

**UTAH PUBLIC LAND MANAGEMENT ACT AMENDMENTS**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

Senate Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill modifies provisions in the Utah Public Land Management Act.

**Highlighted Provisions:**

This bill:

- ▶ states that public land shall be managed, as much as possible, to promote multiple uses of the land, including hunting;
- ▶ describes the process to sell or exchange a parcel of public land;
- ▶ states that a county sheriff is the primary law enforcement authority on public land;
- ▶ creates the prospective Department of Land Management;
- ▶ describes the procedure to elect the director of the Department of Land Management; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**63L-8-102**, as enacted by Laws of Utah 2016, Chapter 317

**63L-8-103**, as enacted by Laws of Utah 2016, Chapter 317



28 63L-8-104, as enacted by Laws of Utah 2016, Chapter 317

29 63L-8-105, as enacted by Laws of Utah 2016, Chapter 317

30 63L-8-302, as enacted by Laws of Utah 2016, Chapter 317

31 63L-8-304, as enacted by Laws of Utah 2016, Chapter 317

32 63L-8-308, as enacted by Laws of Utah 2016, Chapter 317

33 79-2-201, as last amended by Laws of Utah 2016, Chapter 317

34 ENACTS:

35 63L-8-204, Utah Code Annotated 1953

36 63L-9-106, Utah Code Annotated 1953

37 RENUMBERS AND AMENDS:

38 63L-9-101, (Renumbered from 79-6-101, as enacted by Laws of Utah 2016, Chapter  
39 317)

40 63L-9-102, (Renumbered from 79-6-102, as enacted by Laws of Utah 2016, Chapter  
41 317)

42 63L-9-103, (Renumbered from 79-6-103, as enacted by Laws of Utah 2016, Chapter  
43 317)

44 63L-9-104, (Renumbered from 79-6-104, as enacted by Laws of Utah 2016, Chapter  
45 317)

46 63L-9-105, (Renumbered from 79-6-105, as enacted by Laws of Utah 2016, Chapter  
47 317)



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

50 Section 1. Section 63L-8-102 is amended to read:

51 **63L-8-102. Definitions.**

52 As used in this chapter:

53 (1) "Board" means the board created in Section 79-6-104.

54 (2) "Commissioner" means the commissioner of the Department of Agriculture and  
55 Food, or the commissioner's designee.

56 (3) "DAF" means the Department of Agriculture and Food.

57 (4) "Director" means the director of the [~~Division~~] Department of Land Management or  
58 the director's designee.

59 (5) "DLM" means the [~~Division~~] Department of Land Management, [~~a division~~]  
60 created [~~within the Department of Natural Resources~~] in Section [~~79-6-102~~] 63L-9-102.

61 (6) "Grazing permit" means a document, issued by the [~~Division~~] Department of Land  
62 Management, authorizing use of public land for the purpose of grazing domestic livestock.

63 (7) "Land use authorization" means an easement, lease, permit, or license to occupy,  
64 use, or traverse public land granted for a particular purpose.

65 (8) "Minerals" means all classes of inorganic material upon, within, or beneath the  
66 surface of public land, including silver, gold, copper, lead, zinc, uranium, gemstones, potash,  
67 gypsum, clay, salts, sand, rock, gravel, oil, oil shale, oil sands, gas, coal, and all carboniferous  
68 materials.

69 (9) "Multiple use" means:

70 (a) the management of the public land and the public land's various resource values so  
71 resources are best utilized in the combination that will meet the present and future needs of the  
72 citizens of Utah;

73 (b) making the most judicious use of land for some or all of the resources or related  
74 services over areas large enough to provide sufficient latitude for periodic adjustments in use to  
75 conform to changing needs and conditions;

76 (c) a combination of balanced and diverse resource uses that take into account the  
77 long-term needs of future generations for renewable and nonrenewable resources, including  
78 recreation, hunting, range, timber, minerals, watershed, wildlife and fish, and natural scenic,  
79 scientific, and historic values; and

80 (d) harmonious and coordinated management of the various resources without  
81 permanent impairment of the productivity of the land and the quality of the environment with  
82 consideration being given to the relative values of the resources.

83 (10) "Public land" means any land or land interest acquired by the state from the  
84 federal government pursuant to Section 63L-6-103, except:

85 (a) areas subsequently designated as a protected wilderness area, as described in Title  
86 63L, Chapter 7, Utah Wilderness Act; and

87 (b) lands managed by the School and Institutional Trust Lands Administration pursuant  
88 to Title 53C, School and Institutional Trust Lands Management Act.

89 (11) "Rangeland" means open public land used for grazing domestic livestock.

90 (12) "Sustained yield" means the achievement and maintenance in perpetuity of a  
91 high-level annual or regular periodic output of the various renewable resources of the public  
92 land consistent with multiple use.

93 (13) "Wilderness" means the same as that term is defined in Section [63L-7-103](#).

94 Section 2. Section **63L-8-103** is amended to read:

95 **63L-8-103. Principal or major use.**

96 Each parcel of public land in this state shall be managed, as much as possible, to  
97 promote the following principal or major uses of the land, consistent with the principles of  
98 multiple use and sustained yield:

99 (1) domestic livestock grazing;

100 (2) fish and wildlife development and utilization, including hunting;

101 (3) mineral exploration and production;

102 (4) rights-of-way;

103 (5) outdoor recreation;

104 (6) timber production; and

105 (7) wilderness conservation.

106 Section 3. Section **63L-8-104** is amended to read:

107 **63L-8-104. Declaration of policy -- Sales and exchanges.**

108 (1) The Legislature declares that it is the policy of the state that:

109 (a) public land be retained in state ownership consistent with the provisions of this  
110 chapter for the enjoyment and betterment of the public and the state;

111 (b) public land may not be sold, except:

112 (i) as consistent with Section [63L-8-204](#) and the other provisions of this chapter;

113 (ii) as consistent with local land use plans;

114 (iii) with the approval of the director and the board;

115 (iv) after sufficient opportunity for public comment; and

116 (v) for an important public interest;

117 (c) goals and objectives be established by law as guidelines for public land use  
118 planning, and that management be on the basis of multiple use and sustained yield, unless  
119 otherwise provided by statute; and

120 (d) the public land be managed in a manner that will:

- 121 (i) recognize the state's need for domestic sources of minerals, food, timber, and fiber;
- 122 (ii) protect the quality of scientific, scenic, historical, ecological, environmental, air  
123 and atmospheric, water resource, and archeological values;
- 124 (iii) where appropriate, preserve and protect certain public land in its natural condition;
- 125 (iv) provide food and habitat for fish, wildlife, and domestic animals; and
- 126 (v) provide for hunting, outdoor recreation, human occupancy, and other human use,  
127 including the general enjoyment of nature and solitude.

128 (2) All rules made to effectuate the purposes of this chapter shall be made in  
129 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

130 Section 4. Section **63L-8-105** is amended to read:

131 **63L-8-105. Interdepartmental cooperation.**

132 (1) The director, subject to periodic review of the Legislature, may establish programs  
133 to conduct projects, planning, permitting, leasing, contracting and other activities on public  
134 land.

135 (2) (a) The director shall provide management policies and programs for all uses of  
136 public land, including the principal or major uses described in Section **63L-8-103**.

137 (b) The director shall consult with the commissioner, who may make recommendations  
138 to the director on rangeland management issues on public land, including:

139 (i) determining the number of domestic animals that may be sustained on a tract of land  
140 while maintaining that land for wildlife and fish use and future grazing use; and

141 (ii) issuing grazing permits.

142 (c) The director shall consult with other state agencies having management  
143 responsibility over natural resources that may be impacted by management decisions and  
144 actions on public land, including the Department of Natural Resources, the Department of  
145 Agriculture and Food, and the Division of Wildlife Resources.

146 Section 5. Section **63L-8-204** is enacted to read:

147 **63L-8-204. Exchanges and sales.**

148 (1) (a) It is the policy of this state that exchanges of public land are preferred to any  
149 sale of public land, and that when pursuing an exchange, an exchange with the School and  
150 Institutional Trust Lands Administration is preferred to an exchange with any other party.

151 (b) If the DLM proposes an exchange of public land for a different parcel of land, the

152 land the DLM seeks to acquire shall be larger in acreage or considered more valuable for one or  
153 more of the principal or major uses described in Section [63L-8-103](#) than the land the DLM is  
154 offering in exchange.

155 (c) The state may exchange a parcel of public land with the federal government, the  
156 School and Institutional Trust Lands Administration, or a private party for a similarly valued  
157 parcel of land if:

158 (i) no more than 1,000 acres of public land is exchanged with the federal government,  
159 the School and Institutional Trust Lands Administration, or the private party in one calendar  
160 year; or

161 (ii) the exchange is approved by a two-thirds vote of the Legislature.

162 (2) The DLM may execute a sale of a parcel of public land if:

163 (a) the requirements of Subsection [63L-8-104\(1\)\(b\)](#) have been met;

164 (b) the following information is made available on the DLM's website for 30 days  
165 before the day on which the director executes the sale:

166 (i) the legal description of the parcel;

167 (ii) the local land use plan governing the parcel;

168 (iii) the proposed purchaser of the parcel;

169 (iv) the DLM's findings that the sale will further an important public objective,  
170 including expansion of a local community;

171 (v) the minutes or a recording of a meeting in which the public comment was taken on  
172 the proposed sale; and

173 (vi) the purchase price, which may not be less than fair market value;

174 (c) the director, having completed the land use planning process described in Section  
175 [63L-8-202](#), has determined that the parcel in question:

176 (i) is not suitable for long-term management by the DLM or another state agency  
177 because of the parcel's location or other characteristics; and

178 (ii) has minimal value for hunting, fishing, or other outdoor recreation;

179 (d) the parcel is 100 acres or smaller;

180 (e) the director has determined an exchange, as described in Subsection (1), is not  
181 possible;

182 (f) a competitive bidding process is used to determine the purchaser of the parcel;

183 (g) the sale is approved by a two-thirds vote of the Legislature; and

184 (h) the sale is approved by the governor.

185 (3) All proceeds of a sale under Subsection (2) shall be:

186 (a) deposited in the Public Land Management Fund created in Section [63L-8-308](#); and

187 (b) used to:

188 (i) acquire additional land that the DLM has determined would be appropriate for  
189 public purposes;

190 (ii) improve existing public land for one or more principal or major uses, as described  
191 in Section [63L-8-103](#); and

192 (iii) increase the utilization of the public land by the public.

193 Section 6. Section **63L-8-302** is amended to read:

194 **63L-8-302. Department of Land Management.**

195 Except as otherwise provided by law, the [~~Division~~] Department of Land Management,  
196 created in Section [~~79-6-102~~] [63L-9-102](#), shall provide necessary staff support for the  
197 implementation of this chapter.

198 Section 7. Section **63L-8-304** is amended to read:

199 **63L-8-304. Enforcement authority.**

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

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

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

209 (4) (a) [~~Except as provided in Subsections (4)(b) and (c), the local~~] The locally elected  
210 county sheriff is the primary law enforcement authority with jurisdiction on public land to  
211 enforce;

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

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

214 ~~[(b) The director may employ and utilize within the DLM certified peace officers that,~~  
215 ~~if and when deployed, will be the primary law enforcement authority with jurisdiction on~~  
216 ~~public land to enforce this chapter and rules issued pursuant to Subsection (1).]~~

217 ~~[(c)]~~ (b) Conservation officers employed by the Division of Wildlife Resources ~~[are the~~  
218 ~~primary law enforcement authority with jurisdiction on public land]~~ also have authority to  
219 enforce the laws and regulations under Title 23, Wildlife Resources Code of Utah, for the sake  
220 of any protected wildlife.

221 (c) A conservation officer shall work cooperatively with the locally elected county  
222 sheriff to enforce the laws and regulations under Title 23, Wildlife Resources Code of Utah, for  
223 the sake of protected wildlife and in the majority of cases shall take the lead.

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

226 Section 8. Section **63L-8-308** is amended to read:

227 **63L-8-308. Public Land Management Fund.**

228 (1) There is created an expendable special revenue fund known as the "Public Land  
229 Management Fund."

230 (2) The fund shall consist of:

231 (a) fees collected by the DLM under this chapter;

232 (b) money appropriated to the fund by the Legislature;

233 (c) money collected under Section [63L-8-505](#);

234 (d) money voluntarily donated or contributed to the fund; ~~[and]~~

235 (e) proceeds, as described in Subsection [63L-8-104](#)(3); and

236 ~~[(e)]~~ (f) interest earned on the fund.

237 (3) The DLM may expend money in the fund on:

238 (a) administration costs;

239 (b) project planning;

240 (c) a payment authorized by this chapter; and

241 (d) other duties required under this chapter, including the acquisition and improvement  
242 of public land, as described in Section [63L-8-104](#).

243 (4) The DLM shall annually expend money in the fund to pay a county in lieu of taxes  
244 the county cannot levy on public land owned by the state:



245 (a) in an amount no less than the highest amount ever fully authorized by Congress for  
 246 payment to the county under the federal Payments in Lieu of Taxes and Secure Rural Schools  
 247 programs, according to the most recent federal formulas before the effective date of this  
 248 chapter, as described in Section [63L-8-602](#); and

249 (b) as funding allows.

250 Section 9. Section **63L-9-101**, which is renumbered from Section 79-6-101 is  
 251 renumbered and amended to read:

252 **CHAPTER 9. DEPARTMENT OF LAND MANAGEMENT**

253 ~~[79-6-101].~~ **63L-9-101. Title.**

254 This chapter is known as the "~~[Division]~~ Department of Land Management."

255 Section 10. Section **63L-9-102**, which is renumbered from Section 79-6-102 is  
 256 renumbered and amended to read:

257 ~~[79-6-102].~~ **63L-9-102. Creation of the Department of Land Management.**

258 (1) There is created a ~~[Division of Land Management within the Department of Natural~~  
 259 ~~Resources, created in Section [79-2-201](#)]~~ Department of Land Management.

260 (2) The ~~[division]~~ department shall be staffed:

261 (a) upon the state receiving title to at least ~~[100,000]~~ 250,000 acres of public land from  
 262 the federal government pursuant to Section [63L-6-103](#); and

263 (b) as funding is appropriated by the Legislature and allows~~[-and]~~;

264 ~~[(c) as determined by the director of the Department of Natural Resources.]~~

265 (3) The ~~[division]~~ department may sue and be sued as required to carry out the  
 266 purposes of this chapter and Title 63L, Chapter 8, Utah Public Land Management Act.

267 Section 11. Section **63L-9-103**, which is renumbered from Section 79-6-103 is  
 268 renumbered and amended to read:

269 ~~[79-6-103].~~ **63L-9-103. Director.**

270 (1) Upon the requirements described in Subsection ~~[79-6-102]~~ [63L-9-102](#)(2) being  
 271 fulfilled, ~~[the executive director of the Department of Natural Resources shall appoint a~~  
 272 ~~director of the Division of Land Management]~~ a director shall be elected as described in  
 273 Section [63L-9-106](#), and thereafter hire personnel to staff the [division] department.

274 (2) The director shall:

275 (a) be the executive and administrative head of the ~~[Division]~~ Department of Land

276 Management;

277 (b) have demonstrated ability and experience in the administration and management of  
278 state or federal lands; and

279 (c) not hold any other public office or be involved in a political party or organization.

280 (3) The director [~~of the Division of Land Management, under administrative direction~~  
281 ~~of the executive director,]~~ shall have:

282 (a) executive authority and control of the [~~Division~~] Department of Land Management;  
283 and

284 (b) authority over all personnel matters.

285 Section 12. Section **63L-9-104**, which is renumbered from Section 79-6-104 is  
286 renumbered and amended to read:

287 ~~[79-6-104].~~ **63L-9-104. Public Land Management Advisory Board.**

288 (1) There is created the Public Land Management Advisory Board.

289 (2) The board consists of the following 11 members:

290 (a) the lieutenant governor, or the lieutenant governor's designee;

291 (b) one representative, appointed by the governor, who represents the interests of oil,  
292 gas, and mining;

293 (c) one representative, appointed by the governor, who represents the interests of  
294 agriculture;

295 (d) one representative, appointed by the governor, who represents the interests of  
296 outdoor recreation;

297 (e) one representative, appointed by the governor, who represents the interests of  
298 environmental groups;

299 (f) three representatives, appointed by the governor, who represent the interests of  
300 county commissioners;

301 (g) one representative, appointed by the governor, who represents the interests of rural  
302 transportation;

303 (h) one representative, appointed by the governor, who represents the interests of  
304 wildlife management; and

305 (i) one representative, appointed by the governor, who represents the interests of forest  
306 management.

307 (3) (a) Members shall be appointed for a term of four years.

308 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the  
309 time of appointment or reappointment, adjust the length of terms of the members described in  
310 Subsections (2)(b) through (i) to ensure that the terms of board members are staggered so that  
311 half of the appointed board is appointed every two years.

312 (4) A member may serve more than one term.

313 (5) A member shall hold office until the expiration of the member's term and until the  
314 member's successor is appointed, but not more than 90 days after the expiration of the  
315 member's term.

316 (6) When a vacancy occurs in the membership for any reason, a replacement shall be  
317 appointed for the unexpired term.

318 (7) The board shall elect annually a chair and a vice chair from the board's members.

319 (8) (a) The board shall meet at least quarterly.

320 (b) Special meetings may be called by the chair upon the chair's own initiative, upon  
321 the request of the director, or upon the request of three members of the board.

322 (c) Three days' notice shall be given to each member of the board before a meeting.

323 (9) Six members constitute a quorum at a meeting, and the action of a majority of  
324 members present is the action of the board.

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

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

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

329 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and  
330 [63A-3-107](#).

331 Section 13. Section **63L-9-105**, which is renumbered from Section 79-6-105 is  
332 renumbered and amended to read:

333 ~~[79-6-105].~~ **63L-9-105. Department of Land Management duties.**

334 ~~[Under the direct supervision of the executive director and in consultation with the~~  
335 ~~board, the division]~~ The department shall manage and administer all public land, as defined in  
336 Section [63L-8-102](#), consistent with the procedures, policies, and directives in Title 63L,  
337 Chapter 8, Utah Public Land Management Act.

338 Section 14. Section **63L-9-106** is enacted to read:

339 **63L-9-106. Election of the department director.**

340 (1) (a) The chief administrative officer of the department is a director, selected as  
341 described in this section.

342 (b) The director shall be chosen by a vote of county commissioners and county council  
343 members, as described in Subsection (1)(c).

344 (c) (i) Each county shall have one vote, cast by a simple majority of the county's  
345 commissioners or council members.

346 (ii) If a county's commissioners or council members cannot achieve consensus on the  
347 individual for whom the county will be casting the county's vote, the county forfeits the vote.

348 (iii) Except as provided in Subsection (1)(c)(iv), the director shall be chosen by 5:00  
349 p.m. the day after a general election.

350 (iv) If the governor removes the director, as described in Subsection (1)(d), the county  
351 commissioners and county council members shall have 30 days from the day on which the  
352 director is removed to select a new director.

353 (d) The director may be removed at the will of the governor.

354 (e) The director shall receive a salary established by the governor within the salary  
355 range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

356 (2) The director shall:

357 (a) administer and supervise the department and provide for coordination and  
358 cooperation among the boards, divisions, councils, and committees of the department;

359 (b) approve the budget of each board and division;

360 (c) participate in regulatory proceedings as appropriate for the functions and duties of  
361 the department;

362 (d) report at the end of each fiscal year to the governor on department and board  
363 activities; and

364 (e) perform other duties as provided by statute.

365 (3) By following the procedures and requirements of Title 63J, Chapter 5, Federal  
366 Funds Procedures Act the director, may accept an executive or legislative provision that is  
367 enacted by the federal government, whereby the state may participate in the distribution,  
368 disbursement, or administration of a fund or service from the federal government for purposes

369 consistent with the powers and duties of the department.

370 Section 15. Section **79-2-201** is amended to read:

371 **79-2-201. Department of Natural Resources created.**

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

373 (2) The department comprises the following:

374 (a) Board of Water Resources, created in Section [73-10-1.5](#);

375 (b) Board of Oil, Gas, and Mining, created in Section [40-6-4](#);

376 (c) Board of Parks and Recreation, created in Section [79-4-301](#);

377 (d) Wildlife Board, created in Section [23-14-2](#);

378 (e) Board of the Utah Geological Survey, created in Section [79-3-301](#);

379 (f) Water Development Coordinating Council, created in Section [73-10c-3](#);

380 (g) Division of Water Rights, created in Section [73-2-1.1](#);

381 (h) Division of Water Resources, created in Section [73-10-18](#);

382 (i) Division of Forestry, Fire, and State Lands, created in Section [65A-1-4](#);

383 (j) Division of Oil, Gas, and Mining, created in Section [40-6-15](#);

384 (k) Division of Parks and Recreation, created in Section [79-4-201](#);

385 (l) Division of Wildlife Resources, created in Section [23-14-1](#);

386 [~~(m)~~] ~~Division of Land Management, created in Section [79-6-102](#);~~

387 [~~(n)~~] (m) Utah Geological Survey, created in Section [79-3-201](#);

388 [~~(o)~~] (n) Heritage Trees Advisory Committee, created in Section [65A-8-306](#);

389 [~~(p)~~] (o) Recreational Trails Advisory Council, authorized by Section [79-5-201](#);

390 [~~(q)~~] (p) Boating Advisory Council, authorized by Section [73-18-3.5](#);

391 [~~(r)~~] (q) Wildlife Board Nominating Committee, created in Section [23-14-2.5](#); and

392 [~~(s)~~] (r) Wildlife Regional Advisory Councils, created in Section [23-14-2.6](#).

**Legislative Review Note**

**Office of Legislative Research and General Counsel**