

## HB0276S01 compared with HB0276

~~text~~ shows text that was in HB0276 but was deleted in HB0276S01.

text shows text that was not in HB0276 but was inserted into HB0276S01.

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Representative Michael E. Noel proposes the following substitute bill:

### UTAH PUBLIC LAND MANAGEMENT ACT

2016 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

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

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#### LONG TITLE

##### General Description:

This bill enacts the Utah Public Land Management Act.

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ makes findings;
- ▶ requires the director of the Division of Oil, Gas, and Mining to make a report to the Commission for the Stewardship of Public Lands;
- ▶ 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:

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- 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;
- ▶ creates the Public Land Management Advisory Board;
- ▶ requires reports to the Legislature; and
- ▶ makes technical changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

40-6-16, as last amended by Laws of Utah 1993, Chapter 227

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

ENACTS:

63L-8-101, Utah Code Annotated 1953

63L-8-102, Utah Code Annotated 1953

63L-8-103, Utah Code Annotated 1953

63L-8-104, Utah Code Annotated 1953

63L-8-105, Utah Code Annotated 1953

63L-8-201, Utah Code Annotated 1953

63L-8-202, Utah Code Annotated 1953

63L-8-203, Utah Code Annotated 1953

63L-8-301, Utah Code Annotated 1953

63L-8-302, Utah Code Annotated 1953

63L-8-303, Utah Code Annotated 1953

63L-8-304, Utah Code Annotated 1953

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63L-8-305, Utah Code Annotated 1953  
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79-6-102, Utah Code Annotated 1953  
79-6-103, Utah Code Annotated 1953  
79-6-104, Utah Code Annotated 1953  
79-6-105, Utah Code Annotated 1953

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

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### Section 1. Section 40-6-16 is amended to read:

#### **40-6-16. Duties of division.**

(1) In addition to the duties assigned by the board, the division shall:

~~[(1)]~~ (a) develop and implement an inspection program that will include but not be limited to production data, pre-drilling checks, and site security reviews;

~~[(2)]~~ (b) publish a monthly production report;

~~[(3)]~~ (c) publish a monthly gas processing plant report;

~~[(4)]~~ (d) review and evaluate, prior to a hearing, evidence submitted with the petition to be presented to the board;

~~[(5)]~~ (e) require adequate assurance of approved water rights in accordance with rules and orders enacted under Section 40-6-5; and

~~[(6)]~~ (f) notify the county executive of the county in which the drilling will take place in writing of the issuance of a drilling permit.

(2) The director shall, by October 30, 2016, report to the Commission for the Stewardship of Public Lands regarding the division's recommendations for how the state shall deal with oil, gas, and mining issues in the Utah Public Land Management Act.

Section ~~[(1)]~~ 2. Section **63L-8-101** is enacted to read:

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

#### **Part 1. General Provisions**

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

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

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

Section ~~[(2)]~~ 3. Section **63L-8-102** is enacted to read:

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

As used in this chapter:

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

~~[(1)]~~ (2) "Commissioner" means the commissioner of the Department of Agriculture and Food, or the commissioner's designee.

~~[(2)]~~ (3) "DAF" means the Department of Agriculture and Food.

~~[(3)]~~ (4) "Director" means the director of the Division of Land Management or the director's designee.

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(4)5 "DLM" means the Division of Land Management, a division created within the Department of Natural Resources in Section 79-6-102.

(5)6 "Grazing permit" means a document, issued by the Division of Land Management, authorizing use of public land for the purpose of grazing domestic livestock.

(6)7 "Land use authorization" means an easement, lease, permit, or license to occupy, use, or traverse public land granted for ~~the~~ a particular purpose.

(7)8 "Minerals" means all classes of inorganic material upon, within, or beneath the surface of public land, including silver, gold, copper, lead, zinc, uranium, gemstones, potash, gypsum, clay, salts, sand, rock, gravel, oil, oil shale, oil sands, gas, coal, and all carboniferous materials.

(8)9 "Multiple use" means:

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

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

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

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

(9)10 "Public land" means any land or land interest acquired by the state from the federal government pursuant to Section 63L-6-103, except:

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

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

~~(10)~~ pursuant to Title 53C, School and Institutional Trust Lands Management Act.

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

(~~11~~12) "Sustained yield" means the achievement and maintenance in perpetuity of a high-level annual or regular periodic output of the various renewable resources of the public land consistent with multiple use.

(~~12~~13) "Wilderness" means the same as that term is defined in Section 63L-7-103.

Section ~~3~~4. Section **63L-8-103** is enacted to read:

**63L-8-103.** ~~Principle~~ **Principal** or major use.

Each parcel of public land in this state shall be managed, as much as possible, to promote ~~at least one of~~ the following ~~principle~~ **principal** or major uses of the land, **consistent with the principles of multiple use and sustained yield**:

- (1) domestic livestock grazing;
- (2) fish and wildlife development and utilization;
- (3) mineral exploration and production;
- (4) rights-of-way;
- (5) outdoor recreation; ~~and~~
- (6) timber production~~;~~ **and**
- (7) **wilderness conservation.**

Section ~~4~~5. Section **63L-8-104** is enacted to read:

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

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

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

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

(i) as consistent with this chapter;

(ii) as consistent with local land use plans;

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

(iv) after sufficient opportunity for public comment; and

(v) for an important public interest;

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

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

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

(ii) protect the quality of scientific, scenic, historical, ecological, environmental, air and atmospheric, water resource, and archeological values;

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

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

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

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

Section ~~5~~6. Section **63L-8-105** is enacted to read:

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

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

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

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

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

(ii) issuing grazing permits.

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

Section ~~6~~7. Section **63L-8-201** is enacted to read:

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

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

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

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

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

(1) The director, in consultation with the board, the commissioner, and other state

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agencies with management authority over other state owned land **and resources affected by land use planning** shall, with public involvement, develop, maintain, and revise land use plans that address the use and conservation of public land in the state.

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

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

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

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

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

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

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

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

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

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

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

(5) The director shall:

(a) allow an opportunity for public involvement; and



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

Section ~~{8}~~9. Section **63L-8-203** is enacted to read:

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

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

(2) The state shall develop an adjudicative process to deal with competing claims to rights that run appurtenant to a tract of federal public land.

Section ~~{9}~~10. Section **63L-8-301** is enacted to read:

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

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

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

Section ~~{10}~~11. Section **63L-8-302** is enacted to read:

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

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

Section ~~{11}~~12. Section **63L-8-303** is enacted to read:

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

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

(a) occurs irregularly; and

(b) is non-commercial.

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

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

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

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

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

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

(ii) camping or other casual use;

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

(iv) other casual uses.

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

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

(i) authorizing the director to:

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

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

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

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

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

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

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

(6) The director may order an immediate temporary suspension before a hearing or

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final administrative finding if the director determines that a suspension is necessary to protect:

(a) health or safety; or

(b) the environment.

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

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

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

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

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

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

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

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

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

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

(a) specific authorization by the director; and

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

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

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

Section ~~{12}~~13. Section **63L-8-304** is enacted 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

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

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

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

(d) 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}~~14. Section **63L-8-305** is enacted to read:

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

(1) The director may establish reasonable filing and service fees with respect to applications and other documents relating to the public land, **in accordance with Section 63J-1-504.**

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

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

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

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

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

(i) the costs of special studies;

(ii) environmental reviews;

(iii) monitoring construction, operation, maintenance, and termination of any

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authorized facility; or

(iv) other special activities.

(b) In determining whether costs are reasonable, the director may take into

consideration:

(i) actual costs, exclusive of management overhead;

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

(iii) the efficiency of the government processing involved;

(iv) that portion of the cost incurred for the benefit of the general public interest rather

than for the exclusive benefit of the applicant;

(v) the public service provided; and

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

Section ~~{14}~~ 15. Section **63L-8-306** is enacted to read:

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

All fees authorized by this chapter, excluding mining claim fees, not otherwise

dedicated by law for a specific distribution shall:

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

and

(2) remain available until expended.

Section ~~{15}~~ 16. Section **63L-8-307** is enacted to read:

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

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

(2) The fund shall consist of:

(a) money appropriated by the Legislature;

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

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

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

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

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(d) interest earned on money in the fund.

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

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

Section ~~{16}~~17. Section **63L-8-308** is enacted to read:

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

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

(2) The fund shall consist of:

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

(b) money appropriated to the restricted account by the Legislature;

(c) ~~{fees and other }~~ money collected under Section 63L-8-505;

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

(e) interest earned on the restricted account.

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

(a) administration costs;

(b) project planning;

(c) a payment authorized by this chapter; and

(d) other duties required under this chapter.

Section ~~{17}~~18. Section **63L-8-309** is enacted to read:

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

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

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

(a) money received from the disposal of timber prepared for sale from public lands;

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

(c) interest earned on the fund.

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

(a) planning and preparing timber for disposal;

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- (b) the administration of timber sales;
- (c) site preparation and reforestation;
- (d) wildfire suppression and rehabilitation on forested public land; and
- (e) overhead and direct costs associated with timber management.

Section ~~{18}~~19. Section **63L-8-310** is enacted to read:

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

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

(2) The fund shall consist of:

- (a) money received from grazing fees, as described in Section 63L-8-402;
- (b) money voluntarily donated or contributed to the fund; and
- (c) interest earned on the fund.

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

(a) on-the-ground range rehabilitation, protection, and improvements on public land that is grazed;

- (b) seeding and reseeding;
- (c) fence construction;
- (d) weed control;
- (e) water development;
- (f) fish and wildlife habitat enhancement;
- (g) wildfire suppression; and
- (h) overhead and direct costs associated with rangeland and grazing management.

Section ~~{19}~~20. Section **63L-8-311** is enacted to read:

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

(1) (a) The director may conduct investigations, studies, and experiments involving the management, protection, development, acquisition, and transfer of public land.

(b) The director may work with other departments, agencies, or political subdivisions in conducting an investigation, study, or experiment, as described in Subsection (1)(a).

(c) (i) Where an investigation, study, or experiment described in Subsection (1)(a) finds that the transfer of a tract of public land in excess of 200 acres would promote economic land management or serve an important public interest, including the expansion of

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communities and economic development, the director shall recommend the transfer to the Natural Resources, Agriculture, and Environment Interim Committee and include the basis for the recommendation.

(ii) No transfer of a tract of public land in excess of 200 acres may be authorized until approved by the Legislature and the governor.

(2) The director may enter into contracts and cooperative agreements involving the management, protection, and development of public land.

(3) (a) The director may accept voluntary contributions or donations of money, services, and real or personal property for:

(i) the management, protection, and development of public land, including the acquisition of rights-of-way;

(ii) any purpose described in Sections 63L-8-307, 63L-8-308, 63L-8-309, and 63L-8-310; or

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

(b) The director shall deposit any money donated or contributed under this section in the account designated by the donor or, if not specified, in the Public Land Management Fund created in Section 63L-8-308.

Section ~~{20}~~21. Section **63L-8-312** is enacted to read:

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

(1) The director shall:

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

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

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

Section ~~{21}~~22. Section **63L-8-401** is enacted to read:

### **Part 4. Range Management**

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

This part is known as "Range Management."

Section ~~{22}~~23. Section **63L-8-402** is enacted to read:



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

(1) The Legislature finds that, ~~as of 2016~~, a substantial amount of the rangelands on the public land is deteriorating in quality ~~due to federal mismanagement~~, and that installation of additional range improvements could arrest much of the continuing deterioration and lead to substantial betterment of forage conditions with resulting benefits to wildlife, watershed protection, and livestock production.

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

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

(b) ~~{determine}~~ establish a fee, ~~in accordance with Section 63J-1-504~~, to be charged for domestic livestock grazing on public land that is equitable to the:

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

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

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

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

(b) Fifty percent of money received by the state as fees for grazing domestic livestock on the public land shall be deposited into the Public Land Management Fund created in Section 63L-8-308.

Section ~~{23}~~24. Section **63L-8-403** is enacted to read:

**63L-8-403. Grazing ~~{leases}~~permits and ~~{fees}~~leases.**

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

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

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

(ii) for any violation of:

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) the commissioner;

(iii) the State Grazing Advisory Board established under Section 4-20-1.5; and

(iv) the political subdivision having land within the area covered by the proposed allotment management plan.

(b) An allotment management plan shall be:

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

(ii) reviewed on a periodic basis to determine:

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

(B) whether the land can be better managed.

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

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(4)(a).

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

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

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

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

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

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

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

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

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

Section ~~{24}~~25. Section **63L-8-501** is enacted to read:

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

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

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

Section ~~{25}~~26. Section **63L-8-502** is enacted to read:

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

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

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

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

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

Section ~~26~~27. Section **63L-8-503** is enacted to read:

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

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

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

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

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

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

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

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

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

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

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

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

(h) other necessary transportation systems or facilities that are in the public interest and

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that require rights-of-way over, upon, under, or through public land.

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

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

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

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

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

(b) An easement issued under this section ~~(shall automatically terminate)~~ maybe terminated by the DLM without cause if the water system for which the easement was issued is used for any purpose other than agricultural irrigation, livestock watering, industrial use, or private or public culinary use.

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

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

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

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

~~(b) (i)~~ assess the holder for the costs of the repair and maintenance; or

(b) suspend or terminate the right-of-way pursuant to Section 63L-8-509.

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Section ~~{27}~~28. Section **63L-8-504** is enacted to read:

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

(1) The director, with respect to public land, is authorized to provide for the authorization, construction, and maintenance of new and necessary roads within the public land that will permit utilization of the natural resources on such land, including the ~~six~~ ~~primary~~seven principal or major uses described in Section 63L-8-103.

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

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

(a) the director utilizing appropriated funds;

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

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

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

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

(ii) when natural resource products are offered with the condition that the purchaser build a road or roads in accordance with standards specified in the offer, the authorized user is responsible for paying the full costs of road construction.

Section ~~{28}~~29. Section **63L-8-505** is enacted to read:

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

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

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

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

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

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

Section ~~29~~30. Section **63L-8-506** is enacted to read:

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

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

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

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

(b) environmental quality;

(c) economic efficiency;

(d) national security;

(e) safety;

(f) good engineering and technological practices; and

(g) wildlife and wildlife habitat impacts.

(3) The director shall issue rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, containing the criteria and procedures the DLM shall use in designating such a corridor.

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

Section ~~30~~31. Section **63L-8-507** is enacted to read:

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

(1) (a) Each land use authorization granted, issued, or renewed shall be limited to a reasonable term in light of all circumstances concerning the project, not exceeding ~~51~~5 years.

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

(i) take into consideration the cost of the facility, the facility's useful life, and any

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public purpose the facility serves; and

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

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

(a) pursuant to this chapter;

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

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

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

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

(5) The director shall provide for cost-sharing agreements for the construction and maintenance of land use authorization facilities, pursuant to rules for such arrangements ~~{promulgated}~~issued by the ~~{division}~~DLM.

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

(a) deposited into the Public Land Management Fund created in Section 63L-8-308; and

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

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

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

(8) The director may require a holder of a land use authorization to furnish a bond or



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other security to secure all or any of the obligations imposed by the terms and conditions of the right-of-way.

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

Section ~~31~~32. Section **63L-8-508** is enacted to read:

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

Each land use authorization shall contain terms and conditions that:

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

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

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

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

(5) are necessary to:

(a) protect state property and economic interests;

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

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

Section ~~32~~33. Section **63L-8-509** is enacted to read:

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

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

(a) abandonment; or

(b) noncompliance with:

(i) a provision of this chapter;

(ii) an applicable rule established by the DLM in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; or

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

(2) The director may terminate or suspend a land use authorization by providing notice to the land use authorization holder and, if required, an administrative proceeding, upon finding that:

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

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

(i) the citizens of the state; or

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

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

(a) shall be conducted according to rules established by the DLM, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

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

(c) is not required if the land use authorization, by its terms, terminates on the occurrence of a fixed or agreed-upon condition, event, or time.

(4) If the director determines that an immediate temporary suspension of activities within a land use authorization for violation of its terms and conditions is necessary to protect public health or safety or the environment, the director may abate the activities before an administrative proceeding.

(5) Before commencing a proceeding to suspend or terminate a land use authorization, the director shall give written notice to the holder of the grounds for suspension or termination.

(6) (a) Except as provided in Subsection (6)(b), failure of the land use authorization holder to use the right-of-way for the purpose for which it was granted, issued, or renewed, for any continuous five-year period, shall constitute a rebuttable presumption of abandonment of the right-of-way.

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

Section ~~33~~34. Section **63L-8-510** is enacted to read:

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

The director may issue a land use authorization upon or under public land to a

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department or agency of the state, subject to such terms and conditions as the director imposes.

Section ~~{34}~~35. Section **63L-8-511** is enacted to read:

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

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

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

Section ~~{35}~~36. Section **63L-8-601** is enacted to read:

### **Part 6. Contingent Effective Date**

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

This part is known as "Contingent Effective Date."

Section ~~{36}~~37. Section **63L-8-602** is enacted to read:

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

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

Section ~~{37}~~38. Section **79-2-201** is amended to read:

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

- (1) There is created the Department of Natural Resources.
- (2) The department comprises the following:
  - (a) Board of Water Resources, created in Section 73-10-1.5;
  - (b) Board of Oil, Gas, and Mining, created in Section 40-6-4;
  - (c) Board of Parks and Recreation, created in Section 79-4-301;
  - (d) Wildlife Board, created in Section 23-14-2;
  - (e) Board of the Utah Geological Survey, created in Section 79-3-301;
  - (f) Water Development Coordinating Council, created in Section 73-10c-3;
  - (g) Division of Water Rights, created in Section 73-2-1.1;
  - (h) Division of Water Resources, created in Section 73-10-18;
  - (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
  - (j) Division of Oil, Gas, and Mining, created in Section 40-6-15;
  - (k) Division of Parks and Recreation, created in Section 79-4-201;
  - (l) Division of Wildlife Resources, created in Section 23-14-1;

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- (m) Division of Land Management, created in Section 79-6-102;  
[(m)] (n) Utah Geological Survey, created in Section 79-3-201;  
[(n)] (o) Heritage Trees Advisory Committee, created in Section 65A-8-306;  
[(o)] (p) Recreational Trails Advisory Council, authorized by Section 79-5-201;  
[(p)] (q) Boating Advisory Council, authorized by Section 73-18-3.5;  
[(q)] (r) Wildlife Board Nominating Committee, created in Section 23-14-2.5; and  
[(r)] (s) Wildlife Regional Advisory Councils, created in Section 23-14-2.6.  
Section ~~{38}~~39. Section **79-6-101** is enacted to read:

### CHAPTER 6. DIVISION OF LAND MANAGEMENT

#### **79-6-101. Title.**

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

Section ~~{39}~~40. Section **79-6-102** is enacted to read:

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

- (1) There is created a Division of Land Management within the Department of Natural Resources, created in Section 79-2-201.  
(2) The division shall be staffed:  
(a) upon the state receiving title to at least 100,000 acres of public land from the federal government pursuant to Section 63L-6-103;  
(b) as funding is appropriated by the Legislature and allows; and  
(c) as determined by the director of the Department of Natural Resources.  
(3) The division may sue and be sued as required to carry out the purposes of this chapter and Title 63L, Chapter 8, Utah Public Land Management Act.

Section ~~{40}~~41. Section **79-6-103** is enacted to read:

#### **79-6-103. Director.**

- (1) Upon the requirements described in Subsection 79-6-102(2) being fulfilled, the executive director of the Department of Natural Resources shall appoint a director of the Division of Land Management, and thereafter hire personnel to staff the division.  
(2) The director shall:  
(a) be the executive and administrative head of the Division of Land Management;  
(b) have demonstrated ability and experience in the administration and management of state or federal lands; and

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

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

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

(b) authority over all personnel matters.

Section ~~{41}~~42. Section 79-6-104 is enacted to read:

### 79-6-104. Public Land Management Advisory Board.

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

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

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

(b) the speaker of the House, or the speaker's designee;

(c) the president of the Senate, or the president's designee;

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

(e) one representative, appointed by the governor, who represents the interests of agriculture;

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

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

(h) one representative, appointed by the governor, who represents the interests of county commissioners;

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

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

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

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

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms of the members described in

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Subsections (2)(d) through (k) to ensure that the terms of board members are staggered so that half of the appointed board is appointed every two years.

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

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

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

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

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

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

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

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

(10) A member who is not a legislator 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.

(11) Salaries and expenses of a member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Chapter 3, Legislator Compensation.

Section 43. Section 79-6-105 is enacted to read:

~~79-6-104~~ 79-6-105. Division of Land Management duties.

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

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~~Legislative Review Note~~

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