passage of title.**~~

~~—— (1) For purposes of this section, "governmental entity" means:~~

~~—— (a) the United States;~~

~~—— (b) the state;~~

~~—— (c) a political subdivision of the state, including:~~

~~—— (i) a county;~~

~~—— (ii) a city;~~

~~—— (iii) a town;~~

~~—— (iv) a school district;~~

~~—— (v) a local district; or~~

~~—— (vi) a special service district; or~~

~~—— (d) an entity created by the state or the United States, including:~~

~~—— (i) an agency;~~

## HB0305S03 compared with HB0305S02

- ~~—— (ii) a board;~~
- ~~—— (iii) a bureau;~~
- ~~—— (iv) a commission;~~
- ~~—— (v) a committee;~~
- ~~—— (vi) a department;~~
- ~~—— (vii) a division;~~
- ~~—— (viii) an institution;~~
- ~~—— (ix) an instrumentality; or~~
- ~~—— (x) an office.~~
- ~~—— (2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:~~
  - ~~—— (i) [prior to] before the governmental entity acquiring the land, the land is assessed under this part; and~~
  - ~~—— (ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-503 for assessment under this part.~~
- ~~—— (b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:~~
  - ~~—— (i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or~~
  - ~~—— (ii) in exchange for the dedication, the person dedicating the public right-of-way receives:~~
    - ~~—— (A) money; or~~
    - ~~—— (B) other consideration.~~
- ~~—— (3) (a) Except as provided in Subsection (4), land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:~~
  - ~~—— (i) the governmental entity acquires the land by eminent domain;~~
  - ~~—— (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and~~
  - ~~—— (B) the governmental entity provides written notice of the proceedings to the owner; or~~
  - ~~—— (iii) the land is donated to the governmental entity.~~
- ~~—— (b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the~~

## HB0305S03 compared with HB0305S02

~~governmental entity shall make a one-time in lieu fee payment:~~

~~—— (A) to the county treasurer of the county in which the land is located; and~~

~~—— (B) in an amount equal to the amount of rollback tax calculated under Section 59-2-506.~~

~~—— (ii) If a governmental entity acquires land under Subsection (3)(a)(i) or (3)(a)(ii), the governmental entity shall make a one-time in lieu fee payment:~~

~~—— (A) to the county treasurer of the county in which the land is located; and~~

~~—— (B) (I) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-503, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity; or~~

~~—— (II) if the land remaining after the acquisition by the governmental entity is less than five acres, in an amount equal to the rollback tax under Section 59-2-506 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental entity.~~

~~—— (iii) For purposes of Subsection (3)(b)(ii), "land remaining after the acquisition by the governmental entity" includes other eligible acreage that is used in conjunction with the land remaining after the acquisition by the governmental entity.~~

~~—— (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall [distribute] remit monthly to the state treasurer the money that the county treasurer received during the preceding month from the revenues generated by the payment[:.] under this section.~~

~~—— [(i) to the taxing entities in which the land is located; and]~~

~~—— [(ii) in the same proportion as the revenue from real property taxes is distributed.]~~

~~—— (d) The state treasurer shall transfer the money received from a county treasurer under Subsection (3)(c) to the Land Conservation Board created in Section 4-46-201 for use under the LeRay McAllister Critical Land Conservation Program established in Section 4-46-301.~~

~~—— (4) Except as provided in Section 59-2-506.5, if land acquired by a governmental entity is made subject to a conservation easement in accordance with Section 59-2-506.5:~~

~~—— (a) the land is not subject to the rollback tax imposed by this part; and~~

~~—— (b) the governmental entity acquiring the land is not required to make an in lieu fee payment under Subsection (3)(b):~~

~~—— (5) If a governmental entity acquires land subject to assessment under this part, title to~~

## HB0305S03 compared with HB0305S02

the land may not pass to the governmental entity until the following are paid to the county treasurer:

~~— (a) any tax due under this part;~~

~~— (b) any one-time in lieu fee payment due under this part; and~~

~~— (c) any interest due under this part.~~

~~— Section 36. Section 59-2-1705 is amended to read:~~

~~— **59-2-1705. Rollback tax -- Penalty -- Computation of tax -- Procedure -- Lien -- Interest -- Notice -- Collection -- Distribution -- Appeal to county board of equalization.**~~

~~— (1) Except as provided in this section or Section 59-2-1710, land that is withdrawn from this part is subject to a rollback tax imposed as provided in this section.~~

~~— (2) (a) An owner shall notify the county assessor that land is withdrawn from this part within 120 days after the day on which the land is withdrawn from this part.~~

~~— (b) An owner who fails to notify the county assessor under Subsection (2)(a) that land is withdrawn from this part is subject to a penalty equal to the greater of:~~

~~— (i) \$10; or~~

~~— (ii) 2% of the rollback tax due for the last year of the rollback period.~~

~~— (3) (a) The county assessor shall determine the amount of the rollback tax by computing the difference for the rollback period described in Subsection (3)(b) between:~~

~~— (i) the tax paid while the land was assessed under this part; and~~

~~— (ii) the tax that would have been paid had the property not been assessed under this part.~~

~~— (b) For purposes of this section, the rollback period is a time period that:~~

~~— (i) begins on the later of:~~

~~— (A) the date the land is first assessed under this part; or~~

~~— (B) five years preceding the day on which the county assessor mails the notice required by Subsection (5); and~~

~~— (ii) ends the day on which the county assessor mails the notice required by Subsection (5).~~

~~— (4) (a) The county treasurer shall:~~

~~— (i) collect the rollback tax; and~~

~~— (ii) after the rollback tax is paid, certify to the county recorder that the rollback tax lien~~

## HB0305S03 compared with HB0305S02

~~on the property has been satisfied by:~~

~~—— (A) preparing a document that certifies that the rollback tax lien on the property has been satisfied; and~~

~~—— (B) providing the document described in Subsection (4)(a)(ii)(A) to the county recorder for recording.~~

~~—— (b) The county treasurer shall [pay] remit monthly to the state treasurer the money that the county treasurer received during the preceding month from the rollback tax collected under this section[:].~~

~~—— [(i) into the county treasury; and]~~

~~—— [(ii) to the various taxing entities pro rata in accordance with the property tax levies for the current year.]~~

~~—— (c) The state treasurer shall transfer the money received from a county treasurer under Subsection (4)(b) to the Land Conservation Board created in Section 4-46-201 for use under the LeRay McAllister Critical Land Conservation Program established in Section 4-46-301.~~

~~—— (5) (a) The county assessor shall mail to an owner of the land that is subject to a rollback tax a notice that:~~

~~—— (i) the land is withdrawn from this part;~~

~~—— (ii) the land is subject to a rollback tax under this section; and~~

~~—— (iii) the rollback tax is delinquent if the owner of the land does not pay the tax within 30 days after the day on which the county assessor mails the notice described in this Subsection (5)(a).~~

~~—— (b) (i) The rollback tax is due and payable on the day the county assessor mails the notice required by Subsection (5)(a).~~

~~—— (ii) Subject to Subsection (7), the rollback tax is delinquent if an owner of the land that is withdrawn from this part does not pay the rollback tax within 30 days after the day on which the county assessor mails the notice required by Subsection (5)(a).~~

~~—— (6) (a) Subject to Subsection (6)(b), the rollback tax and interest imposed under Subsection (7) are a lien on the land assessed under this part.~~

~~—— (b) The lien described in Subsection (6)(a) shall:~~

~~—— (i) arise upon the imposition of the rollback tax under this section;~~

~~—— (ii) end on the day on which the rollback tax and interest imposed under Subsection (7)~~

## HB0305S03 compared with HB0305S02

~~are paid in full; and~~

~~—— (iii) relate back to the first day of the rollback period described in Subsection (3)(b).~~

~~—— (7) (a) A delinquent rollback tax under this section shall accrue interest:~~

~~—— (i) from the date of delinquency until paid; and~~

~~—— (ii) at the interest rate established under Section 59-2-1331 and in effect on January 1 of the year in which the delinquency occurs.~~

~~—— (b) The county treasurer shall include in the notice required by Section 59-2-1317 a rollback tax that is delinquent on September 1 of any year and interest calculated on that delinquent amount through November 30 of the year in which the county treasurer provides the notice under Section 59-2-1317.~~

~~—— (8) (a) Land that becomes ineligible for assessment under this part only as a result of an amendment to this part is not subject to the rollback tax if the owner of the land notifies the county assessor, in accordance with Subsection (2), that the land is withdrawn from this part.~~

~~—— (b) Land described in Subsection (8)(a) that is withdrawn from this part as a result of an event other than an amendment to this part, whether voluntary or involuntary, is subject to the rollback tax.~~

~~—— (9) Except as provided in Section 59-2-1710, land that becomes exempt from taxation under Utah Constitution, Article XIII, Section 3, is not subject to the rollback tax if the land meets the requirements of Section 59-2-1703 to be assessed under this part.~~

~~—— Section 37. Section 59-2-1710 is amended to read:~~

~~—— **59-2-1710. Acquisition of land by governmental entity -- Requirements --**~~

~~**Rollback tax -- One-time in lieu fee payment -- Passage of title.**~~

~~—— (1) For purposes of this section, "governmental entity" means:~~

~~—— (a) the United States;~~

~~—— (b) the state;~~

~~—— (c) a political subdivision of the state, including a county, city, town, school district, local district, or special service district; or~~

~~—— (d) an entity created by the state or the United States, including an agency, board, bureau, commission, committee, department, division, institution, instrumentality, or office.~~

~~—— (2) (a) Except as provided in Subsections (3) and (4), land acquired by a governmental entity is subject to the rollback tax imposed by this part if:~~

## HB0305S03 compared with HB0305S02

~~—— (i) before the governmental entity acquires the land, the land is assessed under this part; and~~

~~—— (ii) after the governmental entity acquires the land, the land does not meet the requirements of Section 59-2-1703 for assessment under this part.~~

~~—— (b) A person dedicating a public right-of-way to a governmental entity shall pay the rollback tax imposed by this part if:~~

~~—— (i) a portion of the public right-of-way is located within a subdivision as defined in Section 10-9a-103; or~~

~~—— (ii) in exchange for the dedication, the person dedicating the public right-of-way receives money or other consideration.~~

~~—— (3) (a) Land acquired by a governmental entity is not subject to the rollback tax imposed by this part, but is subject to a one-time in lieu fee payment as provided in Subsection (3)(b), if:~~

~~—— (i) the governmental entity acquires the land by eminent domain;~~

~~—— (ii) (A) the land is under the threat or imminence of eminent domain proceedings; and~~

~~—— (B) the governmental entity provides written notice of the proceedings to the owner; or~~

~~—— (iii) the land is donated to the governmental entity.~~

~~—— (b) (i) If a governmental entity acquires land under Subsection (3)(a)(iii), the governmental entity shall make a one-time in lieu fee payment:~~

~~—— (A) to the county treasurer of the county in which the land is located; and~~

~~—— (B) in an amount equal to the amount of rollback tax calculated under Section 59-2-1705.~~

~~—— (ii) A governmental entity that acquires land under Subsection (3)(a)(i) or (ii) shall make a one-time in lieu fee payment to the county treasurer of the county in which the land is located:~~

~~—— (A) if the land remaining after the acquisition by the governmental entity meets the requirements of Section 59-2-1703, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity; or~~

~~—— (B) if the land remaining after the acquisition by the governmental entity is less than two acres, in an amount equal to the rollback tax under Section 59-2-1705 on the land acquired by the governmental entity and the land remaining after the acquisition by the governmental~~



## HB0305S03 compared with HB0305S02

entity.

~~—— (c) A county receiving an in lieu fee payment under Subsection (3)(b) shall [distribute] remit monthly to the state treasurer the money that the county treasurer received during the preceding month from the revenues collected from the payment[:.] under this section.~~

~~—— [(i) to the taxing entities in which the land is located; and]~~

~~—— [(ii) in the same proportion as the revenue from real property taxes is distributed.]~~

~~—— (d) The state treasurer shall transfer the money received from a county treasurer under Subsection (3)(c) to the Land Conservation Board created in Section 4-46-201 for use under the LeRay McAllister Critical Land Conservation Program established in Section 4-46-301.~~

~~—— (4) If a governmental entity acquires land subject to assessment under this part, title to the land may not pass to the governmental entity until any tax, one-time in lieu fee payment, and applicable interest due under this part are paid to the county treasurer.~~

~~—— Section 38. Section 59-13-201 is amended to read:~~

‡ **59-13-201. Rate -- Tax basis -- Exemptions -- Revenue deposited into the Transportation Fund -- Restricted account for boating uses -- Refunds -- Reduction of tax in limited circumstances.**

(1) (a) Subject to the provisions of this section and except as provided in Subsection (1)(e), a tax is imposed at the rate of 16.5% of the statewide average rack price of a gallon of motor fuel per gallon upon all motor fuel that is sold, used, or received for sale or used in this state.

(b) (i) Until December 31, 2018, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous fiscal year statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 12 months ending on the previous June 30 as published by an oil pricing service.

(ii) Beginning on January 1, 2019, and subject to the requirements under Subsection (1)(c), the statewide average rack price of a gallon of motor fuel under Subsection (1)(a) shall be determined by calculating the previous three fiscal years statewide average rack price of a gallon of regular unleaded motor fuel, excluding federal and state excise taxes, for the 36 months ending on the previous June 30 as published by an oil pricing service.

(c) (i) Subject to the requirement in Subsection (1)(c)(ii), the statewide average rack

## HB0305S03 compared with HB0305S02

price of a gallon of motor fuel determined under Subsection (1)(b) may not be less than \$1.78 per gallon.

(ii) Beginning on January 1, 2019, the commission shall, on January 1, annually adjust the minimum statewide average rack price of a gallon of motor fuel described in Subsection (1)(c)(i) by taking the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year and adding an amount equal to the greater of:

(A) an amount calculated by multiplying the minimum statewide average rack price of a gallon of motor fuel for the previous calendar year by the actual percent change during the previous fiscal year in the Consumer Price Index; and

(B) 0.

(iii) The statewide average rack price of a gallon of motor fuel determined by the commission under Subsection (1)(b) may not exceed \$2.43 per gallon.

(iv) The minimum statewide average rack price of a gallon of motor fuel described and adjusted under Subsections (1)(c)(i) and (ii) may not exceed the maximum statewide average rack price of a gallon of motor fuel under Subsection (1)(c)(iii).

(d) (i) The commission shall annually:

(A) determine the statewide average rack price of a gallon of motor fuel in accordance with Subsections (1)(b) and (c);

(B) adjust the fuel tax rate imposed under Subsection (1)(a), rounded to the nearest one-tenth of a cent, based on the determination under Subsection (1)(b);

(C) publish the adjusted fuel tax as a cents per gallon rate; and

(D) post or otherwise make public the adjusted fuel tax rate as determined in Subsection (1)(d)(i)(B) no later than 60 days [~~prior to~~] before the annual effective date under Subsection (1)(d)(ii).

(ii) The tax rate imposed under this Subsection (1) and adjusted as required under Subsection (1)(d)(i) shall take effect on January 1 of each year.

(e) In lieu of the tax imposed under Subsection (1)(a) and subject to the provisions of this section, a tax is imposed at the rate of 3/19 of the rate imposed under Subsection (1)(a), rounded up to the nearest penny, upon all motor fuels that meet the definition of clean fuel in Section 59-13-102 and are sold, used, or received for sale or use in this state.

(2) Any increase or decrease in tax rate applies to motor fuel that is imported to the

## HB0305S03 compared with HB0305S02

state or sold at refineries in the state on or after the effective date of the rate change.

(3) (a) No motor fuel tax is imposed upon:

(i) motor fuel that is brought into and sold in this state in original packages as purely interstate commerce sales;

(ii) motor fuel that is exported from this state if proof of actual exportation on forms prescribed by the commission is made within 180 days after exportation;

(iii) motor fuel or components of motor fuel that is sold and used in this state and distilled from coal, oil shale, rock asphalt, bituminous sand, or solid hydrocarbons located in this state; or

(iv) motor fuel that is sold to the United States government, this state, or the political subdivisions of this state.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the tax exemption provided under Subsection (3)(a)(iv).

(4) The commission may either collect no tax on motor fuel exported from the state or, upon application, refund the tax paid.

(5) (a) All revenue received by the commission under this part shall be deposited daily with the state treasurer and credited to the Transportation Fund.

(b) An appropriation from the Transportation Fund shall be made to the commission to cover expenses incurred in the administration and enforcement of this part and the collection of the motor fuel tax.

(6) (a) The commission shall determine what amount of motor fuel tax revenue is received from the sale or use of motor fuel used in motorboats registered under ~~[the provisions of the]~~ Title 73, Chapter 18, State Boating Act, and this amount shall be deposited ~~[in]~~ into a restricted revenue account in the General Fund of the state.

(b) The funds from this account shall be used for the construction, improvement, operation, and maintenance of state-owned boating facilities and for the payment of the costs and expenses of the Division of Outdoor Recreation in administering and enforcing ~~[the]~~ Title 73, Chapter 18, State Boating Act.

(7) (a) The United States government or any of its instrumentalities, this state, or a political subdivision of this state that has purchased motor fuel from a licensed distributor or

## HB0305S03 compared with HB0305S02

from a retail dealer of motor fuel and has paid the tax on the motor fuel as provided in this section is entitled to a refund of the tax and may file with the commission for a quarterly refund.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the application and refund provided for in Subsection (7)(a).

(8) (a) The commission shall refund annually into the [~~Off-Highway~~] Off-highway Vehicle Account in the General Fund an amount equal to .5% of the motor fuel tax revenues collected under this section.

(b) This amount shall be used as provided in Section 41-22-19.

(9) (a) Beginning on April 1, 2001, a tax imposed under this section on motor fuel that is sold, used, or received for sale or use in this state is reduced to the extent provided in Subsection (9)(b) if:

(i) a tax imposed on the basis of the sale, use, or receipt for sale or use of the motor fuel is paid to the Navajo Nation;

(ii) the tax described in Subsection (9)(a)(i) is imposed without regard to whether or not the person required to pay the tax is an enrolled member of the Navajo Nation; and

(iii) the commission and the Navajo Nation execute and maintain an agreement as provided in this Subsection (9) for the administration of the reduction of tax.

(b) (i) If but for Subsection (9)(a) the motor fuel is subject to a tax imposed by this section:

(A) the state shall be paid the difference described in Subsection (9)(b)(ii) if that difference is greater than \$0; and

(B) a person may not require the state to provide a refund, a credit, or similar tax relief if the difference described in Subsection (9)(b)(ii) is less than or equal to \$0.

(ii) The difference described in Subsection (9)(b)(i) is equal to the difference between:

(A) the amount of tax imposed on the motor fuel by this section; less

(B) the tax imposed and collected by the Navajo Nation on the motor fuel.

(c) For purposes of Subsections (9)(a) and (b), the tax paid to the Navajo Nation under a tax imposed by the Navajo Nation on the basis of the sale, use, or receipt for sale or use of motor fuel does not include any interest or penalties a taxpayer may be required to pay to the

## HB0305S03 compared with HB0305S02

Navajo Nation.

(d) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules governing the procedures for administering the reduction of tax provided under this Subsection (9).

(e) The agreement required under Subsection (9)(a):

(i) may not:

(A) authorize the state to impose a tax in addition to a tax imposed under this chapter;

(B) provide a reduction of taxes greater than or different from the reduction described in this Subsection (9); or

(C) affect the power of the state to establish rates of taxation;

(ii) shall:

(A) be in writing;

(B) be signed by:

(I) the chair of the commission or the chair's designee; and

(II) a person designated by the Navajo Nation that may bind the Navajo Nation;

(C) be conditioned on obtaining any approval required by federal law;

(D) state the effective date of the agreement; and

(E) state any accommodation the Navajo Nation makes related to the construction and maintenance of state highways and other infrastructure within the Utah portion of the Navajo Nation; and

(iii) may:

(A) notwithstanding Section 59-1-403, authorize the commission to disclose to the Navajo Nation information that is:

(I) contained in a document filed with the commission; and

(II) related to the tax imposed under this section;

(B) provide for maintaining records by the commission or the Navajo Nation; or

(C) provide for inspections or audits of distributors, carriers, or retailers located or doing business within the Utah portion of the Navajo Nation.

(f) (i) If, on or after April 1, 2001, the Navajo Nation changes the tax rate of a tax imposed on motor fuel, any change in the reduction of taxes under this Subsection (9) as a result of the change in the tax rate is not effective until the first day of the calendar quarter after

## HB0305S03 compared with HB0305S02

a 60-day period beginning on the date the commission receives notice:

(A) from the Navajo Nation; and

(B) meeting the requirements of Subsection (9)(f)(ii).

(ii) The notice described in Subsection (9)(f)(i) shall state:

(A) that the Navajo Nation has changed or will change the tax rate of a tax imposed on motor fuel;

(B) the effective date of the rate change of the tax described in Subsection (9)(f)(ii)(A);  
and

(C) the new rate of the tax described in Subsection (9)(f)(ii)(A).

(g) If the agreement required by Subsection (9)(a) terminates, a reduction of tax is not permitted under this Subsection (9) beginning on the first day of the calendar quarter after a 30-day period beginning on the day the agreement terminates.

(h) If there is a conflict between this Subsection (9) and the agreement required by Subsection (9)(a), this Subsection (9) governs.

Section ~~39~~35. Section 59-21-2 is amended to read:

**59-21-2. Mineral Bonus Account created -- Contents -- Use of Mineral Bonus Account money -- Mineral Lease Account created -- Contents -- Appropriation of money from Mineral Lease Account.**

(1) (a) There is created a restricted account within the General Fund known as the "Mineral Bonus Account."

(b) The Mineral Bonus Account consists of federal mineral lease bonus payments deposited pursuant to Subsection 59-21-1(3).

(c) The Legislature shall make appropriations from the Mineral Bonus Account in accordance with Section 35 of the Mineral Lands Leasing Act of 1920, 30 U.S.C. Sec. 191.

(d) The state treasurer shall:

(i) invest the money in the Mineral Bonus Account by following the procedures and requirements of Title 51, Chapter 7, State Money Management Act; and

(ii) deposit all interest or other earnings derived from the account into the Mineral Bonus Account.

(e) The Division of Finance shall, beginning on July 1, 2017, annually deposit 30% of mineral lease bonus payments deposited under Subsection (1)(b) from the previous fiscal year

## HB0305S03 compared with HB0305S02

into the Wildland Fire Suppression Fund created in Section 65A-8-204, up to \$2,000,000 but not to exceed 20% of the amount expended in the previous fiscal year from the Wildland Fire Suppression Fund.

(2) (a) There is created a restricted account within the General Fund known as the "Mineral Lease Account."

(b) The Mineral Lease Account consists of federal mineral lease money deposited pursuant to Subsection 59-21-1(1).

(c) The Legislature shall make appropriations from the Mineral Lease Account as provided in Subsection 59-21-1(1) and this Subsection (2).

(d) (i) Except as provided in Subsections (2)(d)(ii) and (iii), the Legislature shall annually appropriate 32.5% of all deposits made to the Mineral Lease Account to the Permanent Community Impact Fund established by Section 35A-8-303.

(ii) For fiscal year 2016-17 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate \$26,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

(iii) For fiscal year 2017-18 only and from the amount required to be deposited under Subsection (2)(d)(i), the Legislature shall appropriate \$27,000,000 of the deposits made to the Mineral Lease Account to the Impacted Communities Transportation Development Restricted Account established by Section 72-2-128.

(e) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah.

(f) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Utah Geological Survey, to be used for activities carried on by the survey having as a purpose the development and exploitation of natural resources in the state.

(g) The Legislature shall annually appropriate 2.25% of all deposits made to the Mineral Lease Account to the Water Research Laboratory at Utah State University, to be used for activities carried on by the laboratory having as a purpose the development and exploitation

## HB0305S03 compared with HB0305S02

of water resources in the state.

(h) (i) The Legislature shall annually appropriate to the Division of Finance 40% of all deposits made to the Mineral Lease Account to be distributed as provided in Subsection

(2)(h)(ii) to:

(A) counties;

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(C) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Division of Finance shall allocate the funds specified in Subsection (2)(h)(i):

(A) in amounts proportionate to the amount of mineral lease money generated by each county; and

(B) to a county or special service district established by a county under Title 17D, Chapter 1, Special Service District Act, as determined by the county legislative body.

(i) (i) The Legislature shall annually appropriate 5% of all deposits made to the Mineral Lease Account to the Department of Workforce Services to be distributed to:

(A) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for the purpose of constructing, repairing, or maintaining roads; or

(B) special service districts established:

(I) by counties;

(II) under Title 17D, Chapter 1, Special Service District Act; and

(III) for other purposes authorized by statute.

(ii) The Department of Workforce Services may distribute the amounts described in Subsection (2)(i)(i) only to special service districts established under Title 17D, Chapter 1, Special Service District Act, by counties:



## HB0305S03 compared with HB0305S02

(A) of the third, fourth, fifth, or sixth class;  
(B) in which 4.5% or less of the mineral lease money within the state is generated; and  
(C) that are significantly socially or economically impacted as provided in Subsection (2)(i)(iii) by the development of minerals under the Mineral Lands Leasing Act, 30 U.S.C. Sec. 181 et seq.

(iii) The significant social or economic impact required under Subsection (2)(i)(ii)(C) shall be as a result of:

(A) the transportation within the county of hydrocarbons, including solid hydrocarbons as defined in Section 59-5-101;

(B) the employment of persons residing within the county in hydrocarbon extraction, including the extraction of solid hydrocarbons as defined in Section 59-5-101; or

(C) a combination of Subsections (2)(i)(iii)(A) and (B).

(iv) For purposes of distributing the appropriations under this Subsection (2)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, the Department of Workforce Services shall:

(A) (I) allocate 50% of the appropriations equally among the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(II) allocate 50% of the appropriations based on the ratio that the population of each county meeting the requirements of Subsections (2)(i)(ii) and (iii) bears to the total population of all of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii); and

(B) after making the allocations described in Subsection (2)(i)(iv)(A), distribute the allocated revenues to special service districts established by the counties under Title 17D, Chapter 1, Special Service District Act, as determined by the executive director of the Department of Workforce Services after consulting with the county legislative bodies of the counties meeting the requirements of Subsections (2)(i)(ii) and (iii).

(v) The executive director of the Department of Workforce Services:

(A) shall determine whether a county meets the requirements of Subsections (2)(i)(ii) and (iii);

(B) shall distribute the appropriations under Subsection (2)(i)(i) to special service districts established by counties under Title 17D, Chapter 1, Special Service District Act, that meet the requirements of Subsections (2)(i)(ii) and (iii); and

## HB0305S03 compared with HB0305S02

(C) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, may make rules:

(I) providing a procedure for making the distributions under this Subsection (2)(i) to special service districts; and

(II) defining the term "population" for purposes of Subsection (2)(i)(iv).

(j) (i) The Legislature shall annually make the following appropriations from the Mineral Lease Account:

(A) an amount equal to 52 cents multiplied by the number of acres of school or institutional trust lands, lands owned by the Division of State Parks or the Division of Outdoor Recreation, and lands owned by the Division of Wildlife Resources that are not under an in lieu of taxes contract, to each county in which those lands are located;

(B) to each county in which school or institutional trust lands are transferred to the federal government after December 31, 1992, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between 52 cents per acre and the per acre payment made to that county in the most recent payment under the federal payment in lieu of taxes program, 31 U.S.C. Sec. 6901 et seq., unless the federal payment was equal to or exceeded the 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(B) may not be made for the transferred lands;

(C) to each county in which federal lands, which are entitlement lands under the federal in lieu of taxes program, are transferred to the school or institutional trust, an amount equal to the number of transferred acres in the county multiplied by a payment per acre equal to the difference between the most recent per acre payment made under the federal payment in lieu of taxes program and 52 cents per acre, unless the federal payment was equal to or less than 52 cents per acre, in which case a payment under this Subsection (2)(j)(i)(C) may not be made for the transferred land; and

(D) to a county of the fifth or sixth class, an amount equal to the product of:

(I) \$1,000; and

(II) the number of residences described in Subsection (2)(j)(iv) that are located within the county.

(ii) A county receiving money under Subsection (2)(j)(i) may, as determined by the county legislative body, distribute the money or a portion of the money to:

## HB0305S03 compared with HB0305S02

(A) special service districts established by the county under Title 17D, Chapter 1, Special Service District Act;

(B) school districts; or

(C) public institutions of higher education.

(iii) (A) Beginning in fiscal year 1994-95 and in each year after fiscal year 1994-95, the Division of Finance shall increase or decrease the amounts per acre provided for in Subsections (2)(j)(i)(A) through (C) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(B) For fiscal years beginning on or after fiscal year 2001-02, the Division of Finance shall increase or decrease the amount described in Subsection (2)(j)(i)(D)(I) by the average annual change in the Consumer Price Index for all urban consumers published by the Department of Labor.

(iv) Residences for purposes of Subsection (2)(j)(i)(D)(II) are residences that are:

(A) owned by:

(I) the Division of State Parks [~~or~~];

(II) the Division of Outdoor Recreation; or

[~~(H)~~] (III) the Division of Wildlife Resources;

(B) located on lands that are owned by:

(I) the Division of State Parks [~~or~~];

(II) the Division of Outdoor Recreation; or

[~~(H)~~] (III) the Division of Wildlife Resources; and

(C) are not subject to taxation under:

(I) Chapter 2, Property Tax Act; or

(II) Chapter 4, Privilege Tax.

(k) The Legislature shall annually appropriate to the Permanent Community Impact Fund all deposits remaining in the Mineral Lease Account after making the appropriations provided for in Subsections (2)(d) through (j).

(3) (a) Each agency, board, institution of higher education, and political subdivision receiving money under this chapter shall provide the Legislature, through the Office of the Legislative Fiscal Analyst, with a complete accounting of the use of that money on an annual basis.

## HB0305S03 compared with HB0305S02

(b) The accounting required under Subsection (3)(a) shall:

(i) include actual expenditures for the prior fiscal year, budgeted expenditures for the current fiscal year, and planned expenditures for the following fiscal year; and

(ii) be reviewed by the Business, Economic Development, and Labor Appropriations Subcommittee as part of its normal budgetary process under Title 63J, Chapter 1, Budgetary Procedures Act.

Section ~~{40}~~36. Section **59-28-103** is amended to read:

### **59-28-103. Imposition -- Rate -- Revenue distribution.**

(1) Subject to the other provisions of this chapter, the state shall impose a tax on the transactions described in Subsection 59-12-103(1)(i) at a rate of .32%.

(2) The tax imposed under this chapter is in addition to any other taxes imposed on the transactions described in Subsection 59-12-103(1)(i).

(3) (a) (i) Subject to Subsection (3)(a)(ii), the commission shall deposit 6% of the revenue the state collects from the tax under this chapter into the Hospitality and Tourism Management Education Account created in Section 53F-9-501 to fund the Hospitality and Tourism Management Career and Technical Education Pilot Program created in Section 53E-3-515.

(ii) The commission may not deposit more than \$300,000 into the Hospitality and Tourism Management Education Account under Subsection (3)(a)(i) in a fiscal year.

(b) Except for the amount deposited into the Hospitality and Tourism Management Education Account under Subsection (3)(a) and the administrative charge retained under Subsection 59-28-104(4), the commission shall deposit any revenue the state collects from the tax under this chapter into the Outdoor Recreation Infrastructure Account created in Section 79-8-106 to fund the Outdoor Recreational Infrastructure Grant Program created in Section [63N-9-202] 79-8-401 and the Recreation Restoration Infrastructure Grant Program created in Section 79-8-202.

Section ~~{41}~~37. Section **63C-21-201** is amended to read:

### **63C-21-201. Outdoor Adventure Commission created.**

(1) There is created the Outdoor Adventure Commission consisting of the following [15] 14 members:

(a) one member of the Senate, appointed by the president of the Senate;

## HB0305S03 compared with HB0305S02

(b) one member of the House of Representatives, appointed by the speaker of the House of Representatives;

~~[(c) the director of the Utah Office of Outdoor Recreation, or the director's designee;]~~

~~[(d)]~~ (c) the managing director of the Utah Office of Tourism, or the managing director's designee;

~~[(e)]~~ (d) the director of the Division of Outdoor Recreation, or the director's designee;

~~[(f)]~~ (e) the director of the School and Institutional Trust Lands Administration, or the director's designee;

~~[(g)]~~ (f) the coordinator of the Off-Highway Vehicle [~~and Recreational Trails~~] Program within the Division of Outdoor Recreation;

~~[(h)]~~ (g) a representative of the agriculture industry appointed jointly by the president of the Senate and the speaker of the House of Representatives;

~~[(i)]~~ (h) a representative of the natural resources development industry appointed jointly by the president of the Senate and the speaker of the House of Representatives;

~~[(j)]~~ (i) one representative of the Utah League of Cities and Towns appointed by the Utah League of Cities and Towns;

~~[(k)]~~ (j) one representative of the Utah Association of Counties appointed by the Utah Association of Counties;

~~[(l)]~~ (k) one individual appointed jointly by the Utah League of Cities and Towns and the Utah Association of Counties;

~~[(m)]~~ (l) a representative of conservation interests appointed jointly by the president of the Senate and the speaker of the House of Representatives;

~~[(n)]~~ (m) a representative of the outdoor recreation industry appointed jointly by the president of the Senate and the speaker of the House of Representatives; and

~~[(o)]~~ (n) the coordinator of the boating program within the Division of Outdoor Recreation.

(2) The commission shall annually select one of ~~[its]~~ the commission's members to be the chair of the commission.

(3) (a) If a vacancy occurs in the membership of the commission appointed under Subsection (1)(a) or (b), or Subsections ~~[(1)(h) through (n)]~~ (1)(g) through (m), the member shall be replaced in the same manner in which the original appointment was made.

## HB0305S03 compared with HB0305S02

(b) A member appointed under Subsections [~~(1)(h) through (n)~~] (1)(g) through (m) shall serve a term of four years and until the member's successor is appointed and qualified.

(c) Notwithstanding the requirements of Subsection (3)(b), for members appointed under Subsections [~~(1)(h) through (n)~~] (1)(g) through (m), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission members appointed under Subsections [~~(1)(h) through (n)~~] (1)(g) through (m) are appointed every two years.

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

(4) (a) Eight commission members constitutes a quorum.

(b) The action of a majority of a quorum constitutes an action of the commission.

(5) (a) The salary and expenses of a commission member who is a legislator shall be paid in accordance with Section 36-2-2, Legislative Joint Rules, Title 5, Chapter 2, Lodging, Meal, and Transportation Expenses, and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

(b) A commission member who is not a legislator may not receive compensation or benefits for the member's service on the commission, but may receive per diem and reimbursement for travel expenses incurred as a commission member at the rates established by the Division of Finance under:

(i) Sections 63A-3-106 and 63A-3-107; and

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

(6) The Department of Transportation shall serve as a technical advisor to the commission.

(7) The Division of Outdoor Recreation, created in Section 79-7-201, shall provide staff support to the commission.

Section ~~{42}~~38. Section **63C-21-202** is amended to read:

**63C-21-202. Strategic plan -- Commission powers and duties -- Consultant -- Reports.**

(1) (a) The commission shall gather information on recreation assets from state and local agencies and other sources and develop a strategic plan aimed at meeting the future needs

## HB0305S03 compared with HB0305S02

of outdoor recreation within the state to enhance the quality of life of Utah residents. Asset lists received from state and local agencies shall include:

(i) common data points, to be established by the [~~Office of Outdoor Recreation~~] Division of Outdoor Recreation that can be uniformly compared with other recreation assets within the state, such as asset type, size, unique characteristics, vegetation, land ownership, and similar items;

(ii) any specific needs, challenges, or limitations on recreation use of the assets; and

(iii) a ranking of potential enhancements to the assets related to recreation use.

(b) The strategic plan shall address:

(i) outdoor recreation as a major contributor to residents' quality of life;

(ii) the needs and impacts of residents who engage in outdoor recreation;

(iii) the impact on local communities related to outdoor recreation, including the costs associated with emergency services and infrastructure;

(iv) outdoor recreation as a means to retain and attract an exceptional workforce to provide for a sustainable economy;

(v) impacts to the environment, wildlife, and natural resources and measures to preserve the natural beauty of the state as more people engage in outdoor recreation;

(vi) identify opportunities for sustainable revenue sources to provide for maintenance and future needs;

(vii) the interface with public lands that are federally managed and private lands; and

(viii) other items determined by the commission.

(2) The commission shall:

(a) engage one or more consultants to:

(i) manage the strategic planning process in accordance with Subsection (3); and

(ii) conduct analytical work in accordance with Subsection (3);

(b) guide the analytical work of a consultant described in Subsection (2)(a) and review the results of the work;

(c) coordinate with a consultant described in Subsection (2)(a) to engage in a process and create a strategic plan;

(d) conduct regional meetings to gather stakeholder input during the strategic planning process;

## HB0305S03 compared with HB0305S02

(e) seek input from federal entities including the United States Department of the Interior, the United States Department of Agriculture, and Utah's congressional delegation; and

(f) produce a final report including a strategic plan and any recommendations.

(3) The commission, by contract with a consultant engaged under Subsection (2)(a), shall direct the consultant to:

(a) conduct an inventory of existing outdoor recreation resources, programs, and information;

(b) conduct an analysis of what is needed to develop and implement an effective outdoor recreation strategy aimed at enhancing the quality of life of Utah residents;

(c) collect and analyze data related to the future projected conditions of the outdoor recreation resources, programs, and information, including the affordability and financing of outdoor recreation;

(d) develop alternatives to the projection described in Subsection (3)(c) by modeling potential changes to the outdoor recreation industry and economic growth;

(e) in coordination with the commission, engage in extensive local stakeholder involvement to better understand the needs of, concerns of, and opportunities for different communities and outdoor recreation user types;

(f) recommend accountability or performance measures to assess the effectiveness of the outdoor recreation system;

(g) based on the data described in this Subsection (3), make comparisons between outdoor recreation in Utah and outdoor recreation in other states or countries;

(h) in coordination with the commission, conduct the regional meetings described in Subsection (2)(d) to share information and seek input from a range of stakeholders;

(i) recommend changes to the governance system for outdoor recreation that would facilitate implementation of the strategic plan;

(j) engage in any other data collection or analysis requested by the commission; and

(k) produce for the commission:

(i) a draft report of findings, observations, and strategic priorities, including:

(A) a statewide vision and strategy for outdoor recreation;

(B) a strategy for how to meaningfully engage stakeholders throughout the state;

(C) funding needs related to outdoor recreation; and



## HB0305S03 compared with HB0305S02

(D) recommendations for the steps the state should take to implement a statewide vision and strategy for outdoor recreation; and

(ii) a final report, incorporating feedback from the commission on the draft report described in Subsection (3)(k)(i), regarding the future of the outdoor recreation in the state.

~~[(4) The commission shall consult with the Division of Recreation as provided by statute.]~~

Section ~~{43}~~39. Section **63I-1-241** is amended to read:

### **63I-1-241. Repeal dates, Title 41.**

(1) Subsection 41-1a-1201(9), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(2) Section 41-3-106, which creates an advisory board related to motor vehicle business regulation, is repealed July 1, 2024.

(3) The following subsections addressing lane filtering are repealed on July 1, 2022:

(a) Subsection 41-6a-102(30) that defines "lane filtering";

(b) Subsection 41-6a-704(5); and

(c) Subsection 41-6a-710(1)(c).

(4) Subsection 41-6a-1406(6)(b)(iii), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

(5) Subsections 41-22-2(1) and 41-22-10(1)(a), which [~~create the Off-highway Vehicle Advisory Council~~] authorize an advisory council that includes in the advisory council's duties addressing off-highway vehicle issues, are repealed July 1, 2027.

(6) Subsection 41-22-8(3), related to the Spinal Cord and Brain Injury Rehabilitation Fund, is repealed January 1, 2025.

Section ~~{44}~~40. Section **63I-1-263** is amended to read:

### **63I-1-263. Repeal dates, Titles 63A to 63N.**

(1) In relation to the Utah Transparency Advisory Board, on January 1, 2025:

(a) Section 63A-16-102 is repealed;

(b) Section 63A-16-201 is repealed; and

(c) Section 63A-16-202 is repealed.

(2) Subsection 63A-5b-405(5), relating to prioritizing and allocating capital improvement funding, is repealed July 1, 2024.

## **HB0305S03 compared with HB0305S02**

(3) Section 63A-5b-1003, State Facility Energy Efficiency Fund, is repealed July 1, 2023.

(4) Sections 63A-9-301 and 63A-9-302, related to the Motor Vehicle Review Committee, are repealed July 1, 2023.

(5) Title 63C, Chapter 4a, Constitutional and Federalism Defense Act, is repealed July 1, 2028.

(6) Title 63C, Chapter 6, Utah Seismic Safety Commission, is repealed January 1, 2025.

(7) Title 63C, Chapter 12, Snake Valley Aquifer Advisory Council, is repealed July 1, 2024.

(8) Title 63C, Chapter 17, Point of the Mountain Development Commission Act, is repealed July 1, 2023.

(9) Title 63C, Chapter 18, Behavioral Health Crisis Response Commission, is repealed July 1, 2023.

(10) Title 63C, Chapter 23, Education and Mental Health Coordinating Council, is repealed July 1, 2026.

(11) Title 63A, Chapter 16, Part 7, Data Security Management Council, is repealed July 1, 2025.

(12) Section 63G-6a-805, which creates the Purchasing from Persons with Disabilities Advisory Board, is repealed July 1, 2026.

(13) Title 63G, Chapter 21, Agreements to Provide State Services, is repealed July 1, 2025.

(14) Title 63H, Chapter 4, Heber Valley Historic Railroad Authority, is repealed July 1, 2024.

(15) Title 63H, Chapter 8, Utah Housing Corporation Act, is repealed July 1, 2026.

(16) Subsection 63J-1-602.1(17), Nurse Home Visiting Restricted Account is repealed July 1, 2026.

(17) (a) Subsection 63J-1-602.1(61), relating to the Utah Statewide Radio System Restricted Account, is repealed July 1, 2022.

(b) When repealing Subsection 63J-1-602.1(61), the Office of Legislative Research and General Counsel shall, in addition to the office's authority under Subsection 36-12-12(3), make

## HB0305S03 compared with HB0305S02

necessary changes to subsection numbering and cross references.

(18) Subsection 63J-1-602.2[(5)](4), referring to dedicated credits to the Utah Marriage Commission, is repealed July 1, 2023.

(19) Subsection 63J-1-602.2[(6)](5), referring to the Trip Reduction Program, is repealed July 1, 2022.

(20) Subsection 63J-1-602.2[(24)](23), related to the Utah Seismic Safety Commission, is repealed January 1, 2025.

(21) [~~Title 63J, Chapter 4, Part 5~~] Title 63L, Chapter 11, Part 4, Resource Development Coordinating Committee, is repealed July 1, 2027.

(22) In relation to the advisory committee created in Subsection 63L-11-305(3), on July 1, 2022:

(a) Subsection 63L-11-305(1)(a), which defines "advisory committee," is repealed; and

(b) Subsection 63L-11-305(3), which creates the advisory committee, is repealed.

(23) In relation to the Utah Substance Use and Mental Health Advisory Council, on January 1, 2023:

(a) Sections 63M-7-301, 63M-7-302, 63M-7-303, 63M-7-304, and 63M-7-306 are repealed;

(b) Section 63M-7-305, the language that states "council" is replaced with "commission";

(c) Subsection 63M-7-305(1) is repealed and replaced with:

"(1) "Commission" means the Commission on Criminal and Juvenile Justice."; and

(d) Subsection 63M-7-305(2) is repealed and replaced with:

"(2) The commission shall:

(a) provide ongoing oversight of the implementation, functions, and evaluation of the Drug-Related Offenses Reform Act; and

(b) coordinate the implementation of Section 77-18-104 and related provisions in Subsections 77-18-103(2)(c) and (d)."

(24) The Crime Victim Reparations and Assistance Board, created in Section 63M-7-504, is repealed July 1, 2027.

(25) Title 63M, Chapter 7, Part 6, Utah Council on Victims of Crime, is repealed July 1, 2022.

## HB0305S03 compared with HB0305S02

(26) Title 63M, Chapter 11, Utah Commission on Aging, is repealed July 1, 2026.

(27) Title 63N, Chapter 1, Part 5, Governor's Economic Development Coordinating Council, is repealed July 1, 2024.

(28) Title 63N, Chapter 2, Part 2, Enterprise Zone Act, is repealed July 1, 2028.

(29) Section 63N-2-512, related to the Hotel Impact Mitigation Fund, is repealed July 1, 2028.

(30) (a) Title 63N, Chapter 2, Part 6, Utah Small Business Jobs Act, is repealed January 1, 2021.

(b) Section 59-9-107 regarding tax credits against premium taxes is repealed for calendar years beginning on or after January 1, 2021.

(c) Notwithstanding Subsection (30)(b), an entity may carry forward a tax credit in accordance with Section 59-9-107 if:

(i) the person is entitled to a tax credit under Section 59-9-107 on or before December 31, 2020; and

(ii) the qualified equity investment that is the basis of the tax credit is certified under Section 63N-2-603 on or before December 31, 2023.

(31) Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program, is repealed July 1, 2023.

(32) Title 63N, Chapter 7, Part 1, Board of Tourism Development, is repealed July 1, 2025.

~~[(33) Title 63N, Chapter 9, Part 2, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.]~~

Section ~~{45}~~41. Section **63I-1-273** is amended to read:

### **63I-1-273. Repeal dates, Title 73.**

(1) Title 73, Chapter 27, Legislative Water Development Commission, is repealed January 1, 2031.

(2) Title 73, Chapter 10g, Part 2, Agricultural Water Optimization, is repealed July 1, 2025.

(3) Section 73-18-3.5, which ~~[creates the Boating Advisory Council]~~ authorizes the Division of Outdoor Recreation to appoint an advisory council that includes in the advisory council's duties advising on boating policies, is repealed July 1, 2024.

## HB0305S03 compared with HB0305S02

(4) Title 73, Chapter 30, Great Salt Lake Advisory Council Act, is repealed July 1, 2027.

(5) In relation to Title 73, Chapter 31, Water Banking Act, on December 31, 2030:

(a) Subsection 73-1-4(2)(e)(xi) is repealed;

(b) Subsection 73-10-4(1)(h) is repealed; and

(c) Title 73, Chapter 31, Water Banking Act, is repealed.

Section ~~{46}~~42. Section **63I-1-279** is amended to read:

### **63I-1-279. Repeal dates, Title 79.**

(1) Subsection 79-2-201(2)(~~(r)~~)(p), related to the Heritage Trees Advisory Committee, is repealed July 1, 2026.

(2) Subsection 79-2-201(2)(~~(s)~~)(q), related to the [~~Recreational Trails Advisory Council~~] Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(3) Subsection 79-2-201(2)(~~(t)~~)(r)(i), related to [~~the Boating Advisory Council~~] an advisory council created by the Division of Outdoor Recreation to advise on boating policies, is repealed July 1, 2024.

(4) Subsection 79-2-201(2)(~~(u)~~)(s), related to the Wildlife Board Nominating Committee, is repealed July 1, 2023.

(5) Subsection 79-2-201(2)(~~(v)~~)(t), related to regional advisory councils for the Wildlife Board, is repealed July 1, 2023.

~~[(6) Title 79, Chapter 5, Part 2, Advisory Council, which creates the Recreational Trails Advisory Council, is repealed July 1, 2027.]~~

(6) Section 79-7-206, creating the Utah Outdoor Recreation Infrastructure Advisory Committee, is repealed July 1, 2027.

(7) Title 79, Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program, is repealed January 1, 2028.

Section ~~{47}~~43. Section **63I-2-204** is amended to read:

### **63I-2-204. Repeal dates -- Title 4.**

(1) Title 4, Chapter 2, Part 6, Local Food Advisory Council, is repealed November 30, 2022.

(2) Section 4-46-104, Transition, is repealed July 1, 2024.

## HB0305S03 compared with HB0305S02

Section ~~{48}~~44. Section **63I-2-279** is amended to read:

**63I-2-279. Repeal dates, Title 79.**

(1) Section 79-2-206, Transition, is repealed July 1, [~~2022~~] 2024.

(2) Title 79, Chapter 6, Part 8, Voluntary Home Energy Information Pilot Program Act, is repealed January 1, 2022.

Section ~~{49}~~45. Section **63J-1-601** is amended to read:

**63J-1-601. End of fiscal year -- Unexpended balances -- Funds not to be closed out -- Pending claims -- Transfer of amounts from item of appropriation -- Nonlapsing accounts and funds -- Institutions of higher education to report unexpended balances.**

(1) As used in this section:

(a) "Education grant subrecipient" means a nonfederal entity that:

(i) receives a subaward from the State Board of Education to carry out at least part of a federal or state grant program; and

(ii) does not include an individual who is a beneficiary of the federal or state grant program.

(b) "Transaction control number" means the unique numerical identifier established by the Department of Health to track each medical claim and indicates the date on which the claim is entered.

(2) On or before August 31 of each fiscal year, the director of the Division of Finance shall close out to the proper fund or account all remaining unexpended and unencumbered balances of appropriations made by the Legislature, except:

(a) those funds classified under Title 51, Chapter 5, Funds Consolidation Act, as:

(i) enterprise funds;

(ii) internal service funds;

(iii) trust and agency funds;

(iv) capital projects funds;

(v) discrete component unit funds;

(vi) debt service funds; and

(vii) permanent funds;

(b) those appropriations from a fund or account or appropriations to a program that are designated as nonlapsing under Section 63J-1-602.1 or 63J-1-602.2;

## HB0305S03 compared with HB0305S02

(c) expendable special revenue funds, unless specifically directed to close out the fund in the fund's enabling legislation;

(d) acquisition and development funds appropriated to the Division of State Parks or the Division of Outdoor Recreation;

(e) funds encumbered to pay purchase orders issued [~~prior to~~] before May 1 for capital equipment if delivery is expected before June 30; and

(f) unexpended and unencumbered balances of appropriations that meet the requirements of Section 63J-1-603.

(3) (a) Liabilities and related expenses for goods and services received on or before June 30 shall be recognized as expenses due and payable from appropriations made [~~prior to~~] before June 30.

(b) The liability and related expense shall be recognized within time periods established by the Division of Finance but shall be recognized not later than August 31.

(c) Liabilities and expenses not so recognized may be paid from regular departmental appropriations for the subsequent fiscal year, if these claims do not exceed unexpended and unencumbered balances of appropriations for the years in which the obligation was incurred.

(d) [~~No amounts may~~] Amounts may not be transferred from an item of appropriation of any department, institution, or agency into the Capital Projects Fund or any other fund without the prior express approval of the Legislature.

(4) (a) For purposes of this chapter, a claim processed under the authority of Title 26, Chapter 18, Medical Assistance Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Division of Health Care Financing receives the claim within the time periods established by the Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the Division of Health Care Financing records on each claim invoice is the date of receipt.

(5) (a) For purposes of this chapter, a claim processed in accordance with Title 35A, Chapter 13, Utah State Office of Rehabilitation Act:

(i) is not a liability or an expense to the state for budgetary purposes, unless the Utah State Office of Rehabilitation receives the claim within the time periods established by the

## HB0305S03 compared with HB0305S02

Division of Finance under Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) (i) The Utah State Office of Rehabilitation shall mark each claim invoice with the date on which the Utah State Office of Rehabilitation receives the claim invoice.

(ii) The date described in Subsection (5)(b)(i) is the date of receipt for purposes of this section.

(6) (a) For purposes of this chapter, a reimbursement request received from an education grant subrecipient:

(i) is not a liability or expense to the state for budgetary purposes, unless the State Board of Education receives the claim within the time periods described in Subsection (3)(b); and

(ii) is not subject to Subsection (3)(c).

(b) The transaction control number that the State Board of Education records on a claim invoice is the date of receipt.

(7) Any balance from an appropriation to a state institution of higher education that remains unexpended at the end of the fiscal year shall be reported to the Division of Finance by the September 1 following the close of the fiscal year.

Section ~~50~~46. Section **63J-1-602.2** is amended to read:

### **63J-1-602.2. List of nonlapsing appropriations to programs.**

Appropriations made to the following programs are nonlapsing:

(1) The Legislature and the Legislature's committees.

(2) The State Board of Education, including all appropriations to agencies, line items, and programs under the jurisdiction of the State Board of Education, in accordance with Section 53F-9-103.

(3) The Percent-for-Art Program created in Section 9-6-404.

(4) The LeRay McAllister Critical Land Conservation Program created in Section ~~[11-38-301]~~ 4-46-301.

(5) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

(6) The Trip Reduction Program created in Section 19-2a-104.

(7) The Division of Wildlife Resources for the appraisal and purchase of lands under



## **HB0305S03 compared with HB0305S02**

the Pelican Management Act, as provided in Section 23-21a-6.

(8) The emergency medical services grant program in Section 26-8a-207.

(9) The primary care grant program created in Section 26-10b-102.

(10) Sanctions collected as dedicated credits from Medicaid provider under Subsection 26-18-3(7).

(11) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.

(12) The Rural Physician Loan Repayment Program created in Section 26-46a-103.

(13) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

(14) Funds that the Department of Alcoholic Beverage Control retains in accordance with Subsection 32B-2-301 (9)(a) or (b).

(15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

(16) The Utah National Guard, created in Title 39, Militia and Armories.

(17) The State Tax Commission under Section 41-1a-1201 for the:

(a) purchase and distribution of license plates and decals; and

(b) administration and enforcement of motor vehicle registration requirements.

(18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

(19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

(20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

(21) The Medical Education Program administered by the Medical Education Council, as provided in Section 53B-24-202.

(22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

(23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

(24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

(25) Appropriations to the Division of Technology Services for technology innovation as provided under Section 63A-16-903.

## **HB0305S03 compared with HB0305S02**

(26) The Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

(28) The Governor's Office of Economic Opportunity to fund the Enterprise Zone Act, as provided in Title 63N, Chapter 2, Part 2, Enterprise Zone Act.

(29) Appropriations to fund the Governor's Office of Economic Opportunity's Rural Employment Expansion Program, as described in Title 63N, Chapter 4, Part 4, Rural Employment Expansion Program.

(30) Appropriations to fund programs for the Jordan River Recreation Area as described in Section 65A-2-8.

(31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

(32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

(33) The Traffic Noise Abatement Program created in Section 72-6-112.

(34) The money appropriated from the Navajo Water Rights Negotiation Account to the Division of Water Rights, created in Section 73-2-1.1, for purposes of participating in a settlement of federal reserved water right claims.

(35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

(36) A state rehabilitative employment program, as provided in Section 78A-6-210.

(37) The Utah Geological Survey, as provided in Section 79-3-401.

(38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

(39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

(41) The program established by the Division of Facilities Construction and Management under Section 63A-5b-703 under which state agencies receive an appropriation and pay lease payments for the use and occupancy of buildings owned by the Division of

## HB0305S03 compared with HB0305S02

Facilities Construction and Management.

Section ~~{51}~~47. Section **63L-7-104** is amended to read:

### **63L-7-104. Identification of a potential wilderness area.**

(1) (a) Subject to Subsection (1)(b), the director of PLPCO, within one year of the acquisition date, shall identify within a parcel of acquired land any conservation areas.

(b) Before identifying a parcel of land as a conservation area, the director of PLPCO shall:

(i) inform the School and Institutional Trust Lands Administration that a parcel is being considered for designation as a conservation area; and

(ii) provide the School and Institutional Trust Lands Administration with the opportunity to trade out land owned by the School and Institutional Trust Lands Administration for the parcel in question subject to reaching an exchange agreement with the agency that manages the parcel.

(2) The director of PLPCO shall:

(a) file a map and legal description of each identified conservation area with the governor, the Senate, and the House of Representatives;

(b) maintain, and make available to the public, records pertaining to identified conservation areas, including:

(i) maps;

(ii) legal descriptions;

(iii) copies of proposed regulations governing the conservation area; and

(iv) copies of public notices of, and reports submitted to the Legislature, regarding pending additions, eliminations, or modifications to a conservation area; and

(c) within five years of the date of acquisition:

(i) review each identified conservation area for its suitability to be classified as a protected wilderness area; and

(ii) report the findings under Subsection (2)(c)(i) to the governor.

(3) The records described in Subsection (2)(b) shall be available for inspection at:

(a) the PLPCO office;

(b) the main office of DNR;

(c) a regional office of the Division of Forestry, Fire, and State Lands for any record

## HB0305S03 compared with HB0305S02

that deals with an identified conservation area in that region; and

(d) the Division of State Parks or the Division of Outdoor Recreation.

(4) A conservation area may be designated as a protected wilderness area as described in Section 63L-7-105.

(5) A conservation area identified under Subsection (1) shall be managed by DNR, in coordination with the county government having jurisdiction over the area, without the conservation area being designated as a protected wilderness area unless otherwise provided by the Legislature.

Section ~~{52}~~48. Section **63L-11-402** is amended to read:

### **63L-11-402. Membership -- Terms -- Chair -- Expenses.**

(1) The Resource Development Coordinating Committee consists of the following [~~25~~]  
26 members:

(a) the state science advisor;

(b) a representative from the Department of Agriculture and Food appointed by the [~~executive director~~] commissioner of the Department of Agriculture and Food;

(c) a representative from the Department of Cultural and Community Engagement appointed by the executive director of the Department of Cultural and Community Engagement;

(d) a representative from the Department of Environmental Quality appointed by the executive director of the Department of Environmental Quality;

(e) a representative from the Department of Natural Resources appointed by the executive director of the Department of Natural Resources;

(f) a representative from the Department of Transportation appointed by the executive director of the Department of Transportation;

(g) a representative from the Governor's Office of Economic Opportunity appointed by the director of the Governor's Office of Economic Opportunity;

(h) a representative from the Housing and Community Development Division appointed by the director of the Housing and Community Development Division;

(i) a representative from the Division of State History appointed by the director of the Division of State History;

(j) a representative from the Division of Air Quality appointed by the director of the

## HB0305S03 compared with HB0305S02

Division of Air Quality;

(k) a representative from the Division of Drinking Water appointed by the director of the Division of Drinking Water;

(l) a representative from the Division of Environmental Response and Remediation appointed by the director of the Division of Environmental Response and Remediation;

(m) a representative from the Division of Waste Management and Radiation Control appointed by the director of the Division of Waste Management and Radiation Control;

(n) a representative from the Division of Water Quality appointed by the director of the Division of Water Quality;

(o) a representative from the Division of Oil, Gas, and Mining appointed by the director of the Division of Oil, Gas, and Mining;

(p) a representative from the Division of Parks appointed by the director of the Division of Parks;

(q) a representative from the Division of Outdoor Recreation appointed by the director of the Division of Outdoor Recreation;

(r) a representative from the Division of Forestry, Fire, and State Lands appointed by the director of the Division of Forestry, Fire, and State Lands;

(s) a representative from the Utah Geological Survey appointed by the director of the Utah Geological Survey;

(t) a representative from the Division of Water Resources appointed by the director of the Division of Water Resources;

(u) a representative from the Division of Water Rights appointed by the director of the Division of Water Rights;

(v) a representative from the Division of Wildlife Resources appointed by the director of the Division of Wildlife Resources;

(w) a representative from the School and Institutional Trust Lands Administration appointed by the director of the School and Institutional Trust Lands Administration;

(x) a representative from the Division of Facilities Construction and Management appointed by the director of the Division of Facilities Construction and Management; ~~and~~

(y) a representative from the Division of Emergency Management appointed by the director of the Division of Emergency Management[-]; and

## HB0305S03 compared with HB0305S02

(z) a representative from the Division of Conservation, created under Section 4-46-401, appointed by the director of the Division of Conservation.

(2) (a) As particular issues require, the coordinating committee may, by majority vote of the members present, appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

(3) A chair shall be selected by a [~~majority~~] vote of 14 committee members with the concurrence of the executive director.

(4) 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) Sections 63A-3-106 and 63A-3-107; and

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

Section ~~{53}~~49. Section **63N-3-602** is amended to read:

### **63N-3-602. Definitions.**

As used in this part:

(1) "Affordable housing" means [~~the same as that term is defined in Section 11-38-102~~] housing occupied or reserved for occupancy by households with a gross household income equal to or less than 80% of the median gross income of the applicable municipal or county statistical area for households of the same size.

(2) "Agency" means the same as that term is defined in Section 17C-1-102.

(3) "Base taxable value" means a property's taxable value as shown upon the assessment roll last equalized during the base year.

(4) "Base year" means, for a proposed housing and transit reinvestment zone area, a year determined by the last equalized tax roll before the adoption of the housing and transit reinvestment zone.

(5) (a) "Commuter rail" means a heavy-rail passenger rail transit facility operated by a large public transit district.

(b) "Commuter rail" does not include a light-rail passenger rail facility of a large public transit district.

## **HB0305S03 compared with HB0305S02**

(6) "Commuter rail station" means a station, stop, or terminal along an existing commuter rail line, or along an extension to an existing commuter rail line or new commuter rail line that is included in a metropolitan planning organization's adopted long-range transportation plan.

(7) "Dwelling unit" means one or more rooms arranged for the use of one or more individuals living together, as a single housekeeping unit normally having cooking, living, sanitary, and sleeping facilities.

(8) "Enhanced development" means the construction of mixed uses including housing, commercial uses, and related facilities, at an average density of 50 dwelling units or more per acre on the developable acres.

(9) "Enhanced development costs" means extra costs associated with structured parking costs, vertical construction costs, horizontal construction costs, life safety costs, structural costs, conveyor or elevator costs, and other costs incurred due to the increased height of buildings or enhanced development.

(10) "Horizontal construction costs" means the additional costs associated with earthwork, over excavation, utility work, transportation infrastructure, and landscaping to achieve enhanced development in the housing and transit reinvestment zone.

(11) "Housing and transit reinvestment zone" means a housing and transit reinvestment zone created pursuant to this part.

(12) "Housing and transit reinvestment zone committee" means a housing and transit reinvestment zone committee created pursuant to Section 63N-3-605.

(13) "Large public transit district" means the same as that term is defined in Section 17B-2a-802.

(14) "Metropolitan planning organization" means the same as that term is defined in Section 72-1-208.5.

(15) "Mixed use development" means development with a mix of multi-family residential use and at least one additional land use.

(16) "Municipality" means the same as that term is defined in Section 10-1-104.

(17) "Participant" means the same as that term is defined in Section 17C-1-102.

(18) "Participation agreement" means the same as that term is defined in Section 17C-1-102.

## **HB0305S03 compared with HB0305S02**

(19) "Public transit county" means a county that has created a small public transit district.

(20) "Public transit hub" means a public transit depot or station where four or more routes serving separate parts of the county-created transit district stop to transfer riders between routes.

(21) "Sales and use tax base year" means a sales and use tax year determined by the first year pertaining to the tax imposed in Section 59-12-103 after the sales and use tax boundary for a housing and transit reinvestment zone is established.

(22) "Sales and use tax boundary" means a boundary created as described in Section 63N-3-604, based on state sales and use tax collection that corresponds as closely as reasonably practicable to the housing and transit reinvestment zone boundary.

(23) "Sales and use tax increment" means the difference between:

(a) the amount of state sales and use tax revenue generated each year following the sales and use tax base year by the sales and use tax from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which sales and use tax increment is to be collected; and

(b) the amount of state sales and use tax revenue that was generated from that same area during the sales and use tax base year.

(24) "Sales and use tax revenue" means revenue that is generated from the tax imposed under Section 59-12-103.

(25) "Small public transit district" means the same as that term is defined in Section 17B-2a-802.

(26) "Tax commission" means the State Tax Commission created in Section 59-1-201.

(27) "Tax increment" means the difference between:

(a) the amount of property tax revenue generated each tax year by a taxing entity from the area within a housing and transit reinvestment zone designated in the housing and transit reinvestment zone proposal as the area from which tax increment is to be collected, using the current assessed value and each taxing entity's current certified tax rate as defined in Section 59-2-924; and

(b) the amount of property tax revenue that would be generated from that same area using the base taxable value and each taxing entity's current certified tax rate as defined in



## HB0305S03 compared with HB0305S02

Section 59-2-924.

(28) "Taxing entity" means the same as that term is defined in Section 17C-1-102.

(29) "Vertical construction costs" means the additional costs associated with construction above four stories and structured parking to achieve enhanced development in the housing and transit reinvestment zone.

Section ~~{54}~~50. Section **65A-3-1** is amended to read:

### **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) "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

## HB0305S03 compared with HB0305S02

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

## HB0305S03 compared with HB0305S02

- (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.

Section ~~55~~51. Section **65A-10-2** is amended to read:

### **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.

Section ~~56~~52. Section **72-11-204** is amended to read:

### **72-11-204. Vacancies -- Expenses -- Reimbursement -- Use of facilities of Department of Transportation -- Functions, powers, duties, rights, and responsibilities.**

(1) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

(2) 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

## HB0305S03 compared with HB0305S02

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

(3) Reimbursement shall be made from fees collected by the committee for services rendered by ~~it~~ the committee.

(4) The Department of Transportation shall supply the committee with office accommodation, space, equipment, and secretarial assistance the executive director considers adequate for the committee.

(5) In addition to the functions, powers, duties, rights, and responsibilities granted to ~~it~~ the committee under this chapter, the committee shall assume and have all of the functions, powers, duties, rights, and responsibilities of the Division of Outdoor Recreation in relation to passenger ropeway systems pursuant to that chapter.

Section ~~57~~53. Section **73-3-31** is amended to read:

### **73-3-31. Water right for watering livestock on public land.**

- (1) As used in this section:
- (a) "Acquire" means to gain the right to use water through obtaining:
    - (i) an approved application to appropriate water; or
    - (ii) a perfected water right.
  - (b) "Allotment" means a designated area of public land available for livestock grazing.
  - (c) "Animal unit month (AUM)" is the amount of forage needed to sustain one cow and her calf, one horse, or five sheep and goats for one month.
  - (d) (i) "Beneficial user" means the person that has the right to use the grazing permit.
    - (ii) "Beneficial user" does not mean the public land agency issuing the grazing permit.
  - (e) "Grazing permit" means a document authorizing livestock to graze on an allotment.
  - (f) "Livestock" means a domestic animal raised or kept for profit or personal use.
  - (g) "Livestock watering right" means a right for:
    - (i) livestock to consume water:
      - (A) directly from the water source located on public land; or
      - (B) from an impoundment located on public land into which the water is diverted; and
    - (ii) associated uses of water related to the raising and care of livestock on public land.
  - (h) (i) "Public land" means land owned or managed by the United States or the state.
    - (ii) "Public land" does not mean land owned by:

## HB0305S03 compared with HB0305S02

(A) the Division of Wildlife Resources;

(B) the School and Institutional Trust Lands Administration; [στ]

(C) the Division of State Parks; or

(D) the Division of Outdoor Recreation.

(i) "Public land agency" means the agency that owns or manages the public land.

(2) A public land agency may not:

(a) condition the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock on the transfer of any water right directly to the public land agency;

(b) require any water user to apply for, or acquire a water right in the name of, the public land agency as a condition for the issuance, renewal, amendment, or extension of any permit, approval, license, allotment, easement, right-of-way, or other land use occupancy agreement regarding livestock; or

(c) acquire a livestock watering right if the public land agency is not a beneficial user.

(3) The state engineer may not approve a change application under Section 73-3-3 for a livestock watering right without the consent of the beneficial user.

(4) A beneficial user may file a nonuse application under Section 73-1-4 on a livestock watering right or a portion of a livestock watering right that the beneficial user puts to beneficial use.

(5) A livestock watering right is appurtenant to the allotment on which the livestock is watered.

(6) (a) (i) A beneficial user or a public land agency may file a request with the state engineer for a livestock water use certificate.

(ii) The state engineer shall:

(A) provide the livestock water use certificate application form on the Internet; and

(B) allow electronic submission of the livestock water use certificate application.

(b) The state engineer shall grant a livestock water use certificate to a beneficial user if the beneficial user:

(i) demonstrates that the beneficial user has a right to use a grazing permit for the allotment to which the livestock watering right is appurtenant; and

(ii) pays the fee set in accordance with Section 73-2-14.

## HB0305S03 compared with HB0305S02

(c) A livestock water use certificate is valid as long as the livestock watering right is:

(i) held by a beneficial user who has the right to use the grazing permit and graze livestock on the allotment;

(ii) put to beneficial use within a seven-year time period; or

(iii) subject to a nonuse application approved under Section 73-1-4.

(7) A beneficial user may access or improve an allotment as necessary for the beneficial user to beneficially use, develop, and maintain the beneficial user's water right appurtenant to the allotment.

(8) If a federal land management agency reduces livestock grazing AUMs on federal grazing allotments, and the reduction results in the partial forfeiture of an appropriated water right, the amount of water in question for nonuse as a livestock water right shall be held in trust by the state engineer until such water may be appropriated for livestock watering, consistent with this act and state law.

(9) Nothing in this section affects a livestock watering right or a livestock water use certificate held by a public land agency on May 13, 2014.

Section ~~58~~54. Section **73-18-2** is amended to read:

### **73-18-2. Definitions.**

As used in this chapter:

(1) "Anchored" means a vessel that is temporarily attached to the bed or shoreline of a waterbody by any method and the hull of the vessel is not touching the bed or shoreline.

(2) "Beached" means that a vessel's hull is resting on the bed or shoreline of a waterbody.

(3) "Boat livery" means a person that holds a vessel for renting or leasing.

(4) "Carrying passengers for hire" means to transport persons on vessels or to lead persons on vessels for consideration.

(5) "Commission" means the Outdoor Adventure Commission.

(6) "Consideration" means something of value given or done in exchange for something given or done by another.

(7) "Dealer" means any person who is licensed by the appropriate authority to engage in and who is engaged in the business of buying and selling vessels or of manufacturing them for sale.

## HB0305S03 compared with HB0305S02

(8) "Derelict vessel":

(a) means a vessel that is left, stored, or abandoned upon the waters of this state in a wrecked, junked, or substantially dismantled condition; and

(b) includes:

(i) a vessel left at a Utah port or marina without consent of the agency or other entity administering the port or marine area; and

(ii) a vessel left docked or grounded upon a property without the property owner's consent.

(9) "Division" means the Division of Outdoor Recreation.

(10) "Moored" means long term, on the water vessel storage in an area designated and properly marked by the division or other applicable managing agency.

(11) "Motorboat" means any vessel propelled by machinery, whether or not the machinery is the principal source of propulsion.

(12) "Operate" means to navigate, control, or otherwise use a vessel.

(13) "Operator" means the person who is in control of a vessel while it is in use.

(14) "Outfitting company" means any person who, for consideration:

(a) provides equipment to transport persons on all waters of this state; and

(b) supervises a person who:

(i) operates a vessel to transport passengers; or

(ii) leads a person on a vessel.

(15) (a) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel.

(b) "Owner" includes a person entitled to the use or possession of a vessel subject to an interest by another person, reserved or created by agreement and securing payment or performance of an obligation.

(c) "Owner" does not include a lessee under a lease not intended as security.

(16) "Personal watercraft" means a motorboat that is:

(a) less than 16 feet in length;

(b) propelled by a water jet pump; and

(c) designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than sitting or standing inside the vessel.

## HB0305S03 compared with HB0305S02

(17) "Racing shell" means a long, narrow watercraft:

- (a) outfitted with long oars and sliding seats; and
- (b) specifically designed for racing or exercise.

(18) "Sailboat" means any vessel having one or more sails and propelled by wind.

(19) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

(20) "Wakeless speed" means an operating speed at which the vessel does not create or make a wake or white water trailing the vessel. This speed is not in excess of five miles per hour.

(21) "Waters of this state" means any waters within the territorial limits of this state.

Section ~~{59}~~55. Section **73-18-3.5** is amended to read:

### **73-18-3.5. Advisory council.**

The division, after [~~consultation with~~] notifying the commission, may appoint an advisory council [~~representing various~~] that includes:

- (1) representation of boating interests [~~to seek~~]; and
- (2) among the advisory council's duties, making recommendations on state boating policies.

Section ~~{60}~~56. Section **73-18-4** is amended to read:

### **73-18-4. Division may make rules and set fees.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after [~~consultation with~~] notifying the commission, shall [~~promulgate~~] make rules:

- (a) creating a uniform waterway marking system which shall be obeyed by all vessel operators;
- (b) regulating the placement of waterway markers and other permanent or anchored objects on the waters of this state;
- (c) zoning certain waters of this state for the purpose of prohibiting the operation of vessels or motors for safety and health purposes only;
- (d) regulating vessel operators who carry passengers for hire, boat liveries, and outfitting companies; and
- (e) regulating anchored, beached, moored, or abandoned vessels to minimize health, safety, and environmental concerns.



## HB0305S03 compared with HB0305S02

(2) (a) The division, after [~~consultation with~~] notifying the commission, may set fees in accordance with Section 63J-1-504 for:

- (i) licensing vessel operators who carry passengers for hire; and
- (ii) registering:
  - (A) outfitting companies; and
  - (B) boat liveries.

(b) The license and registration fees imposed pursuant to Subsection (2)(a) shall be deposited into the Boating Account created in Section 73-18-22.

Section ~~{61}~~57. Section 73-18-7 is amended to read:

**73-18-7. Registration requirements -- Exemptions -- Fee -- Agents -- Records -- Period of registration and renewal -- Expiration -- Notice of transfer of interest or change of address -- Duplicate registration card -- Invalid registration -- Powers of division.**

(1) (a) Except as provided by Section 73-18-9, the owner of each motorboat and sailboat on the waters of this state shall register it with the division as provided in this chapter.

(b) A person may not place, give permission for the placement of, operate, or give permission for the operation of a motorboat or sailboat on the waters of this state, unless the motorboat or sailboat is registered as provided in this chapter.

(2) (a) The owner of a motorboat or sailboat required to be registered shall file an application for registration with the division on forms approved by the division.

(b) The owner of the motorboat or sailboat shall sign the application and pay the fee set by the division, after [~~consultation with~~] notifying the commission, in accordance with Section 63J-1-504.

(c) Before receiving a registration card and registration decals, the applicant shall provide the division with a certificate from the county assessor of the county in which the motorboat or sailboat has situs for taxation, stating that:

- (i) the property tax on the motorboat or sailboat for the current year has been paid;
- (ii) in the county assessor's opinion, the property tax is a lien on real property sufficient to secure the payment of the property tax; or
- (iii) the motorboat or sailboat is exempt by law from payment of property tax for the current year.

(d) If the division modifies the fee under Subsection (2)(b), the modification shall take

## HB0305S03 compared with HB0305S02

effect on the first day of the calendar quarter after 90 days from the day on which the division provides the State Tax Commission:

- (i) notice from the division stating that the division will modify the fee; and
- (ii) a copy of the fee modification.

(e) (i) The division may enter into an agreement with the Motor Vehicle Division created in Section 41-1a-106 to administer the registration requirements described in this chapter.

(ii) An individual may request automatic registration renewal as described in Section 41-1a-216.

(3) (a) Upon receipt of the application in the approved form, the division shall record the receipt and issue to the applicant registration decals and a registration card that state the number assigned to the motorboat or sailboat and the name and address of the owner.

(b) The registration card shall be available for inspection on the motorboat or sailboat for which it was issued, whenever that motorboat or sailboat is in operation.

(4) The assigned number shall:

(a) be painted or permanently attached to each side of the forward half of the motorboat or sailboat;

(b) consist of plain vertical block characters not less than three inches in height;

(c) contrast with the color of the background and be distinctly visible and legible;

(d) have spaces or hyphens equal to the width of a letter between the letter and numeral groupings; and

(e) read from left to right.

(5) A motorboat or sailboat with a valid marine document issued by the United States Coast Guard is exempt from the number display requirements of Subsection (4).

(6) The nonresident owner of any motorboat or sailboat already covered by a valid number that has been assigned to it according to federal law or a federally approved numbering system of the owner's resident state is exempt from registration while operating the motorboat or sailboat on the waters of this state unless the owner is operating in excess of the reciprocity period provided for in Subsection 73-18-9(1).

(7) (a) If the ownership of a motorboat or sailboat changes, the new owner shall file a new application form and fee with the division, and the division shall issue a new registration

## **HB0305S03 compared with HB0305S02**

card and registration decals in the same manner as provided for in Subsections (2) and (3).

(b) The division shall reassign the current number assigned to the motorboat or sailboat to the new owner to display on the motorboat or sailboat.

(8) If the United States Coast Guard has in force an overall system of identification numbering for motorboats or sailboats within the United States, the numbering system employed under this chapter by the division shall conform with that system.

(9) (a) The division may authorize any person to act as its agent for the registration of motorboats and sailboats.

(b) A number assigned, a registration card, and registration decals issued by an agent of the division in conformity with this chapter and rules of the division are valid.

(10) (a) The Motor Vehicle Division shall classify all records of the division made or kept according to this section in the same manner that motor vehicle records are classified under Section 41-1a-116.

(b) Division records are available for inspection in the same manner as motor vehicle records pursuant to Section 41-1a-116.

(11) (a) (i) Each registration, registration card, and decal issued under this chapter shall continue in effect for 12 months, beginning with the first day of the calendar month of registration.

(ii) A registration may be renewed by the owner in the same manner provided for in the initial application.

(iii) The division shall reassign the current number assigned to the motorboat or sailboat when the registration is renewed.

(b) Each registration, registration card, and registration decal expires the last day of the month in the year following the calendar month of registration.

(c) If the last day of the registration period falls on a day in which the appropriate state or county offices are not open for business, the registration of the motorboat or sailboat is extended to 12 midnight of the next business day.

(d) The division may receive applications for registration renewal and issue new registration cards at any time before the expiration of the registration, subject to the availability of renewal materials.

(e) The new registration shall retain the same expiration month as recorded on the

## HB0305S03 compared with HB0305S02

original registration even if the registration has expired.

(f) The year of registration shall be changed to reflect the renewed registration period.

(g) If the registration renewal application is an application generated by the division through its automated system, the owner is not required to surrender the last registration card or duplicate.

(12) (a) An owner shall notify the division of:

(i) the transfer of all or any part of the owner's interest, other than creation of a security interest, in a motorboat or sailboat registered in this state under Subsections (2) and (3); and

(ii) the destruction or abandonment of the owner's motorboat or sailboat.

(b) Notification must take place within 15 days of the transfer, destruction, or abandonment.

(c) (i) The transfer, destruction, or abandonment of a motorboat or sailboat terminates its registration.

(ii) Notwithstanding Subsection (12)(c)(i), a transfer of a part interest that does not affect the owner's right to operate a motorboat or sailboat does not terminate the registration.

(13) (a) A registered owner shall notify the division within 15 days if the owner's address changes from the address appearing on the registration card and shall, as a part of this notification, furnish the division with the owner's new address.

(b) The division may provide in the division's rules for:

(i) the surrender of the registration card bearing the former address; and

(ii) (A) the replacement of the card with a new registration card bearing the new address; or

(B) the alteration of an existing registration card to show the owner's new address.

(14) (a) If a registration card is lost or stolen, the division may collect a fee of \$4 for the issuance of a duplicate card.

(b) If a registration decal is lost or stolen, the division may collect a fee of \$3 for the issuance of a duplicate decal.

(15) A number other than the number assigned to a motorboat or sailboat or a number for a motorboat or sailboat granted reciprocity under this chapter may not be painted, attached, or otherwise displayed on either side of the bow of a motorboat or sailboat.

(16) A motorboat or sailboat registration and number are invalid if obtained by

## HB0305S03 compared with HB0305S02

knowingly falsifying an application for registration.

(17) The division may designate the suffix to assigned numbers, and by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules for:

- (a) the display of registration decals;
- (b) the issuance and display of dealer numbers and registrations; and
- (c) the issuance and display of temporary registrations.

(18) A violation of this section is an infraction.

Section ~~{62}~~58. Section **73-18-8** is amended to read:

### **73-18-8. Safety equipment required to be on board vessels -- Penalties.**

(1) (a) Except as provided in Subsection (1)(c), each vessel shall have, for each person on board, one wearable personal flotation device that is approved for the type of use by the commandant of the United States Coast Guard.

(b) Each personal flotation device shall be:

- (i) in serviceable condition;
- (ii) legally marked with the United States Coast Guard approval number; and
- (iii) of an appropriate size for the person for whom it is intended.

(c) (i) Sailboards and racing shells are exempt from the provisions of Subsections (1)(a) and (e).

(ii) The division, after [~~consultation with~~] notifying the commission, may exempt certain types of vessels from the provisions of Subsection (1)(a) under certain conditions or upon certain waters.

(d) The division may require by rule, after [~~consultation with~~] notifying the commission, for personal flotation devices to be worn:

- (i) while a person is on board a certain type of vessel;
- (ii) by a person under a certain age; or
- (iii) on certain waters of the state.

(e) For vessels 16 feet or more in length, there shall also be on board one throwable personal flotation device which is approved for this use by the commandant of the United States Coast Guard.

(2) The operator of a vessel operated between sunset and sunrise shall display lighted

## HB0305S03 compared with HB0305S02

navigation lights approved by the division.

(3) If a vessel is not entirely open and it carries or uses any flammable or toxic fluid in any enclosure for any purpose, the vessel shall be equipped with an efficient natural or mechanical ventilation system that is capable of removing resulting gases before and during the time the vessel is occupied by any person.

(4) Each vessel shall have fire extinguishing equipment on board.

(5) Any inboard gasoline engine shall be equipped with a carburetor backfire flame control device.

(6) The division may, after notifying the commission:

(a) require additional safety equipment by rule [~~made in consultation with the commission~~]; and

(b) adopt rules conforming with the requirements of this section which govern specifications for and the use of safety equipment.

(7) A person may not operate or give permission for the operation of a vessel that is not equipped as required by this section or rules promulgated under this section.

(8) A violation of this section is an infraction.

Section ~~{63}~~59. Section **73-18-11** is amended to read:

### **73-18-11. Regulation of muffling devices.**

The division, after [~~consultation with~~] notifying the commission, shall adopt rules for the regulating of muffling devices on all vessels.

Section ~~{64}~~60. Section **73-18-13** is amended to read:

### **73-18-13. Duties of operator involved in accident -- Notification and reporting procedures -- Use of accident reports -- Giving false information as misdemeanor.**

(1) As used in this section, "agent" has the same meaning as provided in Section 41-6a-404.

(2) (a) It is the duty of the operator of a vessel involved in an accident, if the operator can do so without seriously endangering the operator's own vessel, crew, or passengers, to render aid to those affected by the accident as may be practicable.

(b) The operator shall also give the operator's name, address, and identification of the operator's vessel in writing to:

(i) any person injured; or

## HB0305S03 compared with HB0305S02

(ii) the owner of any property damaged in the accident.

(c) A violation of this Subsection (2) is a class B misdemeanor.

(3) (a) The division, after [~~consultation with~~] notifying the commission, shall adopt rules governing the notification and reporting procedure for vessels involved in accidents.

(b) The rules shall be consistent with federal requirements.

(4) (a) Except as provided in Subsection (4)(b), all accident reports:

(i) are protected and shall be for the confidential use of the division or other state, local, or federal agencies having use for the records for official governmental statistical, investigative, and accident prevention purposes; and

(ii) may be disclosed only in a statistical form that protects the privacy of any person involved in the accident.

(b) The division shall disclose a written accident report and its accompanying data to:

(i) a person involved in the accident, excluding a witness to the accident;

(ii) a person suffering loss or injury in the accident;

(iii) an agent, parent, or legal guardian of a person described in Subsections (4)(b)(i) and (ii);

(iv) a member of the press or broadcast news media;

(v) a state, local, or federal agency that uses the records for official governmental, investigative, or accident prevention purposes;

(vi) law enforcement personnel when acting in their official governmental capacity; and

(vii) a licensed private investigator.

(c) Information provided to a member of the press or broadcast news media under Subsection (4)(b)(iv) may only include:

(i) the name, age, sex, and city of residence of each person involved in the accident;

(ii) the make and model year of each vehicle involved in the accident;

(iii) whether or not each person involved in the accident was covered by a vehicle insurance policy;

(iv) the location of the accident; and

(v) a description of the accident that excludes personal identifying information not listed in Subsection (4)(c)(i).

## HB0305S03 compared with HB0305S02

(5) (a) Except as provided in Subsection (5)(c), an accident report may not be used as evidence in any civil or criminal trial, arising out of an accident.

(b) Upon demand of any person who has, or claims to have, made the report, or upon demand of any court, the division shall furnish a certificate showing that a specified accident report has or has not been made to the division solely to prove a compliance or a failure to comply with the requirement that a report be made to the division.

(c) Accident reports may be used as evidence when necessary to prosecute charges filed in connection with a violation of Subsection (6).

(6) Any person who gives false information, knowingly or having reason to believe it is false, in an oral or written report as required in this chapter, is guilty of a class B misdemeanor.

Section ~~{65}~~61. Section **73-18-13.5** is amended to read:

**73-18-13.5. Motorboat accidents -- Investigation and report of operator security -- Agency action if no security -- Surrender of registration materials.**

(1) Upon request of a peace officer investigating an accident involving a motorboat as defined in Section 73-18c-102, the operator of the motorboat shall provide evidence of the owner's or operator's security required under Section 73-18c-301.

(2) The peace officer shall record on a form approved by the division:

(a) the information provided by the operator;

(b) whether the operator provided insufficient or no information; and

(c) whether the peace officer finds reasonable cause to believe that any information given is not correct.

(3) The peace officer shall deposit all completed forms with the peace officer's agency, which shall forward the forms to the division no later than 10 days after receipt.

(4) (a) The division shall revoke the registration of a motorboat as defined in Section 73-18c-102 involved in an accident unless the owner or operator can demonstrate to the division compliance with the owner's or operator's security requirement of Section 73-18c-301 at the time of the accident.

(b) Any registration revoked shall be renewed in accordance with Section 73-18-7.

(5) A person may appeal a revocation issued under Subsection (4) in accordance with procedures established by the division, after ~~[consultation with]~~ notifying the commission, by rule that are consistent with Title 63G, Chapter 4, Administrative Procedures Act.



## HB0305S03 compared with HB0305S02

(6) (a) Any person whose registration is revoked under Subsection (4) shall return the registration card and decals for the motorboat to the division.

(b) If the person fails to return the registration materials as required, they shall be confiscated under Section 73-18-13.6.

(7) The division may, after [~~consultation with~~] notifying the commission, make rules for the enforcement of this section.

(8) In this section, "evidence of owner's or operator's security" includes any one of the following:

(a) the operator's:

(i) insurance policy;

(ii) binder notice;

(iii) renewal notice; or

(iv) card issued by an insurance company as evidence of insurance;

(b) a copy of a surety bond, certified by the surety, which conforms to Section 73-18c-102;

(c) a certificate of the state treasurer issued under Section 73-18c-305; or

(d) a certificate of self-funded coverage issued under Section 73-18c-306.

Section ~~66~~62. Section **73-18-15** is amended to read:

**73-18-15. Division to adopt rules concerning water skiing and aquaplane riding and use of other devices towed behind a vessel.**

The division, after [~~consultation with~~] notifying the commission, shall adopt rules for the regulation and safety of water skiing and aquaplane riding, and the use of other devices that are towed behind a vessel pursuant to this section and in accordance with Section 73-18-16.

Section ~~67~~63. Section **73-18-16** is amended to read:

**73-18-16. Regattas, races, exhibitions -- Rules.**

(1) The division may authorize the holding of regattas, motorboat or other boat races, marine parades, tournaments, or exhibitions on any waters of this state.

(2) The division, after [~~consultation with~~] notifying the commission, may adopt rules concerning the safety of vessels and persons, either as observers or participants, that do not conflict with the provisions of Subsections (3) and (4).

(3) A person may elect, at the person's own risk, to wear a non-Coast Guard approved

## HB0305S03 compared with HB0305S02

personal floatation device if the person is on an American Water Ski Association regulation tournament slalom course and is:

- (a) engaged in barefoot water skiing;
- (b) water skiing in an American Water Ski Association regulation competition;
- (c) a performer participating in a professional exhibition or other tournament; or
- (d) practicing for an event described in Subsection (3)(b) or (c).

(4) If a person is water skiing in an American Water Ski Association regulation tournament slalom course, an observer and flag are not required if the vessel is:

(a) equipped with a wide angle mirror with a viewing surface of at least 48 square inches; and

(b) operated by a person who is at least 18 years of age.

(5) A violation of this section is an infraction.

Section ~~68~~64. Section **73-18a-1** is amended to read:

### **73-18a-1. Definitions.**

As used in this chapter:

(1) "Commission" means the Outdoor Adventure Commission.

(2) "Division" means the Division of Outdoor Recreation.

(3) "Human body waste" means excrement, feces, or other waste material discharged from the human body.

(4) "Litter" means any bottles, glass, crockery, cans, scrap metal, junk, paper, garbage, rubbish, or similar refuse discarded as no longer useful.

(5) "Marine toilet" means any toilet or other receptacle permanently installed on or within any vessel for the purpose of receiving human body waste. This term does not include portable toilets which may be removed from a vessel in order to empty its contents.

(6) "Operate" means to navigate, control, or otherwise use a vessel.

(7) "Operator" means the person who is in control of a vessel while it is in use.

(8) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a vessel. The term does not include a lessee under a lease not intended as security.

(9) "Vessel" means every type of watercraft, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

## HB0305S03 compared with HB0305S02

(10) "Waters of this state" means all waters within the territorial limits of this state except those used exclusively for private purposes.

Section ~~{69}~~65. Section **73-18a-4** is amended to read:

**73-18a-4. Marine toilets -- Pollution control devices required -- Rules established by division.**

(1) Every marine toilet on a vessel used or operated upon the waters of this state shall be equipped with an approved pollution control device in operative condition.

(2) The division, after [~~consultation with~~] notifying the commission, shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, as provided in this chapter, establishing criteria or standards for definition and approval of acceptable pollution control devices for vessels.

Section ~~{70}~~66. Section **73-18a-5** is amended to read:

**73-18a-5. Chemical treatment of marine toilet contents -- Rules established by division and Department of Environmental Quality.**

The division, after [~~consultation with~~] notifying the commission, shall establish by rule, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, with approval by the Department of Environmental Quality, as provided in this chapter, standards relating to chemical treatment of marine toilet contents.

Section ~~{71}~~67. Section **73-18a-12** is amended to read:

**73-18a-12. Rules made -- Subject to approval by Department of Environmental Quality.**

The division, after [~~consultation with~~] notifying the commission, may [~~promulgate~~] make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, which are necessary for the carrying out of duties, obligations, and powers conferred on the division by this chapter. These rules shall be subject to review and approval by the Department of Environmental Quality. This approval shall be recorded as part of the rules.

Section ~~{72}~~68. Section **73-18b-1** is amended to read:

**73-18b-1. Water safety rules and regulations -- Adoption.**

(1) The Division of Outdoor Recreation, after [~~consulting with~~] notifying the Outdoor Adventure Commission, may make rules necessary to promote safety in swimming, scuba diving, and related activities on any waters where public boating is permitted.

## HB0305S03 compared with HB0305S02

(2) The Division of Outdoor Recreation may consider recommendations of and cooperate with other state agencies and the owners or operators of those waters.

Section ~~{73}~~69. Section 73-18c-102 is amended to read:

### 73-18c-102. Definitions.

As used in this chapter:

(1) "Airboat" means a vessel propelled by air pressure caused by an airplane type propeller mounted above the stern and driven by an internal combustion engine.

(2) "Commission" means the Outdoor Adventure Commission.

(3) "Division" means the Division of Outdoor Recreation.

(4) "Judgment" means any judgment that is final by:

(a) expiration without appeal of the time within which an appeal might have been perfected; or

(b) final affirmation on appeal, rendered by a court of competent jurisdiction of any state or of the United States, upon a cause of action for damages:

(i) arising out of the ownership, maintenance, or use of any personal watercraft, including damages for care and loss of services because of bodily injury to or death of any person, or because of injury to or destruction of property including the loss of use of the property; or

(ii) on a settlement agreement.

(5) (a) "Motorboat" has the same meaning as defined in Section 73-18-2.

(b) "Motorboat" includes personal watercraft regardless of the manufacturer listed horsepower.

(c) "Motorboat" does not include:

(i) a boat with a manufacturer listed horsepower of 50 horsepower or less; or

(ii) an airboat.

(6) "Nonresident" means any person who is not a resident of Utah.

(7) "Operator" means the person who is in control of a motorboat while it is in use.

(8) (a) "Owner" means a person, other than a lien holder, holding a proprietary interest in or the title to a motorboat.

(b) "Owner" includes a person entitled to the use or possession of a motorboat subject to an interest by another person, reserved or created by agreement and securing payment or

## HB0305S03 compared with HB0305S02

performance of an obligation.

(c) "Owner" does not include a lessee under a lease not intended as security.

(9) "Owner's or operator's security," "owner's security," or "operator's security" means any of the following:

(a) an insurance policy or combination of policies conforming to Sections 31A-22-1502 and 31A-22-1503, which is issued by an insurer authorized to do business in Utah;

(b) a surety bond issued by an insurer authorized to do a surety business in Utah in which the surety is subject to the minimum coverage limits and other requirements of policies conforming to Sections 31A-22-1502 and 31A-22-1503, which names the division as a creditor under the bond for the use of persons entitled to the proceeds of the bond;

(c) a deposit with the state treasurer of cash or securities complying with Section 73-18c-305;

(d) a certificate of self-funded coverage issued under Section 73-18c-306; or

(e) a policy conforming to Sections 31A-22-1502 and 31A-22-1503 issued by the Risk Management Fund created in Section 63A-4-201.

(10) "Personal watercraft" has the same meaning as provided in Section 73-18-2.

(11) "Registration" means the issuance of the registration cards and decals issued under the laws of Utah pertaining to the registration of motorboats.

(12) "Registration materials" means the evidences of motorboat registration, including all registration cards and decals.

(13) "Self-insurance" has the same meaning as provided in Section 31A-1-301.

(14) "Waters of the state" means any waters within the territorial limits of this state.

Section ~~{74}~~70. Section **73-18c-201** is amended to read:

**73-18c-201. Division to administer and enforce chapter -- Division may adopt rules.**

(1) (a) The division shall administer this chapter.

(b) A law enforcement officer authorized under Title 53, Chapter 13, Peace Officer Classifications, may enforce this chapter in the rules made under this chapter.

(2) The division, after [~~consultation with~~] notifying the commission, may adopt rules as necessary for the administration of this chapter in accordance with Title 63G, Chapter 3,

## HB0305S03 compared with HB0305S02

Utah Administrative Rulemaking Act.

Section ~~{75}~~71. Section 77-2-4.3 is amended to read:

### 77-2-4.3. Compromise of boating violations -- Limitations.

(1) As used in this section:

(a) "Compromise" means referral of a person charged with a boating violation to a boating safety course approved by the Division of Outdoor Recreation.

(b) "Boating violation" means any charge for which bail may be forfeited in lieu of appearance, by citation or information, of a violation of Title 73, Chapter 18, State Boating Act, amounting to:

(i) a class B misdemeanor;

(ii) a class C misdemeanor; or

(iii) an infraction.

(2) Any compromise of a boating violation shall be done pursuant to a plea in abeyance agreement as provided in Title 77, Chapter 2a, Pleas in Abeyance, except:

(a) when the criminal prosecution is dismissed pursuant to Section 77-2-4; or

(b) when there is a plea by the defendant to and entry of a judgment by a court for the offense originally charged or for an amended charge.

(3) In [~~all cases which are~~] a case that is compromised pursuant to [~~the provisions of~~] Subsection (2):

(a) the court, taking into consideration the offense charged, shall collect a plea in abeyance fee which shall:

(i) be subject to the same surcharge as if imposed on a criminal fine;

(ii) be allocated subject to the surcharge as if paid as a criminal fine under Section 78A-5-110 and a surcharge under Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation; and

(iii) be not more than \$25 greater than the bail designated in the Uniform Bail Schedule; or

(b) if no plea in abeyance fee is collected, a surcharge on the fee charged for the boating safety course shall be collected, which surcharge shall:

(i) be computed, assessed, collected, and remitted in the same manner as if the boating safety course fee and surcharge had been imposed as a criminal fine and surcharge; and

## HB0305S03 compared with HB0305S02

(ii) be subject to the financial requirements contained in Title 51, Chapter 9, Part 4, Criminal Conviction Surcharge Allocation.

(4) If a written plea in abeyance agreement is provided, or the defendant requests a written accounting, an itemized statement of all amounts assessed by the court shall be provided, including:

- (a) the Uniform Bail Schedule amount;
- (b) the amount of any surcharges being assessed; and
- (c) the amount of the plea in abeyance fee.

Section ~~76~~72. Section **78A-5-110** is amended to read:

### **78A-5-110. Allocation of district court fees and forfeitures.**

(1) Except as provided in this section, district court fines and forfeitures collected for violation of state statutes shall be paid to the state treasurer.

(2) Fines and forfeitures collected by the court for violation of a state statute or county or municipal ordinance constituting a misdemeanor or an infraction shall be remitted 1/2 to the state treasurer and 1/2 to the treasurer of the state or local governmental entity which prosecutes or which would prosecute the violation.

(3) (a) Fines and forfeitures collected for violations of Title 23, Wildlife Resources Code of Utah, Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, shall be paid to the state treasurer.

(b) For violations of Title 23, Wildlife Resources Code of Utah, the state treasurer shall allocate 85% to the Division of Wildlife Resources and 15% to the General Fund.

(c) For violations of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the state treasurer shall allocate 85% to the Division of Outdoor Recreation and 15% to the General Fund.

(4) (a) The state treasurer shall allocate fines and forfeitures collected for a violation of Section 72-7-404 or 72-7-406, less fees established by the Judicial Council, to the Department of Transportation for use on class B and class C roads.

(b) Fees established by the Judicial Council shall be deposited in the state General Fund.

(c) Money allocated for class B and class C roads is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B

## HB0305S03 compared with HB0305S02

and class C road funds.

(5) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

- (i) 60% to the state treasurer to be deposited [~~in~~] into the Transportation Fund; and
- (ii) 40% in accordance with Subsection (2).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

- (i) 50% to the state treasurer to be deposited [~~in~~] into the Transportation Fund; and
- (ii) 50% in accordance with Subsection (2).

(6) For fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310, the court shall allocate 20% to the school district or private school that owns or contracts for the use of the bus, and the state treasurer shall allocate 40% to the treasurer of the state or local governmental entity that prosecutes or that would prosecute the violation, and 40% to the General Fund.

(7) Fines and forfeitures collected for any violations not specified in this chapter or otherwise provided for by law shall be paid to the state treasurer.

(8) Fees collected in connection with civil actions filed in the district court shall be paid to the state treasurer.

(9) The court shall remit money collected in accordance with Title 51, Chapter 7, State Money Management Act.

Section ~~{77}~~73. Section **78A-7-120** is amended to read:

### **78A-7-120. Disposition of fines.**

(1) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted, 1/2 to the treasurer of the local government responsible for the court and 1/2 to the treasurer of the local government which prosecutes or which would prosecute the violation. An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, related to justice courts may alter the ratio provided in this section if the parties agree.

(2) (a) For violation of Title 23, Wildlife Resources Code of Utah, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the city or



## HB0305S03 compared with HB0305S02

county government responsible for the justice court.

(b) For violation of Title 41, Chapter 22, Off-Highway Vehicles, or Title 73, Chapter 18, State Boating Act, the court shall allocate 85% to the Division of Outdoor Recreation and 15% to the general fund of the city or county government responsible for the justice court.

(c) Fines and forfeitures collected by the court for a violation of Section 41-6a-1302 in instances where evidence of the violation was obtained by an automated traffic enforcement safety device as described in Section 41-6a-1310 shall be remitted:

(i) 20% to the school district or private school that owns or contracts for the use of the school bus; and

(ii) 80% in accordance with Subsection (1).

(3) The surcharge established by Section 51-9-401 shall be paid to the state treasurer and deposited into the General Fund.

(4) Fines, fees, court costs, and forfeitures collected by a municipal or county justice court for a violation of Section 72-7-404 or 72-7-406 regarding maximum weight limitations and overweight permits, minus court costs not to exceed the schedule adopted by the Judicial Council, shall be paid to the state treasurer and allocated to the Department of Transportation for class B and class C roads.

(5) Revenue allocated for class B and class C roads pursuant to Subsection (4) is supplemental to the money appropriated under Section 72-2-107 but shall be expended in the same manner as other class B and class C road funds.

(6) (a) Fines and forfeitures collected by the court for a second or subsequent violation under Section 41-6a-1713 or Subsection 72-7-409(6)(c) shall be remitted:

(i) 60% to the state treasurer to be deposited [~~m~~] into the Transportation Fund; and

(ii) 40% in accordance with Subsection (1).

(b) Fines and forfeitures collected by the court for a second or subsequent violation under Subsection 72-7-409(6)(d) shall be remitted:

(i) 50% to the state treasurer to be deposited [~~m~~] into the Transportation Fund; and

(ii) 50% in accordance with Subsection (1).

Section ~~{78}~~74. Section **79-1-104** is enacted to read:

### **79-1-104. Application of title to wildlife issues.**

(1) The following may not be construed or applied to supersede or interfere with the

## HB0305S03 compared with HB0305S02

powers and duties of the Division of Wildlife Resources or the Wildlife Board under Title 23, Wildlife Resources Code of Utah, over the activities described in Subsection (2):

- (a) Chapter 4, State Parks;
- (b) Chapter 5, Recreational Trails;
- (c) Chapter 7, Outdoor Recreation Act; and
- (d) Chapter 8, Outdoor Recreation Grants.

(2) Subsection (1) applies to the powers and duties of the Division of Wildlife Resources or the Wildlife Board over:

- (a) conservation and management of protected wildlife within the state;
- (b) a program or initiative to restore and conserve habitat for fish and wildlife; or
- (c) acquisition, ownership, management, and control of real property or a real property interest, including a leasehold estate, an easement, a right-of-way, or a conservation easement.

Section ~~79~~75. Section **79-2-201** is amended to read:

### **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) Board of State Parks, created in Section 79-4-301;
  - (d) Office of Energy Development, created in Section 79-6-401[-];
  - (e) Wildlife Board, created in Section 23-14-2;
  - (f) Board of the Utah Geological Survey, created in Section 79-3-301;
  - (g) Water Development Coordinating Council, created in Section 73-10c-3;
  - ~~[(h) Utah Outdoor Recreation Grant Advisory Committee, created in Section 79-8-105;]~~
  - ~~[(i) Home Energy Information Advisory Committee, created in Section 79-6-805;]~~
  - ~~[(j)]~~ (h) Division of Water Rights, created in Section 73-2-1.1;
  - ~~[(k)]~~ (i) Division of Water Resources, created in Section 73-10-18;
  - ~~[(l)]~~ (j) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
  - ~~[(m)]~~ (k) Division of Oil, Gas, and Mining, created in Section 40-6-15;
  - ~~[(n)]~~ (l) Division of State Parks, created in Section 79-4-201;

## HB0305S03 compared with HB0305S02

~~[(t)]~~ ~~(m)~~ Division of Outdoor Recreation, created in Section 79-7-201;

~~[(p)]~~ ~~(n)~~ Division of Wildlife Resources, created in Section 23-14-1;

~~[(q)]~~ ~~(o)~~ Utah Geological Survey, created in Section 79-3-201;

~~[(r)]~~ ~~(p)~~ Heritage Trees Advisory Committee, created in Section 65A-8-306;

~~[(s)]~~ ~~Recreational Trails Advisory Council, authorized by Section 79-5-201;~~

~~(q)~~ Utah Outdoor Recreation Infrastructure Advisory Committee, created in Section 79-7-206;

~~[(t)]~~ ~~(r)~~ ~~(i)~~ ~~[Boating Advisory Council]~~ 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;

~~[(u)]~~ ~~(s)~~ Wildlife Board Nominating Committee, created in Section 23-14-2.5;

~~[(v)]~~ ~~(t)~~ Wildlife Regional Advisory Councils, created in Section 23-14-2.6;

~~[(w)]~~ ~~(u)~~ Utah Watersheds Council, created in Section 73-10g-304;

~~[(x)]~~ ~~(v)~~ Utah Natural Resources Legacy Fund Board, created in Section 23-31-202;

and

~~[(y)]~~ ~~(w)~~ Public Lands Policy Coordinating Office created in Section 63L-11-201.

Section ~~{80}~~76. Section **79-2-202** is amended to read:

**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;

## HB0305S03 compared with HB0305S02

(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.

Section ~~{81}~~77. Section **79-2-206** is amended to read:

### **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.

## HB0305S03 compared with HB0305S02

(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 this bill, 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 this bill.

(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:

~~[(a)]~~ (i) ~~[except for an outdoor recreational infrastructure grant,]~~ 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 this bill; and

~~[(b)]~~ (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 this bill, 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.

~~[(5) (a) The Governor's Office of Planning and Budget shall submit recommendations to the Natural Resources, Agriculture, and Environment Interim Committee by no later than the~~

## HB0305S03 compared with HB0305S02

~~November 2021 interim meeting of the committee regarding possible restructuring to improve coordination between the Department of Natural Resources and the following:]~~

~~[(i) the Department of Environmental Quality;]~~

~~[(ii) the Division of Public Utilities;]~~

~~[(iii) the Office of Consumer Services; and]~~

~~[(iv) the Office of Rural Development.]~~

~~[(b) In conducting the study under this Subsection (5), the Governor's Office of Planning and Budget shall incorporate public feedback into forming the recommendations, including:]~~

~~[(i) holding at least two public meetings and listening sessions; and]~~

~~[(ii) publishing draft recommendations a minimum of 30 days before the November 2021 interim meeting to provide a comment period on the draft recommendations with adequate time for considering feedback and revisions to the recommendations.]~~

Section ~~{82}~~78. Section 79-4-203 is amended to read:

### **79-4-203. Powers and duties of division.**

(1) As used in this section, "real property" includes land under water, upland, and all other property commonly or legally defined as real property.

(2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon the Division of Wildlife Resources by law within state parks and on property controlled by the Division of State Parks with reference to fish and game.

(3) The division shall permit multiple use of state parks and property controlled by the division for purposes such as grazing, fishing, hunting, camping, mining, and the development and utilization of water and other natural resources.

(4) (a) The division may acquire real and personal property in the name of the state by all legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.

(b) In acquiring any real or personal property, the credit of the state may not be pledged without the consent of the Legislature.

(5) (a) Before acquiring any real property, the division shall notify the county legislative body of the county where the property is situated of ~~[its]~~ the division's intention to acquire the property.

## HB0305S03 compared with HB0305S02

(b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.

(6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.

(7) The division shall acquire property by eminent domain in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The division may make charges for special services and use of facilities, the income from which is available for park purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

(9) (a) The division may lease or rent concessions of all lawful kinds and nature in state parks and property to persons, partnerships, and corporations for a valuable consideration upon the recommendation of the board.

(b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

~~[(11) The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section 79-4-404.]~~

Section ~~{83}~~79. Section **79-4-1103** is amended to read:

### **79-4-1103. Governor's duties -- Priority of federal property.**

(1) During a fiscal emergency, the governor shall:

(a) if financially practicable, work with the federal government to open and maintain the operation of one or more national parks, national monuments, national forests, and national recreation areas in the state, in the order established under this section; and

(b) report to the speaker of the House and the president of the Senate on the need, if any, for additional appropriations to assist the division in opening and operating one or more national parks, national monuments, national forests, and national recreation areas in the state.

(2) The director of the [~~Outdoor Recreation Office, created in Section 63N-9-104,~~ Division of Outdoor Recreation], in consultation with the executive director of the Governor's Office of Economic Opportunity, shall determine, by rule, the priority of national parks,

## HB0305S03 compared with HB0305S02

national monuments, national forests, and national recreation areas in the state.

(3) In determining the priority described in Subsection (2), the director of the [~~Outdoor Recreation Office~~] Division of Outdoor Recreation shall consider the:

(a) economic impact of the national park, national monument, national forest, or national recreation area in the state; and

(b) recreational value offered by the national park, national monument, national forest, or national recreation area.

(4) The director of the [~~Outdoor Recreation Office shall:~~(a) report the priority determined under Subsection (2) to the Natural Resources, Agriculture, and Environment Interim Committee by November 30, 2014; and (b)] Division of Outdoor Recreation shall annually review the priority set under Subsection (2) to determine whether the priority list should be amended.

Section ~~{84}~~80. Section **79-5-102** is amended to read:

### **79-5-102. Definitions.**

As used in this chapter:

~~[(1) "Commission" means the Outdoor Adventure Commission.]~~

~~[(2) "Council" means the Recreational Trails Advisory Council.]~~

(1) "Committee" means the Utah Outdoor Recreation Infrastructure Advisory Committee created in Section 79-7-206.

~~[(3)]~~ (2) "Division" means the Division of Outdoor Recreation.

~~[(4)]~~ (3) "Recreational trail" or "trail" means a multi-use path used for:

(a) muscle-powered activities, including:

(i) bicycling;

(ii) cross-country skiing;

(iii) walking;

(iv) jogging; and

(v) horseback riding; and

(b) uses compatible with the uses described in Subsection ~~[(4)]~~ (3)(a), including the use of an electric assisted bicycle or motor assisted scooter, as defined in Section 41-6a-102.

Section ~~{85}~~81. Section **79-5-501** is amended to read:

### **79-5-501. Grants -- Matching funds requirements -- Rules.**



## HB0305S03 compared with HB0305S02

(1) (a) The division, after consultation with the [~~commission~~] committee, may give grants to federal government agencies, state agencies, or local governments for the planning, acquisition, and development of trails within the state's recreational trail system with funds appropriated by the Legislature for that purpose.

(b) (i) Each grant recipient must provide matching funds [~~having a value that is equal to or greater than the grant funds received~~] as established by the division by rule.

(ii) The division may allow a grant recipient to provide property, material, or labor in lieu of money, provided the grant recipient's contribution has a value that is equal to or greater than the grant funds received.

(2) The division, after consultation with the [~~commission~~] committee, shall:

(a) make rules setting forth procedures and criteria for the awarding of grants for recreational trails; and

(b) determine to whom grant funds shall be awarded after considering the recommendations of and after consulting with the [~~council~~] committee and the division.

(3) Rules for the awarding of grants for recreational trails shall provide that:

(a) each grant applicant must solicit public comment on the proposed recreational trail and submit a summary of that comment to the division;

(b) each trail project for which grant funds are awarded must conform to the criteria and guidelines specified in Sections 79-5-103, 79-5-301, and 79-5-302; and

(c) trail proposals that include a plan to provide employment opportunities for youth, including at-risk youth, in the development of the trail is encouraged.

(4) As used in this section, "at-risk youth" means youth who:

(a) are subject to environmental forces, such as poverty or family dysfunction, that may make them vulnerable to family, school, or community problems;

(b) perform poorly in school or have failed to complete high school;

(c) exhibit behaviors that have the potential to harm themselves or others in the community, such as truancy, use of alcohol or drugs, and associating with delinquent peers; or

(d) have already engaged in behaviors harmful to themselves or others in the community.

Section ~~86~~82. Section **79-5-503** is amended to read:

**79-5-503. Bonneville Shoreline Trail Program.**

## HB0305S03 compared with HB0305S02

- (1) There is created within the division the Bonneville Shoreline Trail Program.
- (2) The program shall be funded from the following sources:
  - (a) appropriations made to the program by the Legislature; and
  - (b) contributions from other public and private sources.
- (3) [~~All money~~] Money appropriated to the Bonneville Shoreline Trail Program is nonlapsing.
- (4) The Bonneville Shoreline Trail is intended to:
  - (a) follow on or near the old Lake Bonneville shoreline terrace near the foot of the Wasatch Mountains from Juab County through Cache County; and
  - (b) provide continuous and safe trails.
- (5) (a) The program money shall be used to provide grants to local governments for the planning, development, [~~and~~] construction, and the acquisition of key parcels of land of the Bonneville Shoreline Trail.

(b) Grant recipients shall provide matching funds in accordance with Section 79-5-501.

Section ~~{87}~~83. Section **79-6-302** is amended to read:

### **79-6-302. Legislative committee review.**

~~[The Natural Resources, Agriculture, and Environment Interim Committee and the]~~ The Public Utilities, Energy, and Technology Interim Committee shall review the state energy policy annually and propose any changes to the Legislature.

Section ~~{88}~~84. Section **79-6-505** is amended to read:

### **79-6-505. Report to the Legislature.**

The office shall annually provide an electronic report to the Public Utilities, Energy, and Technology Interim Committee~~[, the Natural Resources, Agriculture, and Environment Interim Committee, and the Revenue and Taxation Interim Committee]~~ describing:

- (1) [~~its~~] the office's success in attracting alternative energy projects to the state and the resulting increase in new state revenues under this part;
- (2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and
- (3) the economic impact on the state by comparing new state revenues to tax credits that have been or will be granted under this part.

Section ~~{89}~~85. Section **79-6-605** is amended to read:

## HB0305S03 compared with HB0305S02

### 79-6-605. Report to the Legislature.

The office shall report annually to the Public Utilities, Energy, and Technology Interim Committee[, the Natural Resources, Agriculture, and Environment Interim Committee, and the Revenue and Taxation Interim Committee] describing:

- (1) the office's success in attracting high cost infrastructure projects to the state and the resulting increase in infrastructure-related revenue under this part;
- (2) the amount of tax credits the office has granted or will grant and the time period during which the tax credits have been or will be granted; and
- (3) the economic impact on the state by comparing infrastructure-related revenue to tax credits that have been or will be granted under this part.

Section ~~{90}~~86. Section 79-7-102 is amended to read:

### CHAPTER 7. OUTDOOR RECREATION ACT

#### Part 1. General Provisions

#### 79-7-102. Definitions.

As used in this chapter:

- (1) "Commission" means the Outdoor Adventure Commission created in Section 63C-21-201.
- (2) "Division" means the Division of Outdoor Recreation.

Section ~~{91}~~87. Section 79-7-103, which is renumbered from Section 63N-9-103 is renumbered and amended to read:

#### ~~{63N-9-103}~~. 79-7-103. Policy.

It is the declared policy of the state that outdoor recreation is vital to a diverse economy and a healthy community.

Section ~~{92}~~88. Section 79-7-201 is amended to read:

#### 79-7-201. Division of Outdoor Recreation -- Creation -- Purposes -- Rulemaking authority.

- (1) (a) There is created within the department the Division of Outdoor Recreation.
- (b) The division has the purpose of providing, maintaining, and coordinating motorized and nonmotorized recreation within the state as the recreation authority of the state.
- (2) (a) The division is under the administration and general supervision of the executive director.

## HB0305S03 compared with HB0305S02

(b) The division shall ~~[consult with]~~ notify the commission as provided in statute on issues related to outdoor recreation.

~~[(3) The division is the recreation authority for the state.]~~

~~[(4)]~~ (3) (a) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may make rules, ~~[after consulting with the commission,]~~ when expressly authorized by this chapter~~[-]~~:

(i) regarding issues related to outdoor recreation; and

(ii) after notifying the commission, except for rules made under:

(A) Chapter 5, Recreational Trails; and

(B) Chapter 8, Outdoor Recreation Grants.

(b) ~~[The]~~ In accordance with Subsection (3)(a), the division shall make rules governing the collection of charges under Subsection 79-7-203(8).

Section ~~93~~89. Section **79-7-203** is amended to read:

### **79-7-203. Powers and duties of division.**

(1) As used in this section, "real property" includes land under water, upland, and all other property commonly or legally defined as real property.

(2) The Division of Wildlife Resources shall retain the power and jurisdiction conferred upon the Division of Wildlife Resources by law on property controlled by the division with reference to fish and game.

(3) ~~[The]~~ For purposes of property controlled by the division, the division shall permit multiple [use] uses of the property [controlled by the division] for purposes such as grazing, fishing, hunting, camping, mining, and the development and use of water and other natural resources.

(4) (a) The division may acquire real and personal property in the name of the state by legal and proper means, including purchase, gift, devise, eminent domain, lease, exchange, or otherwise, subject to the approval of the executive director and the governor.

(b) In acquiring real or personal property, the credit of the state may not be pledged without the consent of the Legislature.

(5) (a) Before acquiring any real property, the division shall notify the county legislative body of the county where the property is situated of the division's intention to acquire the property.

## HB0305S03 compared with HB0305S02

(b) If the county legislative body requests a hearing within 10 days of receipt of the notice, the division shall hold a public hearing in the county concerning the matter.

(6) Acceptance of gifts or devises of land or other property is at the discretion of the division, subject to the approval of the executive director and the governor.

(7) The division shall acquire property by eminent domain in the manner authorized by Title 78B, Chapter 6, Part 5, Eminent Domain.

(8) (a) The division may make charges for special services and use of facilities, the income from which is available for recreation purposes.

(b) The division may conduct and operate those services necessary for the comfort and convenience of the public.

(9) (a) The division may lease or rent concessions of lawful kinds and nature on property to persons, partnerships, and corporations for a valuable consideration after [~~consulting with~~] notifying the commission.

(b) The division shall comply with Title 63G, Chapter 6a, Utah Procurement Code, in selecting concessionaires.

(10) The division shall proceed without delay to negotiate with the federal government concerning the Weber Basin and other recreation and reclamation projects.

(11) (a) The division shall coordinate with and annually report to the following regarding land acquisition and development and grants administered under this chapter or Chapter 8, Outdoor Recreation Grants:

~~[(a) the Utah Office of Outdoor Recreation;]~~

~~[(b)]~~ (i) the Division of State Parks; and

~~[(c)]~~ (ii) the Office of Rural Development.

(b) The report required under Subsection (11)(a) shall be in writing, made public, and include a description and the amount of any grant awarded under this chapter or Chapter 8, Outdoor Recreation Grants.

(12) The division shall:

(a) coordinate outdoor recreation policy, management, and promotion:

(i) among state and federal agencies and local government entities in the state;

(ii) with the Public Lands Policy Coordinating Office created in Section 63L-11-201, if public land is involved; and

## HB0305S03 compared with HB0305S02

(iii) on at least a quarterly basis, with the executive director and the executive director of the Governor's Office of Economic Opportunity;

(b) in cooperation with the Governor's Office of Economic Opportunity, promote economic development in the state by:

(i) coordinating with outdoor recreation stakeholders;

(ii) improving recreational opportunities; and

(iii) recruiting outdoor recreation business;

(c) promote all forms of outdoor recreation, including motorized and nonmotorized outdoor recreation;

(d) recommend to the governor and Legislature policies and initiatives to enhance recreational amenities and experiences in the state and help implement those policies and initiatives;

(e) in performing the division's duties, seek to ensure safe and adequate access to outdoor recreation for all user groups and for all forms of recreation;

(f) develop data regarding the impacts of outdoor recreation in the state; and

(g) promote the health and social benefits of outdoor recreation, especially to young people.

(13) By following Title 63J, Chapter 5, Federal Funds Procedures Act, the division may:

(a) seek federal grants or loans;

(b) seek to participate in federal programs; and

(c) in accordance with applicable federal program guidelines, administer federally funded outdoor recreation programs.

(14) The division shall receive and distribute voluntary contributions collected under Section 41-1a-422 in accordance with Section 79-7-303.

Section ~~94~~90. Section **79-7-206** is enacted to read:

**79-7-206. Utah Outdoor Recreation Infrastructure Advisory Committee.**

(1) As used in this section, "committee" means the Utah Outdoor Recreation Infrastructure Advisory Committee created in this section.

(2) (a) There is created within the division the "Utah Outdoor Recreation Infrastructure Advisory Committee" consisting of the following 17 members:

## HB0305S03 compared with HB0305S02

(i) the director of the division, who shall act as chair of the committee;

(ii) the director of the Division of State Parks, or the director of the Division of State Park's designee; and

(iii) the following appointed by the executive director:

(A) one nonvoting representative of a federal land agency;

(B) one nonvoting representative of National Park Service's River, Trails, and Conservation Assistance Program;

(C) one representative of municipal government, recommended by the Utah League of Cities and Towns;

(D) one representative of county government, recommended by the Utah Association of Counties;

(E) two representatives of the outdoor industry;

(F) two representatives of tourism, with one focused in the hotel or lodging sector;

(G) one representative of the healthcare industry;

(H) one representative of multi-ability groups or programs;

(I) one representative of outdoor recreation education programming;

(J) one representative of nonmotorized recreation interests;

(K) one representative of youth conservation or service corps organization; and

(L) two representatives of motorized recreation interests.

(b) At least two of the members of the committee appointed under Subsection (2)(a)(iii) shall represent rural interests.

(3) (a) Except as required by Subsection (3)(b), as terms of committee members appointed under Subsection (2)(a)(iii) expire, the division shall appoint each new member or reappointed member to a four-year term.

(b) Notwithstanding the requirements of Subsection (3)(a), the division shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members appointed under Subsection (2)(a)(iii) are staggered so that approximately half of the committee is appointed every two years.

(c) The executive director may remove an appointed member of the advisory committee at any time, with or without cause.

(d) When a vacancy occurs in the membership for any reason, the executive director

## HB0305S03 compared with HB0305S02

shall appoint the replacement for the unexpired term in the same manner as the original appointment.

(4) The majority of voting members of the committee constitutes a quorum and an action of the majority of voting members present when a quorum is present is action by the committee.

(5) The division shall provide administrative staff support for the committee.

(6) A member may not receive compensation or benefits for the member's service, but a member appointed under Subsection (2)(b) 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.

(7) The committee shall advise and make recommendations to the division regarding:

(a) nonmotorized recreational trails under Chapter 5, Recreational Trails;

(b) grants issued under Chapter 8, Part 2, Recreation Restoration Infrastructure Grant Program;

(c) the administration of the fund created in Section 79-8-304;

(d) grants issued under Chapter 8, Part 3, Utah Children's Outdoor Recreation and Education Grant Program; and

(e) grants issued under Chapter 8, Part 4, Outdoor Recreational Infrastructure Grant Program.

Section ~~95~~91. Section **79-7-303**, which is renumbered from Section 79-4-404 is renumbered and amended to read:

~~[79-4-404].~~ **79-7-303. Zion National Park Support Programs Restricted Account.**

(1) There is created within the General Fund the "Zion National Park Support Programs Restricted Account."

(2) The [account] Zion National Park Support Programs Restricted Account shall be funded by:

(a) contributions deposited into the [account] Zion National Park Support Programs



## HB0305S03 compared with HB0305S02

Restricted Account in accordance with Section 41-1a-422;

- (b) private contributions; or
- (c) donations or grants from public or private entities.

(3) The Legislature shall appropriate [~~funds~~] money in the [~~account~~] Zion National Park Support Programs Restricted Account to the division.

(4) The [~~board~~] division may expend up to 10% of the money appropriated under Subsection (3) to administer account distributions in accordance with Subsections (5) and (6).

(5) The division shall distribute contributions to one or more organizations that:

(a) are exempt from federal income taxation under Section 501(c)(3), Internal Revenue Code;

(b) operate under a written agreement with the National Park Service to provide interpretive, educational, and research activities for the benefit of Zion National Park;

(c) produce and distribute educational and promotional materials on Zion National Park;

(d) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and

(e) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.

(6) (a) An organization described in Subsection (5) may apply to the division to receive a distribution in accordance with Subsection (5).

(b) An organization that receives a distribution from the division in accordance with Subsection (5) shall expend the distribution only to:

(i) produce and distribute educational and promotional materials on Zion National Park;

(ii) conduct educational courses on the history and ecosystem of the greater Zion Canyon area; and

(iii) provide other programs that enhance visitor appreciation and enjoyment of Zion National Park.

(c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after notifying the commission, the division may make rules providing procedures and requirements for an organization to apply to the division to receive a distribution under

## HB0305S03 compared with HB0305S02

Subsection (5).

Section ~~(96)~~92. Section 79-8-102 is amended to read:

### 79-8-102. Definitions.

As used in this chapter:

(1) "Accessible to the general public" in relation to the awarding of an infrastructure grant, means:

(a) the public may use the infrastructure in accordance with federal and state regulations; and

(b) no community or group retains exclusive rights to access the infrastructure.

(2) "Advisory committee" means the Utah Outdoor Recreation Infrastructure Advisory Committee created in Section 79-7-206.

~~(1)~~ (3) "Children," in relation to the awarding of a UCORE grant, means individuals who are six years old or older and 18 years old or younger.

~~(2)~~ (4) "Director" means the director of the Division of Outdoor Recreation.

~~(3)~~ (5) "Division" means the Division of Outdoor Recreation.

~~(4)~~ (6) "Executive director" means the executive director of the Department of Natural Resources.

(7) "Infrastructure grant" means an outdoor recreational infrastructure grant described in Section 79-8-401.

(8) (a) "Recreational infrastructure project" means an undertaking to build or improve an approved facility or installation needed for the public to access and enjoy the state's outdoors.

(b) "Recreational infrastructure project" may include the:

(i) establishment, construction, or renovation of a trail, trail infrastructure, or a trail facility;

(ii) construction of a project for a water-related outdoor recreational activity;

(iii) development of a project for a wildlife watching opportunity, including bird watching;

(iv) development of a project that provides a winter recreation amenity;

(v) construction or improvement of a community park that has an amenity for outdoor recreation; and

## HB0305S03 compared with HB0305S02

(vi) construction or improvement of a naturalistic and accessible playground.

~~[(5)] (9)~~ "UCORE grant" means a children's outdoor recreation and education grant described in Section ~~[79-8-402]~~ 79-8-302.

~~[(6)] (10)~~ (a) "Underserved ~~[or underprivileged]~~ community" means a group of people, including a municipality, county, or American Indian tribe, that is economically disadvantaged.

(b) "Underserved ~~[or underprivileged]~~ community" includes an economically disadvantaged community where in relation to awarding a UCORE grant, the children of the community, including children with disabilities, have limited access to outdoor recreation or education programs.

Section ~~{97}~~93. Section **79-8-103** is amended to read:

### **79-8-103. Outdoor recreation grants.**

To the extent money is available, the division shall administer outdoor recreation grants for the state, including grants that address:

- (1) outdoor recreation in general;
- (2) recreational trails;
- (3) off-highway vehicle incentives;
- (4) boat access and clean vessels; ~~[and]~~
- (5) land, water, and conservation~~[-];~~ and
- (6) outdoor recreation programming.

Section ~~{98}~~94. Section **79-8-106** is amended to read:

### **79-8-106. Outdoor Recreation Infrastructure Account -- Uses -- Costs.**

(1) There is created an expendable special revenue fund known as the "Outdoor Recreation Infrastructure Account," which~~[-(a) the outdoor recreation office]~~ the division shall use to fund:

(a) the Outdoor Recreational Infrastructure Grant Program created in Section ~~[63N-9-202]~~ 79-8-401; and

(b) ~~[the division shall use to fund]~~ the Recreation Restoration Infrastructure Grant Program created in Section 79-8-202.

(2) The account consists of:

- (a) distributions to the account under Section 59-28-103;
- (b) interest earned on the account;

## HB0305S03 compared with HB0305S02

(c) appropriations made by the Legislature;

(d) money from a cooperative agreement entered into with the United States Department of Agriculture or the United States Department of the Interior; and

(e) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The division shall, with the advice of the [~~Utah Outdoor Recreation Grant Advisory Committee created in Section 79-8-105~~] advisory committee, administer the account.

(4) [(a)] The cost of administering the account shall be paid from money in the account.

[(b) ~~The cost of two full-time positions in the Utah Office of Outdoor Recreation in an amount agreed to by the division and the Utah Office of Outdoor Recreation shall be paid from money in the account.~~]

(5) Interest accrued from investment of money in the account shall remain in the account.

Section ~~{99}~~95. Section **79-8-201** is amended to read:

### **79-8-201. Definitions.**

As used in this part:

[(1) ~~"Advisory committee" means the Utah Outdoor Recreation Grant Advisory Committee created in Section 79-8-105.~~]

[(2)] (1) "Grant program" means the Recreation Restoration Infrastructure Grant Program created in Section 79-8-202.

[(3)] (2) "High demand outdoor recreation amenity" means infrastructure necessary for a campground, picnic area, or water recreation structure such as a dock, pier, or boat ramp that receives or has received heavy use by the public.

[(4)] (3) "High priority trail" means a motorized or nonmotorized recreation summer-use trail and related infrastructure that is prioritized by the advisory committee for restoration or rehabilitation to maintain usability and sustainability of trails that receive or have received high use by the public.

[(5)] (4) "Public lands" includes local, state, and federal lands.

[(6)] (5) "Rehabilitation or restoration" means returning an outdoor recreation structure or trail that has been degraded, damaged, or destroyed to its previously useful state by means of

## HB0305S03 compared with HB0305S02

repair, modification, or alteration.

Section ~~{100}~~96. Section 79-8-202 is amended to read:

### 79-8-202. Creation of grant program.

(1) (a) There is created the "Recreation Restoration Infrastructure Grant Program" administered by the division.

(b) Subject to Subsection (1)(c), 5% percent of the unencumbered amount in the [~~Utah~~] Outdoor Recreation Infrastructure Account, created in Section 79-8-106, at the beginning of each fiscal year may be used for the grant program.

(c) The percentage outlined in Subsection (1)(b) may be increased or decreased at the beginning of a fiscal year if approved by the executive director after consultation with the director and the advisory committee.

(2) The division may seek to accomplish the following objectives in administering the grant program:

- (a) rehabilitate or restore high priority trails for both motorized and nonmotorized uses;
- (b) rehabilitate or restore high demand recreation areas on public lands; and
- (c) encourage the public land entities to engage with volunteer groups to aid with portions of needed trail work.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules, after consulting with [~~the Outdoor Adventure Commission~~] the advisory committee, establishing the eligibility and reporting criteria for an entity to receive a recreation restoration infrastructure grant, including:

- (a) the form and process of submitting annual project proposals to the division for a recreation restoration infrastructure grant;
- (b) which entities are eligible to apply for a recreation restoration infrastructure grant;
- (c) specific categories of recreation restoration projects that are eligible for a recreation restoration infrastructure grant;
- (d) the method and formula for determining recreation restoration infrastructure grant amounts; and
- (e) the reporting requirements of a recipient of a recreation restoration infrastructure grant.

Section ~~{101}~~97. Section 79-8-302 is amended to read:

## HB0305S03 compared with HB0305S02

### 79-8-302. Creation and purpose of the UCORE grant program.

(1) There is created the Utah Children's Outdoor Recreation and Education Grant Program administered by the division.

(2) The division may seek to accomplish the following objectives in administering the UCORE grant program:

(a) promote the health and social benefits of outdoor recreation to the state's children;

(b) encourage children to develop the skills and confidence to be physically active for life;

(c) provide outdoor recreational opportunities to underserved [~~or underprivileged~~] communities in the state; and

(d) encourage hands-on outdoor or nature-based learning and play to prepare children for achievement in science, technology, engineering, and math.

Section ~~{102}~~98. Section 79-8-303 is amended to read:

### 79-8-303. Rulemaking and requirements for awarding a UCORE grant.

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division, after consulting with the [~~Outdoor Adventure Commission~~] advisory committee, shall make rules establishing the eligibility and reporting criteria for an entity to receive a UCORE grant, including:

(a) the form and process of submitting an application to the division for a UCORE grant;

(b) which entities are eligible to apply for a UCORE grant;

(c) specific categories of children's programs that are eligible for a UCORE grant;

(d) the method and formula for determining grant amounts; and

(e) the reporting requirements of grant recipients.

(2) In determining the award of a UCORE grant, the division may prioritize a children's program that will serve an [~~underprivileged or~~] underserved community in the state.

(3) A UCORE grant may only be awarded by the executive director after consultation with the director and the [~~Outdoor Adventure Commission~~] advisory committee.

(4) The following entities may not receive a UCORE grant under this part:

(a) a federal government entity;

(b) a state agency, except for public schools and institutions of higher education; and

## HB0305S03 compared with HB0305S02

(c) a for-profit entity.

(5) In awarding UCORE grants, consideration shall be given to entities that implement programs that:

(a) contribute to healthy and active lifestyles through outdoor recreation; and

(b) include one or more of the following attributes in their programs or initiatives:

(i) serve children with the greatest needs in rural, suburban, and urban areas of the state;

(ii) provide students with opportunities to directly experience nature;

(iii) maximize the number of children who can participate;

(iv) commit matching and in-kind resources;

(v) create partnerships with public and private entities;

(vi) include ongoing program evaluation and assessment;

(vii) ~~utilize~~ use veterans in program implementation;

(viii) include outdoor or nature-based programming that incorporates concept learning in science, technology, engineering, or math; or

(ix) ~~utilize~~ use educated volunteers in program implementation.

Section ~~103~~99. Section 79-8-304 is amended to read:

**79-8-304. Utah Children's Outdoor Recreation and Education Fund -- Uses --**

### **Costs.**

(1) There is created an expendable special revenue fund known as the "Utah Children's Outdoor Recreation and Education Fund," which the division shall use to fund the Utah Children's Outdoor Recreation and Education Grant Program created in Section 79-8-302.

(2) The fund consists of:

(a) appropriations made by the Legislature;

(b) interest earned on the account; and

(c) private donations, grants, gifts, bequests, or money made available from any other source to implement this part.

(3) The division shall, with the advice of [~~the Utah Outdoor Recreation Grant Advisory Committee created in Section 79-8-105~~] the advisory committee, administer the fund.

(4) The cost of administering the fund shall be paid from money in the fund.

(5) Interest accrued from investment of money in the fund shall remain in the fund.

## HB0305S03 compared with HB0305S02

Section ~~{104}~~100. Section **79-8-401**, which is renumbered from Section 63N-9-202 is renumbered and amended to read:

### **Part 4. Outdoor Recreational Infrastructure Grant Program**

~~[63N-9-202]~~. **79-8-401. Creation and purpose of infrastructure grant program.**

(1) There is created the Outdoor Recreational Infrastructure Grant Program administered by the ~~[outdoor recreation office]~~ division.

(2) The ~~[outdoor recreation office]~~ division may seek to accomplish the following objectives in administering the infrastructure grant program:

(a) build, maintain, and promote recreational infrastructure to provide greater access to low-cost outdoor recreation for the state's citizens;

(b) encourage residents and nonresidents of the state to take advantage of the beauty of Utah's outdoors;

(c) encourage individuals and businesses to relocate to the state;

(d) promote outdoor exercise; and

(e) provide outdoor recreational opportunities to an underserved ~~[or underprivileged]~~ community in the state.

(3) The advisory committee shall advise and make recommendations to the ~~[outdoor recreation office]~~ division regarding infrastructure grants.

Section ~~{105}~~101. Section **79-8-402**, which is renumbered from Section 63N-9-203 is renumbered and amended to read:

~~[63N-9-203]~~. **79-8-402. Rulemaking and requirements for awarding an infrastructure grant.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and after consultation with the advisory committee, the ~~[outdoor recreation office]~~ division shall make rules establishing the eligibility and reporting criteria for an entity to receive an infrastructure grant, including:

(a) the form and process of submitting an application to the ~~[outdoor recreation office]~~ division for an infrastructure grant;

(b) which entities are eligible to apply for an infrastructure grant;

(c) specific categories of recreational infrastructure projects that are eligible for an



## HB0305S03 compared with HB0305S02

infrastructure grant;

- (d) the method and formula for determining grant amounts; and
- (e) the reporting requirements of grant recipients.

(2) In determining the award of an infrastructure grant, the [~~outdoor recreation office~~] division may prioritize a recreational infrastructure project that will serve an [~~underprivileged~~ or] underserved community.

(3) An infrastructure grant may only be awarded by the executive director after consultation with the director and the [~~GO Utah board~~] advisory committee.

(4) The following entities may not receive an infrastructure grant under this part:

- (a) a federal government entity;
- (b) a state agency; and
- (c) a for-profit entity.

(5) An infrastructure grant may only be awarded under this part:

- (a) for a recreational infrastructure project that is accessible to the general public; and
- (b) subject to Subsections (6) and (7), if the grant recipient agrees to provide matching

funds having a value:

(i) equal to or greater than the amount of the infrastructure grant[?]; or

(ii) established in accordance with rules made by the division, after consultation with the advisory committee, and in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) Up to 50% of the grant recipient match described in Subsection (5)(b) may be provided through an in-kind contribution by the grant recipient, if:

- (a) approved by the executive director after consultation with the director and the [~~GO Utah board~~] advisory committee; and
- (b) the in-kind donation does not include real property.

(7) An infrastructure grant may not be awarded under this part if the grant, or the grant recipient match described in Subsection (5)(b), will be used for the purchase of real property or for the purchase or transfer of a conservation easement.

Section ~~106~~ 102. **Repealer.**

This bill repeals:

Section **11-38-101, Title.**

## HB0305S03 compared with HB0305S02

Section 11-38-201, Quality Growth Commission -- Term of office -- Vacancy --  
**Organization -- Expenses -- Staff.**

Section 11-38-203, Commission may provide assistance to local entities.

Section 63N-9-101, Title.

Section 63N-9-102, Definitions.

Section 63N-9-104, Creation of outdoor recreation office and appointment of  
**director -- Responsibilities of outdoor recreation office.**

Section 63N-9-105, Duties of director.

Section 63N-9-106, Annual report.

Section 63N-9-201, Title.

Section 79-5-201, Recreational Trails Advisory Council.

Section 79-5-202, Council membership -- Expenses.

Section 79-7-101, Title.

Section 79-8-104, Annual report.

Section 79-8-105, Utah Outdoor Recreation Grant Advisory Committee --  
**Membership -- Duties -- Expenses.**

Section ~~{107}~~103. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

### ITEM 1

To Department of Natural Resources -- ~~{Conservation}~~Pass Through

From General Fund

\$130,000

Schedule of Programs:

~~{Conservation}~~Pass Through

\$130,000

The Legislature intends that the money appropriated under this item be used only for the purpose of conservation efforts in accordance with Subsection 79-2-202(5) enacted in this bill.

## HB0305S03 compared with HB0305S02

### ITEM 2

To Department of Natural Resources -- ~~{Outdoor}~~ Recreation Management

From General Fund \$150,000

Schedule of Programs:

~~{Outdoor}~~ Recreation ~~{Administration}~~ Management

\$150,000

The Legislature intends that the money appropriated under this item be used for the administration of the Division of Outdoor Recreation in accordance with this bill.

### ITEM 3

To Department of Agriculture and Food -- Conservation

From General Fund \$120,000

Schedule of Programs:

Conservation Administration \$120,000

The Legislature intends that the money appropriated under this item be used for conservation efforts in accordance with this bill.

### ITEM 4

To Governor's Office of Economic Opportunity

From General Fund (\$338,700)

Schedule of Programs:

~~{Outdoor Recreation}~~ ~~—————~~ Business Outreach &

International Trade (\$338,700)

### ITEM 5

To Department of Natural Resources -- ~~{Outdoor}~~ Recreation Management

From General Fund \$338,700

Schedule of Programs:

~~{Outdoor}~~ Recreation ~~{—————}~~ Management

\$338,700

The Legislature intends that, at the close of fiscal year 2022, the Division of Finance transfer any fiscal year ~~{2021}~~ 2022 closing nonlapsing balances or carry forward funding in support of the Office of Outdoor Recreation to the Department of Natural Resources - ~~{Outdoor}~~ Recreation Management, as fiscal year 2023 beginning nonlapsing balances.

## HB0305S03 compared with HB0305S02

Section ~~{108}~~104. **Effective date.**

This bill takes effect on July 1, 2022.

Section ~~{109}~~105. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication on July 1, 2022:

(1) replace the references in Subsections 4-46-104(1)(a) and (2) from "this bill" to the bill's designated chapter number in the Laws of Utah;

(2) replace the references in Subsections 79-2-206(2)(c), (4)(a)(i) and (4)(b) from "this bill" to the bill's designated chapter number in the Laws of Utah;

(3) replace cross references to sections renumbered by this bill that are added to the Utah Code by legislation passed during the 2022 General Session that become law;

(4) replace references to the "Division of Recreation" to the "Division of Outdoor Recreation" in any new language added to the Utah Code by legislation, other than Section 79-2-206, passed during the 2022 General Session that becomes law; and

(5) replace references to the "Quality Growth Commission" to the "Land Conservation Board" in any new language added to the Utah Code by legislation, other than Section 4-46-104, passed during the 2022 General Session that becomes law.