

Chapter 6 Transfer of Public Lands Act

63L-6-101 Title.

This chapter is known as the "Transfer of Public Lands Act."

Enacted by Chapter 353, 2012 General Session

63L-6-102 Definitions.

As used in this chapter:

- (1) "Governmental entity" is as defined in Section 59-2-511.
- (2) "Net proceeds" means the proceeds from the sale of public lands, after subtracting expenses incident to the sale of the public lands.
- (3) "Public lands" means lands within the exterior boundaries of this state except:
 - (a) lands to which title is held by a person who is not a governmental entity;
 - (b) lands owned or held in trust by this state, a political subdivision of this state, or an independent entity;
 - (c) lands reserved for use by the state system of public education as described in Utah Constitution Article X, Section 2, or a state institution of higher education listed in Section 53B-1-102;
 - (d) school and institutional trust lands as defined in Section 53C-1-103;
 - (e) lands within the exterior boundaries as of January 1, 2012, of the following that are designated as national parks:
 - (i) Arches National Park;
 - (ii) Bryce Canyon National Park;
 - (iii) Canyonlands National Park;
 - (iv) Capitol Reef National Park; and
 - (v) Zion National Park;
 - (f) lands within the exterior boundaries as of January 1, 2012, of the following national monuments managed by the National Park Service as of January 1, 2012:
 - (i) Cedar Breaks National Monument;
 - (ii) Dinosaur National Monument;
 - (iii) Hovenweep National Monument;
 - (iv) Natural Bridges National Monument;
 - (v) Rainbow Bridge National Monument; and
 - (vi) Timpanogos Cave National Monument;
 - (g) lands within the exterior boundaries as of January 1, 2012, of the Golden Spike National Historic Site;
 - (h) lands within the exterior boundaries as of January 1, 2012, of the following wilderness areas located in the state that, as of January 1, 2012, are designated as part of the National Wilderness Preservation System under the Wilderness Act of 1964, 16 U.S.C. 1131 et seq.:
 - (i) Ashdown Gorge Wilderness;
 - (ii) Beartrap Canyon Wilderness;
 - (iii) Beaver Dam Mountains Wilderness;
 - (iv) Black Ridge Canyons Wilderness;
 - (v) Blackridge Wilderness;
 - (vi) Box-Death Hollow Wilderness;

- (vii) Canaan Mountain Wilderness;
 - (viii) Cedar Mountain Wilderness;
 - (ix) Cottonwood Canyon Wilderness;
 - (x) Cottonwood Forest Wilderness;
 - (xi) Cougar Canyon Wilderness;
 - (xii) Dark Canyon Wilderness;
 - (xiii) Deep Creek Wilderness;
 - (xiv) Deep Creek North Wilderness;
 - (xv) Deseret Peak Wilderness;
 - (xvi) Doc's Pass Wilderness;
 - (xvii) Goose Creek Wilderness;
 - (xviii) High Uintas Wilderness;
 - (xix) LaVerkin Creek Wilderness;
 - (xx) Lone Peak Wilderness;
 - (xxi) Mount Naomi Wilderness;
 - (xxii) Mount Nebo Wilderness;
 - (xxiii) Mount Olympus Wilderness;
 - (xxiv) Mount Timpanogos Wilderness;
 - (xxv) Paria Canyon-Vermilion Cliffs Wilderness;
 - (xxvi) Pine Valley Mountain Wilderness;
 - (xxvii) Red Butte Wilderness;
 - (xxviii) Red Mountain Wilderness;
 - (xxix) Slaughter Creek Wilderness;
 - (xxx) Taylor Creek Wilderness;
 - (xxxi) Twin Peaks Wilderness;
 - (xxxii) Wellsville Mountain Wilderness; and
 - (xxxiii) Zion Wilderness;
- (i) lands with respect to which the jurisdiction is ceded to the United States as provided in Section 63L-1-201 or 63L-1-203;
 - (j) real property or tangible personal property owned by the United States if the property is within the boundaries of a municipality; or
 - (k) lands, including water rights, belonging to an Indian or Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States.

Enacted by Chapter 353, 2012 General Session

63L-6-103 Transfer of public lands.

- (1) On or before December 31, 2014, the United States shall:
 - (a) extinguish title to public lands; and
 - (b) transfer title to public lands to the state.
- (2) If the state transfers title to any public lands with respect to which the state receives title under Subsection (1)(b), the state shall:
 - (a) retain 5% of the net proceeds the state receives from the transfer of title; and
 - (b) pay 95% of the net proceeds the state receives from the transfer of title to the United States.
- (3) In accordance with Utah Constitution Article X, Section 5, the amounts the state retains in accordance with Subsection (2)(a) shall be deposited into the permanent State School Fund.

Enacted by Chapter 353, 2012 General Session

63L-6-104 Severability clause.

If any provision of this chapter or the application of any provision to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this chapter shall be given effect without the invalid provision or application. The provisions of this chapter are severable.

Enacted by Chapter 353, 2012 General Session

63L-6-105 Interstate compact -- Transfer of public land.

The Interstate Compact on the Transfer of Public Lands is hereby enacted and entered into with all other jurisdictions that can legally join in the compact, which is, in form, substantially as follows:

Interstate Compact on the Transfer of Public Lands

Whereas, the separation of powers, both between the branches of the federal government and between federal and state authority, is essential to the preservation of individual liberty;

Whereas, the Constitution of the United States creates a federal government of limited and enumerated powers and reserves to the states or to the people those powers not expressly granted to the federal government to protect the liberty of individual property incidental to the sovereignty and the health, safety, and welfare of its citizens;

Whereas, each state adopting and agreeing to be bound by this compact finds that the coordinated, regular, institutional exercise of its sovereign power under its respective constitution and the Constitution of the United States is an essential component of the governing partnership between the states and the federal government;

NOW, THEREFORE, the states hereto resolve and, by the adoption into law under their respective state constitutions of this Interstate Compact on the Transfer of Public Lands, agree, as follows:

Sec. 1. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

- (1) "Associate member state" means any state that is not a "member state."
- (2) "Compact" means the Interstate Compact on the Transfer of Public Lands.
- (3) "Compact administrator" means the person selected by the compact commission to staff the compact commission and whose duties, powers, and tenure are only those approved by the commission.
- (4) "Compact commission" means the entity composed of member state representatives and who will administer the compact.
- (5) "Compact notice recipient" means the archivist of the United States, the president of the United States, the office of the secretary of the United States Senate, the majority leader of the United States Senate, the speaker of the United States House of Representatives, the office of the clerk of the United States House of Representatives, the chief executive of each state, and the presiding officer of each chamber of the Legislature of each state.
- (6) "Member state" means any of the following states that are a signatory to the compact and that have adopted it under the laws of that state: Alaska; Arizona; California; Colorado; Idaho; Montana; Nevada; New Mexico; Oregon; Utah; Washington; and Wyoming.

Sec. 2. Purpose of the compact and commission.

The purpose of the compact and the compact commission is to study, collect data, and develop political and legal mechanisms for securing the transfer to the respective member states

of certain specially identified federally controlled public lands within the respective member state boundaries.

Sec. 3. Compact commission and compact administrator.

(1) The compact commission is hereby established and has the powers and duties as follows:

- (a) elect, by majority vote, a chair and cochair from among the compact's members, who shall serve a term of office of two years and may serve no more than two terms as chair or cochair;
- (b) appoint a compact administrator who shall report to the chair and cochair;
- (c) request and disburse funds for the operation of the compact commission;
- (d) allow the compact commission to seek staff and research assistance from nonprofit organizations;
- (e) adopt parliamentary procedures and publish bylaws consistent with member states;
- (f) receive, evaluate, and respond to input from compact commission members regarding actions taken by the federal government that interfere with the:
 - (i) powers reserved to the state;
 - (ii) regulation of real property, including land titles, uses, and transfers;
 - (iii) regulation of agriculture and nonagricultural businesses that do not engage in interstate commerce; and
 - (iv) jurisdiction for the health, safety, and welfare of a state's residents;
- (g) keep and publish minutes of compact commission meetings and records of the compact administrator both of which shall be considered public records and available upon request by the public; and
- (h) prepare an annual report of the compact commission's activities for member and associate member states.

(2) The compact administrator shall staff the compact commission, perform duties, and exercise powers as granted by the commission, or as directed by the chair or cochair.

(3) A majority of the member state representatives present at a compact commission meeting constitutes a quorum and an action of the quorum constitutes an action of the compact commission. Each member state shall have one official representative who shall have one vote.

(4) The compact commission may not take any action within a member or associate member state that contravenes any state law of that member or associate member state.

Sec. 4. Compact membership and withdrawal.

(1) Each member and associate member state agrees to perform and comply in accordance with the terms of membership of this compact consistent with the constitution and laws of the member or associate member state. Actions by members of the compact, for the purpose for which it was created, are based upon the mutual participation, reliance, and reciprocal performance in agreeing to enact this compact into law.

(2) A state enacting this compact into law shall appoint one official representative to the compact commission and shall provide to the compact commission a letter of that representative's appointment. A copy of the letter of appointment with a government-issued photo identity card shall constitute proof of membership on the compact commission.

(3) For voting purposes, only a member state representative may vote and each member state may have only one vote.

(4) A member or associate member state may withdraw from this compact by enacting legislation and giving notice of the enacted withdrawal legislation to the compact administrator. No such withdrawal shall take effect until six months following the enactment of withdrawal legislation and a withdrawing state is liable for any obligations that it may have incurred prior to the date upon which its withdrawal legislation becomes effective.

Sec. 5. Adoption of compact.

Upon a state adopting the compact and notifying the compact administrator, the administrator shall notify all other member states of the adoption by sending an updated certified copy of the compact with the new adoptee state listed.

Sec. 6. Commission meetings.

(1) The initial meeting of the compact commission shall be within 90 days after the compact is enacted by two or more states. The official representatives of the enacting states shall determine the date, time, and location of the initial meeting and publish that information in their respective states in a manner consistent with the laws of those states for posting notifications and agendas of public meetings. At the initial meeting, those official representatives shall, as provided in Sec. 4, elect a chair and cochair, and appoint a compact administrator. The compact administrator shall, as directed by the compact commission chairs and as provided in the compact, organize the compact commission's activities.

(2) Following the compact commission's initial meeting, the compact commission shall meet at least one time per year. No meeting shall continue longer than three consecutive days.

(3) Special meetings may be called if half or more of the member states notify the chair of the compact commission in writing of the request for a meeting. Attendance at the meeting may be in person or by electronic means.

(4) Meetings shall be recorded, and the recording and minutes of the meeting shall be made available to the public within 30 days after the meeting. Meetings closed to the public are not permitted except where provided by law in the state in which the meeting is held.

Sec. 7. Funding.

(1) The compact commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.

(2) The compact commission may accept any appropriate revenue sources, donations, and grants of money, equipment, supplies, material, and services.

(3) (a) The compact commission may, in accordance with Subsections (3)(b) and (c), levy on and collect an annual assessment from each member state or impose fees on other parties to cover the cost of the operations and activities of the compact commission and its staff, which must be in a total amount sufficient to cover its annual budget as approved each year for which revenue is not provided by other sources.

(b) The compact commission may not levy and collect an annual assessment against a member state if the member state:

(i) (A) votes against the annual assessment; or

(B) was absent from the commission meeting during which the commission voted to approve the annual assessment; and

(ii) within sixty days of the vote to impose the annual assessment, notifies the commission in writing that the member state does not consent to the levy of the annual assessment.

(c) The aggregate annual assessment amount shall be allocated based on a formula to be determined by the compact commission, which shall adopt a rule that is binding on all member states.

(4) The compact commission shall not incur obligations of any kind prior to securing the funds adequate to meet the obligation, nor shall the compact commission pledge the credit of any of the member states, except by and with authority of the member state.

(5) The compact commission shall keep accurate accounts of all receipts and disbursements, and that information shall be available within 30 days upon request by a compact commission member, or by a member state or associate member state. All receipts and disbursements of funds handled by the compact commission shall be audited yearly by a certified

or licensed public accountant, and the report of the audit shall be included in the annual report of the commission.

Sec. 8. Cooperation.

The compact commission, member states, associate member states, and the compact administrator shall cooperate and offer mutual assistance with each other in enforcing the terms of the compact for securing the transfer of title to federally controlled public lands to willing western states.

Sec. 9. Declaration of Interstate Compact on the Transfer of Public Lands goals.

(1) Member states, in order to restore, protect, and promote state sovereignty and the health, safety, and welfare of their citizens, shall:

(a) develop and draft model uniform legislation for member states to adopt in securing sovereignty and jurisdiction over federal lands within the respective member state boundaries;

(b) develop and draft model uniform legislation for member states to send to their federal delegation for introduction in Congress for the transfer of federally controlled public lands to the respective member state governments; and

(c) develop legal strategies for securing state sovereignty and jurisdiction over federally controlled public lands within member state boundaries.

(2) The compact goals in Subsection (1) take effect when:

(a) two states have become member states and adopted the terms in legislation; and

(b) Congress votes to consent to the terms of this compact under United States Constitution Article I, Section 10.

Amended by Chapter 305, 2015 General Session