

## MEMORANDUM

**TO:** Education Interim Committee

**FROM:** Kathleen Clarke, Director, Public Lands Policy Coordination Office

**DATE:** September 5, 2012

**RE:** Report on Transfer of Public Lands Act and Related Study (H.B. 148)

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The Public Lands Act and Related Study (H.B. 148) passed by the Legislature in the 2012 Session provides that on or before the September Interim meeting, the Constitutional Defense Council, staffed by the Public Lands Policy Coordination Office, (collectively "CDC") is to make a preliminary report to the Education and Natural Resources, Agriculture and Environment Interim Committees on the status of its mandate to (1) prepare proposed legislation prepare proposed legislation creating a public lands commission to administer the transfer of title of public lands to the State and address the management of public lands and the management of multiple uses of public lands; (2) establish actions that shall be taken to secure, preserve, and protect the State's rights and benefits related to the United States' duty to have extinguished title to public lands in the event that the United States does not meet the requirements the Transfer of Public Lands Act; (3) make any necessary modifications to the definition of "public lands" in the Transfer of Public Lands Act; (4) make a determination of or a process for determining interests, rights, or uses in public lands as set forth in the Transfer of Public Lands Act; and (5) determine what constitutes "expenses incident to the sale of public lands" as described in the Transfer of Public Lands Act.

The CDC is also to provide a preliminary report to the Education and Natural Resources, Agriculture and Environment Interim Committees on the status of its study and determination on whether to prepare proposed legislation to (1) administer the process for the United States to

extinguish title to public lands, the State to receive title to public lands from the United States, or the state to transfer title to any public lands the state receives in accordance with the Transfer of Public Lands Act; (2) establish a prioritized list of management actions for the State and the political subdivisions of the State to perform on public lands before and after the United States extinguishes title to public lands and to preserve and promote the State's interest in the public lands (3) establish procedures and requirements for subjecting public lands to property taxation; (4) establish other requirements related to national forests, national recreation areas, or other public lands administered by the United States; and (5) address the indemnification of a political subdivision of the State for actions the Transfer of Public Lands Act. This Memorandum summarizes the preliminary actions of the CDC to date toward accomplishing the above legislative mandates.

CDC staff has researched and reviewed various models of governing commissions to determine the costs and benefits associated with each paradigm. Such examination of governing bodies continues. The proposed legislation requested by the Legislature is being crafted to establish a public lands commission that will establish the groundwork to address concerns generated by the Public Lands Transfer Act. The proposed legislation must take into consideration currently compiled studies, data and information, as well as have the proposed public lands commission study data and information yet to be gathered. Currently, the proposed legislation contemplates the creation of a five-member commission to be appointed by the Governor. The public lands commission would be administered by a paid director and staff of a size suitable for the duties assigned by the Legislature.

This action of requesting the transfer of title to the public lands was previously explored by the State of Utah in the 1980's during the time of the "Sagebrush Rebellion." CDC staff has

researched the State of Utah historical archives, and has obtained and reviewed copies of prior studies and critiques both in support of and against the taking of such an action, which, ultimately, did not occur. The studies and critiques will be summarized in a report to the Natural Resources, Agriculture, and Environment Interim Committee and the Education Interim Committee on or before the November 2012 interim meeting, as required under the Transfer of Public Lands Act.

Briefly, in September of 1979, then Utah Governor, Scott M. Matheson, commissioned a Utah State University study to assess the economic impacts of transferring federal lands to State ownership in Utah, entitled, "An Economic Evaluation of the Transfer of Federal Lands in Utah to State Ownership ("Study")." The Study, completed in May 1980, compared costs of operating the State's own public resource management agencies with the costs of the federal Bureau of Land Management (BLM) and the Forest Service. The conclusion of the Study was that, (based on budget figures from 1978 and 1980) especially for BLM lands, dollar costs of operation should not be a decisive issue in the pros and cons of the Sagebrush Rebellion debate, or by corollary, the transfer of federal lands to the State. The Study was also the subject of some criticism, especially about the very cost figures cited.

The CDC is in the process of compiling updated, current data relating to both federal and State expenditures and revenue on lands owned or managed by the State and federal agencies. The CDC is contracting with Southern Utah University and the University of Utah to research information concerning economic costs, revenues and impacts related to federal management of federal public lands as well as economic costs revenues and impacts related to State management of State lands in order to inform decision-making. The studies may also contribute to an

assessment of current federal, State and School Trust Lands costs of land management, per acre, per visitor and per management area.

The Congressional Delegation has also requested the Office of Congressional Research Services to investigate federal budget figures related to federal management for public lands. All of these studies are well underway; however, final economic figures and determinations have not yet been reached.

A written report on its findings, recommendations, and proposed legislation will be delivered by the CDC to the Natural Resources, Agriculture, and Environment Interim Committee and the Education Interim Committee on or before the November 2012 interim meeting.