

# HB0469S01 compared with HB0469

~~text~~ shows text that was in HB0469 but was deleted in HB0469S01.

text shows text that was not in HB0469 but was inserted into HB0469S01.

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

Representative Ryan D. Wilcox proposes the following substitute bill:

## DEPARTMENT OF NATURAL RESOURCES LAW

### ENFORCEMENT AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor:**  ~~}~~ Ryan D. Wilcox

**Senate Sponsor:**  ~~}~~ \_\_\_\_\_

---

---

#### LONG TITLE

##### General Description:

This bill creates a law enforcement division managed by the Department of Natural Resources.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Division of Law Enforcement (the division) within the Department of Natural Resources (the department);
- ▶ establishes the role and qualifications of the division director;

~~} → creates the Natural Resources Law Enforcement Coordinating Council (the council)~~

## HB0469S01 compared with HB0469

- ~~and outlines the composition and duties of the council;~~
- ~~→ exempts the council from requirements under the Open Meetings Act in certain circumstances;~~
- ‡ ▶ outlines the division's enforcement authority, including the division's ability to initiate civil proceedings;
- ~~{ → provides for department employees in the public safety retirement system to remain in the public safety retirement system;~~
- ‡ ▶ authorizes the division to enter into contracts and agreements;
- ▶ moves management of the Aquatic Invasive Species Interdiction Account from the Division of Wildlife to the division; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

### Utah Code Sections Affected:

AMENDS:

**23A-1-101**, as renumbered and amended by Laws of Utah 2023, Chapter 103

**23A-5-201**, as last amended by Laws of Utah 2023, Chapter 448 and renumbered and amended by Laws of Utah 2023, Chapter 103

**23A-5-206**, as renumbered and amended by Laws of Utah 2023, Chapter 103

**23A-5-207**, as renumbered and amended by Laws of Utah 2023, Chapter 103

**23A-5-317**, as renumbered and amended by Laws of Utah 2023, Chapter 103

**23A-10-302**, as renumbered and amended by Laws of Utah 2023, Chapter 103

~~{49-14-201, as last amended by Laws of Utah 2023, Chapters 37, 139 and 290~~

~~→~~ ~~49-15-201~~; **53-13-103**, as last amended by Laws of Utah 2023, Chapter ~~{290~~

~~→~~ ~~49-23-201, as last amended by Laws of Utah 2023, Chapters 59, 290~~

~~→~~ ~~52-4-204, as last amended by Laws of Utah 2022, Chapters 169, 422~~

~~→~~ ~~53-13-103~~; **34**

**63A-17-512**, as last amended by Laws of Utah 2023, Chapter 34

**63L-8-304**, as last amended by Laws of Utah 2023, Chapter 34

## HB0469S01 compared with HB0469

65A-1-1, as last amended by Laws of Utah 2016, Chapter 174

65A-3-3, as last amended by Laws of Utah 2016, Chapter 174

65A-8-308, as renumbered and amended by Laws of Utah 2007, Chapter 136

77-11a-101, as last amended by Laws of Utah 2023, Chapters 111, 231 and renumbered  
and amended by Laws of Utah 2023, Chapter 448

77-11a-301, as renumbered and amended by Laws of Utah 2023, Chapter 448

79-2-102, as last amended by Laws of Utah 2023, Chapter 34

79-2-204, as renumbered and amended by Laws of Utah 2009, Chapter 344

### ENACTS:

79-2-701, Utah Code Annotated 1953

79-2-702, Utah Code Annotated 1953

79-2-703, Utah Code Annotated 1953

79-2-704, Utah Code Annotated 1953

79-2-705, Utah Code Annotated 1953

~~{ 79-2-706, Utah Code Annotated 1953~~

### ~~{~~RENUMBERS AND AMENDS:

~~{79-2-707}~~79-2-706, (Renumbered from 23A-3-211, as last amended by Laws of Utah  
2023, Chapter 244 and renumbered and amended by Laws of Utah 2023, Chapter  
103)

### REPEALS:

23A-5-202, as renumbered and amended by Laws of Utah 2023, Chapter 103

23A-5-203, as renumbered and amended by Laws of Utah 2023, Chapter 103

23A-5-319, as renumbered and amended by Laws of Utah 2023, Chapter 103

79-4-501, as renumbered and amended by Laws of Utah 2009, Chapter 344

79-7-401, as enacted by Laws of Utah 2021, Chapter 280

---

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

Section 1. Section **23A-1-101** is amended to read:

#### **23A-1-101. Definitions.**

As used in this title:

(1) "Activity regulated under this title" means an act, attempted act, or activity

## HB0469S01 compared with HB0469

prohibited or regulated under this title or the rules and proclamations promulgated under this title pertaining to protected wildlife including:

- (a) fishing;
- (b) hunting;
- (c) trapping;
- (d) taking;
- (e) permitting a dog, falcon, or other domesticated animal to take;
- (f) transporting;
- (g) possessing;
- (h) selling;
- (i) wasting;
- (j) importing;
- (k) exporting;
- (l) rearing;
- (m) keeping;
- (n) using as a commercial venture; and
- (o) releasing to the wild.

(2) "Aquaculture facility" means the same as that term is defined in Section 4-37-103.

(3) "Aquatic animal" means the same as that term is defined in Section 4-37-103.

(4) "Aquatic wildlife" means species of fish, mollusks, crustaceans, aquatic insects, or amphibians.

(5) "Bag limit" means the maximum limit, in number or amount, of protected wildlife that one person may legally take during one day.

(6) "Big game" means species of hooved protected wildlife.

(7) "Carcass" means the dead body of an animal or the animal's parts.

(8) "Certificate of registration" means a paper-based or electronic document issued under this title, or a rule or proclamation of the Wildlife Board granting authority to engage in activities not covered by a license, permit, or tag.

(9) "Closed season" means the period of time during which the taking of protected wildlife is prohibited.

~~(10) "Conservation officer" means a full-time, permanent employee of the division~~

## HB0469S01 compared with HB0469

who is POST certified as a peace or a special function officer.]

~~[(11)]~~ (10) "Dedicated hunter program" means a program that provides:

- (a) expanded hunting opportunities;
- (b) opportunities to participate in projects that are beneficial to wildlife; and
- (c) education in hunter ethics and wildlife management principles.

~~[(12)]~~ (11) "Department" means the Department of Natural Resources.

~~[(13)]~~ (12) "Director" means the director of the division appointed under Section 23A-2-202.

~~[(14)]~~ (13) "Division" means the Division of Wildlife Resources.

(14) "Division of Law Enforcement" means the division within the Department of Natural Resources created under Title 79, Chapter 2, Part 7, Division of Law Enforcement.

(15) Subject to Section 23A-1-103, "domicile" means the place:

- (a) where an individual has a fixed permanent home and principal establishment;
- (b) to which the individual if absent, intends to return; and
- (c) in which the individual, and the individual's family voluntarily reside, not for a special or temporary purpose, but with the intention of making a permanent home.

(16) "Endangered" means wildlife designated as endangered according to Section 3 of the federal Endangered Species Act of 1973.

(17) "Executive director" means the executive director of the Department of Natural Resources.

(18) "Fee fishing facility" means the same as that term is defined in Section 4-37-103.

(19) "Feral" means an animal that is normally domesticated but has reverted to the wild.

(20) "Fishing" means to take fish or crayfish by any means.

(21) "Furbearer" means species of the Bassariscidae, Canidae, Felidae, Mustelidae, and Castoridae families, except coyote and cougar.

(22) "Game" means wildlife normally pursued, caught, or taken by sporting means for human use.

(23) "Hunting" means to take or pursue a reptile, amphibian, bird, or mammal by any means.

(24) "Hunting guide" means the same as that term is defined in Section 58-79-102.

## HB0469S01 compared with HB0469

(25) "Intimidate or harass" means to physically interfere with or impede, hinder, or diminish the efforts of an officer in the performance of the officer's duty.

(26) (a) "Natural flowing stream" means a topographic low where water collects and perennially or intermittently flows with a perceptible current in a channel formed exclusively by forces of nature.

(b) "Natural flowing stream" includes perennial or intermittent water flows in a:

(i) realigned or modified channel that replaces the historic, natural flowing stream channel; and

(ii) dredged natural flowing stream channel.

(c) "Natural flowing stream" does not include a human-made ditch, canal, pipeline, or other water delivery system that diverts and conveys water to an approved place of use pursuant to a certificated water right.

(27) (a) "Natural lake" means a perennial or intermittent body of water that collects on the surface of the earth exclusively through the forces of nature and without human assistance.

(b) "Natural lake" does not mean a lake where the surface water sources supplying the body of water originate from groundwater springs no more than 100 yards upstream.

(28) "Natural resources officer" means the same as that term is defined in Section 79-2-701.

~~[(28)]~~ (29) "Nominating committee" means the Wildlife Board Nominating Committee created in Section 23A-2-302.

~~[(29)]~~ (30) "Nonresident" means a person who does not qualify as a resident.

~~[(30)]~~ (31) "Open season" means the period of time during which protected wildlife may be legally taken.

~~[(31)]~~ (32) "Outfitter" means the same as that term is defined in Section 58-79-102.

~~[(32)]~~ (33) "Pecuniary gain" means the acquisition of money or something of monetary value.

~~[(33)]~~ (34) "Permit" means a paper-based or electronic document that grants authority to engage in specified activities under this title or a rule or proclamation of the Wildlife Board.

~~[(34)]~~ (35) "Person" means an individual, association, partnership, government agency, corporation, or an agent of the individual, association, partnership, government agency, or corporation.

## HB0469S01 compared with HB0469

~~[(35)]~~ (36) "Pollute water" means to introduce into waters within the state matter or thermal energy that:

- (a) exceeds state water quality standards; or
- (b) could harm protected wildlife.

~~[(36)]~~ (37) "Possession" means actual or constructive possession.

~~[(37)]~~ (38) "Possession limit" means the number of bag limits one individual may legally possess.

~~[(38)]~~ (39) (a) "Private fish pond" means a pond, reservoir, or other body of water, including a fish culture system, located on privately owned land where privately owned fish:

- (i) are propagated or kept for a private noncommercial purpose; and
- (ii) may be taken without a fishing license.

(b) "Private fish pond" does not include:

- (i) an aquaculture facility;
- (ii) a fee fishing facility;
- (iii) a short-term fishing event; or
- (iv) private stocking.

~~[(39)]~~ (40) "Private stocking" means an authorized release of privately owned, live fish in the waters of the state not eligible as:

- (a) a private fish pond under Section 23A-9-203; or
- (b) an aquaculture facility or fee fishing facility under Title 4, Chapter 37, Aquaculture Act.

~~[(40)]~~ (41) "Private wildlife farm" means an enclosed place where privately owned birds or furbearers are propagated or kept and that restricts the birds or furbearers from:

- (a) commingling with wild birds or furbearers; and
- (b) escaping into the wild.

~~[(41)]~~ (42) "Proclamation" means the publication that is:

- (a) used to convey a statute, rule, policy, or pertinent information related to wildlife;

and

- (b) issued in accordance with a rule made by the Wildlife Board under this title.

~~[(42)]~~ (43) (a) "Protected aquatic wildlife" means aquatic wildlife except as provided in Subsection ~~[(42)(b)]~~ (43)(b).

## HB0469S01 compared with HB0469

(b) "Protected aquatic wildlife" does not include aquatic insects.

~~[(43)]~~ (44) (a) "Protected wildlife" means wildlife, except as provided in Subsection ~~[(43)(b)]~~ (44)(b).

(b) "Protected wildlife" does not include:

- (i) coyote;
- (ii) field mouse;
- (iii) gopher;
- (iv) ground squirrel;
- (v) jack rabbit;
- (vi) muskrat; or
- (vii) raccoon.

~~[(44)]~~ (45) "Regional advisory council" means a council created under Section 23A-2-303.

~~[(45)]~~ (46) "Released to the wild" means to be turned loose from confinement.

~~[(46)]~~ (47) (a) "Reservoir constructed on a natural stream channel" means a body of water collected and stored on the course of a natural flowing stream by impounding the stream through excavation or diking.

(b) "Reservoir constructed on a natural stream channel" does not mean an impoundment on a natural flowing stream where all surface water sources supplying the impoundment originate from groundwater springs no more than 100 yards upstream.

~~[(47)]~~ (48) Subject to Section 23A-1-103, "resident" means a person who:

(a) has been domiciled in the state for six consecutive months immediately preceding the purchase of a license; and

(b) does not claim residency for hunting, fishing, or trapping in another state or country.

~~[(48)]~~ (49) "Sell" means to offer or possess for sale, barter, exchange, or trade, or the act of selling, bartering, exchanging, or trading.

~~[(49)]~~ (50) "Short-term fishing event" means an event when:

(a) privately acquired fish are held or confined for a period not to exceed 10 days for the purpose of providing fishing or recreational opportunity; and

(b) no fee is charged as a requirement to fish.



## HB0469S01 compared with HB0469

~~[(50)]~~ (51) "Small game" means species of protected wildlife:

- (a) commonly pursued for sporting purposes;
- (b) not classified as big game, aquatic wildlife, or furbearers; and
- (c) excluding turkey, cougar, and bear.

~~[(51)]~~ (52) "Spoiled" means impairment of the flesh of wildlife that renders the flesh unfit for human consumption.

~~[(52)]~~ (53) "Spotlighting" means throwing or casting the rays of a spotlight, headlight, or other artificial light on a highway or in a field, woodland, or forest while having in possession a weapon by which protected wildlife may be killed.

~~[(53)]~~ (54) "Tag" means a card, label, or other paper-based or electronic means of identification used to document harvest of protected wildlife.

~~[(54)]~~ (55) "Take" means to:

(a) hunt, pursue, harass, catch, capture, possess, angle, seine, trap, or kill protected wildlife; or

(b) attempt an action referred to in Subsection ~~[(54)(a)]~~ (55)(a).

~~[(55)]~~ (56) "Threatened" means wildlife designated as threatened pursuant to Section 3 of the federal Endangered Species Act of 1973.

~~[(56)]~~ (57) "Trapping" means taking protected wildlife with a trapping device.

~~[(57)]~~ (58) "Trophy animal" means an animal described as follows:

- (a) deer - a buck with an outside antler measurement of 24 inches or greater;
- (b) elk - a bull with six points on at least one side;
- (c) bighorn, desert, or rocky mountain sheep - a ram with a curl exceeding half curl;
- (d) moose - a bull with at least one antler exceeding five inches in length;
- (e) mountain goat - a male or female;
- (f) pronghorn antelope - a buck with horns exceeding 14 inches; or
- (g) bison - a bull.

~~[(58)]~~ (59) "Upland game" means pheasant, quail, partridge, grouse, ptarmigan, mourning dove, band-tailed pigeon, turkey, cottontail rabbit, or snowshoe hare.

~~[(59)]~~ (60) "Waste" means to:

- (a) abandon protected wildlife; or
- (b) allow protected wildlife to spoil or to be used in a manner not normally associated

## HB0469S01 compared with HB0469

with the protected wildlife's beneficial use.

~~[(60)]~~ (61) "Wildlife" means:

- (a) crustaceans, including brine shrimp and crayfish;
- (b) mollusks; and
- (c) vertebrate animals living in nature, except feral animals.

~~[(61)]~~ (62) "Wildlife Board" means the board created in Section 23A-2-301.

Section 2. Section **23A-5-201** is amended to read:

### **23A-5-201. Enforcement authority of natural resources officers -- Seizure and disposition of property.**

(1) A [~~conservation~~] natural resources officer shall enforce the provisions of this title in accordance with the same procedures and requirements for a law enforcement officer of this state.

(2) (a) Except as provided in Subsection (2)(b), a [~~conservation~~] natural resources officer may seize property or contraband in accordance with Title 77, Chapter 11a, Seizure of Property and Contraband, and Title 77, Chapter 11b, Forfeiture of Seized Property.

(b) A [~~conservation~~] natural resources officer shall seize protected wildlife illegally taken or held.

(3) (a) If a [~~conservation~~] natural resources officer seizes wildlife as part of an investigation or prosecution of an offense and the wildlife may reasonably be used to incriminate or exculpate a person for the offense, the [~~division~~] Division of Law Enforcement is not required to retain the wildlife under Title 77, Chapter 11c, Retention of Evidence.

(b) If the [~~division~~] Division of Law Enforcement does not retain wildlife under Subsection (3)(a), the [~~division~~] Division of Law Enforcement is required to preserve sufficient evidence from the wildlife for use as evidence in the prosecution of a person for the offense.

(4) (a) If a [~~conservation~~] natural resources officer seizes wildlife and the wildlife or parts of the wildlife are perishable, the [~~division~~] Division of Law Enforcement may donate the wildlife or parts of the wildlife to be used for charitable purposes.

(b) If wildlife or parts of the wildlife are perishable and are not fit to be donated for charitable purposes under Subsection (4)(a), the [~~division~~] Division of Law Enforcement may dispose of the wildlife or parts of the wildlife in a reasonable manner.

(5) (a) The court may order the [~~division~~] Division of Law Enforcement to sell or

## HB0469S01 compared with HB0469

dispose of protected wildlife that is seized by a [~~conservation~~] natural resources officer if the [~~division~~] Division of Law Enforcement is permitted by law to sell or dispose of the wildlife.

(b) The [~~division~~] Division of Law Enforcement may not sell migratory wildfowl but the [~~division~~] Division of Law Enforcement shall donate the migratory wildfowl to be used for charitable purposes.

(c) The [~~division~~] Division of Law Enforcement shall deposit the proceeds from the sale of protected wildlife into the Wildlife Resources Account.

(6) If the [~~division~~] Division of Law Enforcement disposes of wildlife, the court may order the [~~division~~] Division of Law Enforcement to:

(a) provide the owner of the disposed wildlife with wildlife that is reasonably equivalent in value to the disposed wildlife within 180 days after the day on which the court enters the order; or

(b) if the [~~division~~] Division of Law Enforcement is unable to obtain wildlife that is reasonably equivalent in value to the disposed wildlife, pay the owner of the disposed wildlife for the non-trophy value of the disposed wildlife in accordance with Subsection 23A-5-312(2) within 180 days after the day on which the court enters the order.

(7) (a) If a [~~conservation~~] natural resources officer seizes a vehicle under Section 77-11a-201, the [~~division~~] Division of Law Enforcement shall store the seized vehicle in a public or private garage, state impound lot, or any other secured storage facility.

(b) The [~~division~~] Division of Law Enforcement shall release a seized vehicle to the owner no later than 30 days after the day on which the vehicle is seized, unless the vehicle was used for the unlawful taking or possessing of wildlife by a person charged with a felony under this title.

(c) The owner of a seized vehicle is liable for the payment of any impound fee if:

(i) the owner used the vehicle for the unlawful taking or possessing of wildlife; and

(ii) the owner is convicted of an offense under this title.

(d) The owner of a seized vehicle is not liable for the payment of any impound fee or, if the fees have been paid, is entitled to reimbursement of the fees paid, if:

(i) no charges are filed or all charges are dropped that involve the use of the vehicle for the unlawful taking or possessing of wildlife;

(ii) the person charged with using the vehicle for the unlawful taking or possessing of

## HB0469S01 compared with HB0469

wildlife is found by a court to be not guilty; or

(iii) the owner did not consent to a use of the vehicle that violates this chapter.

Section 3. Section **23A-5-206** is amended to read:

### **23A-5-206. Search warrants.**

(1) A search warrant may be issued by a magistrate to search for property that may constitute evidence of a violation of this title, rules, or proclamations of the Wildlife Board upon an affidavit of a person.

(2) The search warrant shall be directed to a [~~conservation~~] natural resources officer or a peace officer, directing the officer to search for evidence and to bring the evidence before the magistrate.

(3) A search warrant may not be issued except upon probable cause supported by oath or affirmation, particularly describing the place, person, or thing to be searched for and the person or thing to be seized.

(4) The warrant shall be served in the daytime, unless there is reason to believe that the service of the search warrant is required immediately because a person may:

- (a) flee the jurisdiction to avoid prosecution or discovery of a violation noted above;
- (b) destroy or conceal evidence of the commission of a violation; or
- (c) injure another person or damage property.

(5) Notwithstanding Subsection (4), a search warrant may be served at night if:

- (a) there is reason to believe that a violation may occur at night; or
- (b) the evidence of the violation may not be available to the officers serving the

warrant during the day.

Section 4. Section **23A-5-207** is amended to read:

### **23A-5-207. Exhibition of license, permit, tag, or device required -- Criminal penalty.**

(1) A person while engaged in an activity regulated under this title, shall exhibit the following at the request of [~~conservation~~] a natural resources officer or other peace officer:

- (a) the required license, permit, or tag;
- (b) a device or apparatus in that person's possession used for an activity regulated under this title; or
- (c) wildlife in that person's possession.

## HB0469S01 compared with HB0469

(2) A [~~conservation~~] natural resources officer who has a reasonable belief that a person is engaged in an activity regulated under this title may stop and temporarily detain that person to demand and inspect:

(a) the required license, permit, or tag;

(b) a device or apparatus in that person's possession used for an activity regulated under this title; or

(c) wildlife in that person's possession.

(3) A person is subject to the penalties of Section 23A-5-301 if the person fails to produce for examination to a [~~correction~~] natural resources officer or other peace officer any of the required licenses, permits, tags, devices or apparatuses used for an activity regulated under this title or wildlife in that person's possession.

Section 5. Section **23A-5-317** is amended to read:

**23A-5-317. Posted property -- Hunting by permission -- Entry on private land while hunting or fishing -- Violations -- Penalty -- Prohibitions inapplicable to officers.**

(1) As used in this section:

(a) "Cultivated land" means land that is readily identifiable as:

(i) land whose soil is loosened or broken up for the raising of crops;

(ii) land used for the raising of crops; or

(iii) pasturage which is artificially irrigated.

(b) "Permission" means written authorization from the owner or person in charge to enter upon private land that is either cultivated or properly posted, and shall include:

(i) the signature of the owner or person in charge;

(ii) the name of the person being given permission;

(iii) the appropriate dates; and

(iv) a general description of the property.

(c) "Properly posted" means that signs prohibiting trespass or bright yellow, bright orange, or fluorescent paint are clearly displayed:

(i) at the corners, fishing streams crossing property lines, roads, gates, and rights-of-way entering the land; or

(ii) in a manner that would reasonably be expected to be seen by a person in the area.

(2) (a) While taking wildlife or engaging in wildlife related activities, a person may

## HB0469S01 compared with HB0469

not:

(i) without permission, enter upon privately owned land that is cultivated or properly posted;

(ii) enter or remain on privately owned land if the person has notice to not enter or remain on the privately owned land; or

(iii) obstruct an entrance or exit to private property.

(b) A person has notice to not enter or remain on privately owned land if:

(i) the person is directed to not enter or remain on the land by:

(A) the owner of the land;

(B) the owner's employee; or

(C) a person with apparent authority to act for the owner; or

(ii) the land is fenced or otherwise enclosed in a manner that a reasonable person would recognize as intended to exclude intruders.

(c) The division shall provide "hunting by permission cards" to a landowner upon the landowner's request.

(d) A person may not post:

(i) private property the person does not own or legally control; or

(ii) land that is open to the public as provided by Section 23A-6-402.

(3) A person who violates Subsection (2)(a) or (d) is subject to the penalty provided in Section 23A-5-301 and liable for the civil damages described in Subsection (7).

(4) (a) A person convicted of violating Subsection (2)(a) may have the person's license, tag, certificate of registration, or permit, relating to the activity engaged in at the time of the violation, revoked by a hearing officer.

(b) A hearing officer may construe a subsequent conviction that occurs within a five-year period as a flagrant violation and may prohibit the person from obtaining a new license, tag, certificate of registration, or permit for a period of up to five years.

(5) Subsection (2)(a) does not apply to peace or [~~conservation~~] natural resources officers in the performance of their duties.

(6) (a) The division shall provide information regarding owners' rights and duties:

(i) to anyone holding a license, certificate of registration, tag, or permit to take wildlife;  
and

## HB0469S01 compared with HB0469

(ii) by using the public media and other sources.

(b) The Wildlife Board shall state restrictions in this section relating to trespassing in the hunting and fishing proclamations issued by the Wildlife Board.

(7) In addition to an order for restitution under Section 77-38b-205, a person who commits a violation of Subsection (2)(a) or (d) may also be liable for:

(a) the greater of:

(i) statutory damages in the amount of three times the value of damages resulting from the violation of Subsection (2)(a) or (d); or

(ii) \$500; and

(b) reasonable attorney fees not to exceed \$250, and court costs.

(8) Civil damages under Subsection (7) may be collected in a separate action by the property owner or the property owner's assignee.

Section 6. Section **23A-10-302** is amended to read:

### **23A-10-302. Conveyance or equipment detainment or quarantine.**

(1) The division, a port-of-entry agent, a natural resources officer, or a peace officer may detain or quarantine a conveyance or equipment if:

(a) the division, agent, natural resources officer, or peace officer:

(i) finds the conveyance or equipment contains a Dreissena mussel; or

(ii) reasonably believes that the person transporting the conveyance or equipment is in violation of Section 23A-10-201; or

(b) the person transporting the conveyance or equipment refuses to submit to an inspection authorized by Section 23A-10-301.

(2) The detainment or quarantine authorized by Subsection (1) may continue for:

(a) up to five days; or

(b) the period of time necessary to:

(i) decontaminate the conveyance or equipment; and

(ii) ensure that a Dreissena mussel is not living on or in the conveyance or equipment.

Section 7. Section ~~{49-14-201}~~53-13-103 is amended to read:

### ~~{~~49-14-201. System membership -- Eligibility.

~~(1) Except as provided in Section 49-15-201, a public safety service employee of a participating employer participating in this system is eligible for service credit in this system at~~

## HB0469S01 compared with HB0469

~~the earliest of:~~

~~—— (a) July 1, 1969, if the public safety service employee was employed by the participating employer on July 1, 1969, and the participating employer was participating in this system on that date;~~

~~—— (b) the date the participating employer begins participating in this system if the public safety service employee was employed by the participating employer on that date; or~~

~~—— (c) the date the public safety service employee is employed by the participating employer and is eligible to perform public safety service, except that a public safety service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.~~

~~—— (2) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked.~~

~~—— (ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer.~~

~~—— (b) (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office.~~

~~—— (ii) The office may request documentation to verify the appropriateness of the transfer.~~

~~—— (3) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates.~~

~~—— (4) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter.~~

~~—— (ii) The office may require documentation to justify the inclusion of any position under this system.~~

~~—— (b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.~~

~~—— (c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for~~



## HB0469S01 compared with HB0469

~~time periods after July 1, 1989:~~

~~—— (ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system before July 1, 1989.~~

~~—— (iii) Except as provided under Subsection (4)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.~~

~~—— (iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:~~

~~—— (A) the participating employer covered other similarly situated positions under this system during the time period in question; and~~

~~—— (B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.~~

~~—— (5) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.~~

~~—— (6) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.~~

~~—— (7) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.~~

~~—— (8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:~~

~~—— (a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and~~

~~—— (b) the employee:~~

~~—— (i) remains employed by the Department of Corrections;~~

~~—— (ii) meets the eligibility requirements of this system;~~

~~—— (iii) was hired into a position covered by this system before July 1, 2015; and~~

~~—— (iv) has not had a break in service on or after July 1, 2015.~~

## HB0469S01 compared with HB0469

~~—— (9) An employee of the Department of Health and Human Services who is transferred from the Department of Corrections' clinical services bureau to provide a clinical or health care service to an inmate as defined in Section 64-13-1 shall continue to earn public safety service credit in this system if:~~

~~—— (a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and~~

~~—— (b) the employee:~~

~~—— (i) remains employed by the Department of Corrections or the Department of Health and Human Services;~~

~~—— (ii) meets the eligibility requirements of this system;~~

~~—— (iii) was hired into a position covered by this system before July 1, 2015; and~~

~~—— (iv) has not had a break in service on or after July 1, 2015.~~

~~—— (10) An employee who is reassigned to the Division of Technology Services or to the Division of Human Resource Management, and who was a member of this system, is entitled to remain a member of this system:~~

~~—— (11) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:~~

~~—— (i) except for a dispatcher, place the employee's life or personal safety at risk; and~~

~~—— (ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.~~

~~—— (b) If a position satisfies the requirements of Subsection (11)(a), the office and the Peace Officer Standards and Training Council shall consider whether or not the position requires the employee to:~~

~~—— (i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;~~

~~—— (ii) perform duties that consist primarily of providing community protection; and~~

~~—— (iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.~~

~~—— (12) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the~~

## HB0469S01 compared with HB0469

~~requirements of Subsection (11) in making the subcommittee's recommendation.~~

~~—— (13) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.~~

~~—— (14) Except as provided under Subsection (15), if a participating employer's public safety service employees are not covered by this system or under Chapter 15, Public Safety Noncontributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.~~

~~—— (15) (a) A public safety service employee employed by an airport police department, which elects to cover the airport police department's public safety service employees under the Public Safety Noncontributory Retirement System under Subsection (14), may elect to remain in the public safety service employee's current retirement system:~~

~~—— (b) The public safety service employee's election to remain in the current retirement system under Subsection (15)(a):~~

~~—— (i) shall be made at the time the employer elects to move the employer's public safety service employees to a public safety retirement system;~~

~~—— (ii) documented by written notice to the participating employer; and~~

~~—— (iii) is irrevocable.~~

~~—— (16) (a) Subject to Subsection [(17)] (18), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:~~

~~—— (i) the state shall be eligible for service credit in this system; and~~

~~—— (ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover the participating employer's dispatchers under this system.~~

~~—— (b) A participating employer's election to cover the participating employer's dispatchers under this system under Subsection (16)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.~~

~~—— (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (16)(b), is not eligible for service credit in this~~

## HB0469S01 compared with HB0469

system:

~~—— (17) A public safety employee employed with the Department of Natural Resources on or before July 1, 2024, shall continue to earn public safety credit in this system, if the public safety employee:~~

~~—— (a) qualifies to earn a public safety credit under the provisions of this section; or~~

~~—— (b) (i) reaches ten years of service with the Department of Natural Resources on or before July 1, 2026;~~

~~—— (ii) serves the Department of Natural Resources in a position that was eligible to receive a service credit in this system before July 1, 2024, but is no longer eligible for a service credit in this system on or after July 1, 2024;~~

~~—— (iii) remains employed with the Department of Natural Resources; and~~

~~—— (iv) serves within the Department of Natural Resources as:~~

~~—— (A) a division director;~~

~~—— (B) a deputy division director;~~

~~—— (C) a region manager or supervisor;~~

~~—— (D) a program manager;~~

~~—— (E) a park manager; or~~

~~—— (F) an assistant park manager.~~

~~—— [(17)] (18) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.~~

~~—— Section 8. Section **49-15-201** is amended to read:~~

~~—— **49-15-201. System membership -- Eligibility.**~~

~~—— (1) (a) A public safety service employee employed by the state after July 1, 1989, but before July 1, 2011, is eligible for service credit in this system.~~

~~—— (b) A public safety service employee employed by the state before July 1, 1989, may either elect to receive service credit in this system or continue to receive service credit under the system established under Chapter 14, Public Safety Contributory Retirement Act, by following the procedures established by the board under this chapter.~~

~~—— (2) (a) Public safety service employees of a participating employer other than the state~~

## HB0469S01 compared with HB0469

~~that elected on or before July 1, 1989, to remain in the Public Safety Contributory Retirement System shall be eligible only for service credit in that system:~~

~~—— (b) (i) A participating employer other than the state that elected on or before July 1, 1989, to participate in this system shall, have allowed, before July 1, 1989, a public safety service employee to elect to participate in either this system or the Public Safety Contributory Retirement System:~~

~~—— (ii) Except as expressly allowed by this title, the election of the public safety service employee is final and may not be changed:~~

~~—— (c) A public safety service employee hired by a participating employer other than the state after July 1, 1989, but before July 1, 2011, shall become a member in this system:~~

~~—— (d) A public safety service employee of a participating employer other than the state who began participation in this system after July 1, 1989, but before July 1, 2011, is only eligible for service credit in this system:~~

~~—— (e) A person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system:~~

~~—— (3) (a) (i) A participating employer that has public safety service and firefighter service employees that require cross-training and duty shall enroll those dual purpose employees in the system in which the greatest amount of time is actually worked:~~

~~—— (ii) The employees shall either be full-time public safety service or full-time firefighter service employees of the participating employer:~~

~~—— (b) (i) Before transferring a dual purpose employee from one system to another, the participating employer shall receive written permission from the office:~~

~~—— (ii) The office may request documentation to verify the appropriateness of the transfer:~~

~~—— (4) The board may combine or segregate the actuarial experience of participating employers in this system for the purpose of setting contribution rates:~~

~~—— (5) (a) (i) Each participating employer participating in this system shall annually submit to the office a schedule indicating the positions to be covered under this system in accordance with this chapter:~~

~~—— (ii) The office may require documentation to justify the inclusion of any position under this system:~~

## HB0469S01 compared with HB0469

~~—— (b) If there is a dispute between the office and a participating employer or employee over any position to be covered, the disputed position shall be submitted to the Peace Officer Standards and Training Council established under Section 53-6-106 for determination.~~

~~—— (c) (i) The Peace Officer Standards and Training Council's authority to decide eligibility for public safety service credit is limited to claims for coverage under this system for time periods after July 1, 1989.~~

~~—— (ii) A decision of the Peace Officer Standards and Training Council may not be applied to service credit earned in another system before July 1, 1989.~~

~~—— (iii) Except as provided under Subsection (5)(c)(iv), a decision of the Peace Officer Standards and Training Council granting a position coverage under this system may only be applied prospectively from the date of that decision.~~

~~—— (iv) A decision of the Peace Officer Standards and Training Council granting a position coverage under this system may be applied retroactively only if:~~

~~—— (A) the participating employer covered other similarly situated positions under this system during the time period in question; and~~

~~—— (B) the position otherwise meets all eligibility requirements for receiving service credit in this system during the period for which service credit is to be granted.~~

~~—— (6) The Peace Officer Standards and Training Council may use a subcommittee to provide a recommendation to the council in determining disputes between the office and a participating employer or employee over a position to be covered under this system.~~

~~—— (7) The Peace Officer Standards and Training Council shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in resolving coverage disputes in this system.~~

~~—— (8) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.~~

~~—— (9) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:~~

~~—— (a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and~~

## HB0469S01 compared with HB0469

~~—— (b) the employee:~~

~~—— (i) remains employed by the Department of Corrections;~~

~~—— (ii) meets the eligibility requirements of this system;~~

~~—— (iii) was hired into a position covered by this system before July 1, 2015; and~~

~~—— (iv) has not had a break in service on or after July 1, 2015.~~

~~—— (10) An employee of the Department of Health and Human Services who is transferred from the Department of Corrections' clinical services bureau to provide a clinical or health care service to an inmate as defined in Section 64-13-1 shall continue to earn public safety service credit in this system if:~~

~~—— (a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and~~

~~—— (b) the employee:~~

~~—— (i) remains employed by the Department of Corrections or the Department of Health and Human Services;~~

~~—— (ii) meets the eligibility requirements of this system;~~

~~—— (iii) was hired into a position covered by this system before July 1, 2015; and~~

~~—— (iv) has not had a break in service on or after July 1, 2015.~~

~~—— (11) Any employee who is reassigned to the Division of Technology Services or to the Division of Human Resource Management, and who was a member in this system, shall be entitled to remain a member in this system.~~

~~—— (12) (a) To determine that a position is covered under this system, the office and, if a coverage dispute arises, the Peace Officer Standards and Training Council shall find that the position requires the employee to:~~

~~—— (i) except for a dispatcher, place the employee's life or personal safety at risk; and~~

~~—— (ii) complete training as provided in Section 53-6-303, 53-13-103, 53-13-104, or 53-13-105.~~

~~—— (b) If a position satisfies the requirements of Subsection (12)(a), the office and Peace Officer Standards and Training Council shall consider whether the position requires the employee to:~~

~~—— (i) perform duties that consist primarily of actively preventing or detecting crime and enforcing criminal statutes or ordinances of this state or any of its political subdivisions;~~

## HB0469S01 compared with HB0469

~~—— (ii) perform duties that consist primarily of providing community protection; and~~

~~—— (iii) respond to situations involving threats to public safety and make emergency decisions affecting the lives and health of others.~~

~~—— (13) If a subcommittee is used to recommend the determination of disputes to the Peace Officer Standards and Training Council, the subcommittee shall comply with the requirements of Subsection (12) in making the subcommittee's recommendation.~~

~~—— (14) A final order of the Peace Officer Standards and Training Council regarding a dispute is a final agency action for purposes of Title 63G, Chapter 4, Administrative Procedures Act.~~

~~—— (15) Except as provided under Subsection (16), if a participating employer's public safety service employees are not covered by this system or under Chapter 14, Public Safety Contributory Retirement Act, as of January 1, 1998, those public safety service employees who may otherwise qualify for membership in this system shall, at the discretion of the participating employer, remain in their current retirement system.~~

~~—— (16) (a) A public safety service employee employed by an airport police department, which elects to cover the airport police department's public safety service employees under the Public Safety Noncontributory Retirement System under Subsection [(14)] (15), may elect to remain in the public safety service employee's current retirement system.~~

~~—— (b) The public safety service employee's election to remain in the current retirement system under Subsection (16)(a):~~

~~—— (i) shall be made at the time the employer elects to move the employer's public safety service employees to a public safety retirement system;~~

~~—— (ii) shall be documented by written notice to the participating employer; and~~

~~—— (iii) is irrevocable.~~

~~—— (17) (a) Subject to Subsection [(18)] (19), beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:~~

~~—— (i) the state shall be eligible for service credit in this system; and~~

~~—— (ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover the participating employer's dispatchers under this system.~~

~~—— (b) A participating employer's election to cover the participating employer's dispatchers~~



## HB0469S01 compared with HB0469

~~under this system under Subsection (17)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.~~

~~—— (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (17)(b), is not eligible for service credit in this system:~~

~~—— (18) A public safety employee employed with the Department of Natural Resources on or before July 1, 2024, shall continue to earn public safety credit in this system, if the public safety employee:~~

~~—— (a) qualifies to earn a public safety credit under the provisions of this section; or~~

~~—— (b) (i) reaches ten years of service with the Department of Natural Resources on or before July 1, 2026;~~

~~—— (ii) serves the Department of Natural Resources in a position that was eligible to receive a service credit in this system before July 1, 2024, but is no longer eligible for a service credit in this system on or after July 1, 2024;~~

~~—— (iii) remains employed with the Department of Natural Resources; and~~

~~—— (iv) serves within the Department of Natural Resources as:~~

~~—— (A) a division director;~~

~~—— (B) a deputy division director;~~

~~—— (C) a region manager or supervisor;~~

~~—— (D) a program manager;~~

~~—— (E) a park manager; or~~

~~—— (F) an assistant park manager.~~

~~—— [(18)] (19) Notwithstanding any other provision of this section, a person initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, may not participate in this system.~~

~~—— Section 9. Section ~~49-23-201~~ is amended to read:~~

~~—— ~~49-23-201. System membership -- Eligibility.~~~~

~~—— (1) Except as provided in Subsections (3) and (4), beginning July 1, 2011, a participating employer that employs public safety service employees or firefighter service~~

## HB0469S01 compared with HB0469

~~employees shall participate in this system.~~

~~—— (2) (a) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, who does not have service credit accrued before July 1, 2011, in a Tier I system or plan administered by the board, is eligible:~~

~~—— (i) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or~~

~~—— (ii) as a participant for defined contributions under the Tier II defined contributions plan established by Part 4, Tier II Defined Contribution Plan.~~

~~—— (b) A public safety service employee or a firefighter service employee initially entering employment with a participating employer on or after July 1, 2011, shall:~~

~~—— (i) make an election to participate in the system created under this chapter:~~

~~—— (A) as a member for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System; or~~

~~—— (B) as a participant for defined contributions under the Tier II defined contribution plan established by Part 4, Tier II Defined Contribution Plan; and~~

~~—— (ii) electronically submit to the office notification of the member's election under Subsection (2)(b)(i) in a manner approved by the office.~~

~~—— (c) An election made by a public safety service employee or firefighter service employee initially entering employment with a participating employer under this Subsection (2) is irrevocable beginning one year from the date of eligibility for accrual of benefits.~~

~~—— (d) If no election is made under Subsection (2)(b)(i), the public safety service employee or firefighter service employee shall become a member eligible for service credit and defined contributions under the Tier II hybrid retirement system established by Part 3, Tier II Hybrid Retirement System.~~

~~—— (3) (a) Beginning July 1, 2015, a public safety service employee who is a dispatcher employed by:~~

~~—— (i) the state shall be eligible for service credit in this system; and~~

~~—— (ii) a participating employer other than the state shall be eligible for service credit in this system if the dispatcher's participating employer elects to cover the participating employer's dispatchers under this system.~~

## HB0469S01 compared with HB0469

~~—— (b) A participating employer's election to cover the participating employer's dispatchers under this system under Subsection (3)(a)(ii) is irrevocable and shall be documented by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.~~

~~—— (c) A dispatcher's service before July 1, 2015, or before a date specified by resolution of a participating employer under Subsection (3)(b), is not eligible for service credit in this system.~~

~~—— (4) An employer is eligible to participate in this system if the employer employs emergency medical service personnel and meets the requirements of Subsections (5) and (6).~~

~~—— (5) (a) Beginning July 1, 2023, a firefighter service employee who is an emergency medical service personnel employed by a participating employer shall be eligible for service credit in this system if the emergency medical service personnel's participating employer elects to cover the participating employer's emergency service personnel under this system.~~

~~—— (b) (i) A participating employer's election under Subsection (5)(a) to cover the participating employer's emergency medical service personnel under this system is irrevocable.~~

~~—— (ii) A participating employer shall document an election under Subsection (5)(a) by a resolution adopted by the governing body of the participating employer in accordance with rules made by the office.~~

~~—— (c) (i) An emergency medical service personnel's service before July 1, 2023, is not eligible for service credit in this system.~~

~~—— (ii) For an emergency medical service personnel employed by a participating employer, the emergency medical service personnel's service before the date the participating employer adopts a resolution described in Subsection (5)(b)(ii) is not eligible for service credit in this system.~~

~~—— (6) (a) The fire chief, or if there is not a fire chief for the participating employer, the emergency services director, shall verify that an individual meets the definition of emergency medical service personnel.~~

~~—— (b) (i) Each participating employer participating in this system that employs emergency medical service personnel shall submit annually to the office a schedule indicating which emergency medical service personnel positions are covered under this system under this chapter.~~

## HB0469S01 compared with HB0469

~~—— (ii) The office may require documentation to justify the inclusion of any position under this section.~~

~~—— (7) A public safety service employee who is transferred or promoted to an administration position requiring the performance of duties that consist primarily of management or supervision of public safety service employees shall continue to earn public safety service credit in this system during the period in which the employee remains employed in the same department.~~

~~—— (8) An employee of the Department of Corrections shall continue to earn public safety service credit in this system if:~~

~~—— (a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and~~

~~—— (b) the employee:~~

~~—— (i) remains employed by the Department of Corrections;~~

~~—— (ii) meets the eligibility requirements of this system;~~

~~—— (iii) was hired into a position covered by this system before July 1, 2015; and~~

~~—— (iv) has not had a break in service on or after July 1, 2015.~~

~~—— (9) An employee of the Department of Health and Human Services who is transferred from the Department of Corrections' clinical services bureau to provide a clinical or health care service to an inmate as defined in Section 64-13-1 shall continue to earn public safety service credit in this system if:~~

~~—— (a) the employee's position is no longer covered under this system for new employees hired on or after July 1, 2015; and~~

~~—— (b) the employee:~~

~~—— (i) remains employed by the Department of Corrections or the Department of Health and Human Services;~~

~~—— (ii) meets the eligibility requirements of this system;~~

~~—— (iii) was hired into a position covered by this system before July 1, 2015; and~~

~~—— (iv) has not had a break in service on or after July 1, 2015.~~

~~—— (10) A public safety employee employed with the Department of Natural Resources on or before July 1, 2024, shall continue to earn public safety credit in this system, if the public safety employee:~~

## HB0469S01 compared with HB0469

- ~~\_\_\_\_\_ (a) qualifies to earn a public safety credit under the provisions of this section; or~~
- ~~\_\_\_\_\_ (b) (i) reaches ten years of service with the Department of Natural Resources on or before July 1, 2026;~~
- ~~\_\_\_\_\_ (ii) serves the Department of Natural Resources in a position that was eligible to receive a service credit in this system before July 1, 2024, but is no longer eligible for a service credit in this system on or after July 1, 2024;~~
- ~~\_\_\_\_\_ (iii) remains employed with the Department of Natural Resources; and~~
- ~~\_\_\_\_\_ (iv) serves within the Department of Natural Resources as:~~
  - ~~\_\_\_\_\_ (A) a division director;~~
  - ~~\_\_\_\_\_ (B) a deputy division director;~~
  - ~~\_\_\_\_\_ (C) a region manager or supervisor;~~
  - ~~\_\_\_\_\_ (D) a program manager;~~
  - ~~\_\_\_\_\_ (E) a park manager; or~~
  - ~~\_\_\_\_\_ (F) an assistant park manger.~~

~~\_\_\_\_\_ Section 10. Section ~~52-4-204~~ is amended to read:~~

~~\_\_\_\_\_ **52-4-204. Closed meeting held upon vote of members -- Business -- Reasons for meeting recorded.**~~

- ~~\_\_\_\_\_ (1) A closed meeting may be held if:~~
  - ~~\_\_\_\_\_ (a) (i) a quorum is present;~~
  - ~~\_\_\_\_\_ (ii) the meeting is an open meeting for which notice has been given under Section 52-4-202; and~~
  - ~~\_\_\_\_\_ (iii) (A) two-thirds of the members of the public body present at the open meeting vote to approve closing the meeting;~~
  - ~~\_\_\_\_\_ (B) for a meeting that is required to be closed under Section 52-4-205, if a majority of the members of the public body present at an open meeting vote to approve closing the meeting;~~
  - ~~\_\_\_\_\_ (C) for an ethics committee of the Legislature that is conducting an open meeting for the purpose of reviewing an ethics complaint, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint;~~

## HB0469S01 compared with HB0469

~~—— (D) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201 that is conducting an open meeting for the purpose of reviewing an ethics complaint in accordance with Section 63A-15-701, a majority of the members present vote to approve closing the meeting for the purpose of seeking or obtaining legal advice on legal, evidentiary, or procedural matters, or for conducting deliberations to reach a decision on the complaint;~~

~~—— (E) for a project entity that is conducting an open meeting for the purposes of determining the value of an asset, developing a strategy related to the sale or use of that asset;~~

~~—— (F) for a project entity that is conducting an open meeting for purposes of discussing a business decision, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, the project entity; or~~

~~—— (G) for a project entity that is conducting an open meeting for purposes of discussing a record, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential competitor of, the project entity; or~~

~~—— (b) (i) for the Independent Legislative Ethics Commission, the closed meeting is convened for the purpose of conducting business relating to the receipt or review of an ethics complaint, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the receipt or review of ethics complaints";~~

~~—— (ii) for the Political Subdivisions Ethics Review Commission established in Section 63A-15-201, the closed meeting is convened for the purpose of conducting business relating to the preliminary review of an ethics complaint in accordance with Section 63A-15-602, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the review of ethics complaints";~~

~~—— (iii) for the Independent Executive Branch Ethics Commission created in Section 63A-14-202, the closed meeting is convened for the purpose of conducting business relating to an ethics complaint, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to an ethics complaint"; [or]~~

~~—— (iv) for the Data Security Management Council created in Section 63A-16-701, the~~

## HB0469S01 compared with HB0469

~~closed meeting is convened in accordance with Subsection 63A-16-701(7), if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to information technology security[.]", or~~

~~—— (v) for the Natural Resources Law Enforcement Coordinating Council created in Section 79-2-703, the closed meeting is convened for the purpose of conducting business related to the deployment of law enforcement or security personnel, if public notice of the closed meeting is given under Section 52-4-202, with the agenda for the meeting stating that the meeting will be closed for the purpose of "conducting business relating to the deployment of law enforcement or security personnel."~~

~~—— (2) A closed meeting is not allowed unless each matter discussed in the closed meeting is permitted under Section 52-4-205.~~

~~—— (3) (a) An ordinance, resolution, rule, regulation, contract, or appointment may not be approved at a closed meeting.~~

~~—— (b) (i) A public body may not take a vote in a closed meeting, except for a vote on a motion to end the closed portion of the meeting and return to an open meeting.~~

~~—— (ii) A motion to end the closed portion of a meeting may be approved by a majority of the public body members present at the meeting.~~

~~—— (4) The following information shall be publicly announced and entered on the minutes of the open meeting at which the closed meeting was approved:~~

~~—— (a) the reason or reasons for holding the closed meeting;~~

~~—— (b) the location where the closed meeting will be held; and~~

~~—— (c) the vote by name, of each member of the public body, either for or against the motion to hold the closed meeting.~~

~~—— (5) Except as provided in Subsection 52-4-205(2), nothing in this chapter shall be construed to require any meeting to be closed to the public.~~

~~—— Section 11. 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

## HB0469S01 compared with HB0469

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]~~ individuals specified in [~~Sections 23A-5-202 and 79-4-501~~] Section 79-2-705;

(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;

(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.



## HB0469S01 compared with HB0469

(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 8. 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 23A-5-202 and 79-4-501;]~~

~~[(C)]~~ (B) investigators for the Motor Vehicle Enforcement Division;

## HB0469S01 compared with HB0469

~~[(D)]~~ [(C)] special agents or investigators employed by the attorney general;

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

~~[(F)]~~ [(E)] 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)]~~ [(F)] 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

(ii) may not exceed 100% of the officer's regular monthly salary and benefits, including

## HB0469S01 compared with HB0469

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 ~~{12}9~~. 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 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~~] A natural resources officer employed under Title 79, Chapter 2, Part 7, Division of Law Enforcement has authority to enforce the laws and regulations under Title 23A, Wildlife Resources Act, for the sake of any protected wildlife.

## HB0469S01 compared with HB0469

(d) [~~A conservation officer~~] A natural resources officer employed under Title 79, Chapter 2, Part 7, Division of Law Enforcement, shall work cooperatively with the locally elected county sheriff to enforce the laws and regulations under 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 ~~{13}~~10. Section **65A-1-1** is amended to read:

### **65A-1-1. Definitions.**

As used in this title:

(1) "Division" means the Division of Forestry, Fire, and State Lands.

(2) "Division of Law Enforcement" means the division within the Department of Natural Resources created under Title 79, Chapter 2, Part 7, Division of Law Enforcement.

~~{2}~~ (3) "Initial attack" means action taken by the first resource to arrive at a wildland fire incident, including evaluating the wildland fire, patrolling, monitoring, holding action, or aggressive suppression action.

~~{3}~~ (4) "Multiple use" means the management of various surface and subsurface resources in a manner that will best meet the present and future needs of the people of this state.

~~{4}~~ (5) "Municipality" means a city, town, or metro township.

~~{5}~~ (6) "Public trust assets" means those lands and resources, including sovereign lands, administered by the division.

~~{6}~~ (7) "Sovereign lands" means those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.

~~{7}~~ (8) "State lands" means all lands administered by the division.

~~{8}~~ (9) "Sustained yield" means the achievement and maintenance of high level annual or periodic output of the various renewable resources of land without impairment of the productivity of the land.

~~{9}~~ (10) "Wildland" means an area where:

(a) development is essentially non-existent, except for roads, railroads, powerlines, or similar transportation facilities; and

## HB0469S01 compared with HB0469

(b) structures, if any, are widely scattered.

~~[(10)]~~ (11) "Wildland fire" means a fire that consumes:

(a) wildland; or

(b) wildland-urban interface, as defined in Section 65A-8a-102.

Section ~~{14}~~ 11. Section **65A-3-3** is amended to read:

### **65A-3-3. Enforcement of laws -- City, county, or district attorney to prosecute.**

(1) It is the duty of the ~~[division]~~ Division of Law Enforcement, county sheriffs, ~~[their]~~ county sheriff deputies, peace officers, and other law enforcement officers within the law enforcement jurisdiction to enforce the provisions of this chapter and to investigate and gather evidence that may indicate a violation under this chapter.

(2) (a) The city attorney, county attorney, or district attorney, as appropriate under Sections 10-3-928, 17-18a-202, and 17-18a-203, shall prosecute any criminal violations of this chapter.

(b) The counsel for an eligible entity, as defined in Section 65A-8-203, shall initiate a civil action to recover suppression costs incurred by the eligible entity for suppression of fire on private land.

Section ~~{15}~~ 12. Section **65A-8-308** is amended to read:

### **65A-8-308. Enforcement -- Prosecution of violations.**

(1) ~~[County]~~ The Division of Law Enforcement, county sheriffs, police, and other law enforcement officers within their respective jurisdictions are responsible for the enforcement of this part.

(2) The county attorney or district attorney shall prosecute any violation of this part.

Section ~~{16}~~ 13. Section **77-11a-101** is amended to read:

### **77-11a-101. Definitions.**

As used in this chapter:

(1) (a) "Agency" means an agency of this state or a political subdivision of this state.

(b) "Agency" includes a law enforcement agency or a multijurisdictional task force.

(2) "Claimant" means:

(a) an owner of property;

(b) an interest holder; or

(c) an individual or entity who asserts a claim to any property for which an agency

## HB0469S01 compared with HB0469

seeks to forfeit.

(3) (a) "Computer" means, except as provided in Subsection (3)(c), an electronic, magnetic, optical, electrochemical, or other high-speed data processing device that performs logical, arithmetic, and storage functions.

(b) "Computer" includes any device that is used for the storage of digital or electronic files, flash memory, software, or other electronic information.

(c) "Computer" does not mean a computer server of an Internet or electronic service provider, or the service provider's employee, if used to comply with the requirements under 18 U.S.C. Sec. 2258A.

(4) (a) "Contraband" means any property, item, or substance that is unlawful to produce or to possess under state or federal law.

(b) "Contraband" includes:

(i) a controlled substance that is possessed, transferred, distributed, or offered for distribution in violation of Title 58, Chapter 37, Utah Controlled Substances Act; or

(ii) a computer that:

(A) contains or houses child sexual abuse material, or is used to create, download, transfer, upload to a storage account, or store any electronic or digital files containing child sexual abuse material; or

(B) contains the personal identifying information of another individual, as defined in Section 76-6-1101, whether that individual is alive or deceased, and the personal identifying information has been used to create false or fraudulent identification documents or financial transaction cards in violation of Title 76, Chapter 6, Part 5, Fraud.

(5) "Controlled substance" means the same as that term is defined in Section 58-37-2.

(6) "Court" means a municipal, county, or state court.

(7) "Division of Law Enforcement" means the division within the Department of Natural Resources created under Title 79, Chapter 2, Part 7, Division of Law Enforcement.

~~(7)~~ (8) "Evidence" means the same as that term is defined in Section 77-11c-101.

~~(8)~~ (9) "Forfeit" means to divest a claimant of an ownership interest in property seized by a peace officer or agency.

~~(9)~~ (10) "Innocent owner" means a claimant who:

(a) held an ownership interest in property at the time of the commission of an offense

## HB0469S01 compared with HB0469

subjecting the property to seizure, and:

(i) did not have actual knowledge of the offense subjecting the property to seizure; or

(ii) upon learning of the commission of the offense, took reasonable steps to prohibit the use of the property in the commission of the offense; or

(b) acquired an ownership interest in the property and had no knowledge that the commission of the offense subjecting the property to seizure had occurred or that the property had been seized, and:

(i) acquired the property in a bona fide transaction for value;

(ii) was an individual, including a minor child, who acquired an interest in the property through probate or inheritance; or

(iii) was a spouse who acquired an interest in property through dissolution of marriage or by operation of law.

~~[(10)]~~ (11) (a) "Interest holder" means a secured party as defined in Section 70A-9a-102, a party with a right-of-offset, a mortgagee, lien creditor, or the beneficiary of a security interest or encumbrance pertaining to an interest in property, whose interest would be perfected against a good faith purchaser for value.

(b) "Interest holder" does not mean a person:

(i) who holds property for the benefit of or as an agent or nominee for another person;

or

(ii) who is not in substantial compliance with any statute requiring an interest in property to be:

(A) recorded or reflected in public records in order to perfect the interest against a good faith purchaser for value; or

(B) held in control by a secured party, as defined in Section 70A-9a-102, in accordance with Section 70A-9a-314 in order to perfect the interest against a good faith purchaser for value.

~~[(11)]~~ (12) "Law enforcement agency" means:

(a) a municipal, county, state institution of higher education, or state police force or department;

(b) a sheriff's office; or

(c) a municipal, county, or state prosecuting authority.

## HB0469S01 compared with HB0469

~~[(12)]~~ (13) "Legislative body" means:

(a) (i) the Legislature, county commission, county council, city commission, city council, or town council that has fiscal oversight and budgetary approval authority over an agency; or

(ii) the agency's governing political subdivision; or

(b) the lead governmental entity of a multijurisdictional task force, as designated in a memorandum of understanding executed by the agencies participating in the task force.

~~[(13)]~~ (14) "Multijurisdictional task force" means a law enforcement task force or other agency comprised of individuals who are employed by or acting under the authority of different governmental entities, including federal, state, county, or municipal governments, or any combination of federal, state, county, or municipal agencies.

~~[(14)]~~ (15) "Owner" means an individual or entity, other than an interest holder, that possesses a bona fide legal or equitable interest in property.

~~[(15)]~~ (16) "Pawn or secondhand business" means the same as that term is defined in Section 13-32a-102.

~~[(16)]~~ (17) "Peace officer" means an employee:

(a) of an agency;

(b) whose duties consist primarily of the prevention and detection of violations of laws of this state or a political subdivision of this state; and

(c) who is authorized by the agency to seize property.

~~[(17)]~~ (18) (a) "Proceeds" means:

(i) property of any kind that is obtained directly or indirectly as a result of the commission of an offense; or

(ii) any property acquired directly or indirectly from, produced through, realized through, or caused by an act or omission regarding property under Subsection ~~[(17)(a)(i)]~~ (18)(a)(i).

(b) "Proceeds" includes any property of any kind without reduction for expenses incurred in the acquisition, maintenance, or production of that property, or any other purpose regarding property under Subsection ~~[(17)(a)(i)]~~ (18)(a)(i).

(c) "Proceeds" is not limited to the net gain or profit realized from the offense that subjects the property to seizure.



## HB0469S01 compared with HB0469

~~[(18)]~~ (19) (a) "Property" means all property, whether real or personal, tangible or intangible.

(b) "Property" does not include contraband.

~~[(19)]~~ (20) "Prosecuting attorney" means:

(a) the attorney general and an assistant attorney general;

(b) a district attorney or deputy district attorney;

(c) a county attorney or assistant county attorney; and

(d) an attorney authorized to commence an action on behalf of the state.

~~[(20)]~~ (21) "Public interest use" means a:

(a) use by a government agency as determined by the legislative body of the agency's jurisdiction; or

(b) donation of the property to a nonprofit charity registered with the state.

~~[(21)]~~ (22) "Real property" means land, including any building, fixture, improvement, appurtenance, structure, or other development that is affixed permanently to land.

~~[(22)]~~ (23) (a) "Seized property" means property seized by a peace officer or agency in accordance with Section 77-11a-201.

(b) "Seized property" includes property that the agency seeks to forfeit under Chapter 11b, Forfeiture of Seized Property.

Section ~~{17}~~14. Section **77-11a-301** is amended to read:

### **77-11a-301. Release of seized property to claimant -- Generally.**

(1) (a) An agency with custody of seized property, or the prosecuting attorney, may release the property to a claimant if the agency or the prosecuting attorney:

(i) determines that the agency does not need to retain or preserve the property as evidence under Chapter 11c, Retention of Evidence; or

(ii) seeks to return the property to the claimant because the agency or prosecuting attorney determines that the claimant is an innocent owner or an interest holder.

(b) An agency with custody of seized property, or the prosecuting attorney, may not release property under this Subsection (1) if the property is subject to retention or preservation under Chapter 11c, Retention of Evidence.

(2) An agency with custody of the seized property, or the prosecuting attorney, shall release the property to a claimant if:

## HB0469S01 compared with HB0469

(a) the claimant posts a surety bond or cash with the court in accordance with Section 77-11a-302;

(b) the court orders the release of property to the claimant for hardship purposes under Section 77-11a-303;

(c) a claimant establishes that the claimant is an innocent owner or an interest holder under Section 77-11a-304; or

(d) the court orders property retained as evidence to be released to the claimant under Section 77-11a-305.

(3) (a) For a computer determined to be contraband, a court may order the reasonable extraction and return of specifically described personal digital data to the owner of the computer.

(b) The agency shall determine a reasonable cost to extract the data.

(c) At the time of the request to extract the data, the owner of the computer shall pay the agency the cost to extract the data.

(4) If a ~~[peace]~~ natural resources officer for the Division ~~[of Wildlife Resources]~~ of Law Enforcement seizes a vehicle, the Division of ~~[Wildlife Resources]~~ Law Enforcement shall release the vehicle to a claimant in accordance with Section 23A-5-201.

(5) If an agency is not required, or is no longer required, to retain or preserve property as evidence under Chapter 11c, Retention of Evidence, and the agency seeks to release or dispose of the property, the agency shall exercise due diligence in attempting to notify the claimant of the property to advise the claimant that the property is to be returned.

(6) (a) Before an agency may release seized property to a person claiming ownership of the property, the person shall establish that the person:

(i) is the owner of the property; and

(ii) may lawfully possess the property.

(b) The person shall establish ownership under Subsection (6)(a) by providing to the agency:

(i) identifying proof or documentation of ownership of the property; or

(ii) a notarized statement if proof or documentation is not available.

(c) When seized property is returned to the owner, the owner shall sign a receipt listing in detail the property that is returned.

## HB0469S01 compared with HB0469

- (d) The agency shall:
  - (i) retain a copy of the receipt; and
  - (ii) provide a copy of the receipt to the owner.

Section ~~{18}~~15. 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 23A-1-101.]~~

- (1) "Natural resources officer" means the same as that term is defined in Section 79-2-701.
- (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 ~~{19}~~16. Section 79-2-204 is amended to read:

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

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

## HB0469S01 compared with HB0469

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

Section ~~{20}~~17. Section **79-2-701** is enacted to read:

### **Part 7. Division of Law Enforcement**

#### **79-2-701. Definitions.**

As used in this part:

~~{~~ (1) "Council" means the Natural Resources Law Enforcement Coordinating Council created in Section 79-2-704.

~~}~~ (~~{2}~~1) "Division" means the Division of Law Enforcement.

(~~{3}~~2) "Law enforcement officer" means the same as that term is defined in Section 53-13-103.

(~~{4}~~3) (a) "Natural resources officer" means a full-time, permanent employee of the division who is POST certified as a peace officer.

(b) "Natural resources officer" includes a wildlife officer, as that term is defined in Section 23A-2-502.

(~~{5}~~4) "Peace officer" means any officer certified in accordance with Title 53, Chapter 13, Peace Officer Classifications.

Section ~~{21}~~18. Section **79-2-702** is enacted to read:

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

(1) There is created within the department a Division of Law Enforcement.

(2) Subject to the priorities defined by the director ~~{and the council}~~, the primary function of the division is to enforce:

(a) Title 23A, Wildlife Resources Act;

(b) Title 41, Chapter 22, Off-highway Vehicles;

(c) Title 65A, Forestry, Fire, and State Lands;

(d) Title 73, Chapter 18, State Boating Act;

(e) this title; and

(f) an administrative rule enacted by an advisory board ~~{for coordinating council}~~ ~~}~~ within any of the department's divisions.

(3) The division ~~{may coordinate}~~ shall work cooperatively with county sheriffs.

## HB0469S01 compared with HB0469

police, and other law enforcement officers within a law enforcement jurisdiction the division operates to enforce this part.

(4) This part does not limit or modify the powers and duties of other law enforcement officers in the state.

Section ~~{22}~~19. Section 79-2-703 is enacted to read:

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

(1) (a) The director is the executive and administrative head of the division, ~~appointed~~ in accordance with Section 79-2-204.

(2) The director shall demonstrate:

(a) experience as a sworn law enforcement officer; and

(b) law enforcement leadership ability.

(3) The director shall:

(a) enforce the policies and rules of the ~~{council}~~ department's divisions; and

(b) perform the duties necessary to:

(i) coordinate, prioritize, and direct the law enforcement needs of the divisions within the department;

(~~fi~~ii) properly care for and maintain any property under the jurisdiction of the division; and

(~~fi~~iii) carry out the purposes of this part.

(4) (a) The director may appoint an individual, on a temporary basis, as a special deputy.

(b) A special deputy may enforce this part and rules made under this part.

(5) The director may deputize an individual who is a peace officer to assist the division on a seasonal or temporary basis.

Section ~~{23}~~20. Section 79-2-704 is enacted to read:

~~{~~ ~~79-2-704. Natural Resources Law Enforcement Coordinating Council created -- Members -- Purpose:~~

~~\_\_\_\_\_~~ (1) (a) There is created within the department a Natural Resources Law Enforcement Coordinating Council:

~~\_\_\_\_\_~~ (b) The council is the policymaking body for the division.

~~\_\_\_\_\_~~ (2) Notwithstanding the requirements of Section 79-2-203, the council's membership

## HB0469S01 compared with HB0469

consists of:

~~—— (a) the director of the Division of Forestry, Fire and State Lands or the director's designee;~~

~~—— (b) the director of the Division of Outdoor Recreation or the director's designee;~~

~~—— (c) the director of the Division of State Parks or the director's designee;~~

~~—— (d) the director of the Division of Wildlife Resources or the director's designee; and~~

~~—— (e) the executive director of the department or the executive director's designee.~~

~~—— (3) (a) The executive director or the executive director's designee shall function as the council's chair:~~

~~—— (b) The director of the division or the director's designee shall function as the council's secretary:~~

~~—— (4) (a) The council shall hold meetings at least quarterly on the dates set by the council's chair:~~

~~—— (b) The chair or a majority of the council's members may call a meeting:~~

~~—— (c) A majority of the members of the council present at a meeting constitutes a quorum for the transaction of business:~~

~~—— (5) The department shall provide staff support for the council:~~

~~—— (6) A meeting held by the council is subject to Title 52, Chapter 4, Open and Public Meetings Act, unless otherwise provided:~~

~~—— (7) 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.~~

~~—— (8) The purpose of the council is to:~~

~~—— (a) coordinate, prioritize, and direct the law enforcement needs of the divisions within the department;~~

~~—— (b) provide for public safety and preserve the peace within the property under the jurisdiction of the department and the department's divisions; and~~

~~—— (c) carry out the purposes of this part.~~

## HB0469S01 compared with HB0469

~~Section 24. Section 79-2-705 is enacted to read:~~

‡ ~~{79-2-705}~~79-2-704. Powers and duties of division -- Enforcement authority --

### Ability to initiate civil proceedings.

(1) An employee of the division who is a POST certified peace officer:

(a) has all the powers of a law enforcement officer and natural resources officer in the state;

(b) may arrest and prosecute violators of any law of this state;

(c) has the same right as other peace officers to require aid in executing the peace officer's duties;

(d) may take wildlife in performance of official duties, in accordance with Section 23A-2-207;

(e) may protect property under the jurisdiction of the department or the department's divisions from misuse or damage;

(f) may preserve the peace on property under the jurisdiction of the department or the department's divisions;

(g) may serve criminal process; and

(h) may not serve civil process.

(2) The powers and duties conferred upon the director and members of the division are supplementary to and not a limitation on the powers and duties of other peace officers in the state.

(3) The division shall have the authority to initiate civil proceedings, in addition to criminal proceedings provided for in this part, to:

(a) recover damages;

(b) compel performance;

(c) compel substitution;

(d) restrain or enjoin;

(e) initiate any other appropriate action; and

(f) seek appropriate remedies in the division's capacity as the primary law enforcement authority for the department.

Section ~~{25}~~21. Section ~~{79-2-706}~~79-2-705 is enacted to read:

~~{79-2-706}~~79-2-705. Division authorized to enter into contracts and agreements.

## HB0469S01 compared with HB0469

(1) The division, with the approval of the executive director ~~{ and the governor }~~, may enter into contracts and agreements as needed to:

(a) support law enforcement operations for the department;

(b) improve and maintain the property under the jurisdiction of the division; and

(c) secure labor, quarters, materials, services, or facilities for the division according to procedures established by the Division of Finance.

(2) All departments, agencies, officers, and employees of the state shall give to the division the consultation and assistance that the division may reasonably request.

Section ~~{26}~~22. Section ~~{79-2-707}~~79-2-706, which is renumbered from Section 23A-3-211 is renumbered and amended to read:

**[~~23A-3-211~~]. ~~{79-2-707}~~79-2-706. Aquatic Invasive Species Interdiction Account.**

(1) There is created within the General Fund a restricted account known as the "Aquatic Invasive Species Interdiction Account."

(2) The Aquatic Invasive Species Interdiction Account shall consist of:

(a) nonresident aquatic invasive species fees collected under Subsection 23A-10-304(2);

(b) resident aquatic invasive species fees collected under Subsection 23A-10-304(1);  
and

(c) other amounts deposited in the Aquatic Invasive Species Interdiction Account from donations, appropriations, contractual agreements, and accrued interest.

(3) Upon appropriation, the division shall use the aquatic invasive species fees collected under Subsections 23A-10-304(1) and (2) and deposited in the Aquatic Invasive Species Account to fund aquatic invasive species prevention and containment efforts.

Section ~~{27}~~23. **Repealer.**

This bill repeals:

Section **23A-5-202, Powers of law enforcement section.**

Section **23A-5-203, Special deputies -- Appointment -- Duties.**

Section **23A-5-319, Interference with, intimidation, or harassment of officer unlawful.**

Section **79-4-501, Peace officer authority of park rangers.**



## HB0469S01 compared with HB0469

Section 79-7-401, Enforcement in general.

Section ~~{28}~~24. Effective date.

This bill takes effect on ~~{July}~~January 1, ~~{2024}~~2025.