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SCHOOL AND INSTITUTIONAL TRUST

LANDS AMENDMENTS

2001 GENERAL SESSION

STATE OF UTAH

Sponsor: Thomas V. Hatch

This act modifies provisions related to school and institutional trust lands by including the administration within the definition of a public agency for the purpose of retaining a water right.

This act affects sections of Utah Code Annotated 1953 as follows:

AMENDS:

53C-1-201, as last amended by Chapter 237, Laws of Utah 2000

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

Section 1. Section **53C-1-201** is amended to read:

53C-1-201. Creation of administration -- Purpose -- Director.

(1) (a) There is established within state government the School and Institutional Trust Lands Administration.

(b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Chapter 3 of this title and Section 51-7-12.

(2) The administration is an independent state agency and not a division of any other department.

(3) (a) It is subject to the usual legislative and executive department controls except as follows:

(i) (A) the director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63-2-304, for as long as is necessary to evaluate the proposals;

(B) the administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63, Chapter 2, Government Records Access and

28 Management Act, if the administration determines not to proceed with the proposal;

29 (C) the administration shall classify the proposal pursuant to law if it decides to proceed
30 with the proposal; and

31 (D) Section 63-2-403 does not apply during the review period;

32 (ii) the director shall make rules in compliance with Title 63, Chapter 46a, Utah

33 Administrative Rulemaking Act, except that the director, with the board's approval, may establish
34 a procedure for the expedited approval of rules, based on written findings by the director showing:

35 (A) the changes in business opportunities affecting the assets of the trust;

36 (B) the specific business opportunity arising out of those changes which may be lost
37 without the rule or changes to the rule;

38 (C) the reasons the normal procedures under Section 63-46a-4 cannot be met without
39 causing the loss of the specific opportunity;

40 (D) approval by at least five board members; and

41 (E) that the director has filed a copy of the rule and a rule analysis, stating the specific
42 reasons and justifications for its findings, with the Division of Administrative Rules and notified
43 interested parties as provided in Subsection 63-46a-4(7); and

44 (iii) the administration shall comply with Title 67, Chapter 19, Utah State Personnel
45 Management Act, except as follows:

46 (A) the board may approve, upon recommendation of the director, that exemption for
47 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable
48 the administration to efficiently fulfill its responsibilities under the law. The director shall consult
49 with the director of the Department of Human Resource Management prior to making such a
50 recommendation. The positions of director, deputy director, assistant director, legal counsel
51 appointed under Subsection 53C-1-305(2), administrative assistant, and public affairs officer are
52 exempt under Subsections 67-19-12(2) and 67-19-15(1);

53 (B) salary for exempted positions, except for the director, shall be set by the director, after
54 consultation with the director of the Department of Human Resource Management, within ranges
55 approved by the board. The board and director shall consider salaries for similar positions in
56 private enterprise and other public employment when setting salary ranges; and

57 (C) the board may create an annual incentive and bonus plan for the director and other
58 administration employees designated by the board, based upon the attainment of financial

59 performance goals and other measurable criteria defined and budgeted in advance by the board;
60 and

61 (iv) the administration shall comply with Title 63, Chapter 56, Utah Procurement Code,
62 except where the board approves, upon recommendation of the director, exemption from the Utah
63 Procurement Code, and simultaneous adoption of policies for procurement, which enable the
64 administration to efficiently fulfill its responsibilities under the law.

65 (b) (i) The board and director shall review the exceptions under Subsection (3)(a) and
66 make recommendations for any modification, if required, which the Legislature would be asked
67 to consider during its annual General Session.

68 (ii) The board and director may include in their recommendations any other proposed
69 exceptions from the usual executive and legislative controls the board and director consider
70 necessary to accomplish the purpose of this title.

71 (4) The administration is managed by a director of school and institutional trust lands
72 appointed by a majority vote of the board of trustees with the consent of the governor.

73 (5) (a) The board of trustees shall provide policies for the management of the
74 administration and for the management of trust lands and assets.

75 (b) The board shall provide policies for the ownership and control of Native American
76 remains that are discovered or excavated on school and institutional trust lands in consultation with
77 the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native
78 American Grave Protection and Repatriation Act.

79 (6) In connection with joint ventures for the development of trust lands and minerals
80 approved by the board under Subsection 53C-1-303(4)(c), the administration may become a
81 member of a limited liability company under Title 48, Chapter 2b, Utah Limited Liability
82 Company Act, and is considered a person under Subsection 48-2b-102(6) for such purposes.

83 (7) For purposes of Subsections 73-1-4(3)(b)(iv) and 73-3-12(2)(i):

84 (a) the administration shall be considered a public agency; and

85 (b) the reasonable future requirements of current and future users of school and
86 institutional trust lands shall be considered public use.

Legislative Review Note
as of 1-24-01 2:25 PM

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel