

SCHOOL AND INSTITUTIONAL TRUST LAND

AMENDMENTS

2004 GENERAL SESSION

STATE OF UTAH

Sponsor: Michael E. Noel

LONG TITLE

General Description:

This bill modifies provisions related to the sale, exchange, and lease of school and institutional trust lands.

Highlighted Provisions:

This bill:

- ▶ allows the director of the School and Institutional Trust Lands Administration to execute patents for land sold or exchanged by the administration; and
- ▶ modifies criteria for the continuation of a mineral lease beyond the primary term of the lease.

Monies Appropriated in this Bill:

None

Other Special Clauses:

⌘ [None] THIS BILL PROVIDES AN IMMEDIATE EFFECTIVE DATE. ⌘

Utah Code Sections Affected:

AMENDS:

53C-2-405, as enacted by Chapter 294, Laws of Utah 1994

53C-4-102, as last amended by Chapter 103, Laws of Utah 1996

53C-4-301, as enacted by Chapter 294, Laws of Utah 1994

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



28 Section 1. Section **53C-2-405** is amended to read:

29 **53C-2-405. Mineral leases -- Multiple leases on same land -- Lease terms.**

30 (1) (a) Mineral leases, including oil, gas, and hydrocarbon leases, may be issued for
31 prospecting, exploring, developing, and producing minerals covering any portion of trust lands
32 or the reserved mineral interests of the trust.

33 (b) (i) Leases may be issued for different types of minerals on the same land.

34 (ii) If leases are issued for different types of minerals on the same land, the leases shall
35 include stipulations for simultaneous operations.

36 (c) No more than one lease may be issued for the same resource on the same land.

37 (2) (a) Each mineral lease issued by the administration shall provide for an annual
38 rental of not less than \$1 per acre per year.

39 (b) However, a lease may provide for a rental credit, minimum rental, or minimum
40 royalty upon commencement of production, as prescribed by rules of the director.

41 (3) The primary term of a mineral lease may not exceed:

42 (a) 20 years for oil shale or tar sands; or

43 (b) ten years for oil, gas, or any other mineral.

44 (4) The director shall make rules regarding the continuation of a mineral lease after the
45 primary term has expired, which shall provide that a mineral lease shall continue so long as:

46 (a) the mineral covered by the lease is being produced in paying quantities from:

47 (i) the leased premises;

48 (ii) lands pooled, communitized, or unitized with the leased premises; or

49 (iii) lands constituting an approved mining or drilling unit with respect to the leased
50 premises; or

51 (b) (i) the lessee is engaged in diligent operations, exploration, [~~research,~~] or
52 development which is reasonably calculated to advance development or production of the
53 mineral covered by the lease from:

54 (A) the leased premises;

55 (B) lands pooled, communitized, or unitized with the leased premises; or

56 (C) lands constituting an approved mining or drilling unit with respect to the leased
57 premises; and

58 (ii) the lessee pays a minimum royalty.

59 (5) For the purposes of Subsection (4), diligent operations with respect to oil, gas, or
 60 other hydrocarbon leases may include cessation of operations not in excess of 90 days in
 61 duration.

62 Section 2. Section **53C-4-102** is amended to read:

63 **53C-4-102. Sale of trust lands -- Fair market value -- Determination of sale --**
 64 **Advertising proposed sales -- Sale procedures -- Defaults.**

65 (1) Trust lands may not be sold for less than the fair market value.

66 (2) (a) The director shall determine whether disposal or retention of all or a portion of a
 67 property interest in trust lands is in the best interest of the trust.

68 (b) When it is determined that the disposal of an interest in trust lands is in the best
 69 interest of the applicable trust, the transaction shall be accomplished in an orderly and timely
 70 manner.

71 (3) The director shall advertise any proposed sale, lease, or exchange of an interest in
 72 trust lands in a reasonable manner consistent with the director's fiduciary responsibilities.

73 (4) (a) Any tract of trust land may be subdivided and sold, leased, or exchanged in
 74 accordance with a plan or other action designating the land to be subdivided that is approved by
 75 the director.

76 (b) The director may survey the tract and direct its subdivision.

77 (c) A plat of the survey shall be filed with the county recorder of the county in which
 78 the land is located and with the administration.

79 (5) Sale conditions, including qualification of prospective purchasers, shall be in
 80 accordance with accepted mortgage lending and real estate practices.

81 (6) Upon the sale of land, the director shall issue to the purchaser a certificate of sale
 82 which describes the land purchased and states the amount paid, the amount due, and the time
 83 when the principal and interest will become due.

84 (7) Upon payment in full of principal and interest and the surrender of the original
 85 certificate of sale for any tract of land sold, or payment in full of any amounts required to be
 86 paid for the partial release of property, the **h** [f] **governor** [j] [**director**], **OR THE GOVERNOR'S**
 86a **DESIGNEE, h** shall issue a patent to the
 87 purchaser, heir, assignee, successor in interest, or other grantee as determined by the director.

88 (8) (a) If a purchaser of trust lands defaults in the payment of any installment of
 89 principal or interest due under the terms of the contract of sale, the director shall notify the

90 purchaser that if the default is not corrected within 30 days after issuance of the notice the
 91 director shall proceed with any remedy which the administration may pursue under law or the
 92 contract of sale.

93 (b) The notice shall be sent by registered or certified mail to the purchaser at the latest
 94 address as shown by the records of the administration.

95 (c) If the default is not corrected by compliance with the requirements of the notice of
 96 default within the time provided by the notice, the director may pursue any available remedy
 97 under the contract of sale, including forfeiture.

98 (d) If forfeited lands are sold again to the same purchaser, the sale may be made by a
 99 new and independent contract without regard to the forfeited agreement.

100 Section 3. Section **53C-4-301** is amended to read:

101 **53C-4-301. Exchange of trust lands -- Based on equal value -- Lands encumbered**
 102 **by a lease.**

103 (1) (a) In accordance with rules of the director, trust lands or other trust assets may be
 104 exchanged for other land or other assets.

105 (b) ~~[Upon request of the director, the governor]~~ The director ^h, UPON AUTHORIZATION
 105a FROM THE GOVERNOR, ^h shall execute and deliver

106 the necessary patents to other proprietors and receive proper deeds for the lands exchanged.

107 (c) The director may not make an exchange until a deed or patent for the land received
 108 in exchange has been issued by the proprietors.

109 (2) (a) If trust lands are encumbered by an existing lease, the director may, upon
 110 approval of an exchange, and with the consent of the lessee, terminate the existing lease and
 111 issue a lease of the same type on lands of comparable acreage or value which may be acquired
 112 in the same exchange in which the leased lands are used as base.

113 (b) The state shall honor all vested rights upon acceptance of exchanged lands.

113a ^h **Section 4. Effective date.**

113b IF APPROVED BY TWO-THIRDS OF ALL THE MEMBERS ELECTED TO EACH HOUSE, THIS BILL

113c TAKES EFFECT UPON APPROVAL BY THE GOVERNOR, OR THE DAY FOLLOWING THE

113d CONSTITUTIONAL TIME LIMIT OF UTAH CONSTITUTION ARTICLE VII, SECTION 8, WITHOUT THE

113e GOVERNOR'S SIGNATURE, OR IN THE CASE OF A VETO, THE DATE OF VETO OVERRIDE. ^h

Legislative Review Note

as of 12-11-03 2:47 PM

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

Office of Legislative Research and General Counsel