

UTAH PUBLIC LAND MANAGEMENT ACT

2016 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Michael E. Noel

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts the Utah Public Land Management Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes findings;
- ▶ establishes duties for the director of the Department of Natural Resources and the commissioner of the Department of Agriculture and Food;
- ▶ authorizes fees;
- ▶ establishes the:
 - Public Land Protection Fund;
 - Public Land Management Fund;
 - Timber Fund; and
 - Grazing Land Fund;
- ▶ establishes a procedure to issue a right-of-way or use authorization on public land;
- ▶ creates the Division of Land Management within the Department of Natural Resources;
- ▶ requires reports to the Legislature; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 AMENDS:

33 **79-2-201**, as last amended by Laws of Utah 2013, Chapter 413

34 ENACTS:

35 **63L-8-101**, Utah Code Annotated 1953

36 **63L-8-102**, Utah Code Annotated 1953

37 **63L-8-103**, Utah Code Annotated 1953

38 **63L-8-104**, Utah Code Annotated 1953

39 **63L-8-105**, Utah Code Annotated 1953

40 **63L-8-201**, Utah Code Annotated 1953

41 **63L-8-202**, Utah Code Annotated 1953

42 **63L-8-203**, Utah Code Annotated 1953

43 **63L-8-301**, Utah Code Annotated 1953

44 **63L-8-302**, Utah Code Annotated 1953

45 **63L-8-303**, Utah Code Annotated 1953

46 **63L-8-304**, Utah Code Annotated 1953

47 **63L-8-305**, Utah Code Annotated 1953

48 **63L-8-306**, Utah Code Annotated 1953

49 **63L-8-307**, Utah Code Annotated 1953

50 **63L-8-308**, Utah Code Annotated 1953

51 **63L-8-309**, Utah Code Annotated 1953

52 **63L-8-310**, Utah Code Annotated 1953

53 **63L-8-311**, Utah Code Annotated 1953

54 **63L-8-312**, Utah Code Annotated 1953

55 **63L-8-401**, Utah Code Annotated 1953

56 **63L-8-402**, Utah Code Annotated 1953

57 **63L-8-403**, Utah Code Annotated 1953

58 **63L-8-501**, Utah Code Annotated 1953

- 59 [63L-8-502](#), Utah Code Annotated 1953
- 60 [63L-8-503](#), Utah Code Annotated 1953
- 61 [63L-8-504](#), Utah Code Annotated 1953
- 62 [63L-8-505](#), Utah Code Annotated 1953
- 63 [63L-8-506](#), Utah Code Annotated 1953
- 64 [63L-8-507](#), Utah Code Annotated 1953
- 65 [63L-8-508](#), Utah Code Annotated 1953
- 66 [63L-8-509](#), Utah Code Annotated 1953
- 67 [63L-8-510](#), Utah Code Annotated 1953
- 68 [63L-8-511](#), Utah Code Annotated 1953
- 69 [63L-8-601](#), Utah Code Annotated 1953
- 70 [63L-8-602](#), Utah Code Annotated 1953
- 71 [79-6-101](#), Utah Code Annotated 1953
- 72 [79-6-102](#), Utah Code Annotated 1953
- 73 [79-6-103](#), Utah Code Annotated 1953
- 74 [79-6-104](#), Utah Code Annotated 1953



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

77 Section 1. Section **63L-8-101** is enacted to read:

78 **CHAPTER 8. UTAH PUBLIC LAND MANAGEMENT ACT**

79 **Part 1. General Provisions**

80 **63L-8-101. Title.**

81 (1) This chapter is known as the "Utah Public Land Management Act."

82 (2) This part is known as "General Provisions."

83 Section 2. Section **63L-8-102** is enacted to read:

84 **63L-8-102. Definitions.**

85 As used in this chapter:

86 (1) "Commissioner" means the commissioner of the Department of Agriculture and
87 Food, or the commissioner's designee.

88 (2) "DAF" means the Department of Agriculture and Food.

89 (3) "Director" means the director of the Division of Land Management or the director's

90 designee.

91 (4) "DLM" means the Division of Land Management, a division created within the
92 Department of Natural Resources in Section 79-6-102.

93 (5) "Grazing permit" means a document, issued by the Division of Land Management,
94 authorizing use of public land for the purpose of grazing domestic livestock.

95 (6) "Land use authorization" means an easement, lease, permit, or license to occupy,
96 use, or traverse public land granted for the purpose.

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

101 (8) "Multiple use" means:

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

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

108 (c) a combination of balanced and diverse resource uses that take into account the
109 long-term needs of future generations for renewable and non-renewable resources, including
110 recreation, range, timber, minerals, watershed, wildlife and fish, and natural scenic, scientific,
111 and historic values; and

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

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

117 (a) areas subsequently designated as a protected wilderness area, as described in Title
118 63L, Chapter 7, Utah Wilderness Act; and

119 (b) lands acquired by the School and Institutional Trust Lands Administration directly
120 from the federal government.

121 (10) "Rangeland" means open public land used for grazing domestic livestock.

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

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

126 Section 3. Section **63L-8-103** is enacted to read:

127 **63L-8-103. Principle or major use.**

128 Each parcel of public land in this state shall be managed, as much as possible, to
129 promote at least one of the following principle or major uses of the land:

130 (1) domestic livestock grazing;

131 (2) fish and wildlife development and utilization;

132 (3) mineral exploration and production;

133 (4) rights-of-way;

134 (5) outdoor recreation; and

135 (6) timber production.

136 Section 4. Section **63L-8-104** is enacted to read:

137 **63L-8-104. Declaration of policy.**

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

139 (a) public land be retained in state ownership consistent with the provisions of this
140 chapter;

141 (b) goals and objectives be established by law as guidelines for public land use
142 planning, and that management be on the basis of multiple use and sustained yield, unless
143 otherwise provided by statute; and

144 (c) the public land be managed in a manner that will:

145 (i) recognize the state's need for domestic sources of minerals, food, timber, and fiber;

146 (ii) protect the quality of scientific, scenic, historical, ecological, environmental, air

147 and atmospheric, water resource, and archeological values;

148 (iii) where appropriate, preserve and protect certain public land in its natural condition;

149 (iv) provide food and habitat for fish, wildlife, and domestic animals; and

150 (v) provide for outdoor recreation, human occupancy, and other human use.

151 (2) All rules made to effectuate the purposes of this chapter shall be made in

152 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

153 Section 5. Section **63L-8-105** is enacted to read:

154 **63L-8-105. Interdepartmental cooperation.**

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

158 (2) (a) The director shall provide management policies and programs for all uses of
159 public land, including the principal uses described in Section [63L-8-103](#).

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

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

164 (ii) issuing grazing permits.

165 (c) The director shall consult with other state agencies having management
166 responsibility over natural resources that may be impacted by management decisions and
167 actions on public land.

168 Section 6. Section **63L-8-201** is enacted to read:

169 **Part 2. Identification and Land Use Planning**

170 **63L-8-201. Title.**

171 This part is known as "Identification and Land Use Planning."

172 Section 7. Section **63L-8-202** is enacted to read:

173 **63L-8-202. Land use planning.**

174 (1) The director, in consultation with the commissioner and other state agencies with
175 management authority over other state owned land shall, with public involvement, develop,
176 maintain, and revise land use plans that address the use and conservation of public land in the
177 state.

178 (2) In the development and revision of land use plans, the director shall:

179 (a) use and observe the principles of multiple use and sustained yield;

180 (b) develop rules describing the degree of planning necessary for each category of
181 activity upon or conservation of public land;

182 (c) provide for compliance with applicable pollution control laws;

183 (d) make determinations concerning the management, protection, and conservation of
184 plant species officially designated as endangered or threatened under the federal Endangered
185 Species Act of 1973, as amended, on public land; and

186 (e) to the extent consistent with the laws governing the administration of the public
187 land:

188 (i) coordinate the land use inventory, planning, and management activities for public
189 land with the land use planning and management programs of the county government within
190 which the public land is located; and

191 (ii) involve the public and local county officials in the development of land use
192 programs, land use rules, and land use decisions for public land, including early public notice
193 of proposed decisions, programs, or regulations that may have a significant impact on
194 non-public land.

195 (3) The director shall, to the maximum extent possible and consistent with this chapter,
196 implement land use plans that provide for consistent results with local land use plans.

197 (4) (a) Management decisions shall remain subject to reconsideration, modification,
198 and termination through revision by the director, subject to contractual rights granted by any
199 land use authorization issued by the division.

200 (b) The director shall report to the speaker of the House of Representatives and the
201 president of the Senate on a management program or policy decision that eliminates, for two or
202 more years, one or more of the principal or major uses of a tract of public land of 1,000 acres or
203 more.

204 (5) The director shall:

205 (a) allow an opportunity for public involvement; and

206 (b) establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative
207 Rulemaking Act, to give governments and the public adequate notice and opportunity to
208 comment upon and participate in the formulation of plans, programs, and policies relating to
209 the management of the public land.

210 Section 8. Section **63L-8-203** is enacted to read:

211 **63L-8-203. Honoring pre-existing claims and rights.**

212 Upon receiving title to a tract of federal public land, the state shall honor all
213 pre-existing rights that run appurtenant to that tract of federal public land.

214 Section 9. Section **63L-8-301** is enacted to read:

215 **Part 3. Administration of the Utah Public Land Management Act**

216 **63L-8-301. Title.**

217 This part is known as "Administration of the Utah Public Land Management Act."

218 Section 10. Section **63L-8-302** is enacted to read:

219 **63L-8-302. Division of Land Management.**

220 Except as otherwise provided by law, the Division of Land Management, created in
221 Section [79-6-102](#), shall provide necessary staff support for the implementation of this chapter.

222 Section 11. Section **63L-8-303** is enacted to read:

223 **63L-8-303. Management of use, occupancy, and development of public land.**

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

225 (a) occurs irregularly; and

226 (b) is non-commercial.

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

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

233 (3) (a) The director shall, subject to Subsection (3)(b) and other applicable law,
234 authorize use of the public land through land use authorizations.

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

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

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

239 (ii) camping or other casual use;

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

241 (iv) other casual uses.

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

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

245 (i) authorizing the director to:

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

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

250 (ii) enlarging or diminishing the responsibility and authority of the Wildlife Board or
251 Division of Wildlife Resources for management of fish and resident wildlife pursuant to Title
252 23, Wildlife Resources Code of Utah.

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

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

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

263 (b) If a holder of an authorization rectifies the violation that formed the basis of the
264 director's suspension under Subsection (5)(a), the director may terminate the suspension.

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

267 (a) health or safety; or

268 (b) the environment.

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

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

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

275 (b) terms and conditions, including restrictions on use of off-road or all-terrain

276 vehicles, as the director deems appropriate.

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

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

279 (b) shall be revoked in whole or in part, as the director finds necessary, upon a

280 determination by the director that:

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

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

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

286 (a) specific authorization by the director; and

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

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

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

291 Section 12. Section **63L-8-304** is enacted to read:

292 **63L-8-304. Enforcement authority.**

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

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

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

302 (4) (a) Except as provided in Subsections (4)(b) and (c), the local county sheriff is the
303 primary law enforcement authority with jurisdiction on public land to enforce this chapter and
304 rules issued by the director pursuant to Subsection (1).

305 (b) The director may employ and utilize within the DLM certified peace officers that, if
306 and when deployed, will be the primary law enforcement authority with jurisdiction on public

307 land to enforce this chapter and rules issued pursuant to Subsection (1).

308 (c) Conservation officers employed by the Division of Wildlife Resources are the
309 primary law enforcement authority with jurisdiction on public land to enforce the laws and
310 regulations under Title 23, Wildlife Resources Code of Utah, for the sake of protected wildlife.

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

313 Section 13. Section **63L-8-305** is enacted to read:

314 **63L-8-305. Fees, charges, and commissions.**

315 (1) The director may establish reasonable filing and service fees with respect to
316 applications and other documents relating to the public land.

317 (2) The director is authorized to require a deposit of any payments intended to
318 reimburse the state for reasonable costs with respect to applications and other documents
319 relating to such land.

320 (3) The money received under this subsection shall be:

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

322 (b) authorized to be appropriated and made available until expended.

323 (4) (a) As used in this section "reasonable costs" include:

324 (i) the costs of special studies;

325 (ii) environmental reviews;

326 (iii) monitoring construction, operation, maintenance, and termination of any
327 authorized facility; or

328 (iv) other special activities.

329 (b) In determining whether costs are reasonable, the director may take into
330 consideration:

331 (i) actual costs, exclusive of management overhead;

332 (ii) the monetary value of the rights or privileges sought by the applicant;

333 (iii) the efficiency of the government processing involved;

334 (iv) that portion of the cost incurred for the benefit of the general public interest rather
335 than for the exclusive benefit of the applicant;

336 (v) the public service provided; and

337 (vi) other factors relevant to determining the reasonableness of the costs.

338 Section 14. Section **63L-8-306** is enacted to read:

339 **63L-8-306. Availability of excess fees.**

340 All fees authorized by this chapter, excluding mining claim fees, not otherwise
341 dedicated by law for a specific distribution shall:

342 (1) be deposited in the Public Land Management Fund created in Section [63L-8-308](#);

343 and

344 (2) remain available until expended.

345 Section 15. Section **63L-8-307** is enacted to read:

346 **63L-8-307. Public Land Protection Fund -- Forfeitures and deposits.**

347 (1) There is created an expendable special revenue fund known as the "Public Land
348 Protection Fund."

349 (2) The fund shall consist of:

350 (a) money appropriated by the Legislature;

351 (b) money received by the state as a result of:

352 (i) the forfeiture of a bond or other security by a resource developer or purchaser or
353 permittee who does not fulfill the requirements of a contract or permit or does not comply with
354 rules issued under this chapter; or

355 (ii) a compromise or settlement of any claim involving present or potential damage to
356 the public land;

357 (c) money voluntarily donated or contributed to the fund; and

358 (d) interest earned on money in the fund.

359 (3) The DLM may expend money in the fund to cover the cost of any improvement,
360 protection, or rehabilitation work on public land, which is rendered necessary by the action that
361 led to a forfeiture, compromise, or settlement.

362 (4) If the director finds that any portion of a deposit or amount forfeited under this
363 chapter is in excess of the cost of doing the work authorized under this chapter, the director
364 may issue a refund of the amount in excess to be made from applicable funds.

365 Section 16. Section **63L-8-308** is enacted to read:

366 **63L-8-308. Public Land Management Fund.**

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

- 369 (2) The fund shall consist of:
- 370 (a) fees collected by the DLM under this chapter;
- 371 (b) money appropriated to the restricted account by the Legislature;
- 372 (c) fees and other money collected under Section [63L-8-505](#);
- 373 (d) money voluntarily donated or contributed to the fund; and
- 374 (e) interest earned on the restricted account.

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

- 376 (a) administration costs;
- 377 (b) project planning;
- 378 (c) a payment authorized by this chapter; and
- 379 (d) other duties required under this chapter.

380 Section 17. Section **63L-8-309** is enacted to read:

381 **63L-8-309. Timber Fund.**

382 (1) There is created an expendable special revenue fund known as the "Timber Fund."

383 (2) The fund described in Subsection (1) shall consist of:

- 384 (a) money received from the disposal of timber prepared for sale from public lands;
- 385 (b) money voluntarily donated or contributed to the fund; and
- 386 (c) interest earned on the fund.

387 (3) The DLM may expend money in the fund for the purposes of:

- 388 (a) planning and preparing timber for disposal;
- 389 (b) the administration of timber sales;
- 390 (c) site preparation and reforestation;
- 391 (d) wildfire suppression and rehabilitation on forested public land; and
- 392 (e) overhead and direct costs associated with timber management.

393 Section 18. Section **63L-8-310** is enacted to read:

394 **63L-8-310. Grazing Land Fund.**

395 (1) There is created an expendable special revenue fund known as the "Grazing Land
396 Fund."

397 (2) The fund shall consist of:

- 398 (a) money received from grazing fees, as described in Section [63L-8-402](#);
- 399 (b) money voluntarily donated or contributed to the fund; and

- 400 (c) interest earned on the fund.
- 401 (3) The DLM may expend money in the fund for:
- 402 (a) on-the-ground range rehabilitation, protection, and improvements on public land
- 403 that is grazed;
- 404 (b) seeding and reseeding;
- 405 (c) fence construction;
- 406 (d) weed control;
- 407 (e) water development;
- 408 (f) fish and wildlife habitat enhancement;
- 409 (g) wildfire suppression; and
- 410 (h) overhead and direct costs associated with rangeland and grazing management.

411 Section 19. Section **63L-8-311** is enacted to read:

412 **63L-8-311. Implementation provisions.**

413 (1) (a) The director may conduct investigations, studies, and experiments involving the

414 management, protection, development, acquisition, and transfer of public land.

415 (b) The director may work with other departments, agencies, or political subdivisions

416 in conducting an investigation, study, or experiment, as described in Subsection (1)(a).

417 (2) The director may enter into contracts and cooperative agreements involving the

418 management, protection, and development of public land.

419 (3) (a) The director may accept voluntary contributions or donations of money,

420 services, and real or personal property for:

421 (i) the management, protection, and development of public land, including the

422 acquisition of rights-of-way;

423 (ii) any purpose described in Sections [63L-8-307](#), [63L-8-308](#), [63L-8-309](#), and

424 [63L-8-310](#); or

425 (iii) cadastral surveying performed on public land and intermingled land.

426 (b) The director shall deposit any money donated or contributed under this section in

427 the account designated by the donor or, if not specified, in the Public Land Management Fund

428 created in Section [63L-8-308](#).

429 Section 20. Section **63L-8-312** is enacted to read:

430 **63L-8-312. Annual reports.**

431 (1) The director shall:

432 (a) prepare a report on the public land in accordance with Subsection (2); and

433 (b) submit the report to the Natural Resources, Agriculture, and Environment Interim
434 Committee no later than October 31 annually.

435 (2) A list of programs and specific information to be included in the report described in
436 Subsection (1) shall be developed by the Natural Resources, Agriculture, and Environment
437 Interim Committee before the end of each fiscal year.

438 Section 21. Section **63L-8-401** is enacted to read:

439 **Part 4. Range Management**

440 **63L-8-401. Title.**

441 This part is known as "Range Management."

442 Section 22. Section **63L-8-402** is enacted to read:

443 **63L-8-402. Grazing fees -- Feasibility study -- Contents -- Submission of report --**
444 **Annual distribution and use of range betterment funds -- Nature of distributions.**

445 (1) The Legislature finds that a substantial amount of the rangelands on the public land
446 is deteriorating in quality, and that installation of additional range improvements could arrest
447 much of the continuing deterioration and lead to substantial betterment of forage conditions
448 with resulting benefits to wildlife, watershed protection, and livestock production.

449 (2) The director, in consultation with the commissioner, shall:

450 (a) conduct a study to determine necessary range improvements on public land; and

451 (b) determine a fee to be charged for domestic livestock grazing on public land that is
452 equitable to the:

453 (i) state and the state's citizens; and

454 (ii) holders of grazing permits and leases on rangeland.

455 (3) The director shall report the result of the study described in Subsection (2)(a) to the
456 Natural Resources, Agriculture, and Environment Interim Committee, together with
457 recommendations to implement a reasonable grazing fee schedule.

458 (4) (a) Fifty percent of all money received by the state as fees for grazing domestic
459 livestock on public land shall be deposited into the Grazing Land Fund created in Section
460 [63L-8-310](#).

461 (b) Fifty percent of money received by the state as fees for grazing domestic livestock

462 on the public land shall be deposited into the Public Land Management Fund created in Section
463 63L-8-308.

464 Section 23. Section **63L-8-403** is enacted to read:

465 **63L-8-403. Grazing leases and fees.**

466 (1) (a) Except as provided in Subsection (2), permits and leases for domestic livestock
467 grazing on public land issued by the director may not exceed a term of five years, subject to
468 terms and conditions the director determines to be appropriate and consistent with this chapter.

469 (b) The director shall have authority to cancel, suspend, or modify a grazing permit or
470 lease, in whole or in part:

471 (i) pursuant to the terms and conditions of the permit or lease;

472 (ii) for any violation of:

473 (A) this chapter or a grazing rule implemented under this chapter; or

474 (B) any term or condition of the grazing permit or lease; or

475 (iii) to protect rangeland health from overutilization pursuant to Subsection (7).

476 (2) The holder of an expiring permit or lease shall be given first priority for receipt of
477 the new permit or lease, provided:

478 (a) the land for which the permit or lease is issued remains available for domestic
479 livestock grazing in accordance with a land use plan prepared pursuant to Section [63L-8-202](#);

480 (b) the permittee or lessee is in compliance with:

481 (i) the provisions of this chapter and the grazing rules issued by the DLM, in
482 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

483 (ii) the terms and conditions in the permit or lease specified by the director;

484 (c) the permittee or lessee accepts the terms and conditions included by the director in
485 the new permit or lease; and

486 (d) range conditions on the tract of public land are sufficient to support continued
487 livestock grazing, as determined by the director pursuant to Subsection (7).

488 (3) All permits and leases for domestic livestock grazing issued under this part may be
489 incorporated in an allotment management plan developed by the director.

490 (4) (a) If the director elects to develop an allotment management plan for a given area,
491 the director shall do so in consultation, cooperation, and coordination with:

492 (i) the lessees, permittees, and landowners involved;

493 (ii) the commissioner;
494 (iii) the State Grazing Advisory Board established under Section 4-20-1.5; and
495 (iv) the political subdivision having land within the area covered by the proposed
496 allotment management plan.

497 (b) An allotment management plan shall be:

498 (i) tailored to the specific range condition of the area covered by the plan; and

499 (ii) reviewed on a periodic basis to determine:

500 (A) the efficacy of the plan in improving range conditions on the involved land; and

501 (B) whether the land can be better managed.

502 (5) The director may revise or terminate plans, or develop new plans, after review and
503 consideration, consultation, cooperation, and coordination with the parties listed in Subsection
504 (4)(a).

505 (6) (a) In all cases where the director has not completed an allotment management plan
506 or determines that an allotment management plan is not necessary for management of livestock
507 operations, the director shall incorporate in grazing permits and leases all necessary terms and
508 conditions for the appropriate management of the permitted or leased land.

509 (b) The director, in consultation with the commissioner:

510 (i) shall specify the number of animals to be grazed and the seasons of use; and

511 (ii) may reexamine the condition of the range and forage utilization at any time.

512 (7) If the director finds that the condition of the range requires adjustment in the
513 amount or other aspect of grazing use, the permittee or lessee shall adjust the permittee or
514 lessee's use to the extent required by the director.

515 (8) An allotment management plan may not refer to livestock operations or range
516 improvements on non-public land, except where the non-public land is intermingled with
517 public land and the consent of the owner of the non-public land and the permittee or lessee
518 involved with the plan is obtained.

519 (9) (a) Whenever a permit or lease for grazing domestic livestock on public land is
520 canceled, in whole or in part, in order to devote the land covered by the permit or lease to
521 another public purpose, the permittee or lessee shall receive from the state reasonable
522 compensation for the adjusted value, to be determined by the director, of the permittee or
523 lessee's interest in authorized permanent improvements placed or constructed by the permittee

524 or lessee on lands covered by such permit or lease.

525 (b) The compensation described in Subsection (9)(a) may not exceed the fair market
526 value of the terminated portion of the permittee's or lessee's interest.

527 (10) Except in cases of emergency, no permit or lease shall be canceled under this
528 subsection without one year's notification.

529 Section 24. Section **63L-8-501** is enacted to read:

530 **Part 5. Rights-of-Way Authorization**

531 **63L-8-501. Title.**

532 This part is known as "Rights-of-Way Authorization."

533 Section 25. Section **63L-8-502** is enacted to read:

534 **63L-8-502. Rights-of-way for roads or facilities.**

535 (1) If the state receives title to public land from the federal government, the director
536 shall, subject to Subsection (2), honor all:

537 (a) pre-existing rights-of-way granted to individuals, corporations, or political
538 subdivisions, subject to Subsection (2); and

539 (b) rights-of-way asserted in quiet title lawsuits filed by the state or a county in federal
540 court prior to taking ownership of the subject property.

541 (2) If the director determines it is in the best interest of the state, the director may
542 modify the fees, if any, charged to the holder of a right-of-way.

543 Section 26. Section **63L-8-503** is enacted to read:

544 **63L-8-503. Grant, issue, or renewal of land use authorizations on public lands.**

545 (1) The director is authorized to grant, issue, or renew land use authorizations over,
546 upon, under, or through public land for:

547 (a) a reservoir, canal, ditch, flume, lateral, pipe, pipeline, tunnel, or other facility or
548 system for the impoundment, storage, transportation, or distribution of water;

549 (b) a pipeline or other system for the transportation or distribution of:

550 (i) liquid and gas other than water or oil;

551 (ii) natural gas, synthetic liquid, or gaseous fuels; or

552 (iii) a refined product produced from natural gas, synthetic liquid, or gaseous fuels;

553 (c) a storage or terminal facility in connection with the pipeline and other system
554 described in Subsection (1)(b);

555 (d) a pipeline, slurry and emulsion system, conveyor belt for transportation and
556 distribution of solid materials, or facility for the storage of solid materials in connection with a
557 pipeline, slurry and emulsion system, or conveyor belt;

558 (e) a system for generation, transmission, and distribution of electric energy, if the
559 applicant is in compliance with relevant state and federal requirements;

560 (f) a system for transmission or reception of radio, television, telephone, telegraph,
561 Internet, or other electronic signal used in communication;

562 (g) a road, trail, highway, railroad, canal, tunnel, tramway, airway, livestock driveway,
563 or other means of transportation, except where facilities are constructed and maintained in
564 connection with commercial recreation facilities on lands in the state park system; or

565 (h) other necessary transportation systems or facilities that are in the public interest and
566 that require rights-of-way over, upon, under, or through public land.

567 (2) The director shall require, before granting, issuing, or renewing a right-of-way, that
568 the applicant submit and disclose plans, contracts, agreements, or other information reasonably
569 related to the use, or intended use, of the right-of-way, that the director considers necessary for
570 a determination on:

571 (a) whether a right-of-way shall be granted, issued, or renewed; and

572 (b) the terms and conditions that should be included in the right-of-way.

573 (3) After the state receives title to public land, any alteration to the substantive terms of
574 a right-of-way, lease, or other authorization granted before the transfer of the land shall require
575 issuance of a new authorization.

576 (4) (a) Except as otherwise provided in this part, the director may, in accordance with
577 Section 63L-8-509, terminate or suspend a right-of-way, easement, or authorization issued
578 under this section, except for the road rights-of-way granted pursuant to Subsection (1)(b).

579 (b) An easement issued under this section shall automatically terminate if the water
580 system for which the easement was issued is used for any purpose other than agricultural
581 irrigation, livestock watering, or private or public culinary use.

582 (5) For purposes of this chapter, non-use for a continuous five-year period of a water
583 system developed for agricultural irrigation, livestock watering, or private or public culinary
584 purposes shall constitute a rebuttable presumption of abandonment of the easement and the
585 facilities comprising the water system.

586 (6) Except as provided in Title 73, Water and Irrigation, nothing in this part shall
587 confer on the director or other state official any power or authority to regulate or control the
588 appropriation, diversion, or use of water for any purpose, or to require the conveyance or
589 transfer to the state of any right or claim to the appropriation, diversion, or use of water.

590 (7) If a right-of-way issued under this section deteriorates to the point of threatening a
591 person or property, and the holder of the right-of-way, after consultation with the director,
592 refuses to perform the repair and maintenance necessary to remove the threat, the director may:

593 (a) undertake such repair and maintenance on the right-of-way; and

594 (b) assess the holder for the costs of the repair and maintenance.

595 Section 27. Section **63L-8-504** is enacted to read:

596 **63L-8-504. Roads.**

597 (1) The director, with respect to public land, is authorized to provide for the
598 authorization, construction, and maintenance of new and necessary roads within the public land
599 that will permit utilization of the natural resources on such land, including the six primary uses
600 described in Section [63L-8-103](#).

601 (2) The roads described in Subsection (1) shall be constructed to standards sufficient to
602 provide for the safety of the authorized users of the road, and to protect the environment to the
603 best available management standards applicable.

604 (3) Financing of the roads described in Subsection (1) may be accomplished by:

605 (a) the director utilizing appropriated funds;

606 (b) requirements on authorized users of the natural resources and other products from
607 the public land, including provisions for amortization of road costs in contracts;

608 (c) cooperative financing with other public agencies and with private agencies or
609 persons; or

610 (d) a combination of these methods, provided that:

611 (i) where roads of a higher standard than that needed for harvesting or removing
612 natural resources and other products from public land covered by a particular sale are to be
613 constructed, the authorized user may not be required to bear that part of the costs necessary to
614 meet such higher standard; or

615 (ii) when natural resource products are offered with the condition that the purchaser
616 build a road or roads in accordance with standards specified in the offer, the authorized user is

617 responsible for paying the full costs of road construction.

618 Section 28. Section **63L-8-505** is enacted to read:

619 **63L-8-505. Maintenance of facilities.**

620 (1) (a) The director may require a user of a road, trail, land, or other facility
621 administered by the DLM, or authorized by a DLM issued land use authorization, to:

622 (i) maintain facilities in a satisfactory condition commensurate with the particular use
623 requirements of each; or

624 (ii) reconstruct the facility when the reconstruction is determined necessary to
625 accommodate use.

626 (b) If maintenance or reconstruction cannot be provided, or if the director determines
627 that maintenance or reconstruction by a user would not be practical, the director may require
628 that sufficient funds be deposited by the user to provide the user's portion of the total
629 maintenance or reconstruction.

630 (2) Whenever the director obtains money for use on, or in connection with, a new or
631 existing road or the right to use such roads, the fees or other collections shall be placed in the
632 Public Land Management Fund created in Section [63L-8-308](#).

633 Section 29. Section **63L-8-506** is enacted to read:

634 **63L-8-506. Right-of-way corridors -- Criteria and procedures applicable for**
635 **designation.**

636 (1) Utilization of a right-of-way in common is suggested to the extent practical in order
637 to minimize adverse environmental impacts and the proliferation of separate rights-of-way.

638 (2) In designating a right-of-way corridor, the director shall take into consideration:

639 (a) national, state, and local land use policies;

640 (b) environmental quality;

641 (c) economic efficiency;

642 (d) national security;

643 (e) safety;

644 (f) good engineering and technological practices; and

645 (g) wildlife and wildlife habitat impacts.

646 (3) The director shall issue rules in accordance with Title 63G, Chapter 3, Utah
647 Administrative Rulemaking Act, containing the criteria and procedures the DLM shall use in

648 designating such a corridor.

649 (4) An existing transportation or utility corridor may be designated as a transportation
650 or utility corridor without further review.

651 Section 30. Section **63L-8-507** is enacted to read:

652 **63L-8-507. General requirements.**

653 (1) (a) Each land use authorization granted, issued, or renewed shall be limited to a
654 reasonable term in light of all circumstances concerning the project, not exceeding 51 years.

655 (b) In determining the duration of a land use authorization, the director shall:

656 (i) take into consideration the cost of the facility, the facility's useful life, and any
657 public purpose the facility serves; and

658 (ii) specify whether the land use authorization is or is not renewable and the terms and
659 conditions applicable to the renewal.

660 (2) A land use authorization shall be granted, issued, or renewed:

661 (a) pursuant to this chapter;

662 (b) consistent with rules issued by the DLM in accordance with Title 63G, Chapter 3,
663 Utah Administrative Rulemaking Act; and

664 (c) subject to such terms and conditions as the director prescribes regarding extent,
665 duration, survey, location, construction, maintenance, transfer or assignment, and termination.

666 (3) Before granting or issuing a land use authorization pursuant to this part for a new
667 project that may have a significant impact on the environment, the director shall require the
668 applicant to submit a plan of construction, operation, and rehabilitation for the land use
669 authorization.

670 (4) The director shall issue rules, in accordance with Title 63G, Chapter 3, Utah
671 Administrative Rulemaking Act, with respect to the terms and conditions that will be included
672 in a land use authorization.

673 (5) The director shall provide for cost-sharing agreements for the construction and
674 maintenance of land use authorization facilities, pursuant to rules for such arrangements
675 promulgated by the division.

676 (6) Money received for reimbursement of reasonable costs shall be:

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

678 and

679 (b) authorized to be appropriated and made available until expended.

680 (7) (a) The director shall promulgate rules, in accordance with Title 63G, Chapter 3,
681 Utah Administrative Rulemaking Act, specifying the extent to which a holder of a right-of-way
682 may be liable to the state for damage or injury incurred by the state caused by the use and
683 occupancy of the land use authorization.

684 (b) The rules described in Subsection (7)(a) shall also specify the extent to which a
685 holder of a right-of-way shall indemnify or hold harmless the state for liabilities, damages, or
686 claims caused by the use and occupancy of the right-of-way.

687 (8) The director may require a holder of a land use authorization to furnish a bond or
688 other security to secure all or any of the obligations imposed by the terms and conditions of the
689 right-of-way.

690 (9) The director shall grant, issue, or renew a land use authorization under this part if
691 the director is satisfied that the applicant has the technical and financial capability to construct
692 the project for which the right-of-way is requested.

693 Section 31. Section **63L-8-508** is enacted to read:

694 **63L-8-508. Terms and conditions.**

695 Each land use authorization shall contain terms and conditions that:

696 (1) carry out the purposes of this chapter and rules issued under this chapter in
697 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

698 (2) minimize damage to scenic and esthetic values, fish and wildlife habitat, and
699 otherwise protect the environment;

700 (3) require compliance with applicable air and water quality standards established by
701 applicable federal or state law;

702 (4) require compliance with state standards for public health and safety, environmental
703 protection, and siting, construction, operation, and maintenance of or for rights-of-way for
704 similar purposes if those standards are more stringent than applicable federal standards; and

705 (5) are necessary to:

706 (a) protect state property and economic interests;

707 (b) efficiently manage the land that is subject to the land use authorization; and

708 (c) protect the other lawful users of the lands adjacent to or traversed by the land that is
709 subject to the land use authorization.

710 Section 32. Section **63L-8-509** is enacted to read:

711 **63L-8-509. Suspension or termination -- Grounds -- Procedures applicable.**

712 (1) The following are grounds for suspension or termination of a land use

713 authorization:

714 (a) abandonment; or

715 (b) noncompliance with:

716 (i) a provision of this chapter;

717 (ii) an applicable rule established by the DLM in accordance with Title 63G, Chapter 3,

718 Utah Administrative Rulemaking Act; or

719 (iii) a term or condition of the land use authorization.

720 (2) The director may terminate or suspend a land use authorization by providing notice

721 to the land use authorization holder and, if required, an administrative proceeding, upon finding

722 that:

723 (a) a condition described in Subsection (1) has been met; and

724 (b) the suspension or termination serves the best interest of:

725 (i) the citizens of the state; or

726 (ii) a land use plan established pursuant to Section [63L-8-202](#).

727 (3) The administrative proceeding described in Subsection (2):

728 (a) shall be conducted according to rules established by the DLM, in accordance with

729 Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

730 (b) shall comply with Title 63G, Chapter 4, Administrative Procedures Act; and

731 (c) is not required if the land use authorization, by its terms, terminates on the

732 occurrence of a fixed or agreed-upon condition, event, or time.

733 (4) If the director determines that an immediate temporary suspension of activities

734 within a land use authorization for violation of its terms and conditions is necessary to protect

735 public health or safety or the environment, the director may abate the activities before an

736 administrative proceeding.

737 (5) Before commencing a proceeding to suspend or terminate a land use authorization,

738 the director shall give written notice to the holder of the grounds for suspension or termination.

739 (6) (a) Except as provided in Subsection (6)(b), failure of the land use authorization

740 holder to use the right-of-way for the purpose for which it was granted, issued, or renewed, for

741 any continuous five-year period, shall constitute a rebuttable presumption of abandonment of
 742 the right-of-way.

743 (b) Where the failure of the holder to use the land use authorization for the purpose for
 744 which it was granted, issued, or renewed for any continuous five-year period is due to
 745 circumstances beyond the holder's control, the director is not required to commence
 746 proceedings to suspend or terminate the right-of-way.

747 Section 33. Section **63L-8-510** is enacted to read:

748 **63L-8-510. Rights-of-way for state departments and agencies.**

749 The director may issue a land use authorization upon or under public land to a
 750 department or agency of the state, subject to such terms and conditions as the director imposes.

751 Section 34. Section **63L-8-511** is enacted to read:

752 **63L-8-511. Applicability.**

753 (1) No land use authorization shall be granted, issued, or renewed over, upon, under, or
 754 through public land, except as described in this part.

755 (2) Nothing in this part shall be construed to preclude the use of public land covered by
 756 this section for a highway purpose.

757 Section 35. Section **63L-8-601** is enacted to read:

758 **Part 6. Contingent Effective Date**

759 **63L-8-601. Title.**

760 This part is known as "Contingent Effective Date."

761 Section 36. Section **63L-8-602** is enacted to read:

762 **63L-8-602. Effective date.**

763 This chapter becomes effective upon the day the state receives title to at least 100,000
 764 acres of public land from the federal government pursuant to Section [63L-6-103](#).

765 Section 37. Section **79-2-201** is amended to read:

766 **79-2-201. Department of Natural Resources created.**

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

768 (2) The department comprises the following:

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

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

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

- 772 (d) Wildlife Board, created in Section [23-14-2](#);
- 773 (e) Board of the Utah Geological Survey, created in Section [79-3-301](#);
- 774 (f) Water Development Coordinating Council, created in Section [73-10c-3](#);
- 775 (g) Division of Water Rights, created in Section [73-2-1.1](#);
- 776 (h) Division of Water Resources, created in Section [73-10-18](#);
- 777 (i) Division of Forestry, Fire, and State Lands, created in Section [65A-1-4](#);
- 778 (j) Division of Oil, Gas, and Mining, created in Section [40-6-15](#);
- 779 (k) Division of Parks and Recreation, created in Section [79-4-201](#);
- 780 (l) Division of Wildlife Resources, created in Section [23-14-1](#);
- 781 (m) Division of Land Management, created in Section [79-6-102](#);
- 782 ~~(m)~~ (n) Utah Geological Survey, created in Section [79-3-201](#);
- 783 ~~(n)~~ (o) Heritage Trees Advisory Committee, created in Section [65A-8-306](#);
- 784 ~~(o)~~ (p) Recreational Trails Advisory Council, authorized by Section [79-5-201](#);
- 785 ~~(p)~~ (q) Boating Advisory Council, authorized by Section [73-18-3.5](#);
- 786 ~~(q)~~ (r) Wildlife Board Nominating Committee, created in Section [23-14-2.5](#); and
- 787 ~~(r)~~ (s) Wildlife Regional Advisory Councils, created in Section [23-14-2.6](#).
- 788 Section 38. Section **79-6-101** is enacted to read:

789 **CHAPTER 6. DIVISION OF LAND MANAGEMENT**

790 **79-6-101. Title.**

791 This chapter is known as the "Division of Land Management."

792 Section 39. Section **79-6-102** is enacted to read:

793 **79-6-102. Creation of the Division of Land Management.**

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

796 (2) The division shall be staffed:

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

799 (b) as funding is appropriated by the Legislature and allows; and

800 (c) as determined by the director of the Department of Natural Resources.

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

803 Section 40. Section **79-6-103** is enacted to read:

804 **79-6-103. Director.**

805 (1) Upon the requirements described in Subsection 79-6-102(2) being fulfilled, the
806 executive director of the Department of Natural Resources shall appoint a director of the
807 Division of Land Management, and thereafter hire personnel to staff the division.

808 (2) The director shall:

809 (a) be the executive and administrative head of the Division of Land Management;

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

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

813 (3) The director of the Division of Land Management, under administrative direction
814 of the executive director, shall have:

815 (a) executive authority and control of the Division of Land Management; and

816 (b) authority over all personnel matters.

817 Section 41. Section **79-6-104** is enacted to read:

818 **79-6-104. Division of Land Management duties.**

819 Under the direct supervision of the executive director, the division shall manage and
820 administer all public land, as defined in Section 63L-8-102, consistent with the procedures,
821 policies, and directives in Title 63L, Chapter 8, Utah Public Land Management Act.

Legislative Review Note
Office of Legislative Research and General Counsel