

Representative Roger E. Barrus proposes the following substitute bill:

SCHOOL AND INSTITUTIONAL TRUST LANDS

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Roger E. Barrus

Senate Sponsor: Stephen H. Urquhart

LONG TITLE

General Description:

This bill modifies provisions of the School and Institutional Trust Lands Management Act.

Highlighted Provisions:

This bill:

- ▶ deletes obsolete language;
- ▶ exempts the School and Institutional Trust Lands Administration (administration) from the petition process provisions of the Administrative Rulemaking Act;
- ▶ exempts the Administration from fee agency provisions ~~§~~ **→ for certain fees ←** ~~§~~ in the Budgetary Procedures Act;
- ▶ makes modifications to School and Institutional Trust Lands Board of Trustees (board) terms and replacement appointments;
- ▶ specifically grants the director authority to acquire and dispose of lands and assets;
- ▶ modifies the judicial review process of the board and administration;
- ▶ allows the administration to request financial information from certain providers;
- ▶ modifies the mining claim administration fee;
- ▶ authorizes the director to withdraw lands from surface occupancy or use when there is a potential for resource degradation;



- 26 ▶ modifies the requirements that a person who degrades trust lands must meet in
- 27 restoring the land;
- 28 ▶ requires the Permanent Community Impact Fund Board to ~~§~~→ [consult with] consider
- 28a **recommendations from** ~~←~~§ the
- 29 administration ~~§~~→ [before] when ~~←~~§ awarding certain grants;
- 30 ▶ allows a lease or permit which includes an option to purchase at a future date to be
- 31 negotiated in a method other than through a public competitive process; and
- 32 ▶ makes technical changes.

33 **Money Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 None

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **9-4-307**, as last amended by Laws of Utah 2008, Chapter 382
- 40 **53C-1-201**, as last amended by Laws of Utah 2010, Chapter 218
- 41 **53C-1-202**, as last amended by Laws of Utah 2008, Chapter 382
- 42 **53C-1-203**, as last amended by Laws of Utah 2010, Chapter 286
- 43 **53C-1-204**, as last amended by Laws of Utah 2000, Chapter 237
- 44 **53C-1-302**, as last amended by Laws of Utah 1997, Chapter 126
- 45 **53C-1-303**, as last amended by Laws of Utah 2004, Chapter 63
- 46 **53C-1-304**, as last amended by Laws of Utah 2008, Chapter 382
- 47 **53C-2-102**, as last amended by Laws of Utah 2005, Chapter 67
- 48 **53C-2-103**, as enacted by Laws of Utah 1994, Chapter 294
- 49 **53C-2-104**, as last amended by Laws of Utah 2003, Chapter 192
- 50 **53C-2-105**, as enacted by Laws of Utah 2003, Chapter 192
- 51 **53C-2-301**, as last amended by Laws of Utah 1997, Chapter 72
- 52 **53C-2-404**, as enacted by Laws of Utah 1994, Chapter 294
- 53 **53C-2-407**, as last amended by Laws of Utah 2005, Chapter 39
- 54 **53C-3-101**, as last amended by Laws of Utah 2004, Chapter 349
- 55 **53C-3-203**, as last amended by Laws of Utah 2010, Chapters 79 and 262
- 56 **53C-4-101**, as last amended by Laws of Utah 1997, Chapter 126

- 57 **53C-4-102**, as last amended by Laws of Utah 2004, Chapter 40
- 58 **53C-4-201**, as last amended by Laws of Utah 1995, Chapter 299
- 59 **53C-4-301**, as last amended by Laws of Utah 2004, Chapter 40
- 60 **63J-1-504**, as last amended by Laws of Utah 2010, Chapter 146
- 61 **63L-2-201**, as renumbered and amended by Laws of Utah 2008, Chapter 382

62

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

64 Section 1. Section **9-4-307** is amended to read:

65 **9-4-307. Impact fund administered by impact board -- Eligibility for assistance --**
66 **Review by board -- Administration costs -- Annual report.**

67 (1) (a) The impact board shall:

68 (i) administer the impact fund in a manner that will keep a portion of the impact fund
69 revolving;

70 (ii) determine provisions for repayment of loans; ~~and~~

71 (iii) establish criteria for determining eligibility for assistance under this part~~[-]; and~~

72 (iv) ~~§~~→ **[consult with] consider recommendations from** ~~←~~§ the School and Institutional

72a Trust Lands Administration ~~§~~→ **[before] when** ~~←~~§

73 awarding a grant described in Subsection 9-4-303(6).

74 (b) (i) Criteria for awarding loans or grants made from funds described in Subsection
75 9-4-303(5) shall be consistent with Subsection 9-4-303(5).

76 (ii) Criteria for awarding grants made from funds described in Subsection
77 9-4-303(2)(c) shall be consistent with Subsection 9-4-303(6).

78 (c) In order to receive assistance under this part, subdivisions and interlocal agencies
79 shall submit formal applications containing the information that the impact board requires.

80 (2) In determining eligibility for loans and grants under this part, the impact board shall
81 consider the following:

82 (a) the subdivision's or interlocal agency's current mineral lease production;

83 (b) the feasibility of the actual development of a resource that may impact the
84 subdivision or interlocal agency directly or indirectly;

85 (c) current taxes being paid by the subdivision's or interlocal agency's residents;

86 (d) the borrowing capacity of the subdivision or interlocal agency, its ability and
87 willingness to sell bonds or other securities in the open market, and its current and authorized

181 necessary to accomplish the purpose of this title.]

182 (f) ~~§~~ → [The] (i) **Except as provided in Subsection (3)(f)(ii), the** ← ~~§~~ administration is not
 182a subject to the fee agency requirements of Section
 183 63J-1-504.

183a ~~§~~ → (ii) **The following fees of the administration are subject to the requirements of Section**
 183b **63J-1-504: application, assignment, amendment, affidavit for lost documents, name change,**
 183c **reinstatement, grazing non use, extension of time, partial conveyance, patent reissue, collateral**
 183d **assignment, electronic payment, and processing.** ← ~~§~~

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

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

188 (b) The board shall provide policies for the ownership and control of Native American
 189 remains that are discovered or excavated on school and institutional trust lands in consultation
 190 with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4,
 191 Native American Grave Protection and Repatriation Act. The director may make rules in
 192 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement
 193 policies provided by the board regarding Native American remains.

194 (6) In connection with joint ventures [~~for the development of~~] and other transactions
 195 involving trust lands and minerals approved ~~§~~ → [by the board] ← ~~§~~ under Sections 53C-1-303 and
 196 53C-2-401, the administration ~~§~~ → , **with board approval,** ← ~~§~~ may become a member of a limited
 196a liability company under
 197 Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, and is considered a person
 198 under Section 48-2c-102.

199 Section 3. Section **53C-1-202** is amended to read:

200 **53C-1-202. Board of trustees membership -- Nomination list -- Qualifications --**
 201 **Terms -- Replacement -- Chair -- Quorum.**

202 (1) There is established the School and Institutional Trust Lands Board of Trustees.

203 (2) The board shall consist of seven members appointed on a nonpartisan basis by the
 204 governor with the consent of the Senate [~~for nonconsecutive six-year terms~~].

205 [~~(3) (a) Of the initial appointments to the board, the governor shall appoint one~~
 206 ~~member to serve a six-year term, one member to serve a five-year term, one member to serve a~~
 207 ~~four-year term, one member to serve a three-year term, one member to serve a two-year term,~~
 208 ~~and one member to serve a one-year term.~~]

209 (3) (a) Except for the appointment made pursuant to Subsection (5), all appointments
210 to the board shall be for a non-consecutive term of six years, or until a replacement has been
211 appointed and confirmed pursuant to ~~H→ [Subsection (2)]~~ this section ←H .

677 (ii) fiscal year 2011-12; and

678 (iii) fiscal year 2012-13; and

679 (b) from the deposits to the account remaining after the appropriation in Subsection
680 (4)(a), the following amounts:

681 (i) 55% of the deposits to counties in amounts proportionate to the amounts of mineral
682 revenue generated from the acquired land, exchanged land, acquired mineral interests, or
683 exchanged mineral interests located in each county, to be used to mitigate the impacts caused
684 by mineral development;

685 (ii) 25% of the deposits to counties in amounts proportionate to the total surface and
686 mineral acreage within each county that was conveyed to the United States under the agreement
687 or an exchange, to be used to mitigate the loss of mineral development opportunities resulting
688 from the agreement or exchange;

689 (iii) 1.68% of the deposits to the State Board of Education, to be used for education
690 research and experimentation in the use of staff and facilities designed to improve the quality
691 of education in Utah;

692 (iv) 1.66% of the deposits to the Geological Survey, to be used for natural resources
693 development in the state;

694 (v) 1.66% of the deposits to the Water Research Laboratory at Utah State University, to
695 be used for water development in the state; and

696 (vi) 7.5% of the deposits to the Constitutional Defense Restricted Account created in
697 Section 63C-4-103.

698 (5) Beginning with fiscal year 2009-10, the Legislature shall annually appropriate 1%
699 of the deposits remaining in the account after the appropriation is made in accordance with
700 Subsection (4)(a) to the Geological Survey, to be used for test wells, other hydrologic studies,
701 and air quality monitoring in the West Desert.

702 (6) (a) Beginning with fiscal year 2009-10, the Legislature shall annually appropriate
703 6.5% of the deposits remaining in the account after the appropriation is made in Subsection
704 (4)(a) to the Permanent Community Impact Fund created in Section 9-4-303, to be used for
705 grants to political subdivisions of the state to mitigate the impacts resulting from the
706 development or use of school and institutional trust lands.

707 (b) The ~~§~~ **→ administration shall make recommendations to the** ~~←~~ ~~§~~ Permanent
707a Community Impact Fund Board ~~§~~ **→ [shall consult with the]** ~~←~~ ~~§~~

708 ~~§~~→ [administration before] for its consideration when ←~~§~~ awarding the grants described in
 708a Subsection (6)(a).

709 Section 18. Section **53C-4-101** is amended to read:

710 **53C-4-101. Criteria for sale, lease, exchange, or other disposition of trust lands.**

711 (1) (a) The director shall establish criteria by rule for the sale, exchange, lease, or other
 712 disposition or conveyance of trust lands, including procedures for determining fair market
 713 value of those lands.

714 (b) (i) Nothing in this title or in the administration's rules and procedures shall be
 715 considered to require the director or the administration to execute any transaction for the
 716 disposition of trust lands on terms that the director determines by a written finding to be
 717 unfavorable to the beneficiaries.

718 (ii) The director shall send a copy of the written finding to each board member for
 719 review and comment.

720 ~~[(2) The governor pursuant to P.L. 103-93 and in collaboration with the board shall~~
 721 ~~implement the inholdings land exchange authorized in that public law.]~~

722 ~~[(3)]~~ (2) The governor, with the consent of the board, may participate in ~~[similar]~~
 723 efforts and initiatives related to school and institutional trust lands inholdings.

724 Section 19. Section **53C-4-102** is amended to read:

725 **53C-4-102. Sale of trust lands -- Fair market value -- Determination of sale --**
 726 **Advertising proposed sales -- Sale procedures -- Defaults.**

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

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

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

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

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

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

863 (c) Bills approving any fee change shall be filed before the beginning of the
864 Legislature's annual general session, if possible.

865 (8) ~~§~~ **→ [The] (a) Except as provided in Subsection (8)(b), the** ~~←§~~ School and
865a Institutional Trust Lands Administration, established in 53C-1-201,
866 is exempt from the requirements of this section.
866a **§** **→ (b) The following fees of the School and Institutional Trust Lands Administration are**
866b **subject to the requirements of this section: application, assignment, amendment, affidavit for**
866c **lost documents, name change, reinstatement, grazing non use, extension of time, partial**
866d **conveyance, patent reissue, collateral assignment, electronic payment, and processing.** ~~←§~~

867 Section 23. Section **63L-2-201** is amended to read:

868 **63L-2-201. Federal government acquisition of real property in the state.**

869 (1) As used in this section:

870 (a) "Agency" is defined in Section 63G-10-102.

871 (b) "Agency" includes:

872 (i) the School and Institutional Trust Lands Administration created in Section
873 53C-1-201; and

874 (ii) the School and Institutional Trust Lands Board of Trustees created in Section
875 53C-1-202.

876 (2) (a) Before legally binding the state by executing an agreement to sell or transfer to
877 the United States government 10,000 or more acres of any state lands or school and
878 institutional trust lands, an agency shall submit the agreement or proposal:

879 (i) to the Legislature for its approval or rejection; or

880 (ii) in the interim, to the Legislative Management Committee for review of the
881 agreement or proposal.

882 (b) The Legislative Management Committee may:

883 (i) recommend that the agency execute the agreement or proposal;

884 (ii) recommend that the agency reject the agreement or proposal; or

885 (iii) recommend to the governor that the governor call a special session of the
886 Legislature to review and approve or reject the agreement or proposal.

887 (3) Before legally binding the state by executing an agreement to sell or transfer to the
888 United States government less than 10,000 acres of any state lands or school and institutional
889 trust lands, an agency shall ~~report to~~ notify the Natural Resources, Agriculture, and
890 Environment Interim Committee.

891 (4) Notwithstanding Subsections (2) and (3), the Legislature approves all conveyances
892 of school trust lands to the United States government made for the purpose of completing the
893 Red Cliffs Desert Reserve in Washington County.