

HB0031S01 compared with HB0031

~~{deleted text}~~ shows text that was in HB0031 but was deleted in HB0031S01.

inserted text shows text that was not in HB0031 but was inserted into HB0031S01.

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Representative Casey Snider proposes the following substitute bill:

WILDLIFE RESOURCES RECODIFICATION CROSS

REFERENCES

2023 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Casey Snider

Senate Sponsor: Scott D. Sandall

LONG TITLE

~~{Committee Note:~~

~~— The Natural Resources, Agriculture, and Environment Interim Committee recommended this bill.~~

~~— Legislative Vote: 16 voting for 0 voting against 3 absent~~

~~}General Description:~~

~~This bill addresses cross references related to the recodification of Title 23, Wildlife Resources Code of Utah.~~

Highlighted Provisions:

This bill:

- ▶ changes relevant cross references; and

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- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

4-14-102, as last amended by Laws of Utah 2018, Chapter 457

4-23-106, as last amended by Laws of Utah 2020, Chapter 311

4-34-108, as enacted by Laws of Utah 2022, Chapter 53

4-37-103, as last amended by Laws of Utah 2017, Chapter 412

4-37-108, as last amended by Laws of Utah 2017, Chapter 412

4-37-111, as last amended by Laws of Utah 2017, Chapter 412

4-37-204, as last amended by Laws of Utah 2022, Chapter 79

4-39-401, as last amended by Laws of Utah 2018, Chapter 355

4-46-103, as enacted by Laws of Utah 2022, Chapter 68

4-46-401, as enacted by Laws of Utah 2022, Chapter 68

10-2-403, as last amended by Laws of Utah 2021, Chapter 112

11-3-10, as last amended by Laws of Utah 1993, Chapter 234

11-41-102, as last amended by Laws of Utah 2022, Chapter 307

11-46-302, as enacted by Laws of Utah 2011, Chapter 130

11-51a-201, as enacted by Laws of Utah 2015, Chapter 419

11-65-206, as enacted by Laws of Utah 2022, Chapter 59

17-27a-401, as last amended by Laws of Utah 2022, Chapters 282, 406

24-4-115, as last amended by Laws of Utah 2022, Chapter 179

41-1a-422, as last amended by Laws of Utah 2022, Chapters 19, 48, 68, 255, 259, 335, 451, and 456

51-9-402, as last amended by Laws of Utah 2020, Chapter 230

53-2a-208, as last amended by Laws of Utah 2022, Chapter 39

53-2a-1102, as last amended by Laws of Utah 2022, Chapters 68, 73

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53-7-221, as last amended by Laws of Utah 2018, Chapter 189
53-13-103, as last amended by Laws of Utah 2021, Chapter 349
57-14-202, as last amended by Laws of Utah 2021, Chapter 41
57-14-204, as last amended by Laws of Utah 2022, Chapter 68
58-79-102, as last amended by Laws of Utah 2020, Chapters 316, 376
59-2-301.5, as enacted by Laws of Utah 2013, Chapter 96
63A-16-803, as renumbered and amended by Laws of Utah 2021, Chapter 344
63A-17-512, as renumbered and amended by Laws of Utah 2021, Chapter 344
63G-7-201, as last amended by Laws of Utah 2021, Chapter 352
63G-21-201, as last amended by Laws of Utah 2022, Chapter 419
63I-1-223, as last amended by Laws of Utah 2020, Chapters 154, 232
63I-2-223, as last amended by Laws of Utah 2012, Chapter 369
63J-1-602.1, as last amended by Laws of Utah 2022, Chapters 48, 191, 255, 335, 415,
and 451
63J-1-602.2, as last amended by Laws of Utah 2022, Chapters 59, 68, 154, 224, 236,
242, and 447 and last amended by Coordination Clause, Laws of Utah 2022,
Chapter 154
63L-7-106, as enacted by Laws of Utah 2014, Chapter 323
63L-8-303, as enacted by Laws of Utah 2016, Chapter 317
63L-8-304, as last amended by Laws of Utah 2017, Chapter 451
72-9-501, as last amended by Laws of Utah 2021, Chapter 239
73-3-30, as last amended by Laws of Utah 2022, Chapter 43
73-18-26, as last amended by Laws of Utah 2020, Chapter 195
73-29-102, as enacted by Laws of Utah 2010, Chapter 410
73-30-201, as last amended by Laws of Utah 2020, Chapter 352
76-9-301, as last amended by Laws of Utah 2021, Chapter 57
76-10-504, as last amended by Laws of Utah 2021, Chapter 12
76-10-508, as last amended by Laws of Utah 2019, Chapter 39
76-10-508.1, as last amended by Laws of Utah 2019, Chapter 39
76-10-1602, as last amended by Laws of Utah 2022, Chapters 181, 185
77-20-204, as enacted by Laws of Utah 2021, Second Special Session, Chapter 4

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77-23-104, as last amended by Laws of Utah 2001, Chapter 168

78A-5-110, as last amended by Laws of Utah 2022, Chapter 68

78A-7-106, as last amended by Laws of Utah 2022, Chapters 155, 318

78A-7-120, as last amended by Laws of Utah 2022, Chapters 68, 89

78B-6-501, as last amended by Laws of Utah 2021, Chapter 41

79-1-104, as enacted by Laws of Utah 2022, Chapter 68

79-2-102, as enacted by Laws of Utah 2009, Chapter 344

79-2-201, as last amended by Laws of Utah 2022, Chapter 68

79-2-601, as enacted by Laws of Utah 2022, Chapter 51

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

Section 1. Section 4-14-102 is amended to read:

4-14-102. Definitions.

As used in this chapter:

(1) "Active ingredient" means an ingredient that:

- (a) prevents, destroys, repels, controls, or mitigates pests; or
- (b) acts as a plant regulator, defoliant, or desiccant.

(2) "Adulterated pesticide" means a pesticide with a strength or purity that is below the standard of quality expressed on the label under which the pesticide is offered for sale.

(3) "Animal" means all vertebrate or invertebrate species.

(4) "Beneficial insect" means an insect that is:

- (a) an effective pollinator of plants;
- (b) a parasite or predator of pests; or
- (c) otherwise beneficial.

(5) "Certified applicator" means an individual who is licensed by the department to apply:

- (a) a restricted use pesticide; or
- (b) a general use pesticide for hire or in exchange for compensation.

(6) "Certified qualified applicator" means a certified applicator who is eligible to act as a qualifying party.

(7) "Defoliant" means a substance or mixture intended to cause leaves or foliage to

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drop from a plant, with or without causing abscission.

(8) "Desiccant" means a substance or mixture intended to artificially accelerate the drying of plant or animal tissue.

(9) "Distribute" means to offer for sale, sell, barter, ship, deliver for shipment, receive, deliver, or offer to deliver pesticides in this state.

(10) "Environment" means all living plants and animals, water, air, land, and the interrelationships that exist between them.

(11) (a) "Equipment" means any type of ground, water, or aerial equipment or contrivance using motorized, mechanical, or pressurized power to apply a pesticide.

(b) "Equipment" does not mean any pressurized hand-sized household apparatus used to apply a pesticide or any equipment or contrivance used to apply a pesticide that is dependent solely upon energy expelled by the person making the pesticide application.

(12) "EPA" means the United States Environmental Protection Agency.

(13) "FIFRA" means the Federal Insecticide, Fungicide, and Rodenticide Act.

(14) (a) "Fungus" means a nonchlorophyll-bearing thallophyte or a nonchlorophyll-bearing plant of an order lower than mosses and liverworts, including rust, smut, mildew, mold, yeast, and bacteria.

(b) "Fungus" does not include fungus existing on or in:

(i) a living person or other animal; or

(ii) processed food, beverages, or pharmaceuticals.

(15) "Herbicide" means a substance that is toxic to plants and is used to control or eliminate unwanted vegetation.

(16) "Insect" means an invertebrate animal generally having a more or less obviously segmented body:

(a) usually belonging to the Class Insecta, comprising six-legged, usually winged forms, including beetles, bugs, bees, and flies; and

(b) allied classes of arthropods that are wingless usually having more than six legs, including spiders, mites, ticks, centipedes, and wood lice.

(17) "Label" means any written, printed, or graphic matter on, or attached to, a pesticide or a container or wrapper of a pesticide.

(18) (a) "Labeling" means all labels and all other written, printed, or graphic matter:

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(i) accompanying a pesticide or equipment; or

(ii) to which reference is made on the label or in literature accompanying a pesticide or equipment.

(b) "Labeling" does not include any written, printed, or graphic matter created by the EPA, the United States Departments of Agriculture or Interior, the United States Department of Health, Education, and Welfare, state experimental stations, state agricultural colleges, and other federal or state institutions or agencies authorized by law to conduct research in the field of pesticides.

(19) "Land" means land, water, air, and plants, animals, structures, buildings, contrivances, and machinery appurtenant or situated thereon, whether fixed or mobile, including any used for transportation.

(20) "Misbranded" means any label or labeling that is false or misleading or that does not strictly comport with the label and labeling requirements set forth in Section 4-14-104.

(21) "Misuse" means use of any pesticide in a manner inconsistent with the pesticide's label or labeling.

(22) "Nematode" means invertebrate animals of the Phylum Nematelminthes and Class Nematoda, including unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, also known as nemas or eelworms.

(23) "Ornamental and turf pest control" means the use of a pesticide to control ornamental and turf pests in the maintenance and protection of ornamental trees, shrubs, flowers, or turf.

(24) (a) "Pest" means:

(i) any insect, rodent, nematode, fungus, weed; or

(ii) any other form of terrestrial or aquatic plant or animal life, virus, bacteria, or other microorganism that is injurious to health or to the environment or that the department declares to be a pest.

(b) "Pest" does not include:

(i) viruses, bacteria, or other microorganisms on or in a living person or other living animal; or

(ii) protected wildlife species identified in Section ~~[23-13-2]~~ 23A-1-101 that are regulated by the Division of Wildlife Resources in accordance with Sections ~~[23-14-1 through~~

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~~23-14-3]~~ 23A-2-102, 23A-2-201, 23A-2-301, 23A-2-302, and 23A-2-303.

(25) "Pesticide" means any:

(a) substance or mixture of substances, including a living organism, that is intended to prevent, destroy, control, repel, attract, or mitigate any insect, rodent, nematode, snail, slug, fungus, weed, or other form of plant or animal life that is normally considered to be a pest or that the commissioner declares to be a pest;

(b) any substance or mixture of substances intended to be used as a plant regulator, defoliant, or desiccant;

(c) any spray adjuvant, such as a wetting agent, spreading agent, deposit builder, adhesive, or emulsifying agent with deflocculating properties of its own used with a pesticide to aid the pesticide's application or effect; and

(d) any other substance designated by the department by rule.

(26) "Pesticide applicator" is a person who:

(a) applies or supervises the application of a pesticide; and

(b) is required by this chapter to have a license.

(27) (a) "Pesticide applicator business" means an entity that:

(i) is authorized to do business in this state; and

(ii) offers pesticide application services.

(b) "Pesticide applicator business" does not include an individual licensed agricultural applicator who may work for hire.

(28) "Pesticide dealer" means any person who distributes restricted use pesticides.

(29) (a) "Plant regulator" means any substance or mixture intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation, or otherwise alter the behavior of ornamental or crop plants.

(b) "Plant regulator" does not include plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(30) "Qualifying party" means a certified qualified applicator who is the owner or employee of a pesticide applicator business and who is registered with the department as the individual responsible for ensuring the training, equipping, and supervision of all pesticide applicators who work for the pesticide applicator business.

(31) "Restricted use pesticide" means:

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(a) a pesticide, including a highly toxic pesticide, that is a serious hazard to beneficial insects, animals, or land; or

(b) any pesticide or pesticide use restricted by the administrator of EPA or by the commissioner.

(32) "Spot treatment" means the limited application of an herbicide to an area that is no more than 5% of the potential treatment area or one-twentieth of an acre, whichever is smaller, using equipment that is designed to contain no more than five gallons of mixture.

(33) "Weed" means any plant that grows where not wanted.

(34) "Wildlife" means all living things that are neither human, domesticated, nor pests.

Section 2. Section **4-23-106** is amended to read:

4-23-106. Department to issue licenses and permits -- Department to issue aircraft use permits -- Aerial hunting.

(1) The department is responsible for the issuance of permits and licenses for the purposes of the federal Fish and Wildlife Act of 1956.

(2) A private person may not use an aircraft for the prevention of damage without first obtaining a use permit from the department.

(3) The department may issue an annual permit for aerial hunting to a private person for the protection of land, water, wildlife, livestock, domesticated animals, human life, or crops, if the person shows that the person or the person's designated pilot, along with the aircraft to be used in the aerial hunting, are licensed and qualified in accordance with the requirements of the department set by rule.

(4) The department may predicate the issuance or retention of a permit for aerial hunting upon the permittee's full and prompt disclosure of information as the department may request for submission pursuant to rules made by the department.

(5) The department shall collect an annual fee, set in accordance with Section 63J-1-504, from a person who has an aircraft for which a permit is issued or renewed under this section.

(6) Aerial hunting activity under a permit issued by the department is restricted to:

(a) (i) private lands that are owned or managed by the permittee;

(ii) state grazing allotments where the permittee is permitted by the state or the State Institutional Trust Lands Administration to graze livestock; or

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(iii) federal grazing allotments where the permittee is permitted by the United States Bureau of Land Management or United States Forest Service to graze livestock; and

(b) only during the time period for which the private land owner has provided written permission for the aerial hunting.

(7) The department shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to carry out the purpose of this section.

(8) The issuance of an aerial hunting permit or license under this section does not authorize the holder to use aircraft to hunt, pursue, shoot, wound, kill, trap, capture, or collect protected wildlife, as defined in Section [~~23-13-2~~] 23A-1-101, unless also authorized by the Division of Wildlife Resources under Section [~~23-20-12~~] 23A-5-315.

Section 3. Section **4-34-108** is amended to read:

4-34-108. Donation of wild game meat.

(1) As used in this section:

(a) "Big game" means the same as that term is defined in Section [~~23-13-2~~] 23A-1-101.

(b) "Custom meat processor" means a person who processes meat but is exempt from licensure under Section 4-32-106 as a licensed meat establishment.

(c) "Department" means the Department of Agriculture and Food.

(2) Wild game, including big game, lawfully taken by a licensed hunter may be donated to a nonprofit charitable organization to feed individuals in need.

(3) Donated wild game meat shall meet the following conditions:

(a) come from an animal in apparent good health before harvest of the animal;

(b) come from an animal with intact intestines;

(c) be field-dressed immediately after harvest of the animal and be handled in a manner in keeping with generally accepted wild game handling procedures;

(d) be processed by a custom meat processor as soon as possible after harvest of the animal;

(e) be clearly marked as "not for sale";

(f) be clearly marked as "donated wild game meat" in letters not less than [~~three-eighths~~] three-eighths of an inch in height; and

(g) may not come from a road-kill animal and a road-kill animal may not be donated under this section.

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(4) (a) A donor or custom meat processor of the wild game meat being donated shall advise the nonprofit charitable organization receiving the donated wild game meat that the donated wild game meat should be thoroughly cooked before human consumption.

(b) Before serving donated wild game meat, the nonprofit charitable organization shall prominently post a sign indicating:

- (i) that the donated wild game meat is donated wild game meat;
- (ii) the type of meat processing used; and
- (iii) that the meat has not been inspected.

(5) The Department of Natural Resources may donate wild game meat in the Department of Natural Resources' possession if this section is followed.

(6) A person may not buy, sell, or offer for sale or barter donated wild game meat.

(7) The department may examine, sample, seize, or condemn donated wild game meat if the department has reason to believe that the donated wild game meat is unwholesome under Chapter 5, Utah Wholesome Food Act.

Section 4. Section **4-37-103** is amended to read:

4-37-103. Definitions.

As used in this chapter:

(1) "Aquaculture" means the controlled cultivation of aquatic animals.

(2) (a) (i) "Aquaculture facility" means any tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture.

(ii) "Aquaculture facility" does not include any public aquaculture facility or fee fishing facility.

(b) Structures that are separated by more than 1/2 mile, or structures that drain to or are modified to drain to, different drainages, are considered separate aquaculture facilities regardless of ownership.

(3) (a) "Aquatic animal" means a member of any species of fish, mollusk, crustacean, or amphibian.

(b) "Aquatic animal" includes a gamete of any species listed in Subsection (3)(a).

(4) "Fee fishing facility" means a body of water used for holding or rearing fish for the purpose of providing fishing for a fee or for pecuniary consideration or advantage.

(5) "Natural flowing stream" means the same as that term is defined in Section

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[23-13-2] 23A-1-101.

(6) "Natural lake" means the same as that term is defined in Section [23-13-2] 23A-1-101.

(7) "Private fish pond" means the same as that term is defined in Section [23-13-2] 23A-1-101.

(8) "Public aquaculture facility" means a tank, canal, raceway, pond, off-stream reservoir, or other structure used for aquaculture by the Division of Wildlife Resources, U.S. Fish and Wildlife Service, a mosquito abatement district, or an institution of higher education.

(9) "Public fishery resource" means fish produced in public aquaculture facilities and wild and free ranging populations of fish in the surface waters of the state.

(10) "Reservoir constructed on a natural stream channel" means the same as that term is defined in Section [23-13-2] 23A-1-101.

(11) "Short-term fishing event" means the same as that term is defined in Section [23-13-2] 23A-1-101.

Section 5. Section **4-37-108** is amended to read:

4-37-108. Prohibited activities.

(1) Except as provided in this chapter, in the rules of the department made pursuant to Section 4-37-109, rules of the Fish Health Policy Board made pursuant to Section 4-37-503, or in the rules of the Wildlife Board governing species of aquatic animals which may be imported into, possessed, transported, or released within the state, a person may not:

(a) acquire, import, or possess aquatic animals intended for use in an aquaculture or fee fishing facility;

(b) transport aquatic animals to or from an aquaculture or fee fishing facility;

(c) stock or propagate aquatic animals in an aquaculture or fee fishing facility;

(d) harvest, transfer, or sell aquatic animals from an aquaculture or fee fishing facility;

or

(e) release aquatic animals into the waters of the state.

(2) If a person commits an act in violation of Subsection (1) and that same act constitutes wanton destruction of protected wildlife as provided in Section [23-20-4] 23A-5-311, the person is guilty of a violation of Section ~~(1)~~ [23-20-4] 23A-5-311.

Section 6. Section **4-37-111** is amended to read:

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4-37-111. Prohibited sites.

(1) Except as provided in Subsection (2), an aquaculture facility or a fee fishing facility may not be developed on:

- (a) a natural lake;
- (b) a natural flowing stream; or
- (c) a reservoir constructed on a natural stream channel.

(2) The Division of Wildlife Resources may authorize an aquaculture facility, public aquaculture facility, or fee fishing facility on a natural lake or reservoir constructed on a natural stream channel upon inspecting and determining:

(a) the facility and inlet source of the facility neither contain wild game fish nor are likely to support such species in the future;

(b) the facility and the facility's intended use will not jeopardize conservation of aquatic wildlife or lead to the privatization or commercialization of aquatic wildlife;

(c) the facility is properly screened as provided in Subsection [~~23-15-10(3)(c)~~] 23A-9-203(3)(c) and otherwise in compliance with the requirements of this title, rules of the Wildlife Board, and applicable law; and

(d) the facility is not vulnerable to flood or high water events capable of compromising the facility's inlet or outlet screens and allowing escapement of privately owned fish into waters of the state.

(3) Any authorization issued by the Division of Wildlife Resources under Subsection (2) shall be in the form of a certificate of registration.

Section 7. Section **4-37-204** is amended to read:

4-37-204. Sale of aquatic animals from aquaculture facilities.

(1) (a) Except as provided by Subsection (1)(c) and subject to Subsection (1)(b), a person holding a license for an aquaculture facility may take an aquatic animal as approved on the license from the facility at any time and offer the aquatic animal for sale.

(b) A live aquatic animal may be sold within Utah only to a person who:

- (i) has been issued a license to possess the aquatic animal; or
- (ii) is eligible to receive the aquatic animal without a certificate of registration under Wildlife Board rules.

(c) A person who owns or operates an aquaculture facility may sell live aquatic animals

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if the person:

(i) obtains a health approval number for the aquaculture facility;

(ii) inspects the pond or holding facility to verify that the pond or facility is in compliance with Subsections [~~23-15-10(2)~~] 23A-9-203(2) and (3)(c); and

(iii) stocks the species and reproductive capability of aquatic animals authorized by the Wildlife Board in accordance with Section [~~23-15-10~~] 23A-9-203 for stocking in the area where the pond or holding facility is located.

(2) An aquatic animal sold or transferred by the owner or operator of an aquaculture facility shall be accompanied by the seller's receipt that contains the following information:

- (a) date of transaction;
- (b) name, address, license number, and health approval number;
- (c) number and weight of aquatic animal by:
 - (i) species; and
 - (ii) reproductive capability; and
- (d) name and address of the receiver.

(3) (a) A person holding a license for an aquaculture facility shall submit to the department an annual report of each sale of live aquatic animals or each transfer of live aquatic animals in Utah. The department shall forward the report to the Division of Wildlife Resources. The department or Division of Wildlife Resources may request copies of receipts from an aquaculture facility.

- (b) The report shall contain the following information:
- (i) name, address, and license number of the seller or supplier;
 - (ii) number and weight of aquatic animals by species and reproductive capacity;
 - (iii) date of sale or transfer; and
 - (iv) name, address, phone number, and license number of the receiver.

(4) Geographic coordinates of the stocking location shall be provided if the receiver is eligible to stock the aquatic animal without a certificate of registration under Wildlife Board rules.

(5) A report required by Subsection (3) shall be submitted before:

- (a) a license is renewed or a subsequent license is issued; or
- (b) a health approval number is issued.

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Section 8. Section **4-39-401** is amended to read:

4-39-401. Escape of domesticated elk -- Liability.

- (1) The owner shall try to capture domesticated elk that escape.
- (2) The escape of a domesticated elk shall be reported immediately to the domestic elk program manager, who shall notify the Division of Wildlife Resources.
- (3) If the domesticated elk is not recovered within 72 hours of the escape, the department, in conjunction with the Division of Wildlife Resources, shall take whatever action is necessary to resolve the problem.
- (4) The owner shall reimburse the state or a state agency for any reasonable recapture costs incurred in the recapture or destruction of an escaped domesticated elk.
- (5) An escaped domesticated elk taken by a licensed hunter in a manner that complies with the provisions of [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, and the rules of the Wildlife Board shall be considered a legal taking and neither the licensed hunter, the state, nor a state agency shall be liable to the owner for the killing.
- (6) The owner shall be responsible for containing the domesticated elk to ensure that there is no spread of disease from domesticated elk to wild elk and that the genetic purity of wild elk is protected.

Section 9. Section **4-46-103** is amended 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~~] Title 23A, Wildlife Resources Act, 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 10. Section **4-46-401** is amended to read:

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.

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(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~~] 23A-3-204; 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 11. Section **10-2-403** is amended to read:

10-2-403. Annexation petition -- Requirements -- Notice required before filing.

(1) Except as provided in Section 10-2-418, the process to annex an unincorporated area to a municipality is initiated by a petition as provided in this section.

(2) (a) (i) Before filing a petition under Subsection (1), the person or persons intending to file a petition shall:

(A) file with the city recorder or town clerk of the proposed annexing municipality a notice of intent to file a petition; and

(B) send a copy of the notice of intent to each affected entity.

(ii) Each notice of intent under Subsection (2)(a)(i) shall include an accurate map of the area that is proposed to be annexed.

(b) (i) Subject to Subsection (2)(b)(ii), the county in which the area proposed to be annexed is located shall:

(A) mail the notice described in Subsection (2)(b)(iii) to:

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(I) each owner of real property located within the area proposed to be annexed; and

(II) each owner of real property located within 300 feet of the area proposed to be annexed; and

(B) send to the proposed annexing municipality a copy of the notice and a certificate indicating that the notice has been mailed as required under Subsection (2)(b)(i)(A).

(ii) The county shall mail the notice required under Subsection (2)(b)(i)(A) within 20 days after receiving from the person or persons who filed the notice of intent:

(A) a written request to mail the required notice; and

(B) payment of an amount equal to the county's expected actual cost of mailing the notice.

(iii) Each notice required under Subsection (2)(b)(i)(A) shall:

(A) be in writing;

(B) state, in bold and conspicuous terms, substantially the following:

"Attention: Your property may be affected by a proposed annexation.

Records show that you own property within an area that is intended to be included in a proposed annexation to (state the name of the proposed annexing municipality) or that is within 300 feet of that area. If your property is within the area proposed for annexation, you may be asked to sign a petition supporting the annexation. You may choose whether to sign the petition. By signing the petition, you indicate your support of the proposed annexation. If you sign the petition but later change your mind about supporting the annexation, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality) within 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.

There will be no public election on the proposed annexation because Utah law does not provide for an annexation to be approved by voters at a public election. Signing or not signing the annexation petition is the method under Utah law for the owners of property within the area proposed for annexation to demonstrate their support of or opposition to the proposed annexation.

You may obtain more information on the proposed annexation by contacting (state the name, mailing address, telephone number, and email address of the official or employee of the proposed annexing municipality designated to respond to questions about the proposed

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annexation), (state the name, mailing address, telephone number, and email address of the county official or employee designated to respond to questions about the proposed annexation), or (state the name, mailing address, telephone number, and email address of the person who filed the notice of intent under Subsection (2)(a)(i)(A), or, if more than one person filed the notice of intent, one of those persons). Once filed, the annexation petition will be available for inspection and copying at the office of (state the name of the proposed annexing municipality) located at (state the address of the municipal offices of the proposed annexing municipality)."; and

(C) be accompanied by an accurate map identifying the area proposed for annexation.

(iv) A county may not mail with the notice required under Subsection (2)(b)(i)(A) any other information or materials related or unrelated to the proposed annexation.

(c) (i) After receiving the certificate from the county as provided in Subsection (2)(b)(i)(B), the proposed annexing municipality shall, upon request from the person or persons who filed the notice of intent under Subsection (2)(a)(i)(A), provide an annexation petition for the annexation proposed in the notice of intent.

(ii) An annexation petition provided by the proposed annexing municipality may be duplicated for circulation for signatures.

(3) Each petition under Subsection (1) shall:

(a) be filed with the applicable city recorder or town clerk of the proposed annexing municipality;

(b) contain the signatures of, if all the real property within the area proposed for annexation is owned by a public entity other than the federal government, the owners of all the publicly owned real property, or the owners of private real property that:

(i) is located within the area proposed for annexation;

(ii) (A) subject to Subsection (3)(b)(ii)(C), covers a majority of the private land area within the area proposed for annexation;

(B) covers 100% of rural real property within the area proposed for annexation; and

(C) covers 100% of the private land area within the area proposed for annexation, if the area is within an agriculture protection area created under Title 17, Chapter 41, Agriculture, Industrial, or Critical Infrastructure Materials Protection Areas, or a migratory bird production area created under [~~Title 23, Chapter 28, Migratory Bird Production Area~~] Title 23A, Chapter

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13, Migratory Bird Production Area; and

(iii) is equal in value to at least 1/3 of the value of all private real property within the area proposed for annexation;

(c) be accompanied by:

(i) an accurate and recordable map, prepared by a licensed surveyor in accordance with Section 17-23-20, of the area proposed for annexation; and

(ii) a copy of the notice sent to affected entities as required under Subsection (2)(a)(i)(B) and a list of the affected entities to which notice was sent;

(d) contain on each signature page a notice in bold and conspicuous terms that states substantially the following:

"Notice:

- There will be no public election on the annexation proposed by this petition because Utah law does not provide for an annexation to be approved by voters at a public election.

- If you sign this petition and later decide that you do not support the petition, you may withdraw your signature by submitting a signed, written withdrawal with the recorder or clerk of (state the name of the proposed annexing municipality). If you choose to withdraw your signature, you shall do so no later than 30 days after (state the name of the proposed annexing municipality) receives notice that the petition has been certified.";

(e) if the petition proposes a cross-county annexation, as defined in Section 10-2-402.5, be accompanied by a copy of the resolution described in Subsection 10-2-402.5(4)(a)(iii)(A); and

(f) designate up to five of the signers of the petition as sponsors, one of whom shall be designated as the contact sponsor, and indicate the mailing address of each sponsor.

(4) A petition under Subsection (1) may not propose the annexation of all or part of an area proposed for annexation to a municipality in a previously filed petition that has not been denied, rejected, or granted.

(5) If practicable and feasible, the boundaries of an area proposed for annexation shall be drawn:

(a) along the boundaries of existing local districts and special service districts for sewer, water, and other services, along the boundaries of school districts whose boundaries follow city boundaries or school districts adjacent to school districts whose boundaries follow

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city boundaries, and along the boundaries of other taxing entities;

(b) to eliminate islands and peninsulas of territory that is not receiving municipal-type services;

(c) to facilitate the consolidation of overlapping functions of local government;

(d) to promote the efficient delivery of services; and

(e) to encourage the equitable distribution of community resources and obligations.

(6) On the date of filing, the petition sponsors shall deliver or mail a copy of the petition to the clerk of the county in which the area proposed for annexation is located.

(7) A property owner who signs an annexation petition may withdraw the owner's signature by filing a written withdrawal, signed by the property owner, with the city recorder or town clerk no later than 30 days after the municipal legislative body's receipt of the notice of certification under Subsection 10-2-405(2)(c)(i).

Section 12. Section **11-3-10** is amended to read:

11-3-10. Exemptions -- Limitation on chapter.

(1) This chapter does not apply to class A, class B, and class C explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit for destinations outside of Utah.

(2) This chapter does not supersede Section [~~23-13-7~~] 23A-2-208, regarding use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

(3) Provided that the display operators are properly licensed as required by Section 53-7-223, municipalities and counties for the unincorporated areas within the county may conduct, permit, or regulate:

(a) exhibitions of display fireworks; or

(b) pyrotechnic displays held inside public buildings.

Section 13. Section **11-41-102** is amended to read:

11-41-102. Definitions.

As used in this chapter:

(1) "Agreement" means an oral or written agreement between a public entity and a person.

(2) "Business entity" means a sole proprietorship, partnership, limited partnership, limited liability company, corporation, or other entity or association used to carry on a business

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for profit.

(3) "Determination of violation" means a determination by the Governor's Office of Economic Opportunity of substantial likelihood that a retail facility incentive payment has been made in violation of Section 11-41-103, in accordance with Section 11-41-104.

(4) "Environmental mitigation" means an action or activity intended to remedy known negative impacts to the environment.

(5) "Executive director" means the executive director of the Governor's Office of Economic Opportunity.

(6) "General plan" means the same as that term is defined in Section [~~23-21-5~~]
23A-6-101.

(7) "Mixed-use development" means development with mixed land uses, including housing.

(8) "Moderate income housing plan" means the moderate income housing plan element of a general plan.

(9) "Office" means the Governor's Office of Economic Opportunity.

(10) "Political subdivision" means any county, city, town, metro township, school district, local district, special service district, community reinvestment agency, or entity created by an interlocal agreement adopted under ~~§~~ Title 11, ~~§~~ Chapter 13, Interlocal Cooperation Act.

(11) "Public entity" means:

- (a) a political subdivision;
- (b) a state agency as defined in Section 63J-1-220;
- (c) a higher education institution as defined in Section 53B-1-201;
- (d) the Military Installation Development Authority created in Section 63H-1-201;
- (e) the Utah Inland Port Authority created in Section 11-58-201; or
- (f) the Point of the Mountain State Land Authority created in Section 11-59-201.

(12) "Public funds" means any money received by a public entity that is derived from:

- (a) a sales and use tax authorized under Title 59, Chapter 12, Sales and Use Tax Act;

or

- (b) a property tax levy.

(13) "Public infrastructure" means:

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(a) a public facility as defined in Section 11-36a-102; or

(b) public infrastructure included as part of an infrastructure master plan related to a general plan.

(14) "Retail facility" means any facility operated by a business entity for the primary purpose of making retail transactions.

(15) (a) "Retail facility incentive payment" means a payment of public funds:

(i) to a person by a public entity;

(ii) for the development, construction, renovation, or operation of a retail facility within an area of the state; and

(iii) in the form of:

(A) a payment;

(B) a rebate;

(C) a refund;

(D) a subsidy; or

(E) any other similar incentive, award, or offset.

(b) "Retail facility incentive payment" does not include a payment of public funds for:

(i) the development, construction, renovation, or operation of:

(A) public infrastructure; or

(B) a structured parking facility;

(ii) the demolition of an existing facility;

(iii) assistance under a state or local:

(A) main street program; or

(B) historic preservation program;

(iv) environmental mitigation or sanitation, if determined by a state or federal agency under applicable state or federal law;

(v) assistance under a water conservation program or energy efficiency program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program;

(vi) emergency aid or assistance, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to receive the emergency aid or assistance; or

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(vii) assistance under a public safety or security program, if any business entity located within the public entity's boundaries or subject to the public entity's jurisdiction is eligible to participate in the program.

(16) "Retail transaction" means any transaction subject to a sales and use tax under Title 59, Chapter 12, Sales and Use Tax Act.

(17) (a) "Small business" means a business entity that:

- (i) has fewer than 30 full-time equivalent employees; and
- (ii) maintains the business entity's principal office in the state.

(b) "Small business" does not include:

- (i) a franchisee, as defined in 16 C.F.R. Sec. 436.1;
- (ii) a dealer, as defined in Section 41-1a-102; or
- (iii) a subsidiary or affiliate of another business entity that is not a small business.

Section 14. Section **11-46-302** is amended to read:

11-46-302. Definitions.

In addition to the definitions in Sections 11-46-102 and 11-46-202, as used in this part:

(1) "Community cat" means a feral or free-roaming cat that is without visibly discernable or microchip owner identification of any kind, and has been sterilized, vaccinated, and ear-tipped.

(2) "Community cat caretaker" means any person other than an owner who provides food, water, or shelter to a community cat or community cat colony.

(3) "Community cat colony" means a group of cats that congregate together. Although not every cat in a colony may be a community cat, any cats owned by individuals that congregate with a colony are considered part of it.

(4) "Community cat program" means a program pursuant to which feral cats are sterilized, vaccinated against rabies, ear-tipped, and returned to the location where they congregate.

(5) "Ear-tipping" means removing approximately a quarter-inch off the tip of a cat's left ear while the cat is anesthetized for sterilization.

(6) "Feral" has the same meaning as in Section [~~23-13-2~~] 23A-1-101.

(7) "Sponsor" means any person or organization that traps feral cats, sterilizes, vaccinates against rabies, and ear-tips them before returning them to the location where they

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were trapped. A sponsor may be any animal humane society, non-profit organization, animal rescue, adoption organization, or a designated community cat caretaker that also maintains written records on community cats.

Section 15. Section **11-51a-201** is amended to read:

11-51a-201. Limitation.

Nothing in this chapter limits:

(1) the authority of the state to manage and protect wildlife under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act; or

(2) the power of a municipality under Section 10-8-60.

Section 16. Section **11-65-206** is amended to read:

11-65-206. Applicability of other law -- Cooperation of state and local governments -- Authority of other agencies not affected -- Attorney general to provide legal services.

(1) The lake authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108, 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by Title 63E, Independent Entities Code.

(2) A department, division, or other agency of the state and a political subdivision of the state is encouraged, upon the board's request, to cooperate with the lake authority to provide the support, information, or other assistance reasonably necessary to help the lake authority fulfill the lake authority's duties and responsibilities under this chapter.

(3) Nothing in this chapter may be construed to affect or impair:

(a) the authority of the Department of Environmental Quality, created in Section 19-1-104, to regulate under Title 19, Environmental Quality Code, consistent with the purposes of this chapter; or

(b) the authority of the Division of Wildlife Resources, created in Section [~~23-14-1~~] 23A-2-201, to regulate under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, consistent with the purposes of this chapter.

(4) In accordance with Utah Constitution, Article XVII, Section 1, nothing in this chapter may be construed to override, supersede, interfere with, or modify:

(a) any water right in the state;

(b) the operation of a water facility or project; or

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(c) the role or authority of the state engineer.

(5) (a) Except as otherwise explicitly provided, nothing in this chapter may be construed to authorize the lake authority to interfere with or take the place of another governmental entity in that entity's process of considering an application or request for a license, permit, or other regulatory or governmental permission for an action relating to water of Utah Lake or land within the lake authority boundary.

(b) The lake authority shall respect and, if applicable and within the lake authority's powers, implement a license, permit, or other regulatory or governmental permission described in Subsection (5)(a).

(6) Nothing in this chapter may be construed to allow the authority to:

(a) consider an application for the disposal of land within the lake authority boundary under Title 65A, Chapter 15, Utah Lake Restoration Act; or

(b) issue bonding or other financing for a project under Title 65A, Chapter 15, Utah Lake Restoration Act.

(7) The attorney general shall provide legal services to the board.

Section 17. Section ~~17-27a-401~~ is amended to read:

17-27a-401. General plan required -- Content -- Resource management plan -- Provisions related to radioactive waste facility.

(1) To accomplish the purposes of this chapter, a county shall prepare and adopt a comprehensive, long-range general plan:

(a) for present and future needs of the county;

(b) (i) for growth and development of all or any part of the land within the unincorporated portions of the county; or

(ii) if a county has designated a mountainous planning district, for growth and development of all or any part of the land within the mountainous planning district; and

(c) as a basis for communicating and coordinating with the federal government on land and resource management issues.

(2) To promote health, safety, and welfare, the general plan may provide for:

(a) health, general welfare, safety, energy conservation, transportation, prosperity, civic activities, aesthetics, and recreational, educational, and cultural opportunities;

(b) the reduction of the waste of physical, financial, or human resources that result

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from either excessive congestion or excessive scattering of population;

(c) the efficient and economical use, conservation, and production of the supply of:

(i) food and water; and

(ii) drainage, sanitary, and other facilities and resources;

(d) the use of energy conservation and solar and renewable energy resources;

(e) the protection of urban development;

(f) the protection and promotion of air quality;

(g) historic preservation;

(h) identifying future uses of land that are likely to require an expansion or significant modification of services or facilities provided by an affected entity; and

(i) an official map.

(3) (a) (i) The general plan of a specified county, as defined in Section 17-27a-408, shall include a moderate income housing element that meets the requirements of Subsection 17-27a-403(2)(a)(iii).

(ii) On or before October 1, 2022, a specified county, as defined in Section 17-27a-408, with a general plan that does not comply with Subsection (3)(a)(i) shall amend the general plan to comply with Subsection (3)(a)(i).

(b) The general plan shall contain a resource management plan for the public lands, as defined in Section 63L-6-102, within the county.

(c) The resource management plan described in Subsection (3)(b) shall address:

(i) mining;

(ii) land use;

(iii) livestock and grazing;

(iv) irrigation;

(v) agriculture;

(vi) fire management;

(vii) noxious weeds;

(viii) forest management;

(ix) water rights;

(x) ditches and canals;

(xi) water quality and hydrology;

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- (xii) flood plains and river terraces;
- (xiii) wetlands;
- (xiv) riparian areas;
- (xv) predator control;
- (xvi) wildlife;
- (xvii) fisheries;
- (xviii) recreation and tourism;
- (xix) energy resources;
- (xx) mineral resources;
- (xxi) cultural, historical, geological, and paleontological resources;
- (xxii) wilderness;
- (xxiii) wild and scenic rivers;
- (xxiv) threatened, endangered, and sensitive species;
- (xxv) land access;
- (xxvi) law enforcement;
- (xxvii) economic considerations; and
- (xxviii) air.

(d) For each item listed under Subsection (3)(c), a county's resource management plan shall:

- (i) establish findings pertaining to the item;
- (ii) establish defined objectives; and
- (iii) outline general policies and guidelines on how the objectives described in

Subsection (3)(d)(ii) are to be accomplished.

(4) (a) (i) The general plan shall include specific provisions related to an area within, or partially within, the exterior boundaries of the county, or contiguous to the boundaries of a county, which are proposed for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive nuclear waste, as these wastes are defined in Section 19-3-303.

(ii) The provisions described in Subsection (4)(a)(i) shall address the effects of the proposed site upon the health and general welfare of citizens of the state, and shall provide:

- (A) the information identified in Section 19-3-305;

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(B) information supported by credible studies that demonstrates that Subsection 19-3-307(2) has been satisfied; and

(C) specific measures to mitigate the effects of high-level nuclear waste and greater than class C radioactive waste and guarantee the health and safety of the citizens of the state.

(b) A county may, in lieu of complying with Subsection (4)(a), adopt an ordinance indicating that all proposals for the siting of a storage facility or transfer facility for the placement of high-level nuclear waste or greater than class C radioactive waste wholly or partially within the county are rejected.

(c) A county may adopt the ordinance listed in Subsection (4)(b) at any time.

(d) The county shall send a certified copy of the ordinance described in Subsection (4)(b) to the executive director of the Department of Environmental Quality by certified mail within 30 days of enactment.

(e) If a county repeals an ordinance adopted under Subsection (4)(b) the county shall:

(i) comply with Subsection (4)(a) as soon as reasonably possible; and

(ii) send a certified copy of the repeal to the executive director of the Department of Environmental Quality by certified mail within 30 days after the repeal.

(5) The general plan may define the county's local customs, local culture, and the components necessary for the county's economic stability.

(6) Subject to Subsection 17-27a-403(2), the county may determine the comprehensiveness, extent, and format of the general plan.

(7) If a county has designated a mountainous planning district, the general plan for the mountainous planning district is the controlling plan.

(8) Nothing in this part may be construed to limit the authority of the state to manage and protect wildlife under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act.

(9) On or before December 31, 2025, a county that has a general plan that does not include a water use and preservation element that complies with Section 17-27a-403 shall amend the county's general plan to comply with Section 17-27a-403.

Section 18. Section **24-4-115** is amended to read:

24-4-115. Disposition and allocation of forfeited property.

(1) If a court finds that property is forfeited under this chapter, the court shall order the

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property forfeited to the state.

(2) (a) If the property is not currency, the agency shall authorize a public or otherwise commercially reasonable sale of that property if the property is not required by law to be destroyed and is not harmful to the public.

(b) If the property forfeited is an alcoholic product as defined in Section 32B-1-102, the property shall be disposed of as follows:

(i) an alcoholic product shall be sold if the alcoholic product is:

(A) unadulterated, pure, and free from any crude, unrectified, or impure form of ethylic alcohol, or any other deleterious substance or liquid; and

(B) otherwise in saleable condition; or

(ii) an alcoholic product and the alcoholic product's package shall be destroyed if the alcoholic product is impure, adulterated, or otherwise unfit for sale.

(c) If the property forfeited is a cigarette or other tobacco product as defined in Section 59-14-102, the property shall be destroyed, except that the lawful holder of the trademark rights in the cigarette or tobacco product brand is permitted to inspect the cigarette before the destruction of the cigarette or tobacco product.

(d) The proceeds of the sale of forfeited property shall remain segregated from other property, equipment, or assets of the agency until transferred in accordance with this chapter.

(3) Before transferring currency and the proceeds or revenue from the sale of the property in accordance with this chapter, the agency shall:

(a) deduct the agency's direct costs, expense of reporting under Section 24-4-118, and expense of obtaining and maintaining the property pending a forfeiture proceeding; and

(b) if the prosecuting agency that employed the prosecuting attorney has met the requirements of Subsection 24-4-119(3), pay the prosecuting attorney the legal costs associated with the litigation of the forfeiture proceeding, and up to 20% of the value of the forfeited property in attorney fees.

(4) If the forfeiture arises from a violation relating to wildlife resources, the agency shall deposit any remaining currency and the proceeds or revenue from the sale of the property into the Wildlife Resources Account created in Section [~~23-14-13~~] 23A-3-201.

(5) The agency shall transfer any remaining currency, the proceeds, or revenue from the sale of the property to the commission and deposited into the account.

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Section 19. 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~~] 23A-3-201, 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 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 firefighter organizations;

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(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 80-2-502 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 26B-1-302;

(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~~] 23A-3-203, 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 State Historical Society;

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

(DD) 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;

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

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

(GG) 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 Uniform School Fund;

(HH) the Governor's Suicide Prevention Fund created in Section 62A-15-1103 to support the Live On suicide prevention campaign administered by the Division of Integrated Healthcare; or

(II) the State Park Fees Restricted Account created in Section 79-4-402 to support the Division of State Parks' dark sky initiative.

(ii) (A) For a veterans special group license plate described in Subsection (4) or 41-1a-421(1)(a)(v), "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

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who:

(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).

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(3) (a) (i) Except as provided in Subsection (3)(a)(ii), an applicant for original or renewal support special group license plates under this section must be a contributor to the sponsoring organization associated with the license plate.

(ii) An applicant for a historical special group license plate is not required to make a donation to the Utah State Historical Society if the historical special group license plate is for a vintage vehicle that has a model year of 1980 or older.

(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 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 20. Section **51-9-402** is amended to read:

51-9-402. Division of collected money retained by state treasurer and local governmental collecting entity.

(1) The amount of the surcharge imposed under this part by courts of record shall be collected before any fine and deposited with the state treasurer.

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(2) The amount of the surcharge and the amount of criminal fines, penalties, and forfeitures imposed under this part by courts not of record shall be collected concurrently.

(a) As money is collected on criminal fines, penalties, and forfeitures subject to the 90% surcharge, the money shall be divided pro rata so that the local governmental collecting entity retains 53% of the collected money and the state retains 47% of the collected money.

(b) As money is collected on criminal fines, penalties, and forfeitures subject to the 35% surcharge, the money shall be divided pro rata so that the local governmental collecting entity retains 74% of the collected money and the state retains 26% of the collected money.

(c) The court shall deposit with the state treasurer the surcharge portion of all money as it is collected.

(3) Courts of record, courts not of record, and administrative traffic proceedings shall collect financial information to determine:

(a) the total number of cases in which:

(i) a final judgment has been rendered;

(ii) surcharges and fines are paid by partial or installment payment; and

(iii) the judgment is fulfilled by an alternative method upon the court's order; and

(b) the total dollar amounts of surcharges owed to the state and fines owed to the state and county or municipality, including:

(i) waived surcharges;

(ii) uncollected surcharges; and

(iii) collected surcharges.

(4) The courts of record, courts not of record, and administrative traffic proceedings shall report all collected financial information monthly to the Administrative Office of the Courts. The collected information shall be categorized by cases subject to the 90% and 35% surcharge.

(5) The provisions of this section and Section 51-9-401 may not impact the distribution and allocation of fines and forfeitures imposed in accordance with Sections [~~23-14-13~~] 23A-3-201, 78A-5-110, and 78A-7-120.

Section 21. Section **53-2a-208** is amended to read:

53-2a-208. Local emergency -- Declarations -- Termination of a local emergency.

(1) (a) Except as provided in Subsection (1)(b), a chief executive officer of a

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municipality or county may declare by proclamation a state of emergency if the chief executive officer finds:

(i) a disaster has occurred or the occurrence or threat of a disaster is imminent in an area of the municipality or county; and

(ii) the municipality or county requires additional assistance to supplement the response and recovery efforts of the municipality or county.

(b) A chief executive officer of a municipality may not declare by proclamation a state of emergency in response to an epidemic or a pandemic.

(2) A declaration of a local emergency:

(a) constitutes an official recognition that a disaster situation exists within the affected municipality or county;

(b) provides a legal basis for requesting and obtaining mutual aid or disaster assistance from other political subdivisions or from the state or federal government;

(c) activates the response and recovery aspects of any and all applicable local disaster emergency plans; and

(d) authorizes the furnishing of aid and assistance in relation to the proclamation.

(3) A local emergency proclamation issued under this section shall state:

(a) the nature of the local emergency;

(b) the area or areas that are affected or threatened; and

(c) the conditions which caused the emergency.

(4) The emergency declaration process within the state shall be as follows:

(a) a city, town, or metro township shall declare to the county;

(b) a county shall declare to the state;

(c) the state shall declare to the federal government; and

(d) a tribe, as defined in Section ~~[23-13-12.5]~~ 23A-1-202, shall declare as determined under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. Sec. 5121 et seq.

(5) Nothing in this part affects:

(a) the governor's authority to declare a state of emergency under Section 53-2a-206; or

(b) the duties, requests, reimbursements, or other actions taken by a political subdivision participating in the state-wide mutual aid system pursuant to ~~§~~ Title 53, Chapter

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2a, ~~ff~~ Part 3, Statewide Mutual Aid Act.

(6) (a) Except as provided in Subsection (6)(b), a state of emergency described in Subsection (1) expires the earlier of:

(i) the day on which the chief executive officer finds that:

(A) the threat or danger has passed;

(B) the disaster reduced to the extent that emergency conditions no longer exist; or

(C) the municipality or county no longer requires state government assistance to supplement the response and recovery efforts of the municipality or county;

(ii) 30 days after the day on which the chief executive officer declares the state of emergency; or

(iii) the day on which the legislative body of the municipality or county terminates the state of emergency by majority vote.

(b) (i) (A) The legislative body of a municipality may at any time terminate by majority vote a state of emergency declared by the chief executive officer of the municipality.

(B) The legislative body of a county may at any time terminate by majority vote a state of emergency declared by the chief executive officer of the county.

(ii) The legislative body of a municipality or county may by majority vote extend a state of emergency for a time period stated in the motion.

(iii) If the legislative body of a municipality or county extends a state of emergency in accordance with this subsection, the state of emergency expires on the date designated by the legislative body in the motion.

(iv) An action by a legislative body of a municipality or county to terminate a state of emergency as described in this Subsection (6)(b) is not subject to veto by the relevant chief executive officer.

(c) Except as provided in Subsection (7), after a state of emergency expires in accordance with this Subsection (6), the chief executive officer may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency.

(7) (a) After a state of emergency expires in accordance with Subsection (6), the chief executive officer may declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, if the chief executive officer finds that exigent circumstances exist.

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(b) A state of emergency declared in accordance with Subsection (7)(a) expires in accordance with Subsections (6)(a) and (b).

(c) After a state of emergency declared in accordance with Subsection (7)(a) expires, the chief executive officer may not declare a new state of emergency in response to the same disaster or occurrence as the expired state of emergency, regardless of whether exigent circumstances exist.

Section 22. 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.

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(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.

(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~~ 23A-4-209, 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) 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) 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) 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

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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;
 - (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 Division of Outdoor Recreation, establish the fee schedule of the Utah Search and Rescue Assistance Card Program under Subsection 63J-1-504(7).
- (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]~~ 23A-4-209, 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:

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(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 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 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~~] 23A-4-209, 41-22-34, and 73-18-24 do not constitute purchase of a card under this section.

(12) The division shall consult with the 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 23. Section ~~53-7-221~~ is amended to read:

~~53-7-221~~. Exceptions from Utah Fireworks Act.

(1) Sections ~~53-7-220~~ through ~~53-7-225~~ do not apply to class A, class B, and class C explosives that are not for use in Utah, but are manufactured, stored, warehoused, or in transit for destinations outside of Utah.

(2) Sections ~~53-7-220~~ through ~~53-7-225~~ do not supersede Section [~~23-13-7~~] 23A-2-208, regarding use of fireworks and explosives by the Division of Wildlife Resources and federal game agents.

(3) Section ~~53-7-225~~ does not supersede Section ~~65A-8-212~~ regarding the authority of

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the state forester to close hazardous areas.

Section 24. Section **53-13-103** is amended to read:

53-13-103. Law enforcement officer.

(1) (a) "Law enforcement officer" means a sworn and certified peace officer:

(i) who is an employee of a law enforcement agency; and

(ii) whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes or ordinances of this state or any of its political subdivisions.

(b) "Law enforcement officer" includes the following:

(i) a sheriff or deputy sheriff, chief of police, police officer, or marshal of any county, city, or town;

(ii) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(iii) all persons specified in Sections [~~23-20-1.5~~] 23A-5-202 and 79-4-501;

(iv) a police officer employed by a state institution of higher education;

(v) investigators for the Motor Vehicle Enforcement Division;

(vi) investigators for the Department of Insurance, Fraud Division;

(vii) special agents or investigators employed by the attorney general, district attorneys, and county attorneys;

(viii) employees of the Department of Natural Resources designated as peace officers by law;

(ix) school district police officers as designated by the board of education for the school district;

(x) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division;

(xi) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993;

(xii) members of a law enforcement agency established by a private college or university if the agency is certified by the commissioner under ~~§§~~ Title 53, ~~§§~~ Chapter 19, Certification of Private Law Enforcement Agency;

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(xiii) airport police officers of any airport owned or operated by the state or any of its political subdivisions; and

(xiv) transit police officers designated under Section 17B-2a-822.

(2) Law enforcement officers may serve criminal process and arrest violators of any law of this state and have the right to require aid in executing their lawful duties.

(3) (a) A law enforcement officer has statewide full-spectrum peace officer authority, but the authority extends to other counties, cities, or towns only when the officer is acting under Title 77, Chapter 9, Uniform Act on Fresh Pursuit, unless the law enforcement officer is employed by the state.

(b) (i) A local law enforcement agency may limit the jurisdiction in which its law enforcement officers may exercise their peace officer authority to a certain geographic area.

(ii) Notwithstanding Subsection (3)(b)(i), a law enforcement officer may exercise authority outside of the limited geographic area, pursuant to Title 77, Chapter 9, Uniform Act on Fresh Pursuit, if the officer is pursuing an offender for an offense that occurred within the limited geographic area.

(c) The authority of law enforcement officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(4) A law enforcement officer shall, prior to exercising peace officer authority:

(a) (i) have satisfactorily completed the requirements of Section 53-6-205; or

(ii) have met the waiver requirements in Section 53-6-206; and

(b) have satisfactorily completed annual certified training of at least 40 hours per year as directed by the director of the division, with the advice and consent of the council.

Section 25. Section **57-14-202** is amended to read:

57-14-202. Use of private land without charge -- Effect.

(1) Except as provided in Subsection 57-14-204(1), an owner of land who either directly or indirectly invites or permits without charge, or for a nominal fee of no more than \$1 per year, any person to use the owner's land for any recreational purpose, or an owner of a public access area open to public recreational access under Title 73, Chapter 29, Public Waters Access Act, does not:

(a) make any representation or extend any assurance that the land is safe for any purpose;

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(b) confer upon the person the legal status of an invitee or licensee to whom a duty of care is owed;

(c) assume responsibility for or incur liability for any injury to persons or property caused by an act or omission of the person or any other person who enters upon the land; or

(d) owe any duty to curtail the owner's use of the land during its use for recreational purposes.

(2) The limitations of liability provided in this part apply to the owner of land designated as a migratory bird production area under [~~Title 23, Chapter 28, Migratory Bird Production Area~~] Title 23A, Chapter 13, Migratory Bird Production Area, that is owned and operated for any purpose allowed under [~~Title 23, Chapter 28, Migratory Bird Production Area~~] Title 23A, Chapter 13, Migratory Bird Production Area, if:

(a) the owner allows a guest of the owner or, if the owner has shareholders, members, or partners, a guest of a shareholder, member, or partner of the owner to engage in an activity with a recreational purpose on that land; and

(b) the guest is not charged.

Section 26. 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 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~~] Title 23A, Chapter 7, Cooperative Wildlife Management Units, is not considered to have paid a fee within the meaning of this section.

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(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 27. Section **58-79-102** is amended to read:

58-79-102. Definitions.

In addition to the definitions in Section 58-1-102, as used in this chapter:

(1) "Compensation" means anything of economic value in excess of \$100 that is paid, loaned, granted, given, donated, or transferred to a hunting guide or outfitter for or in consideration of personal services, materials, or property.

(2) "Hunting" means to locate, pursue, chase, catch, capture, trap, or kill wildlife.

(3) "Hunting guide" means an individual who:

- (a) offers or provides hunting guide services on public lands for compensation; and
- (b) is retained for compensation by an outfitter.

(4) "Hunting guide services" means to guide, lead, or assist an individual in hunting wildlife.

(5) "Outfitter" means an individual who offers or provides outfitting or hunting guide services for compensation to another individual for hunting wildlife on public lands.

(6) (a) "Outfitting services" means providing, for hunting wildlife on public lands:

- (i) transportation of people, equipment, supplies, or wildlife to or from a location;
- (ii) packing, protecting, or supervising services; or
- (iii) hunting guide services.

(b) "Outfitting services" does not include activities undertaken by the Division of Wildlife Resources or its employees, associates, volunteers, contractors, or agents under

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authority granted in [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act.

(7) (a) "Public lands" means any lands owned by the United States, the state, or a political subdivision or independent entity of the state that are open to the public for purposes of engaging in a wildlife related activity.

(b) "Public lands" does not include lands owned by the United States, the state, or a political subdivision or independent entity of the state that are included in a cooperative wildlife management unit under Subsection [~~23-23-7(5)~~] 23A-7-204(5) so long as the guiding and outfitting services furnished by the cooperative wildlife management unit are limited to hunting species of wildlife specifically authorized by the Division of Wildlife Resources in the unit's management plan.

(8) "Wildlife" means cougar, bear, and big game animals as defined in Subsection [~~23-13-2(6)~~] 23A-1-101(6).

Section 28. Section **59-2-301.5** is amended to read:

59-2-301.5. Definitions -- Assessment of property if threatened or endangered species is present.

(1) As used in this section:

(a) "Endangered" is as defined in Section [~~23-13-2~~] 23A-1-101.

(b) "Threatened" is as defined in Section [~~23-13-2~~] 23A-1-101.

(2) In assessing the fair market value of property, a county assessor shall consider as part of the determination of fair market value whether a threatened or endangered species is present on any portion of the property, including any impacts the presence of the threatened or endangered species has on:

(a) the functionality of the property;

(b) the ability to use the property; and

(c) property rights.

(3) This section does not prohibit a county assessor from including as part of a determination of the fair market value of property any other factor affecting the fair market value of the property.

Section 29. Section **63A-16-803** is amended to read:

63A-16-803. Single sign-on citizen portal -- Creation.

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(1) The division shall, in consultation with the entities described in Subsection (4), design and create a single sign-on citizen portal that is:

(a) a web portal through which an individual may access information and services described in Subsection (2), as agreed upon by the entities described in Subsection (4); and

(b) secure, centralized, and interconnected.

(2) The division shall ensure that the single sign-on citizen portal allows an individual, at a single point of entry, to:

(a) access and submit an application for:

(i) medical and support programs including:

(A) a medical assistance program administered under Title 26, Chapter 18, Medical Assistance Act, including Medicaid;

(B) the Children's Health Insurance Program under Title 26, Chapter 40, Utah Children's Health Insurance Act;

(C) the Primary Care Network as defined in Section 26-18-416; and

(D) the Women, Infants, and Children program administered under 42 U.S.C. Sec. 1786;

(ii) unemployment insurance under Title 35A, Chapter 4, Employment Security Act;

(iii) workers' compensation under Title 34A, Chapter 2, Workers' Compensation Act;

(iv) employment with a state agency;

(v) a driver license or state identification card renewal under Title 53, Chapter 3, Uniform Driver License Act;

(vi) a birth or death certificate under Title 26, Chapter 2, Utah Vital Statistics Act; and

(vii) a hunting or fishing license under [~~Title 23, Chapter 19, Licenses, Permits, and Tags~~] Title 23A, Chapter 4, Licenses, Permits, Certificates of Registration, and Tags;

(b) access the individual's:

(i) transcripts from an institution of higher education described in Section 53B-2-101; and

(ii) immunization records maintained by the Utah Department of Health;

(c) register the individual's vehicle under Title 41, Chapter 1a, Part 2, Registration, with the Motor Vehicle Division of the State Tax Commission;

(d) file the individual's state income taxes under Title 59, Chapter 10, Individual

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Income Tax Act, beginning December 1, 2020;

(e) access information about positions available for employment with the state; and

(f) access any other service or information the department determines is appropriate in consultation with the entities described in Subsection (4).

(3) The division shall develop the single sign-on citizen portal using an open platform that:

(a) facilitates participation in the portal by a state entity;

(b) allows for optional participation in the portal by a political subdivision of the state;

and

(c) contains a link to the State Tax Commission website.

(4) In developing the single sign-on citizen portal, the department shall consult with:

(a) each state executive branch agency that administers a program, provides a service, or manages applicable information described in Subsection (2);

(b) the Utah League of Cities and Towns;

(c) the Utah Association of Counties; and

(d) other appropriate state executive branch agencies.

(5) The division shall ensure that the single sign-on citizen portal is fully operational no later than January 1, 2025.

Section 30. Section **63A-17-512** is amended to read:

63A-17-512. Leave of absence with pay for employees with a disability who are covered under other civil service systems.

(1) As used in this section:

(a) "Eligible officer" means a person who qualifies for a benefit under this section.

(b) (i) "Law enforcement officer" means a sworn and certified peace officer who is an employee of a law enforcement agency that is part of or administered by the state, and whose primary and principal duties consist of the prevention and detection of crime and the enforcement of criminal statutes of this state.

(ii) "Law enforcement officer" specifically includes the following:

(A) the commissioner of public safety and any member of the Department of Public Safety certified as a peace officer;

(B) all persons specified in Sections [~~23-20-1.5~~] 23A-5-202 and 79-4-501;

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(C) investigators for the Motor Vehicle Enforcement Division;

(D) special agents or investigators employed by the attorney general;

(E) employees of the Department of Natural Resources designated as peace officers by law;

(F) the executive director of the Department of Corrections and any correctional enforcement or investigative officer designated by the executive director and approved by the commissioner of public safety and certified by the division; and

(G) correctional enforcement, investigative, or adult probation and parole officers employed by the Department of Corrections serving on or before July 1, 1993.

(c) "State correctional officer" means a correctional officer as defined in Section 53-13-104 who is employed by the Department of Corrections.

(2) (a) A law enforcement officer or state correctional officer who is injured in the course of employment shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits during the period the employee has a temporary disability.

(b) The benefit provided under Subsection (2)(a):

(i) shall be offset as provided under Subsection (4); and

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(3) (a) A law enforcement officer or state correctional officer who has a total disability as defined in Section 49-21-102, shall be given a leave of absence with 100% of the officer's regular monthly salary and benefits until the officer is eligible for an unreduced retirement under Title 49, Utah State Retirement and Insurance Benefit Act, or reaches the retirement age of 62 years, whichever occurs first, if:

(i) the disability is a result of an injury sustained while in the lawful discharge of the officer's duties; and

(ii) the injury is the result of:

(A) a criminal act upon the officer; or

(B) an aircraft, vehicle, or vessel accident and the officer was not negligent in causing the accident.

(b) The benefit provided under Subsection (3)(a):

(i) shall be offset as provided under Subsection (4); and

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(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including all offsets required under Subsection (4).

(4) (a) The agency shall reduce or require the reimbursement of the monthly benefit provided under this section by any amount received by, or payable to, the eligible officer for the same period of time during which the eligible officer is entitled to receive a monthly disability benefit under this section.

(b) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules establishing policies and procedures for the reductions required under Subsection (4)(a).

Section 31. Section **63G-7-201** is amended to read:

63G-7-201. Immunity of governmental entities and employees from suit.

(1) Except as otherwise provided in this chapter, each governmental entity and each employee of a governmental entity are immune from suit for any injury that results from the exercise of a governmental function.

(2) Notwithstanding the waiver of immunity provisions of Section 63G-7-301, a governmental entity, its officers, and its employees are immune from suit:

(a) as provided in Section 78B-4-517; and

(b) for any injury or damage resulting from the implementation of or the failure to implement measures to:

(i) control the causes of epidemic and communicable diseases and other conditions significantly affecting the public health or necessary to protect the public health as set out in Title 26A, Chapter 1, Local Health Departments;

(ii) investigate and control suspected bioterrorism and disease as set out in Title 26, Chapter 23b, Detection of Public Health Emergencies Act;

(iii) respond to a national, state, or local emergency, a public health emergency as defined in Section 26-23b-102, or a declaration by the President of the United States or other federal official requesting public health related activities, including the use, provision, operation, and management of:

(A) an emergency shelter;

(B) housing;

(C) a staging place; or

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(D) a medical facility; and

(iv) adopt methods or measures, in accordance with Section 26-1-30, for health care providers, public health entities, and health care insurers to coordinate among themselves to verify the identity of the individuals they serve.

(3) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury if the injury arises out of or in connection with, or results from:

(a) a latent dangerous or latent defective condition of:

(i) any highway, road, street, alley, crosswalk, sidewalk, culvert, tunnel, bridge, or viaduct; or

(ii) another structure located on any of the items listed in Subsection (3)(a)(i); or

(b) a latent dangerous or latent defective condition of any public building, structure, dam, reservoir, or other public improvement.

(4) A governmental entity, its officers, and its employees are immune from suit, and immunity is not waived, for any injury proximately caused by a negligent act or omission of an employee committed within the scope of employment, if the injury arises out of or in connection with, or results from:

(a) the exercise or performance, or the failure to exercise or perform, a discretionary function, whether or not the discretion is abused;

(b) except as provided in Subsections 63G-7-301(2)(j), (3), and (4), assault, battery, false imprisonment, false arrest, malicious prosecution, intentional trespass, abuse of process, libel, slander, deceit, interference with contract rights, infliction of mental anguish, or violation of civil rights;

(c) the issuance, denial, suspension, or revocation of, or the failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization;

(d) a failure to make an inspection or making an inadequate or negligent inspection;

(e) the institution or prosecution of any judicial or administrative proceeding, even if malicious or without probable cause;

(f) a misrepresentation by an employee whether or not the misrepresentation is negligent or intentional;

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- (g) a riot, unlawful assembly, public demonstration, mob violence, or civil disturbance;
- (h) the collection or assessment of taxes;
- (i) an activity of the Utah National Guard;
- (j) the incarceration of a person in a state prison, county or city jail, or other place of legal confinement;
- (k) a natural condition on publicly owned or controlled land;
- (l) a condition existing in connection with an abandoned mine or mining operation;
- (m) an activity authorized by the School and Institutional Trust Lands Administration or the Division of Forestry, Fire, and State Lands;
- (n) the operation or existence of a pedestrian or equestrian trail that is along a ditch, canal, stream, or river, regardless of ownership or operation of the ditch, canal, stream, or river, if:
 - (i) the trail is designated under a general plan adopted by a municipality under Section 10-9a-401 or by a county under Section 17-27a-401;
 - (ii) the trail right-of-way or the right-of-way where the trail is located is open to public use as evidenced by a written agreement between:
 - (A) the owner or operator of the trail right-of-way or of the right-of-way where the trail is located; and
 - (B) the municipality or county where the trail is located; and
 - (iii) the written agreement:
 - (A) contains a plan for operation and maintenance of the trail; and
 - (B) provides that an owner or operator of the trail right-of-way or of the right-of-way where the trail is located has, at a minimum, the same level of immunity from suit as the governmental entity in connection with or resulting from the use of the trail;
- (o) research or implementation of cloud management or seeding for the clearing of fog;
- (p) the management of flood waters, earthquakes, or natural disasters;
- (q) the construction, repair, or operation of flood or storm systems;
- (r) the operation of an emergency vehicle, while being driven in accordance with the requirements of Section 41-6a-212;
- (s) the activity of:
 - (i) providing emergency medical assistance;

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- (ii) fighting fire;
- (iii) regulating, mitigating, or handling hazardous materials or hazardous wastes;
- (iv) an emergency evacuation;
- (v) transporting or removing an injured person to a place where emergency medical assistance can be rendered or where the person can be transported by a licensed ambulance service; or
- (vi) intervening during a dam emergency;
- (t) the exercise or performance, or the failure to exercise or perform, any function pursuant to Title 73, Chapter 10, Board of Water Resources - Division of Water Resources;
- (u) an unauthorized access to government records, data, or electronic information systems by any person or entity;
- (v) an activity of wildlife, as defined in Section ~~[23-13-2]~~ 23A-1-101, that arises during the use of a public or private road; or
- (w) a communication between employees of one or more law enforcement agencies related to the employment, disciplinary history, character, professional competence, or physical or mental health of a peace officer, or a former, current, or prospective employee of a law enforcement agency, including any communication made in accordance with Section 53-14-101.

Section 32. Section **63G-21-201** is amended to read:

63G-21-201. Limited authorization to provide state services at post office locations.

- (1) If allowed by federal law, a designated agency may negotiate and enter into an agreement with USPS that allows USPS to provide one or more state services at one or more post office locations within the state.
- (2) The designated agency shall ensure that the agreement described in Subsection (1) includes:
 - (a) the term of the agreement, which may not extend beyond July 1, 2028;
 - (b) provisions to ensure the security of state data and resources;
 - (c) provisions to provide training to USPS employees on how to provide each state service in the agreement;
 - (d) except as provided in Subsection (2)(e), provisions authorizing compensation to

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USPS for at least 100% of attributable costs of all property and services that USPS provides under the agreement; and

(e) if the agreement is between USPS and the Division of Wildlife Resources to sell fishing, hunting, or trapping licenses, provisions requiring compliance with [~~Section 23-19-15~~] Sections 23A-4-501 and 23A-4-502 regarding wildlife license agents, including remuneration for services rendered.

(3) After one or more designated agencies enter into an agreement described in Subsection (1), the Governor's Office of Economic Opportunity shall create a marketing campaign to advertise and promote the availability of state services at each selected USPS location.

Section 33. Section **63I-1-223** is amended to read:

63I-1-223. Repeal dates: Title 23A.

(1) Section [~~23-14-2.5~~] 23A-2-302, which creates the Wildlife Board Nominating Committee, is repealed July 1, 2023.

(2) Section [~~23-14-2.6~~] 23A-2-303, which creates regional advisory councils for the Wildlife Board, is repealed July 1, 2023.

Section 34. Section **63I-2-223** is amended to read:

63I-2-223. Repeal dates: Title 23A.

Section 35. Section **63J-1-602.1** is amended to read:

63J-1-602.1. List of nonlapsing appropriations from accounts and funds.

Appropriations made from the following accounts or funds are nonlapsing:

(1) The Utah Intracurricular Student Organization Support for Agricultural Education and Leadership Restricted Account created in Section 4-42-102.

(2) The Native American Repatriation Restricted Account created in Section 9-9-407.

(3) The Martin Luther King, Jr. Civil Rights Support Restricted Account created in Section 9-18-102.

(4) The National Professional Men's Soccer Team Support of Building Communities Restricted Account created in Section 9-19-102.

(5) Funds collected for directing and administering the C-PACE district created in Section 11-42a-106.

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- (6) Money received by the Utah Inland Port Authority, as provided in Section 11-58-105.
- (7) The "Latino Community Support Restricted Account" created in Section 13-1-16.
- (8) The Clean Air Support Restricted Account created in Section 19-1-109.
- (9) The Division of Air Quality Oil, Gas, and Mining Restricted Account created in Section 19-2a-106.
- (10) The Division of Water Quality Oil, Gas, and Mining Restricted Account created in Section 19-5-126.
- (11) The "Support for State-Owned Shooting Ranges Restricted Account" created in Section [~~23-14-13.5~~] 23A-3-203.
- (12) Award money under the State Asset Forfeiture Grant Program, as provided under Section 24-4-117.
- (13) Funds collected from the program fund for local health department expenses incurred in responding to a local health emergency under Section 26-1-38.
- (14) The Children with Cancer Support Restricted Account created in Section 26-21a-304.
- (15) State funds for matching federal funds in the Children's Health Insurance Program as provided in Section 26-40-108.
- (16) The Children with Heart Disease Support Restricted Account created in Section 26-58-102.
- (17) The Technology Development Restricted Account created in Section 31A-3-104.
- (18) The Criminal Background Check Restricted Account created in Section 31A-3-105.
- (19) The Captive Insurance Restricted Account created in Section 31A-3-304, except to the extent that Section 31A-3-304 makes the money received under that section free revenue.
- (20) The Title Licensee Enforcement Restricted Account created in Section 31A-23a-415.
- (21) The Health Insurance Actuarial Review Restricted Account created in Section 31A-30-115.
- (22) The Insurance Fraud Investigation Restricted Account created in Section 31A-31-108.

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(23) The Underage Drinking Prevention Media and Education Campaign Restricted Account created in Section 32B-2-306.

(24) The Drinking While Pregnant Prevention Media and Education Campaign Restricted Account created in Section 32B-2-308.

(25) The School Readiness Restricted Account created in Section 35A-15-203.

(26) Money received by the Utah State Office of Rehabilitation for the sale of certain products or services, as provided in Section 35A-13-202.

(27) The Oil and Gas Administrative Penalties Account created in Section 40-6-11.

(28) The Oil and Gas Conservation Account created in Section 40-6-14.5.

(29) The Division of Oil, Gas, and Mining Restricted account created in Section 40-6-23.

(30) The Electronic Payment Fee Restricted Account created by Section 41-1a-121 to the Motor Vehicle Division.

(31) The Motor Vehicle Enforcement Division Temporary Permit Restricted Account created by Section 41-3-110 to the State Tax Commission.

(32) The Utah Law Enforcement Memorial Support Restricted Account created in Section 53-1-120.

(33) The State Disaster Recovery Restricted Account to the Division of Emergency Management, as provided in Section 53-2a-603.

(34) The Post Disaster Recovery and Mitigation Restricted Account created in Section 53-2a-1302.

(35) The Department of Public Safety Restricted Account to the Department of Public Safety, as provided in Section 53-3-106.

(36) The Utah Highway Patrol Aero Bureau Restricted Account created in Section 53-8-303.

(37) The DNA Specimen Restricted Account created in Section 53-10-407.

(38) The Canine Body Armor Restricted Account created in Section 53-16-201.

(39) The Technical Colleges Capital Projects Fund created in Section 53B-2a-118.

(40) The Higher Education Capital Projects Fund created in Section 53B-22-202.

(41) A certain portion of money collected for administrative costs under the School Institutional Trust Lands Management Act, as provided under Section 53C-3-202.

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(42) The Public Utility Regulatory Restricted Account created in Section 54-5-1.5, subject to Subsection 54-5-1.5(4)(d).

(43) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-3a-105.

(44) Certain fines collected by the Division of Professional Licensing for violation of unlawful or unprofessional conduct that are used for education and enforcement purposes, as provided in Section 58-17b-505.

(45) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-22-104.

(46) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-55-106.

(47) Funds collected from a surcharge fee to provide certain licensees with access to an electronic reference library, as provided in Section 58-56-3.5.

(48) Certain fines collected by the Division of Professional Licensing for use in education and enforcement of the Security Personnel Licensing Act, as provided in Section 58-63-103.

(49) The Relative Value Study Restricted Account created in Section 59-9-105.

(50) The Cigarette Tax Restricted Account created in Section 59-14-204.

(51) Funds paid to the Division of Real Estate for the cost of a criminal background check for a mortgage loan license, as provided in Section 61-2c-202.

(52) Funds paid to the Division of Real Estate for the cost of a criminal background check for principal broker, associate broker, and sales agent licenses, as provided in Section 61-2f-204.

(53) Certain funds donated to the Department of Health and Human Services, as provided in Section 26B-1-202.

(54) The National Professional Men's Basketball Team Support of Women and Children Issues Restricted Account created in Section 26B-1-302.

(55) Certain funds donated to the Division of Child and Family Services, as provided in Section 80-2-404.

(56) The Choose Life Adoption Support Restricted Account created in Section 80-2-502.

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(57) Funds collected by the Office of Administrative Rules for publishing, as provided in Section 63G-3-402.

(58) The Immigration Act Restricted Account created in Section 63G-12-103.

(59) Money received by the military installation development authority, as provided in Section 63H-1-504.

(60) The Computer Aided Dispatch Restricted Account created in Section 63H-7a-303.

(61) The Unified Statewide 911 Emergency Service Account created in Section 63H-7a-304.

(62) The Utah Statewide Radio System Restricted Account created in Section 63H-7a-403.

(63) The Utah Capital Investment Restricted Account created in Section 63N-6-204.

(64) The Motion Picture Incentive Account created in Section 63N-8-103.

(65) Certain money payable for expenses of the Pete Suazo Utah Athletic Commission, as provided under Section 63N-10-301.

(66) Funds collected by the housing of state probationary inmates or state parole inmates, as provided in Subsection 64-13e-104(2).

(67) Certain forestry and fire control funds utilized by the Division of Forestry, Fire, and State Lands, as provided in Section 65A-8-103.

(68) The Amusement Ride Safety Restricted Account, as provided in Section 72-16-204.

(69) Certain funds received by the Office of the State Engineer for well drilling fines or bonds, as provided in Section 73-3-25.

(70) The Water Resources Conservation and Development Fund, as provided in Section 73-23-2.

(71) Funds donated or paid to a juvenile court by private sources, as provided in Subsection 78A-6-203(1)(c).

(72) Fees for certificate of admission created under Section 78A-9-102.

(73) Funds collected for adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

(74) Funds collected for indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

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(75) The Utah Geological Survey Oil, Gas, and Mining Restricted Account created in Section 79-3-403.

(76) Revenue for golf user fees at the Wasatch Mountain State Park, Palisades State Park, and Green River State Park, as provided under Section 79-4-403.

(77) Funds donated as described in Section 41-1a-422 for the State Park Fees Restricted Account created in Section 79-4-402 for support of the Division of State Parks' dark sky initiative.

(78) Certain funds received by the Division of State Parks from the sale or disposal of buffalo, as provided under Section 79-4-1001.

Section 36. 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 4-46-301.
- (5) The Utah Lake Authority created in Section 11-65-201.
- (6) Dedicated credits accrued to the Utah Marriage Commission as provided under Subsection 17-16-21(2)(d)(ii).

~~[(7) The Division of Wildlife Resources for the appraisal and purchase of lands under the Pelican Management Act, as provided in Section 23-21a-6.]~~

~~[(8) (7) The Emergency Medical Services Grant Program in Section 26-8a-207.~~

~~[(9) (8) The primary care grant program created in Section 26-10b-102.~~

~~[(10) (9) Sanctions collected as dedicated credits from Medicaid providers under Subsection 26-18-3(7).~~

~~[(11) (10) The Utah Health Care Workforce Financial Assistance Program created in Section 26-46-102.~~

~~[(12) (11) The Rural Physician Loan Repayment Program created in Section~~

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26-46a-103.

~~[(13)]~~ (12) The Opiate Overdose Outreach Pilot Program created in Section 26-55-107.

~~[(14)]~~ (13) The Utah Medical Education Council for the:

(a) administration of the Utah Medical Education Program created in Section 26-69-403;

(b) provision of medical residency grants described in Section 26-69-407; and

(c) provision of the forensic psychiatric fellowship grant described in Section 26-69-408.

~~[(15)]~~ (14) Funds that the Department of Alcoholic Beverage Services retains in accordance with Subsection 32B-2-301(8)(a) or (b).

~~[(16)]~~ (15) The General Assistance program administered by the Department of Workforce Services, as provided in Section 35A-3-401.

~~[(17)]~~ (16) The Utah National Guard, created in Title 39, Militia and Armories.

~~[(18)]~~ (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.

~~[(19)]~~ (18) The Search and Rescue Financial Assistance Program, as provided in Section 53-2a-1102.

~~[(20)]~~ (19) The Motorcycle Rider Education Program, as provided in Section 53-3-905.

~~[(21)]~~ (20) The Utah Board of Higher Education for teacher preparation programs, as provided in Section 53B-6-104.

~~[(22)]~~ (21) Innovation grants under Section 53G-10-608, except as provided in Subsection 53G-10-608(6).

~~[(23)]~~ (22) The Division of Services for People with Disabilities, as provided in Section 62A-5-102.

~~[(24)]~~ (23) The Division of Fleet Operations for the purpose of upgrading underground storage tanks under Section 63A-9-401.

~~[(25)]~~ (24) The Utah Seismic Safety Commission, as provided in Section 63C-6-104.

~~[(26)]~~ (25) The Division of Technology Services for technology innovation as provided under Section 63A-16-903.

~~[(27)]~~ (26) The Office of Administrative Rules for publishing, as provided in Section

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63G-3-402.

~~[(28)]~~ (27) The Colorado River Authority of Utah, created in Title 63M, Chapter 14, Colorado River Authority of Utah Act.

~~[(29)]~~ (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.

~~[(30)]~~ (29) 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.

~~[(31)]~~ (30) Programs for the Jordan River Recreation Area as described in Section 65A-2-8.

~~[(32)]~~ (31) The Division of Human Resource Management user training program, as provided in Section 63A-17-106.

~~[(33)]~~ (32) A public safety answering point's emergency telecommunications service fund, as provided in Section 69-2-301.

~~[(34)]~~ (33) The Traffic Noise Abatement Program created in Section 72-6-112.

~~[(35)]~~ (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.

~~[(36)]~~ (35) The Judicial Council for compensation for special prosecutors, as provided in Section 77-10a-19.

~~[(37)]~~ (36) A state rehabilitative employment program, as provided in Section 78A-6-210.

~~[(38)]~~ (37) The Utah Geological Survey, as provided in Section 79-3-401.

~~[(39)]~~ (38) The Bonneville Shoreline Trail Program created under Section 79-5-503.

~~[(40)]~~ (39) Adoption document access as provided in Sections 78B-6-141, 78B-6-144, and 78B-6-144.5.

~~[(41)]~~ (40) Indigent defense as provided in Title 78B, Chapter 22, Part 4, Utah Indigent Defense Commission.

~~[(42)]~~ (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

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Facilities Construction and Management.

~~[(43)]~~ (42) The State Tax Commission for reimbursing counties for deferred property taxes in accordance with Section 59-2-1802.

Section 37. Section **63L-7-106** is amended to read:

63L-7-106. Use of protected wilderness areas.

(1) Except as otherwise provided in this chapter, each agency administering any area designated as a protected wilderness area shall be responsible for preserving the wilderness character of the area and shall administer such area for the purposes for which it may have been established to preserve its wilderness character.

(2) Except as specifically provided in this chapter, and subject to valid existing rights, there shall be:

(a) no commercial enterprise and no permanent road within any protected wilderness area designated by this chapter; and

(b) no temporary road, no use of motor vehicles, motorized equipment or motorboats, no landing of aircraft, no other form of mechanical transport, and no structure or installation with any such area except as necessary to meet minimum requirements for the administration of the area for the purpose of this chapter, including measures required in emergencies involving the health and safety of persons within the area.

(3) Except as otherwise provided in this chapter, a protected wilderness area shall be devoted to the public purposes of:

(a) recreation, including hunting, trapping, and fishing;

(b) conservation; and

(c) scenic, scientific, educational, and historical use.

(4) Commercial services may be performed within a protected wilderness area to the extent necessary to support the activities described in Subsection (3).

(5) Within an area designated as a protected wilderness area by this chapter:

(a) subject to the rules established by DNR, the use of a motor vehicle, aircraft, or motorboat is authorized where:

(i) the use of a motor vehicle, aircraft, or motorboat is already established;

(ii) the motor vehicle, aircraft, or motorboat is used by the Division of Wildlife

Resources in furtherance of its wildlife management responsibilities, as described in ~~[Title 23]~~;

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~~Wildlife Resources Code of Utah~~ Title 23A, Wildlife Resources Act; or

(iii) the use of a motor vehicle, aircraft, or motorboat is necessary for emergency services or law enforcement purposes; and

(b) measures may be taken, under the direction of the director of the Division of Forestry, Fire, and State Lands, as necessary to manage fire, insects, habitat, and diseases.

(6) Nothing in this chapter shall prevent, within a designated protected wilderness area, any activity, including prospecting, if the activity is conducted in a manner compatible with the preservation of the wilderness environment, subject to such conditions as the executive director of DNR considers desirable.

(7) The executive director of DNR shall develop and conduct surveys of wilderness areas:

(a) on a planned, recurring basis;

(b) in a manner consistent with wildlife management and preservation principles;

(c) in order to determine the mineral values, if any, that may be present in wilderness areas; and

(d) make a completed survey available to the public, the governor, and the Legislature.

(8) Notwithstanding any other provision of this chapter, until midnight December 31, 2034:

(a) state laws pertaining to mining and mineral leasing shall, to the extent applicable before May 13, 2014, extend to wilderness areas designated under this chapter, subject to reasonable regulation governing ingress and egress as may be prescribed by the executive director of DNR, consistent with the use of the land for:

(i) mineral location and development;

(ii) exploration, drilling, and production; and

(iii) use of land for transmission lines, waterlines, telephone lines, or facilities necessary in exploring, drilling, producing, mining, and processing operations, including the use of mechanized ground or air equipment when necessary, if restoration of the disturbed land is practicable and performed as soon as the land has served its purpose; and

(b) mining locations lying within the boundaries of a protected wilderness area that existed as of the date of acquisition shall be held and used solely for mining or processing operations, and uses that are reasonably related to an underlying mining or processing

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operation.

(9) Any newly issued mineral lease, permit, or license for land within a wilderness area shall contain stipulations, as may be determined by the executive director of DNR in consultation with the director of the Division of Oil, Gas, and Mining, for the protection of the wilderness character of the land, consistent with the use of the land for the purpose for which it is leased, permitted, or licensed.

(10) Subject to valid rights then existing, effective January 1, 2015, the minerals in all lands designated by this chapter as wilderness areas are withdrawn from disposition under all laws pertaining to mineral leasing.

(11) Mineral leases shall not be permitted within protected wilderness areas.

(12) The governor may, within protected wilderness areas, authorize:

(a) prospecting for water resources;

(b) the establishment and maintenance of reservoirs, water-conservation works, power projects, transmission lines, and other facilities needed in developing water resources, including road construction and essential maintenance; and

(c) subject to Subsection (13), the grazing of livestock, if the practice of grazing livestock was established as of the effective date of this chapter.

(13) The commissioner of the Department of Agriculture and Food may make regulations as necessary to govern the grazing of livestock on a protected wilderness area.

Section 38. Section **63L-8-303** is amended to read:

63L-8-303. Management of use, occupancy, and development of public land.

(1) As used in this section, "casual" means activity that:

(a) occurs irregularly; and

(b) is non-commercial.

(2) (a) Except as provided in Subsection (2)(b), the director shall manage the public land under principles of multiple use and sustained yield, in accordance with land use plans developed by the DLM.

(b) Where a tract of public land has been dedicated to a specific use according to a provision of law, legal encumbrance, or contractual obligation, it shall be managed in accordance with those provisions.

(3) (a) The director shall, subject to Subsection (3)(b) and other applicable law,

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authorize use of the public land through land use authorizations.

(b) The director may permit state departments, agencies, and local governments to use, occupy, and develop public land through rights-of-way or other cooperative agreements.

(c) The director may authorize use of the land through specific programs, such as:

(i) the collection of firewood, nuts, or the casual gathering of other organic products;

(ii) camping or other casual use;

(iii) rockhounding, building stone, or the gathering of other rock products; or

(iv) other casual uses.

(d) The programs described in Subsection (3)(c) may require the issuance of a permit and collection of a reasonable fee, if necessary.

(e) Nothing in this chapter shall be construed as:

(i) authorizing the director to:

(A) require permits to hunt and fish on public land and adjacent water beyond those approved by the Wildlife Board pursuant to [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act; or

(B) to close public land or areas of public land to hunting, fishing, or trapping, except as provided in Subsection (3)(f); or

(ii) enlarging or diminishing the responsibility and authority of the Wildlife Board or Division of Wildlife Resources for management of fish and resident wildlife on public land pursuant to [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act.

(f) The director may designate areas of public land where, and establish periods when, no hunting will be permitted on public land for reasons of public safety, administration, or compliance with provisions of applicable law.

(4) Subject to Subsection (5), the director shall insert in any land use authorization providing for the use, occupancy, or development of the public land, a provision authorizing revocation or suspension, after notice and hearing, of the authorization upon a final administrative finding of a violation of any term or condition of the authorization.

(5) (a) The director may immediately revoke or suspend a land use authorization if, after notice and administrative hearing, there is an administrative finding that the holder violated a term or condition of the authorization.

(b) If a holder of an authorization rectifies the violation that formed the basis of the

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director's suspension under Subsection (5)(a), the director may terminate the suspension.

(6) The director may order an immediate temporary suspension before a hearing or final administrative finding if the director determines that a suspension is necessary to protect:

- (a) health or safety; or
- (b) the environment.

(7) Use of public land pursuant to a general authorization under this section shall be limited to areas where the use is consistent with the applicable land use plans prepared pursuant to Section 63L-8-202.

(8) A general authorization for the use of public land shall be subject to:

(a) a requirement that the using party shall be responsible for any necessary cleanup and decontamination of the land used; and

(b) terms and conditions, including restrictions on use of off-road or all-terrain vehicles, as the director deems appropriate.

(9) A general authorization issued pursuant to this section:

(a) may not be for a term exceeding five years; and

(b) shall be revoked in whole or in part, as the director finds necessary, upon a determination by the director that:

(i) there has been a failure to comply with its terms and conditions; or

(ii) activities permitted by the authorization have had, or might have, a significant adverse impact on the resources or values of the affected lands.

(10) Each specific use of a particular area of public land pursuant to a general authorization under this section is subject to:

(a) specific authorization by the director; and

(b) appropriate terms and conditions, as described in this section.

(11) An authorization under this section may not authorize the construction of permanent structures or facilities on the public land.

(12) No one may use or occupy public land without appropriate authorization.

Section 39. Section **63L-8-304** is amended to read:

63L-8-304. Enforcement authority.

(1) The director shall issue rules as necessary to implement the provisions of this chapter with respect to the management, use, and protection of the public land and property

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located on the public land.

(2) At the request of the director, the attorney general may institute a civil action in a district court for an injunction or other appropriate remedy to prevent any person from utilizing public land in violation of this chapter or rules issued by the director under this chapter.

(3) The use, occupancy, or development of any portion of the public land contrary to any rule issued by the DLM in accordance with this chapter, and without proper authorization, is unlawful and prohibited.

(4) (a) The locally elected county sheriff is the primary law enforcement authority with jurisdiction on public land to enforce:

(i) all the laws of this state; and

(ii) this chapter and rules issued by the director pursuant to Subsection (1).

(b) The governor may utilize the Department of Public Safety for the purposes of assisting the county sheriff in enforcing:

(i) all the laws of this state and this chapter; and

(ii) rules issued by the director pursuant to Subsection (1).

(c) Conservation officers employed by the Division of Wildlife Resources have authority to enforce the laws and regulations under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, for the sake of any protected wildlife.

(d) A conservation officer shall work cooperatively with the locally elected county sheriff to enforce the laws and regulations under [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, for the sake of protected wildlife.

(e) Nothing herein shall be construed as enlarging or diminishing the responsibility or authority of a state certified peace officer in performing the officer's duties on public land.

Section 40. Section **72-9-501** is amended to read:

72-9-501. Construction, operation, and maintenance of ports-of-entry by the department -- Function of ports-of-entry -- Checking and citation powers of port-of-entry agents.

(1) (a) The department shall construct ports-of-entry for the purpose of checking motor carriers, drivers, vehicles, and vehicle loads for compliance with state and federal laws including laws relating to:

(i) driver qualifications;

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- (ii) Title 53, Chapter 3, Part 4, Uniform Commercial Driver License Act;
- (iii) vehicle registration;
- (iv) fuel tax payment;
- (v) vehicle size, weight, and load;
- (vi) security or insurance;
- (vii) this chapter;
- (viii) hazardous material as defined under 49 U.S.C. Sec. 5102; and
- (ix) safety.

(b) The ports-of-entry shall be located on state highways at sites determined by the department.

(2) (a) The ports-of-entry shall be operated and maintained by the department.

(b) A port-of-entry agent or a peace officer may check, inspect, or test drivers, vehicles, and vehicle loads for compliance with state and federal laws specified in Subsection (1).

(3) (a) A port-of-entry agent or a peace officer, in whose presence an offense described in this section is committed, may:

(i) issue and deliver a misdemeanor or infraction citation under Section 77-7-18;

(ii) request and administer chemical tests to determine blood alcohol concentration in compliance with Section 41-6a-515;

(iii) place a driver out-of-service in accordance with Section 53-3-417; and

(iv) serve a driver with notice of the Driver License Division of the Department of Public Safety's intention to disqualify the driver's privilege to drive a commercial motor vehicle in accordance with Section 53-3-418.

(b) This section does not grant actual arrest powers as defined in Section 77-7-1 to a port-of-entry agent who is not a peace officer or special function officer designated under Title 53, Chapter 13, Peace Officer Classifications.

(4) (a) A port-of-entry agent, a peace officer, or the Division of Wildlife Resources may inspect, detain, or quarantine a conveyance or equipment in accordance with Sections ~~[23-27-301]~~ 23A-10-301 and ~~[23-27-302]~~ 23A-10-302.

(b) The department is not responsible for decontaminating a conveyance or equipment detained or quarantined.

(c) The Division of Wildlife Resources may decontaminate, as defined in Section

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[~~23-27-102~~] 23A-10-101, a conveyance or equipment at the port-of-entry if authorized by the department.

Section 41. Section **73-3-30** is amended to read:

73-3-30. Change application for an instream flow.

(1) As used in this section:

(a) "Division" means the Division of Wildlife Resources created in Section [~~23-14-1~~] 23A-2-201, the Division of State Parks created in Section 79-4-201, or the Division of Forestry, Fire, and State Lands created in Section 65A-1-4.

(b) "Person entitled to the use of water" means the same as that term is defined in Section 73-3-3.

(c) "Sovereign lands" means the same as that term is defined in Section 65A-1-1.

(d) "Wildlife" means species of animals, including mammals, birds, fish, reptiles, amphibians, mollusks, and crustaceans, that are protected or regulated by a statute, law, regulation, ordinance, or administrative rule.

(2) (a) Pursuant to Section 73-3-3, a division may file a permanent change application, a fixed time change application, or a temporary change application, or a person entitled to the use of water may file a fixed time change application or a temporary change application, to provide water within the state for:

- (i) an instream flow within a specified section of a natural or altered stream; or
- (ii) use on sovereign lands.

(b) The state engineer may not approve a change application filed under this section unless the proposed instream flow or use on sovereign lands will contribute to:

- (i) the propagation or maintenance of wildlife;
- (ii) the management of state parks; or
- (iii) the reasonable preservation or enhancement of the natural aquatic environment.

(c) A division may file a change application on:

(i) a perfected water right:

(A) presently owned by the division;

(B) purchased by the division for the purpose of providing water for an instream flow or use on sovereign lands, through funding provided for that purpose by legislative appropriation; or

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(C) secured by lease, agreement, gift, exchange, or contribution; or

(ii) an appurtenant water right acquired with the acquisition of real property by the division.

(d) A division may:

(i) purchase a water right for the purposes described in Subsection (2)(a) only with funds specifically appropriated by the Legislature for water rights purchases; or

(ii) accept a donated water right without legislative approval.

(e) A division may not acquire water rights by eminent domain for an instream flow, use on sovereign lands, or for any other purpose.

(3) (a) A person entitled to the use of water shall obtain a division director's approval of the proposed change before filing a fixed time change application or a temporary change application with the state engineer.

(b) By approving a proposed fixed time change application or temporary change application, a division director attests that the water that is the subject of the application can be used consistent with the statutory mandates of the director's division.

(4) In addition to the requirements of Section 73-3-3, an application authorized by this section shall include:

(a) a legal description of:

(i) the segment of the natural or altered stream that will be the place of use for an instream flow; or

(ii) the location where the water will be used on sovereign lands; and

(b) appropriate studies, reports, or other information required by the state engineer demonstrating:

(i) the projected benefits to the public resulting from the change; and

(ii) the necessity for the proposed instream flow or use on sovereign lands.

(5) A person may not appropriate unappropriated water under Section 73-3-2 for the purpose of providing an instream flow or use on sovereign lands.

(6) Water used in accordance with this section is considered to be beneficially used, as required by Section 73-3-1.

(7) A physical structure or physical diversion from the stream is not required to implement a change under this section.

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(8) An approved change application described in this section does not create a right of access across private property or allow any infringement of a private property right.

Section 42. Section **73-18-26** is amended to read:

73-18-26. Resident aquatic invasive species fee -- Amount -- Deposit.

(1) In addition to the registration fee imposed under Section 73-18-7, there is imposed an annual resident aquatic invasive species fee of \$10 on a motorboat or sailboat required to be registered under Section 73-18-7.

(2) The fee imposed under Subsection (1) shall be deposited into the Aquatic Invasive Species Interdiction Account created in Section [~~23-27-305~~] 23A-3-211.

Section 43. Section **73-29-102** is amended to read:

73-29-102. Definitions.

As used in this chapter:

(1) "Division" means the Division of Wildlife Resources.

(2) "Floating access" means the right to access public water flowing over private property for floating and fishing while floating upon the water.

(3) "Impounded wetlands" means a wetland or wetland pond that is formed or the level of which is controlled by a dike, berm, or headgate that retains or manages the flow or depth of water, including connecting channels.

(4) "Navigable water" means a water course that in its natural state without the aid of artificial means is useful for commerce and has a useful capacity as a public highway of transportation.

(5) "Private property to which access is restricted" means privately owned real property:

(a) that is cultivated land, as defined in Section [~~23-20-14~~] 23A-5-317;

(b) that is:

(i) properly posted, as defined in Section [~~23-20-14~~] 23A-5-317;

(ii) posted as described in Subsection 76-6-206(2)(b)(iii); or

(iii) posted as described in Subsection 76-6-206.3(2)(c);

(c) that is fenced or enclosed as described in:

(i) Subsection 76-6-206(2)(b)(ii); or

(ii) Subsection 76-6-206.3(2)(b); or

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(d) that the owner or a person authorized to act on the owner's behalf has requested a person to leave as provided by:

- (i) Section ~~[23-20-14]~~ 23A-5-317;
- (ii) Subsection 76-6-206(2)(b)(i); or
- (iii) Subsection 76-6-206.3(2)(a).

(6) "Public access area" means the limited part of privately owned property that:

(a) lies beneath or within three feet of a public water or that is the most direct, least invasive, and closest means of portage around an obstruction in a public water; ~~{}~~and~~{}~~

(b) is open to public recreational access under Section 73-29-203; and

(c) can be accessed from an adjoining public access area or public right-of-way.

(7) "Public recreational access" means the right to engage in recreational access established in accordance with Section 73-29-203.

(8) (a) "Public water" means water:

(i) described in Section 73-1-1; and

(ii) flowing or collecting on the surface:

(A) within a natural or realigned channel; or

(B) in a natural lake, pond, or reservoir on a natural or realigned channel.

(b) "Public water" does not include water flowing or collecting:

(i) on impounded wetland;

(ii) on a migratory bird production area, as defined in Section ~~[23-28-102]~~

23A-13-101;

(iii) on private property in a manmade:

(A) irrigation canal;

(B) irrigation ditch; or

(C) impoundment or reservoir constructed outside of a natural or realigned channel; or

(iv) on a jurisdictional wetland described in 33 C.F.R. 328.3.

(9) (a) "Recreational access" means to use a public water and to touch a public access area incidental to the use of the public water for:

(i) floating;

(ii) fishing; or

(iii) waterfowl hunting conducted:

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(A) in compliance with applicable law or rule, including Sections [~~23-20-8~~] 23A-5-314, 73-29-203, and 76-10-508; and

(B) so that the individual who engages in the waterfowl hunting shoots a firearm only while within a public access area and no closer than 600 feet of any dwelling.

(b) "Recreational access" does not include:

(i) hunting, except as provided in Subsection (9)(a)(iii);

(ii) wading without engaging in activity described in Subsection (9)(a); or

(iii) any other activity.

Section 44. Section ~~73-30-201~~ is amended to read:

73-30-201. Advisory council created -- Staffing -- Per diem and travel expenses.

(1) There is created an advisory council known as the "Great Salt Lake Advisory Council" consisting of 11 members listed in Subsection (2).

(2) (a) The governor shall appoint the following members, with the advice and consent of the Senate:

(i) one representative of industry representing the extractive industry;

(ii) one representative of industry representing aquaculture;

(iii) one representative of conservation interests;

(iv) one representative of a migratory bird protection area as defined in Section [~~23-28-102~~] 23A-13-101;

(v) one representative who is an elected official from municipal government, or the elected official's designee;

(vi) five representatives who are elected officials from county government, or the elected official's designee, one each representing:

(A) Box Elder County;

(B) Davis County;

(C) Salt Lake County;

(D) Tooele County; and

(E) Weber County; and

(vii) one representative of a publicly owned treatment works.

(3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year term.

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

(c) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement for the unexpired term with the advice and consent of the Senate.

(d) A member shall hold office until the member's successor is appointed and qualified.

(4) The council shall determine:

(a) the time and place of meetings; and

(b) any other procedural matter not specified in this chapter.

(5) (a) Attendance of six members at a meeting of the council constitutes a quorum.

(b) A vote of the majority of the members present at a meeting when a quorum is present constitutes an action of the council.

(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) The Department of Natural Resources and the Department of Environmental Quality shall coordinate and provide necessary staff assistance to the council.

Section 45. Section **76-9-301** is amended to read:

76-9-301. Cruelty to animals.

(1) As used in this section:

(a) (i) "Abandon" means to intentionally deposit, leave, or drop off any live animal:

(A) without providing for the care of that animal, in accordance with accepted animal husbandry practices or customary farming practices; or

(B) in a situation where conditions present an immediate, direct, and serious threat to the life, safety, or health of the animal.

(ii) "Abandon" does not include returning wildlife to its natural habitat.

(b) (i) "Animal" means, except as provided in Subsection (1)(b)(ii), a live, nonhuman

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vertebrate creature.

(ii) "Animal" does not include:

(A) a live, nonhuman vertebrate creature, if:

(I) the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices; and

(II) the creature is:

(Aa) owned or kept by a zoological park that is accredited by, or a member of, the American Zoo and Aquarium Association;

(Bb) kept, owned, or used for the purpose of training hunting dogs or raptors; or

(Cc) temporarily in the state as part of a circus or traveling exhibitor licensed by the United States Department of Agriculture under 7 U.S.C. Sec. 2133;

(B) a live, nonhuman vertebrate creature that is owned, kept, or used for rodeo purposes, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted rodeo practices;

(C) livestock, if the conduct toward the creature, and the care provided to the creature, is in accordance with accepted animal husbandry practices or customary farming practices; or

(D) wildlife, as defined in Section [~~23-13-2~~] 23A-1-101, including protected and unprotected wildlife, if the conduct toward the wildlife is in accordance with lawful hunting, fishing, or trapping practices or other lawful practices.

(c) "Companion animal" means an animal that is a domestic dog or a domestic cat.

(d) "Custody" means ownership, possession, or control over an animal.

(e) "Legal privilege" means an act that:

(i) is authorized by state law, including [~~Division of Wildlife Resources rules~~] rules ~~made~~ under Title 23A, Wildlife Resources Act; and

(ii) is not in violation of a local ordinance.

(f) "Livestock" means:

(i) domesticated:

(A) cattle;

(B) sheep;

(C) goats;

(D) turkeys;

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- (E) swine;
- (F) equines;
- (G) camelidae;
- (H) ratites; or
- (I) bison;
- (ii) domesticated elk, as defined in Section 4-39-102;
- (iii) a livestock guardian dog, as defined in Section 76-6-111; or
- (iv) any domesticated nonhuman vertebrate creature, domestic furbearer, or domestic

poultry, raised, kept, or used for agricultural purposes.

(g) "Necessary food, water, care, or shelter" means the following, taking into account the species, age, and physical condition of the animal:

- (i) appropriate and essential food and water;
- (ii) adequate protection, including appropriate shelter, against extreme weather conditions; and
- (iii) other essential care.

(h) "Torture" means intentionally or knowingly causing or inflicting extreme physical pain to an animal in an especially heinous, atrocious, cruel, or exceptionally depraved manner.

(2) Except as provided in Subsection (4) or (6), a person is guilty of cruelty to an animal if the person, without legal privilege to do so, intentionally, knowingly, recklessly, or with criminal negligence:

- (a) fails to provide necessary food, water, care, or shelter for an animal in the person's custody;
- (b) abandons an animal in the person's custody;
- (c) injures an animal;
- (d) causes any animal, not including a dog or game fowl, to fight with another animal of like kind for amusement or gain; or
- (e) causes any animal, including a dog or game fowl, to fight with a different kind of animal or creature for amusement or gain.

(3) Except as provided in Section 76-9-301.7, a violation of Subsection (2) is:

- (a) a class B misdemeanor if committed intentionally or knowingly; and
- (b) a class C misdemeanor if committed recklessly or with criminal negligence.

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(4) A person is guilty of aggravated cruelty to an animal if the person:

(a) tortures an animal;

(b) administers, or causes to be administered, poison or a poisonous substance to an animal; or

(c) kills an animal or causes an animal to be killed without having a legal privilege to do so.

(5) Except as provided in Subsection (6) or Section 76-9-301.7, a violation of Subsection (4) is:

(a) a class A misdemeanor if committed intentionally or knowingly;

(b) a class B misdemeanor if committed recklessly; and

(c) a class C misdemeanor if committed with criminal negligence.

(6) A person is guilty of a third degree felony if the person intentionally or knowingly tortures a companion animal.

(7) It is a defense to prosecution under this section that the conduct of the actor towards the animal was:

(a) by a licensed veterinarian using accepted veterinary practice;

(b) directly related to bona fide experimentation for scientific research, provided that if the animal is to be destroyed, the manner employed will not be unnecessarily cruel unless directly necessary to the veterinary purpose or scientific research involved;

(c) permitted under Section 18-1-3;

(d) by a person who humanely destroys any animal found suffering past recovery for any useful purpose; or

(e) by a person who humanely destroys any apparently abandoned animal found on the person's property.

(8) For purposes of Subsection (7)(d), before destroying the suffering animal, the person who is not the owner of the animal shall obtain:

(a) the judgment of a veterinarian of the animal's nonrecoverable condition;

(b) the judgment of two other persons called by the person to view the unrecoverable condition of the animal in the person's presence;

(c) the consent from the owner of the animal to the destruction of the animal; or

(d) a reasonable conclusion that the animal's suffering is beyond recovery, through the

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person's own observation, if the person is in a location or circumstance where the person is unable to contact another person.

(9) This section does not affect or prohibit:

(a) the training, instruction, and grooming of animals, if the methods used are in accordance with accepted animal husbandry practices or customary farming practices;

(b) the use of an electronic locating or training collar by the owner of an animal for the purpose of lawful animal training, lawful hunting practices, or protecting against loss of that animal; or

(c) the lawful hunting of, fishing for, or trapping of, wildlife.

(10) County and municipal governments may not prohibit the use of an electronic locating or training collar.

(11) Upon conviction under this section, the court may in its discretion, in addition to other penalties:

(a) order the defendant to be evaluated to determine the need for psychiatric or psychological counseling, to receive counseling as the court determines to be appropriate, and to pay the costs of the evaluation and counseling;

(b) require the defendant to forfeit any rights the defendant has to the animal subjected to a violation of this section and to repay the reasonable costs incurred by any person or agency in caring for each animal subjected to violation of this section;

(c) order the defendant to no longer possess or retain custody of any animal, as specified by the court, during the period of the defendant's probation or parole or other period as designated by the court; and

(d) order the animal to be placed for the purpose of adoption or care in the custody of a county or municipal animal control agency or an animal welfare agency registered with the state to be sold at public auction or humanely destroyed.

(12) This section does not prohibit the use of animals in lawful training.

(13) A veterinarian who, acting in good faith, reports a violation of this section to law enforcement may not be held civilly liable for making the report.

Section 46. Section **76-10-504** is amended to read:

76-10-504. Carrying concealed firearm -- Penalties.

(1) Except as provided in Sections 76-10-503 and 76-10-523 and in Subsections (2),

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(3), and (4), a person who carries a concealed firearm, as defined in Section 76-10-501, including an unloaded firearm on his or her person or one that is readily accessible for immediate use which is not securely encased, as defined in this part, in or on a place other than the person's residence, property, a vehicle in the person's lawful possession, or a vehicle, with the consent of the individual who is lawfully in possession of the vehicle, or business under the person's control is guilty of a class B misdemeanor.

(2) A person who carries a concealed firearm that is a loaded firearm in violation of Subsection (1) is guilty of a class A misdemeanor.

(3) A person who carries concealed an unlawfully possessed short barreled shotgun or a short barreled rifle is guilty of a second degree felony.

(4) If the concealed firearm is used in the commission of a violent felony as defined in Section 76-3-203.5, and the person is a party to the offense, the person is guilty of a second degree felony.

(5) Nothing in Subsection (1) or (2) prohibits a person engaged in the lawful taking of protected or unprotected wildlife as defined in [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, from carrying a concealed firearm as long as the taking of wildlife does not occur:

- (a) within the limits of a municipality in violation of that municipality's ordinances; or
- (b) upon the highways of the state as defined in Section 41-6a-102.

Section 47. Section **76-10-508** is amended to read:

76-10-508. Discharge of firearm from a vehicle, near a highway, or in direction of specified items -- Penalties.

- (1) (a) An individual may not discharge a dangerous weapon or firearm:
- (i) from an automobile or other vehicle;
 - (ii) from, upon, or across a highway;
 - (iii) at a road sign placed upon a highway of the state;
 - (iv) at communications equipment or property of public utilities including facilities, lines, poles, or devices of transmission or distribution;
 - (v) at railroad equipment or facilities including a sign or signal;
 - (vi) within a Utah State Park building, designated camp or picnic sites, overlooks, golf courses, boat ramps, and developed beaches; or

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(vii) without written permission to discharge the dangerous weapon from the owner or person in charge of the property within 600 feet of:

(A) a house, dwelling, or any other building; or

(B) any structure in which a domestic animal is kept or fed, including a barn, poultry yard, corral, feeding pen, or stockyard.

(b) It is a defense to any charge for violating this section that the individual being accused had actual permission of the owner or person in charge of the property at the time in question.

(2) A violation of any provision of Subsection (1) is a class B misdemeanor.

(3) In addition to any other penalties, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(4) This section does not apply to an individual who:

(a) discharges a firearm when that individual is in lawful defense of self or others;

(b) is performing official duties as provided in Section [~~23-20-1.5~~] 23A-5-202 and Subsections 76-10-523(1)(a) through (f) and as otherwise provided by law; or

(c) discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (4)(c)(i);

(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Section 48. Section **76-10-508.1** is amended to read:

76-10-508.1. Felony discharge of a firearm -- Penalties.

(1) Except as provided under Subsection (2) or (3), an individual who discharges a

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firearm is guilty of a third degree felony punishable by imprisonment for a term of not less than three years nor more than five years if:

(a) the actor discharges a firearm in the direction of one or more individuals, knowing or having reason to believe that any individual may be endangered by the discharge of the firearm;

(b) the actor, with intent to intimidate or harass another or with intent to damage a habitable structure as defined in Section 76-6-101, discharges a firearm in the direction of any individual or habitable structure; or

(c) the actor, with intent to intimidate or harass another, discharges a firearm in the direction of any vehicle.

(2) A violation of Subsection (1) that causes bodily injury to any individual is a second degree felony punishable by imprisonment for a term of not less than three years nor more than 15 years.

(3) A violation of Subsection (1) that causes serious bodily injury to any individual is a first degree felony.

(4) In addition to any other penalties for a violation of this section, the court shall:

(a) notify the Driver License Division of the conviction for purposes of any revocation, denial, suspension, or disqualification of a driver license under Subsection 53-3-220(1)(a)(xi); and

(b) specify in court at the time of sentencing the length of the revocation under Subsection 53-3-225(1)(c).

(5) This section does not apply to an individual:

(a) who discharges a firearm when that individual is in lawful defense of self or others;

(b) who is performing official duties as provided in Section ~~[23-20-1.5]~~ 23A-5-202 or Subsections 76-10-523(1)(a) through (f) or as otherwise authorized by law; or

(c) who discharges a dangerous weapon or firearm from an automobile or other vehicle, if:

(i) the discharge occurs at a firing range or training ground;

(ii) at no time after the discharge does the projectile that is discharged cross over or stop at a location other than within the boundaries of the firing range or training ground described in Subsection (5)(c)(i);

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(iii) the discharge is made as practice or training for a lawful purpose;

(iv) the discharge and the location, time, and manner of the discharge are approved by the owner or operator of the firing range or training ground before the discharge; and

(v) the discharge is not made in violation of Subsection (1).

Section 49. Section **76-10-1602** is amended to read:

76-10-1602. Definitions.

As used in this part:

(1) "Enterprise" means any individual, sole proprietorship, partnership, corporation, business trust, association, or other legal entity, and any union or group of individuals associated in fact although not a legal entity, and includes illicit as well as licit entities.

(2) "Pattern of unlawful activity" means engaging in conduct which constitutes the commission of at least three episodes of unlawful activity, which episodes are not isolated, but have the same or similar purposes, results, participants, victims, or methods of commission, or otherwise are interrelated by distinguishing characteristics. Taken together, the episodes shall demonstrate continuing unlawful conduct and be related either to each other or to the enterprise. At least one of the episodes comprising a pattern of unlawful activity shall have occurred after July 31, 1981. The most recent act constituting part of a pattern of unlawful activity as defined by this part shall have occurred within five years of the commission of the next preceding act alleged as part of the pattern.

(3) "Person" includes any individual or entity capable of holding a legal or beneficial interest in property, including state, county, and local governmental entities.

(4) "Unlawful activity" means to directly engage in conduct or to solicit, request, command, encourage, or intentionally aid another person to engage in conduct which would constitute any offense described by the following crimes or categories of crimes, or to attempt or conspire to engage in an act which would constitute any of those offenses, regardless of whether the act is in fact charged or indicted by any authority or is classified as a misdemeanor or a felony:

(a) any act prohibited by the criminal provisions of Title 13, Chapter 10, Unauthorized Recording Practices Act;

(b) any act prohibited by the criminal provisions of Title 19, Environmental Quality Code, Sections 19-1-101 through 19-7-109;

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(c) taking, destroying, or possessing wildlife or parts of wildlife for the primary purpose of sale, trade, or other pecuniary gain, in violation of [~~Title 23, Wildlife Resources Code of Utah, or Section 23-20-4;~~] Title 23A, Wildlife Resources Act, or Section 23A-5-311;

(d) false claims for medical benefits, kickbacks, and any other act prohibited by Title 26, Chapter 20, Utah False Claims Act, Sections 26-20-1 through 26-20-12;

(e) any act prohibited by the criminal provisions of Title 32B, Chapter 4, Criminal Offenses and Procedure Act;

(f) any act prohibited by the criminal provisions of Title 57, Chapter 11, Utah Uniform Land Sales Practices Act;

(g) any act prohibited by the criminal provisions of Title 58, Chapter 37, Utah Controlled Substances Act, or Title 58, Chapter 37b, Imitation Controlled Substances Act, Title 58, Chapter 37c, Utah Controlled Substance Precursor Act, or Title 58, Chapter 37d, Clandestine Drug Lab Act;

(h) any act prohibited by the criminal provisions of Title 61, Chapter 1, Utah Uniform Securities Act;

(i) any act prohibited by the criminal provisions of Title 63G, Chapter 6a, Utah Procurement Code;

(j) assault or aggravated assault, Sections 76-5-102 and 76-5-103;

(k) a threat of terrorism, Section 76-5-107.3;

(l) a criminal homicide offense, as described in Section 76-5-201;

(m) kidnapping or aggravated kidnapping, Sections 76-5-301 and 76-5-302;

(n) human trafficking, human trafficking of a child, human smuggling, or aggravated human trafficking, Sections 76-5-308, 76-5-308.1, 76-5-308.3, 76-5-308.5, 76-5-309, and 76-5-310;

(o) sexual exploitation of a minor or aggravated sexual exploitation of a minor, Sections 76-5b-201 and 76-5b-201.1;

(p) arson or aggravated arson, Sections 76-6-102 and 76-6-103;

(q) causing a catastrophe, Section 76-6-105;

(r) burglary or aggravated burglary, Sections 76-6-202 and 76-6-203;

(s) burglary of a vehicle, Section 76-6-204;

(t) manufacture or possession of an instrument for burglary or theft, Section 76-6-205;

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- (u) robbery or aggravated robbery, Sections 76-6-301 and 76-6-302;
- (v) theft, Section 76-6-404;
- (w) theft by deception, Section 76-6-405;
- (x) theft by extortion, Section 76-6-406;
- (y) receiving stolen property, Section 76-6-408;
- (z) theft of services, Section 76-6-409;
- (aa) forgery, Section 76-6-501;
- (bb) fraudulent use of a credit card, Sections 76-6-506.2, 76-6-506.3, 76-6-506.5, and 76-6-506.6;
- (cc) deceptive business practices, Section 76-6-507;
- (dd) bribery or receiving bribe by person in the business of selection, appraisal, or criticism of goods, Section 76-6-508;
- (ee) bribery of a labor official, Section 76-6-509;
- (ff) defrauding creditors, Section 76-6-511;
- (gg) acceptance of deposit by insolvent financial institution, Section 76-6-512;
- (hh) unlawful dealing with property by fiduciary, Section 76-6-513;
- (ii) bribery or threat to influence contest, Section 76-6-514;
- (jj) making a false credit report, Section 76-6-517;
- (kk) criminal simulation, Section 76-6-518;
- (ll) criminal usury, Section 76-6-520;
- (mm) fraudulent insurance act, Section 76-6-521;
- (nn) retail theft, Section 76-6-602;
- (oo) computer crimes, Section 76-6-703;
- (pp) identity fraud, Section 76-6-1102;
- (qq) mortgage fraud, Section 76-6-1203;
- (rr) sale of a child, Section 76-7-203;
- (ss) bribery to influence official or political actions, Section 76-8-103;
- (tt) threats to influence official or political action, Section 76-8-104;
- (uu) receiving bribe or bribery by public servant, Section 76-8-105;
- (vv) receiving bribe or bribery for endorsement of person as public servant, Section 76-8-106;

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- (ww) official misconduct, Sections 76-8-201 and 76-8-202;
- (xx) obstruction of justice, Section 76-8-306;
- (yy) acceptance of bribe or bribery to prevent criminal prosecution, Section 76-8-308;
- (zz) false or inconsistent material statements, Section 76-8-502;
- (aaa) false or inconsistent statements, Section 76-8-503;
- (bbb) written false statements, Section 76-8-504;
- (ccc) tampering with a witness or soliciting or receiving a bribe, Section 76-8-508;
- (ddd) retaliation against a witness, victim, or informant, Section 76-8-508.3;
- (eee) extortion or bribery to dismiss criminal proceeding, Section 76-8-509;
- (fff) tampering with evidence, Section 76-8-510.5;
- (ggg) falsification or alteration of government record, Section 76-8-511, if the record is a record described in Title 20A, Election Code, Title 36, Chapter 11, Lobbyist Disclosure and Regulation Act, or Title 36, Chapter 11a, Local Government and Board of Education Lobbyist Disclosure and Regulation Act;
- (hhh) public assistance fraud in violation of Section 76-8-1203, 76-8-1204, or 76-8-1205;
- (iii) unemployment insurance fraud, Section 76-8-1301;
- (jjj) intentionally or knowingly causing one animal to fight with another, Subsection 76-9-301(2)(d) or (e), or Section 76-9-301.1;
- (kkk) possession, use, or removal of explosives, chemical, or incendiary devices or parts, Section 76-10-306;
- (lll) delivery to common carrier, mailing, or placement on premises of an incendiary device, Section 76-10-307;
- (mmm) possession of a deadly weapon with intent to assault, Section 76-10-507;
- (nnn) unlawful marking of pistol or revolver, Section 76-10-521;
- (ooo) alteration of number or mark on pistol or revolver, Section 76-10-522;
- (ppp) forging or counterfeiting trademarks, trade name, or trade device, Section 76-10-1002;
- (qqq) selling goods under counterfeited trademark, trade name, or trade devices, Section 76-10-1003;
- (rrr) sales in containers bearing registered trademark of substituted articles, Section

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76-10-1004;

(sss) selling or dealing with article bearing registered trademark or service mark with intent to defraud, Section 76-10-1006;

(ttt) gambling, Section 76-10-1102;

(uuu) gambling fraud, Section 76-10-1103;

(vvv) gambling promotion, Section 76-10-1104;

(www) possessing a gambling device or record, Section 76-10-1105;

(xxx) confidence game, Section 76-10-1109;

(yyy) distributing pornographic material, Section 76-10-1204;

(zzz) inducing acceptance of pornographic material, Section 76-10-1205;

(aaaa) dealing in harmful material to a minor, Section 76-10-1206;

(bbbb) distribution of pornographic films, Section 76-10-1222;

(cccc) indecent public displays, Section 76-10-1228;

(dddd) prostitution, Section 76-10-1302;

(eeee) aiding prostitution, Section 76-10-1304;

(ffff) exploiting prostitution, Section 76-10-1305;

(gggg) aggravated exploitation of prostitution, Section 76-10-1306;

(hhhh) communications fraud, Section 76-10-1801;

(iii) any act prohibited by the criminal provisions of Part 19, Money Laundering and Currency Transaction Reporting Act;

(jjjj) vehicle compartment for contraband, Section 76-10-2801;

(kkkk) any act prohibited by the criminal provisions of the laws governing taxation in this state; and

(llll) any act illegal under the laws of the United States and enumerated in 18 U.S.C. Sec. 1961(1)(B), (C), and (D).

Section 50. Section ~~77-20-204~~ is amended to read:

77-20-204. Bail commissioner authority to release an individual from jail on monetary bail.

(1) As used in this section, "eligible felony offense" means a third degree felony violation under:

(a) Section [~~23-19-15~~] 23A-4-501 or 23A-4-502;

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- (b) Section [~~23-20-4~~] 23A-5-311;
- (c) Section [~~23-20-4.7~~] 23A-5-313;
- (d) Title 76, Chapter 6, Part 4, Theft;
- (e) Title 76, Chapter 6, Part 5, Fraud;
- (f) Title 76, Chapter 6, Part 6, Retail Theft;
- (g) Title 76, Chapter 6, Part 7, Utah Computer Crimes Act;
- (h) Title 76, Chapter 6, Part 8, Library Theft;
- (i) Title 76, Chapter 6, Part 9, Cultural Sites Protection;
- (j) Title 76, Chapter 6, Part 10, Mail Box Damage and Mail Theft;
- (k) Title 76, Chapter 6, Part 11, Identity Fraud Act;
- (l) Title 76, Chapter 6, Part 12, Utah Mortgage Fraud Act;
- (m) Title 76, Chapter 6, Part 13, Utah Automated Sales Suppression Device Act;
- (n) Title 76, Chapter 6, Part 14, Regulation of Metal Dealers;
- (o) Title 76, Chapter 6a, Pyramid Scheme Act;
- (p) Title 76, Chapter 7, Offenses Against the Family;
- (q) Title 76, Chapter 7a, Abortion Prohibition;
- (r) Title 76, Chapter 9, Part 2, Electronic Communication and Telephone Abuse;
- (s) Title 76, Chapter 9, Part 3, Cruelty to Animals;
- (t) Title 76, Chapter 9, Part 4, Offenses Against Privacy;
- (u) Title 76, Chapter 9, Part 5, Libel; or
- (v) Title 76, Chapter 9, Part 6, Offenses Against the Flag.

(2) Except as provided in Subsection (7)(a), a bail commissioner may fix a financial condition for an individual if:

(a) (i) the individual is ineligible to be released on the individual's own recognizance under Section 77-20-203;

(ii) the individual is arrested for, or charged with:

(A) a misdemeanor offense under state law; or

(B) a violation of a city or county ordinance that is classified as a class B or C misdemeanor offense;

(iii) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and

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- (iv) law enforcement has not submitted a probable cause statement to a magistrate; or
 - (b) (i) the individual is arrested for, or charged with, an eligible felony offense;
 - (ii) the individual is not on pretrial release for a separate criminal offense;
 - (iii) the individual is not on probation or parole;
 - (iv) the primary risk posed by the individual is the risk of failure to appear;
 - (v) the individual agrees in writing to appear for any future criminal proceedings related to the arrest; and
 - (vi) law enforcement has not submitted a probable cause statement to a magistrate.
- (3) A bail commissioner may not fix a financial condition at a monetary amount that exceeds:
- (a) \$5,000 for an eligible felony offense;
 - (b) \$1,950 for a class A misdemeanor offense;
 - (c) \$680 for a class B misdemeanor offense;
 - (d) \$340 for a class C misdemeanor offense;
 - (e) \$150 for a violation of a city or county ordinance that is classified as a class B misdemeanor; or
 - (f) \$80 for a violation of a city or county ordinance that is classified as a class C misdemeanor.
- (4) If an individual is arrested for more than one offense, and the bail commissioner fixes a financial condition for release:
- (a) the bail commissioner shall fix the financial condition at a single monetary amount; and
 - (b) the single monetary amount may not exceed the monetary amount under Subsection (3) for the highest level of offense for which the individual is arrested.
- (5) Except as provided in Subsection (7)(b), an individual shall be released if the individual posts a financial condition fixed by a bail commissioner in accordance with this section.
- (6) If a bail commissioner fixes a financial condition for an individual, law enforcement shall submit a probable cause statement in accordance with Rule 9 of the Utah Rules of Criminal Procedure after the bail commissioner fixes the financial condition.
- (7) Once a magistrate begins a review of an individual's case under Rule 9 of the Utah

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Rules of Criminal Procedure:

(a) a bail commissioner may not fix or modify a financial condition for an individual;
and

(b) if a bail commissioner fixed a financial condition for the individual before the magistrate's review, the individual may no longer be released on the financial condition.

(8) Nothing in this section prohibits a court and a county from entering into an agreement regarding release.

Section 51. Section **77-23-104** is amended to read:

77-23-104. Written plan -- Approval of magistrate.

(1) An administrative traffic checkpoint may be established and operated upon written authority of a magistrate.

(2) A magistrate may issue written authority to establish and operate an administrative traffic checkpoint if:

(a) a command level officer submits to the magistrate a written plan signed by the command level officer describing:

(i) the location of the checkpoint including geographical and topographical information;

(ii) the date, time, and duration of the checkpoint;

(iii) the sequence of traffic to be stopped;

(iv) the purpose of the checkpoint, including the inspection or inquiry to be conducted;

(v) the minimum number of personnel to be employed in operating the checkpoint, including the rank of the officer or officers in charge at the scene;

(vi) the configuration and location of signs, barriers, and other means of informing approaching motorists that they must stop and directing them to the place to stop;

(vii) any advance notice to the public at large of the establishment of the checkpoint;
and

(viii) the instructions to be given to the enforcement officers operating the checkpoint;

(b) the magistrate makes an independent judicial determination that the plan appropriately:

(i) minimizes the length of time the motorist will be delayed;

(ii) minimizes the intrusion of the inspection or inquiry;

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- (iii) minimizes the fear and anxiety the motorist will experience;
- (iv) minimizes the degree of discretion to be exercised by the individual enforcement officers operating the checkpoint; and
- (v) maximizes the safety of the motorist and the enforcement officers; and
- (c) the administrative traffic checkpoint has the primary purpose of inspecting, verifying, or detecting:
 - (i) drivers that may be under the influence of alcohol or drugs;
 - (ii) license plates, registration certificates, insurance certificates, or driver licenses;
 - (iii) violations of [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act; or
 - (iv) other circumstances that are specifically distinguishable by the magistrate from a general interest in crime control.

(3) Upon determination by the magistrate that the plan meets the requirements of Subsection (2), the magistrate shall sign the authorization and issue it to the command level officer, retaining a copy for the court's file.

(4) A copy of the plan and signed authorization shall be issued to the checkpoint command level officer participating in the operation of the checkpoint.

(5) Any enforcement officer participating in the operation of the checkpoint shall conform [~~his~~] the enforcement officer's activities as nearly as practicable to the procedures outlined in the plan.

(6) The checkpoint command level officer shall be available to exhibit a copy of the plan and signed authorization to any motorist who has been stopped at the checkpoint upon request of the motorist.

Section 52. 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.

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(3) (a) Fines and forfeitures collected for violations of [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, 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~~] Title 23A, Wildlife Resources Act, 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 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 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 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.

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(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 53. Section **78A-7-106** is amended to read:

78A-7-106. Jurisdiction.

(1) (a) Except for an offense for which the district court has original jurisdiction under Subsection 78A-5-102(8) or an offense for which the juvenile court has original jurisdiction under Subsection 78A-6-103(1)(c), a justice court has original jurisdiction over class B and C misdemeanors, violation of ordinances, and infractions committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older.

(b) A justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 18 years old or older:

(i) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(ii) class B and C misdemeanor and infraction violations of:

(A) [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act;

(B) Title 41, Chapter 1a, Motor Vehicle Act;

(C) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(D) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(E) Title 41, Chapter 22, Off-highway Vehicles;

(F) Title 73, Chapter 18, State Boating Act, except Section 73-18-12;

(G) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(H) Title 73, Chapter 18b, Water Safety; and

(I) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(2) Except for an offense for which the district court has exclusive jurisdiction under

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Section 78A-5-102.5 or an offense for which the juvenile court has exclusive jurisdiction under Section 78A-6-103.5, a justice court has original jurisdiction over the following offenses committed within the justice court's territorial jurisdiction by an individual who is 16 or 17 years old:

(a) class C misdemeanor and infraction violations of Title 53, Chapter 3, Part 2, Driver Licensing Act; and

(b) class B and C misdemeanor and infraction violations of:

(i) [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act;

(ii) Title 41, Chapter 1a, Motor Vehicle Act;

(iii) Title 41, Chapter 6a, Traffic Code, except Title 41, Chapter 6a, Part 5, Driving Under the Influence and Reckless Driving;

(iv) Title 41, Chapter 12a, Financial Responsibility of Motor Vehicle Owners and Operators Act;

(v) Title 41, Chapter 22, Off-highway Vehicles;

(vi) Title 73, Chapter 18, State Boating Act, except for an offense under Section 73-18-12;

(vii) Title 73, Chapter 18a, Boating - Litter and Pollution Control;

(viii) Title 73, Chapter 18b, Water Safety; and

(ix) Title 73, Chapter 18c, Financial Responsibility of Motorboat Owners and Operators Act.

(3) (a) As used in this Subsection (3), "body of water" includes any stream, river, lake, or reservoir, whether natural or man-made.

(b) An offense is committed within the territorial jurisdiction of a justice court if:

(i) conduct constituting an element of the offense or a result constituting an element of the offense occurs within the court's jurisdiction, regardless of whether the conduct or result is itself unlawful;

(ii) either an individual committing an offense or a victim of an offense is located within the court's jurisdiction at the time the offense is committed;

(iii) either a cause of injury occurs within the court's jurisdiction or the injury occurs within the court's jurisdiction;

(iv) an individual commits any act constituting an element of an inchoate offense

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within the court's jurisdiction, including an agreement in a conspiracy;

(v) an individual solicits, aids, or abets, or attempts to solicit, aid, or abet another individual in the planning or commission of an offense within the court's jurisdiction;

(vi) the investigation of the offense does not readily indicate in which court's jurisdiction the offense occurred, and:

(A) the offense is committed upon or in any railroad car, vehicle, watercraft, or aircraft passing within the court's jurisdiction;

(B) the offense is committed on or in any body of water bordering on or within this state if the territorial limits of the justice court are adjacent to the body of water;

(C) an individual who commits theft exercises control over the affected property within the court's jurisdiction; or

(D) the offense is committed on or near the boundary of the court's jurisdiction;

(vii) the offense consists of an unlawful communication that was initiated or received within the court's jurisdiction; or

(viii) jurisdiction is otherwise specifically provided by law.

(4) If in a criminal case the defendant is 16 or 17 years old, a justice court judge may transfer the case to the juvenile court for further proceedings if the justice court judge determines and the juvenile court concurs that the best interests of the defendant would be served by the continuing jurisdiction of the juvenile court.

(5) Justice courts have jurisdiction of small claims cases under Title 78A, Chapter 8, Small Claims Courts, if a defendant resides in or the debt arose within the territorial jurisdiction of the justice court.

(6) (a) As used in this Subsection (6), "domestic violence offense" means the same as that term is defined in Section 77-36-1.

(b) If a justice court has jurisdiction over a criminal action involving a domestic violence offense and the criminal action is set for trial, the prosecuting attorney or the defendant may file a notice of transfer in the justice court to transfer the criminal action from the justice court to the district court.

(c) If a justice court receives a notice of transfer from the prosecuting attorney or the defendant as described in Subsection (6)(b), the justice court shall transfer the criminal action to the district court.

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Section 54. Section **78A-7-120** is amended to read:

78A-7-120. Disposition of fines.

(1) (a) Except as otherwise specified by this section, fines and forfeitures collected by a justice court shall be remitted as follows:

(i) 50% to the treasurer of the local government responsible for the court; and

(ii) 50% to the treasurer of the local government which prosecutes or which would prosecute the violation.

(b) An interlocal agreement created pursuant to Title 11, Chapter 13, Interlocal Cooperation Act, and related to justice courts may alter the ratio described in Subsection (1)(a) if the parties agree.

(2) (a) For violation of [~~Title 23, Wildlife Resources Code of Utah~~] Title 23A, Wildlife Resources Act, the court shall allocate 85% to the Division of Wildlife Resources and 15% to the general fund of the local 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 local 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) or Subsection (7) is supplemental to the money appropriated under Section 72-2-107 but shall be

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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 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 into the Transportation Fund; and
- (ii) 50% in accordance with Subsection (1).

(7) (a) Revenue from traffic fines may not exceed 25% of a local government's total general fund revenue for a fiscal year.

(b) No later than 30 days after the day on which a local government's fiscal year ends, a local government that receives traffic fine revenue shall:

(i) for the immediately preceding fiscal year, determine the amount of traffic fine revenue that exceeds the amount described in Subsection (7)(a); and

(ii) transfer the amount calculated under Subsection (7)(b)(i) to the state treasurer to be allocated to the Department of Transportation for class B and class C roads.

Section 55. Section 78B-6-501 is amended to read:

78B-6-501. Eminent domain -- Uses for which right may be exercised --

Limitations on eminent domain.

(1) As used in this section, "century farm" means real property that is:

- (a) assessed under Title 59, Chapter 2, Part 5, Farmland Assessment Act; and
- (b) owned or held by the same family for a continuous period of 100 years or more.

(2) Except as provided in Subsections (3) and (4) and subject to the provisions of this part, the right of eminent domain may be exercised on behalf of the following public uses:

- (a) all public uses authorized by the federal government;
- (b) public buildings and grounds for the use of the state, and all other public uses

authorized by the Legislature;

(c) (i) public buildings and grounds for the use of any county, city, town, or board of education;

- (ii) reservoirs, canals, aqueducts, flumes, ditches, or pipes for conducting water or

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sewage, including to or from a development, for the use of the inhabitants of any county, city, or town, or for the draining of any county, city, or town;

(iii) the raising of the banks of streams, removing obstructions from streams, and widening, deepening, or straightening their channels;

(iv) bicycle paths and sidewalks adjacent to paved roads;

(v) roads, byroads, streets, and alleys for public vehicular use, including for access to a development; and

(vi) all other public uses for the benefit of any county, city, or town, or its inhabitants;

(d) wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads, roads for transportation by traction engines or road locomotives, roads for logging or lumbering purposes, and railroads and street railways for public transportation;

(e) reservoirs, dams, watergates, canals, ditches, flumes, tunnels, aqueducts and pipes for the supplying of persons, mines, mills, smelters or other works for the reduction of ores, with water for domestic or other uses, or for irrigation purposes, or for the draining and reclaiming of lands, or for solar evaporation ponds and other facilities for the recovery of minerals in solution;

(f) (i) roads, railroads, tramways, tunnels, ditches, flumes, pipes, and dumping places to access or facilitate the milling, smelting, or other reduction of ores, or the working of mines, quarries, coal mines, or mineral deposits including oil, gas, and minerals in solution;

(ii) outlets, natural or otherwise, for the deposit or conduct of tailings, refuse or water from mills, smelters or other works for the reduction of ores, or from mines, quarries, coal mines or mineral deposits including minerals in solution;

(iii) mill dams;

(iv) gas, oil or coal pipelines, tanks or reservoirs, including any subsurface stratum or formation in any land for the underground storage of natural gas, and in connection with that, any other interests in property which may be required to adequately examine, prepare, maintain, and operate underground natural gas storage facilities;

(v) solar evaporation ponds and other facilities for the recovery of minerals in solution; and

(vi) any occupancy in common by the owners or possessors of different mines, quarries, coal mines, mineral deposits, mills, smelters, or other places for the reduction of ores,

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or any place for the flow, deposit or conduct of tailings or refuse matter;

(g) byroads leading from a highway to:

(i) a residence; or

(ii) a farm;

(h) telecommunications, electric light and electric power lines, sites for electric light and power plants, or sites for the transmission of broadcast signals from a station licensed by the Federal Communications Commission in accordance with 47 C.F.R. Part 73 and that provides emergency broadcast services;

(i) sewage service for:

(i) a city, a town, or any settlement of not fewer than 10 families;

(ii) a public building belonging to the state; or

(iii) a college or university;

(j) canals, reservoirs, dams, ditches, flumes, aqueducts, and pipes for supplying and storing water for the operation of machinery for the purpose of generating and transmitting electricity for power, light or heat;

(k) cemeteries and public parks; and

(l) sites for mills, smelters or other works for the reduction of ores and necessary to their successful operation, including the right to take lands for the discharge and natural distribution of smoke, fumes, and dust, produced by the operation of works, provided that the powers granted by this section may not be exercised in any county where the population exceeds 20,000, or within one mile of the limits of any city or incorporated town nor unless the proposed condemner has the right to operate by purchase, option to purchase or easement, at least 75% in value of land acreage owned by persons or corporations situated within a radius of four miles from the mill, smelter or other works for the reduction of ores; nor beyond the limits of the four-mile radius; nor as to lands covered by contracts, easements, or agreements existing between the condemner and the owner of land within the limit and providing for the operation of such mill, smelter, or other works for the reduction of ores; nor until an action shall have been commenced to restrain the operation of such mill, smelter, or other works for the reduction of ores.

(3) The right of eminent domain may not be exercised on behalf of the following uses:

(a) except as provided in Subsection (2)(c)(iv), trails, paths, or other ways for walking,

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hiking, bicycling, equestrian use, or other recreational uses, or whose primary purpose is as a foot path, equestrian trail, bicycle path, or walkway;

(b) (i) a public park whose primary purpose is:

(A) as a trail, path, or other way for walking, hiking, bicycling, or equestrian use; or

(B) to connect other trails, paths, or other ways for walking, hiking, bicycling, or equestrian use; or

(ii) a public park established on real property that is:

(A) a century farm; and

(B) located in a county of the first class.

(4) (a) The right of eminent domain may not be exercised within a migratory bird production area created on or before December 31, 2020, under ~~Title 23, Chapter 28, Migratory Bird Production Area~~ Title 23A, Chapter 13, Migratory Bird Production Area, except as follows:

(i) subject to Subsection (4)(b), an electric utility may condemn land within a migratory bird production area located in a county of the first class only for the purpose of installing buried power lines;

(ii) an electric utility may condemn land within a migratory bird production area in a county other than a county of the first class to install:

(A) buried power lines; or

(B) a new overhead transmission line that is parallel to and abutting an existing overhead transmission line or collocated within an existing overhead transmission line right of way; or

(iii) the Department of Transportation may exercise eminent domain for the purpose of the construction of the West Davis Highway.

(b) Before exercising the right of eminent domain under Subsection (4)(a)(i), the electric utility shall demonstrate that:

(i) the proposed condemnation would not have an unreasonable adverse effect on the preservation, use, and enhancement of the migratory bird production area; and

(ii) there is no reasonable alternative to constructing the power line within the boundaries of a migratory bird production area.

Section 56. Section 79-1-104 is amended to read:

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79-1-104. Application of title to wildlife issues.

(1) The following 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~~ Title 23A, Wildlife Resources Act, 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 ~~55~~ 57. Section 79-2-102 is amended to read:

79-2-102. Definitions.

As used in this chapter:

- (1) "Conservation officer" is as defined in Section ~~[23-13-2]~~ 23A-1-101.
- (2) "Species protection" means an action to protect a plant or animal species identified

as:

- (a) sensitive by the state; or
- (b) threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C.

Sec. 1531 et seq.

(3) "Volunteer" means a person who donates a service to the department or a division of the department without pay or other compensation.

Section ~~56~~ 58. 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;

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- (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~~] 23A-2-301;
 - (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) Division of Water Rights, created in Section 73-2-1.1;
 - (i) Division of Water Resources, created in Section 73-10-18;
 - (j) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
 - (k) Division of Oil, Gas, and Mining, created in Section 40-6-15;
 - (l) Division of State Parks, created in Section 79-4-201;
 - (m) Division of Outdoor Recreation, created in Section 79-7-201;
 - (n) Division of Wildlife Resources, created in Section [~~23-14-1~~] 23A-2-201;
 - (o) Utah Geological Survey, created in Section 79-3-201;
 - (p) Heritage Trees Advisory Committee, created in Section 65A-8-306;
 - (q) Utah Outdoor Recreation Infrastructure Advisory Committee, created in Section 79-7-206;
 - (r) (i) an advisory council that includes in the advisory council's duties advising on state boating policy, authorized by Section 73-18-3.5; or
(ii) an advisory council that includes in the advisory council's duties advising on off-highway vehicle use, authorized by Section 41-22-10;
 - (s) Wildlife Board Nominating Committee, created in Section [~~23-14-2.5~~] 23A-2-302;
 - (t) Wildlife Regional Advisory Councils, created in Section [~~23-14-2.6~~] 23A-2-303;
 - (u) Utah Watersheds Council, created in Section 73-10g-304;
 - (v) Utah Natural Resources Legacy Fund Board, created in Section [~~23-31-202~~] 23A-3-305; and
 - (w) Public Lands Policy Coordinating Office created in Section 63L-11-201.
- Section ~~{57}~~59. Section **79-2-601** is amended to read:

79-2-601. Definitions.

As used in this part:

- (1) "Administrative costs" means the costs of administering the initiative, including

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costs for staffing, rent, data processing, legal, finance, accounting, travel, maintenance, and office supplies.

(2) "Director" means the director of the initiative who is appointed under Section 79-2-602.

(3) "Division" means the Division of Wildlife Resources created in Section ~~[23-14-1]~~ 23A-2-201.

(4) "Initiative" means the Watershed Restoration Initiative created in Section 79-2-602.

(5) "Restoration" means to assist the recovery of ecosystems and ecosystem services that have been mismanaged, degraded, or destroyed.

(6) "Watershed" means the geographical surface area that drains water into a stream, river, or other body of water.

Section ~~{58}~~60. **Effective date.**

This bill takes effect on July 1, 2023.

Section ~~{59}~~61. **Revisor instructions.**

The Legislature intends that the Office of Legislative Research and General Counsel, in preparing the Utah Code database for publication, not enroll this bill if H.B. 30, Wildlife Resources Code Recodification, does not pass.