

**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

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**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 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 the
- 29 administration before 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

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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 the School and Institutional Trust Lands Administration before  
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

88 indebtedness;

89 (e) all possible additional sources of state and local revenue, including utility user  
90 charges;

91 (f) the availability of federal assistance funds;

92 (g) probable growth of population due to actual or prospective natural resource  
93 development in an area;

94 (h) existing public facilities and services;

95 (i) the extent of the expected direct or indirect impact upon public facilities and  
96 services of the actual or prospective natural resource development in an area; and

97 (j) the extent of industry participation in an impact alleviation plan, either as specified  
98 in Title 63M, Chapter 5, Resource Development Act, or otherwise.

99 (3) The impact board may not fund any education project that could otherwise have  
100 reasonably been funded by a school district through a program of annual budgeting, capital  
101 budgeting, bonded indebtedness, or special assessments.

102 (4) The impact board may restructure all or part of the agency's or subdivision's  
103 liability to repay loans for extenuating circumstances.

104 (5) The impact board shall:

105 (a) review the proposed uses of the impact fund for loans or grants before approving  
106 them and may condition its approval on whatever assurances that the impact board considers to  
107 be necessary to ensure that the proceeds of the loan or grant will be used in accordance with the  
108 Leasing Act and this part; and

109 (b) ensure that each loan specifies the terms for repayment and is evidenced by general  
110 obligation, special assessment, or revenue bonds, notes, or other obligations of the appropriate  
111 subdivision or interlocal agency issued to the impact board under whatever authority for the  
112 issuance of those bonds, notes, or obligations exists at the time of the loan.

113 (6) The impact board shall allocate from the impact fund to the department those funds  
114 that are appropriated by the Legislature for the administration of the impact fund, but this  
115 amount may not exceed 2% of the annual receipts to the impact fund.

116 (7) The department shall make an annual report to the Legislature concerning the  
117 number and type of loans and grants made as well as a list of subdivisions and interlocal  
118 agencies that received this assistance.

119 Section 2. Section **53C-1-201** is amended to read:

120 **53C-1-201. Creation of administration -- Purpose -- Director.**

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

123 (b) The administration shall manage all school and institutional trust lands and assets  
124 within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation  
125 of Revenue from Trust Lands, and Sections 51-7a-201 and 51-7a-202.

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

128 (3) (a) It is subject to the usual legislative and executive department controls except as  
129 provided in this Subsection (3).

130 (b) (i) The director may make rules as approved by the board that allow the  
131 administration to classify a business proposal submitted to the administration as protected  
132 under Section 63G-2-305, for as long as is necessary to evaluate the proposal.

133 (ii) The administration shall return the proposal to the party who submitted the  
134 proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access  
135 and Management Act, if the administration determines not to proceed with the proposal.

136 (iii) The administration shall classify the proposal pursuant to law if it decides to  
137 proceed with the proposal.

138 (iv) Section 63G-2-403 does not apply during the review period.

139 (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah  
140 Administrative Rulemaking Act, except that the administration is not subject to Subsections  
141 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may  
142 establish a procedure for the expedited approval of rules, based on written findings by the  
143 director showing:

144 (i) the changes in business opportunities affecting the assets of the trust;

145 (ii) the specific business opportunity arising out of those changes which may be lost  
146 without the rule or changes to the rule;

147 (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without  
148 causing the loss of the specific opportunity;

149 (iv) approval by at least five board members; and

150 (v) that the director has filed a copy of the rule and a rule analysis, stating the specific  
151 reasons and justifications for its findings, with the Division of Administrative Rules and  
152 notified interested parties as provided in Subsection 63G-3-301(10).

153 (d) (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel  
154 Management Act, except as provided in this Subsection (3)(d).

155 (ii) The board may approve, upon recommendation of the director, that exemption for  
156 specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable  
157 the administration to efficiently fulfill its responsibilities under the law. The director shall  
158 consult with the executive director of the Department of Human Resource Management prior  
159 to making such a recommendation.

160 (iii) The positions of director, deputy director, associate director, assistant director,  
161 legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs  
162 officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).

163 (iv) Salaries for exempted positions, except for the director, shall be set by the director,  
164 after consultation with the executive director of the Department of Human Resource  
165 Management, within ranges approved by the board. The board and director shall consider  
166 salaries for similar positions in private enterprise and other public employment when setting  
167 salary ranges.

168 (v) The board may create an annual incentive and bonus plan for the director and other  
169 administration employees designated by the board, based upon the attainment of financial  
170 performance goals and other measurable criteria defined and budgeted in advance by the board.

171 (e) The administration shall comply with Title 63G, Chapter 6, Utah Procurement  
172 Code, except where the board approves, upon recommendation of the director, exemption from  
173 the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3,  
174 Utah Administrative Rulemaking Act, for procurement, which enable the administration to  
175 efficiently fulfill its responsibilities under the law.

176 ~~[(f) (i) The board and director shall review the exceptions under this Subsection (3) and~~  
177 ~~make recommendations for any modification, if required, which the Legislature would be asked~~  
178 ~~to consider during its annual general session.]~~

179 ~~[(ii) The board and director may include in their recommendations any other proposed~~  
180 ~~exceptions from the usual executive and legislative controls the board and director consider~~

181 necessary to accomplish the purpose of this title.]

182 (f) The administration is not subject to the fee agency requirements of Section  
183 63J-1-504.

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 may become a member of a limited 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 Subsection (2).

212 (b) ~~[All subsequent appointments shall be for a term of six years, except if]~~ If a  
213 vacancy occurs, the governor shall appoint a replacement, following the procedures set forth in  
214 Subsections (2), (4), (5), and (6), to fill the unexpired term.

215 (c) Any member of the board who has served less than six years upon the expiration of  
216 that member's term is eligible for a consecutive reappointment.

217 ~~[(d) Neither the term provision in Subsection (2) nor Subsection (3) applies to an~~  
218 ~~appointment made under Subsection (5).]~~

219 (4) (a) The governor shall select six of the seven appointees to the board from a  
220 nomination list of at least two candidates for each position or vacancy submitted pursuant to  
221 Section 53C-1-203.

222 (b) The governor may request an additional nomination list of at least two candidates  
223 from the nominating committee if the initial list of candidates for a given position is  
224 unacceptable.

225 (c) (i) If the governor fails to select an appointee within 60 days after receipt of the  
226 initial list or within 60 days after the receipt of an additional list, the nominating committee  
227 shall make an interim appointment by majority vote.

228 (ii) The interim appointee shall serve until the matter is resolved by the committee and  
229 the governor or until replaced pursuant to this chapter.

230 (5) (a) The governor may appoint one member without requiring a nomination list.

231 (b) The member appointed under Subsection (5)(a) serves at the pleasure of the  
232 governor.

233 (6) (a) Each board candidate shall possess outstanding professional qualifications  
234 pertinent to the purposes and activities of the trust.

235 (b) The board shall represent the following areas of expertise:

236 (i) nonrenewable resource management or development;

237 (ii) renewable resource management or development; and

238 (iii) real estate.

239 (c) Other qualifications which are pertinent for membership to the board are expertise  
240 in any of the following areas:

241 (i) business;

242 (ii) investment banking;



- 243 (iii) finance;
- 244 (iv) trust administration;
- 245 (v) asset management; and
- 246 (vi) the practice of law in any of the areas referred to in Subsections (6)(b) and (6)(c)(i)
- 247 through (v).

248 (7) The board of trustees shall select a chair and vice chair from its membership.

249 (8) Before assuming a position on the board, each member shall take an oath of office.

250 (9) Four members of the board constitute a quorum for the transaction of business.

251 (10) The governor or five board members may, for cause, remove a member of the

252 board.

253 [~~(11) An aggrieved party to a final action by the board may obtain judicial review of~~

254 ~~that action under Sections 63G-4-402 and 63G-4-403.]~~

255 Section 4. Section **53C-1-203** is amended to read:

256 **53C-1-203. Board of trustees nominating committee -- Composition --**

257 **Responsibilities -- Per diem and expenses.**

258 (1) There is established an 11 member board of trustees nominating committee.

259 (2) (a) The State Board of Education shall appoint five members to the nominating

260 committee from different geographical areas of the state.

261 (b) The governor shall appoint five members to the nominating committee as follows:

262 (i) one individual from a nomination list of at least two names of individuals

263 knowledgeable about institutional trust lands submitted by the University of Utah and Utah

264 State University on an alternating basis every four years;

265 (ii) one individual from a nomination list of at least two names submitted by the

266 livestock industry;

267 (iii) one individual from a nomination list of at least two names submitted by the Utah

268 Petroleum Association;

269 (iv) one individual from a nomination list of at least two names submitted by the Utah

270 Mining Association; and

271 (v) one individual from a nomination list of at least two names submitted by the

272 executive director of the Department of Natural Resources after consultation with statewide

273 wildlife and conservation organizations.

274 (c) The president of the Utah Association of Counties shall designate the chair of the  
275 Public Lands Steering Committee, who must be an elected county commissioner or councilor,  
276 to serve as the eleventh member of the nominating committee.

277 (3) (a) Except as required by Subsection (3)(b), each member shall serve a four-year  
278 term.

279 (b) Notwithstanding the requirements of Subsection (3)(a), the state board and the  
280 governor shall, at the time of appointment or reappointment, adjust the length of terms to  
281 ensure that the terms of committee members are staggered so that approximately half of the  
282 committee is appointed every two years.

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

285 (4) The nominating committee shall select a chair and vice chair from its membership  
286 by majority vote.

287 (5) (a) The nominating committee shall nominate at least two candidates for each  
288 position or vacancy which occurs on the board of trustees except for the governor's appointee  
289 under Subsection 53C-1-202(5).

290 (b) The nominations shall be by majority vote of the committee.

291 (6) A member may not receive compensation or benefits for the member's service, but  
292 may receive per diem and travel expenses in accordance with:

293 (a) Section 63A-3-106;

294 (b) Section 63A-3-107; and

295 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and  
296 63A-3-107.

297 Section 5. Section **53C-1-204** is amended to read:

298 **53C-1-204. Policies established by board -- Director.**

299 (1) (a) The board shall establish policies for the management of the School and  
300 Institutional Trust Lands Administration.

301 (b) The policies shall:

302 (i) be consistent with the Utah Enabling Act, the Utah Constitution, and state law;

303 (ii) reflect undivided loyalty to the beneficiaries consistent with fiduciary duties;

304 (iii) require the return of not less than fair market value for the use, sale, or exchange

305 of school and institutional trust assets;

306 (iv) seek to optimize trust land revenues and increase the value of trust land holdings  
307 consistent with the balancing of short and long-term interests, so that long-term benefits are not  
308 lost in an effort to maximize short-term gains;

309 (v) maintain the integrity of the trust and prevent the misapplication of its lands and its  
310 revenues; and

311 (vi) have regard for and seek General Fund appropriation compensation for the general  
312 public's use of natural and cultural resources consistent with the duties of the administration as  
313 trustee for the beneficiaries.

314 (2) The board shall ensure that the administration is managed according to law.

315 (3) The board shall establish due process procedures governing adjudicative  
316 proceedings conducted by the board and the administration.

317 (4) The board and the director shall recommend to the governor and the Legislature any  
318 necessary or desirable changes in statutes relating to the trust or their trust responsibilities.

319 [~~5~~] Policies adopted by the Board of State Lands and Forestry prior to the effective  
320 date of this act regarding school and institutional trust lands, shall remain in effect until  
321 amended or repealed by the board.]

322 [~~6~~] (5) The board shall develop policies for the long-term benefit of the trust utilizing  
323 the broad discretion and power granted to it in this title.

324 [~~7~~] (6) (a) (i) On at least three occasions during each calendar year and in cooperation  
325 with the director, the board shall consult with an advisory committee consisting of five county  
326 commissioners appointed by the Utah Association of Counties concerning the impact of trust  
327 land management practices on rural economies.

328 (ii) The director shall notify the chair of the committee prior to any proposed board  
329 actions. At the request of the committee and prior to taking the proposed action, the board  
330 shall meet with the committee at the next scheduled board meeting.

331 (b) The association shall appoint the commissioners from five different counties based  
332 on such factors as a county's total acreage of trust lands, the revenues generated from trust  
333 lands in the county, and the potential for economic development of trust lands within the  
334 county.

335 (c) The advisory committee may request additional consultations it considers necessary

336 or appropriate, to be scheduled within a reasonable time after receipt of the request by the  
337 administration.

338 ~~[(8)]~~ (7) The board shall utilize the services of the attorney general as provided in  
339 Section 53C-1-305.

340 ~~[(9)]~~ (8) The board may:

341 (a) (i) establish advisory committees to advise the board, director, or administration on  
342 policies affecting the management of the trust, and pay the compensation and travel expenses  
343 in accordance with rules adopted by the Division of Finance; and

344 (ii) after conferring with the director, hire consultants to advise the board, director, or  
345 administration on issues affecting the management of the trust, and pay compensation to the  
346 consultants from money appropriated for that purpose;

347 (b) with the consent of the state risk manager, authorize the director to manage lands or  
348 interests in lands held by any other public or private party, if:

349 (i) all management costs are compensated by the parties;

350 (ii) there is a commensurate return to the beneficiaries; and

351 (iii) the additional responsibilities do not detract from the administration's  
352 responsibilities and its duty of undivided loyalty to the beneficiaries;

353 (c) issue subpoenas or authorize a hearing officer to issue subpoenas, to compel the  
354 attendance of witnesses and the production of documents in adjudicative proceedings  
355 authorized by law and administer oaths in the performance of official duties; and

356 (d) submit in writing to the director a request for responses, to be made within a  
357 reasonable time, to questions concerning policies and practices affecting the management of  
358 the trust.

359 ~~[(10)]~~ (9) Board members shall be given access to all administration records and  
360 personnel consistent with law and as necessary to permit the board to accomplish its  
361 responsibilities to ensure that the administration is in full compliance with applicable policies  
362 and law.

363 Section 6. Section **53C-1-302** is amended to read:

364 **53C-1-302. Management of the administration -- Trust responsibilities.**

365 (1) (a) The director has broad authority to:

366 (i) manage the School and Institutional Trust Lands Administration in fulfillment of its

367 purpose; [and]

368 (ii) establish fees, procedures, and rules consistent with general policies prescribed by  
369 the board of trustees[-]; and

370 (iii) acquire and dispose of lands and assets in accordance with law.

371 (b) The procedures and rules shall:

372 (i) be consistent with the Utah Enabling Act, the Utah Constitution, and policies of the  
373 board;

374 (ii) reflect undivided loyalty to the beneficiaries consistent with the director's fiduciary  
375 duties and responsibilities;

376 (iii) subject to Subsection (2), obtain the optimum values from use of trust lands and  
377 revenues for the trust beneficiaries, including the return of not less than fair market value for  
378 the use, sale, or exchange of school and institutional trust assets; and

379 (iv) be broadly construed to grant the board, director, and administration full  
380 discretionary authority to manage, maintain, or dispose of trust assets in the manner they  
381 consider most favorable to the beneficiaries.

382 (2) The director shall seek to optimize trust land revenues consistent with the balancing  
383 of short and long-term interests, so that long-term benefits are not lost in an effort to maximize  
384 short-term gains.

385 (3) The director shall maintain the integrity of the trust and prevent, through prudent  
386 management, the misapplication of its lands and revenues.

387 Section 7. Section **53C-1-303** is amended to read:

388 **53C-1-303. Responsibilities of director -- Budget review -- Legal counsel --**  
389 **Contract for services.**

390 (1) In carrying out the policies of the board of trustees and in establishing procedures  
391 and rules the director shall:

392 (a) take an oath of office before assuming any duties as the director;

393 (b) adopt procedures and rules necessary for the proper administration of matters  
394 entrusted to the director by state law and board policy;

395 (c) submit to the board for its review and concurrence on any rules necessary for the  
396 proper management of matters entrusted to the administration;

397 (d) faithfully manage the administration under the policies established by the board;

398 (e) submit to the board ~~[and]~~ for public inspection ~~[by October 1 of each year,]~~ an  
399 annual management budget and financial plan for operations of the administration and, after  
400 approval by the board, submit the budget to the governor;

401 (f) direct and control the budget expenditures as finally authorized and appropriated;

402 (g) establish job descriptions and employ, within the limitation of the budget, staff  
403 necessary to accomplish the purposes of the office subject to Section 53C-1-201;

404 (h) establish, in accordance with generally accepted principles of fund accounting, a  
405 system to identify and account for the assets and vested interests of each beneficiary;

406 (i) maintain appropriate records of trust activities to enable auditors appointed by  
407 appropriate state agencies or the board to conduct periodic audits of trust activities;

408 (j) provide that all leases, contracts, and agreements be submitted to legal counsel for  
409 review of compliance with applicable law and fiduciary duties prior to execution and utilize the  
410 services of the attorney general as provided in Section 53C-1-305;

411 (k) keep the board, beneficiaries, governor, Legislature, and the public informed about  
412 the work of the director and administration by reporting to the board in a public meeting at  
413 least once during each calendar quarter; and

414 (l) respond in writing within a reasonable time to a request by the board for responses  
415 to questions on policies and practices affecting the management of the trust.

416 ~~[(2) Procedures and rules adopted by the Division of State Lands and Forestry as they  
417 relate to trust lands prior to the effective date of this act remain in effect until amended or  
418 repealed by the director.]~~

419 ~~[(3)]~~ (2) The administration shall be the named party in substitution of the Division of  
420 State Lands and Forestry or its predecessor agencies, with respect to all documents affecting  
421 trust lands from the effective date of this act.

422 ~~[(4)]~~ (3) The director may:

423 (a) with the consent of the state risk manager and the board, manage lands or interests  
424 in lands held by any other public or private party pursuant to policies established by the board  
425 and may make rules to implement these board policies;

426 (b) sue or be sued as the director of school and institutional trust lands;

427 (c) contract with other public agencies for personnel management services;

428 (d) contract with any public or private entity to make improvements to or upon trust

429 lands and to carry out any of the responsibilities of the office, so long as the contract requires  
430 strict adherence to trust management principles, applicable law and regulation, and is subject to  
431 immediate suspension or termination for cause; and

432 (e) with the approval of the board enter into joint ventures and other business  
433 arrangements consistent with the purposes of the trust.

434 ~~[(5)]~~ (4) Any application or bid required for the lease, permitting, or sale of lands in a  
435 competitive process or any request for review pursuant to Section 53C-1-304 shall be  
436 considered filed or made on the date received by the appropriate administrative office, whether  
437 transmitted by United States mail or in any other manner.

438 Section 8. Section **53C-1-304** is amended to read:

439 **53C-1-304. Rules to ensure procedural due process -- Board review of director**  
440 **action -- Judicial review.**

441 (1) The board shall make rules to ensure procedural due process in the resolution of  
442 complaints concerning actions by the board, director, ~~and~~ or the administration.

443 (2) (a) ~~[An]~~ Except as provided in Subsection (2)(b), an aggrieved party to a final  
444 action by the director or the administration may petition the board for administrative review of  
445 the decision.

446 (b) Final actions by the director or administration to lease, sell, or exchange specific  
447 real property or other trust assets are not subject to administrative review.

448 (3) (a) The board may appoint a qualified hearing examiner for purposes of taking  
449 evidence and making recommendations for board action.

450 (b) The board shall consider the recommendations of the examiner in making  
451 decisions.

452 (4) (a) The board shall uphold the decision of the director or the administration unless  
453 it finds, by a preponderance of the evidence, that the decision violated applicable law, policy,  
454 or rules.

455 (b) The board shall base its final actions on findings and conclusions and shall inform  
456 the aggrieved party of its right to judicial review.

457 (5) An aggrieved party to a final action by the board may obtain judicial review of that  
458 action under Sections 63G-4-402 and 63G-4-403.

459 Section 9. Section **53C-2-102** is amended to read:

460           **53C-2-102. Information to be furnished by provider -- Director to adopt**  
461 **confidential information rules.**

462           (1) As used in this section, "provider" means a prospective applicant, applicant,  
463 partner, or lessee.

464           (2) (a) The administration may require a provider to furnish any information necessary  
465 to carry out the duties of this title, including financial information, geological and mine maps,  
466 well logs, and assays.

467           (b) Any information submitted to the administration which the provider and the  
468 director agree in writing is of a proprietary nature shall be kept confidential and may not be  
469 released without written permission from the provider.

470           (3) The director shall adopt rules under which the administration may retain, without  
471 disclosure to third parties, information including that received under Subsection (2) which the  
472 provider and the director agree is of a protected or proprietary nature, unless the information is  
473 required by federal or state law to be of a nonproprietary nature.

474           Section 10. Section **53C-2-103** is amended to read:

475           **53C-2-103. Director's authority to examine records and inspect property.**

476           [(†)] For the purpose of determining compliance with any rule or any performance or  
477 payment obligation under a lease, permit, or contract, the director may, at reasonable times,  
478 places, and intervals:

479           [(a)] (1) require that the lessee, permittee, or contractor provide any pertinent books,  
480 records, or other documents of the lessee, permittee, or contractor; [or] and

481           [(b)] (2) inspect the property acquired, used, or developed under the lease, permit, or  
482 contract after reasonable notice or as provided in the lease, permit, or contract.

483           [~~(2) Nothing in this section shall be construed to limit or invalidate audits conducted by~~  
484 ~~the Division of State Lands and Forestry prior to the effective date of this act.~~]

485           Section 11. Section **53C-2-104** is amended to read:

486           **53C-2-104. Preexisting federal mining claims on trust lands -- Filing of notice --**  
487 **Conclusive evidence of abandonment.**

488           (1) The Legislature recognizes the importance of having an effective state filing system  
489 for unpatented federal mining claims located on trust lands prior to the state's acquisition of  
490 title that would allow the state to determine the extent of preexisting unpatented mining claims



491 on those lands and eliminate the cloud on the state's title created by abandoned unpatented  
492 mining claims, while preserving the rights of owners of valid preexisting unpatented mining  
493 claims located on those lands.

494 (2) Annually on or before December 31, each owner of an unpatented lode mining  
495 claim, placer mining claim, mill site claim, or tunnel site claim located pursuant to the general  
496 mining laws of the United States on lands now owned of record by the state in trust for the  
497 common schools or other beneficiary institutions shall file with the administration a notice as  
498 prescribed by Subsection (3).

499 (3) (a) The initial notice required by Subsection (2) that is filed by a claimant shall  
500 include:

501 (i) a statement of the owner's intention to hold or abandon the claim;

502 (ii) a brief description of the type and nature of the claim;

503 (iii) the date the claim was located, and the date the claim was filed of record in county  
504 and federal records;

505 (iv) a copy of the official record of the notice of location or certificate of location of the  
506 claim; and

507 (v) a legal description of the claim, by legal subdivision or metes and bounds  
508 description, sufficient to locate the claimed lands on the ground.

509 (b) Each subsequent notice required by Subsection (2) shall include:

510 (i) the name of the claim; and

511 (ii) a statement of the owner's intention to hold or abandon the claim.

512 (4) (a) The administration shall note the existence of all claims for which notices have  
513 been filed in the central index of all trust lands required under Section 53C-2-101.

514 (b) The administration may impose a reasonable filing fee as a condition for accepting  
515 the required notices, not to exceed [~~\$50~~] \$100 per claim, to defray the administrative costs of  
516 maintaining an index of claims.

517 (5) (a) Failure to file the notice required by this section constitutes an abandonment of  
518 the claim by the owner.

519 (b) Filing of the required notice by one owner of a claim in which multiple persons  
520 own or claim interests fulfills the filing requirements of this section.

521 (6) Filing of a notice under this section does not make valid a claim which is otherwise

522 invalid under other applicable law.

523 (7) Acquisition of rights to extract minerals underlying trust lands is governed by Part  
524 4 [~~of this chapter~~], Mineral Leases.

525 (8) This section does not waive any fees, filings, or other requirements imposed by  
526 federal law.

527 Section 12. Section **53C-2-105** is amended to read:

528 **53C-2-105. Withdrawal of trust lands from leasing or other dispositions.**

529 [(+) The director may at any time withdraw trust lands from:

530 (1) applications for leasing, permitting, sale, or other disposition of any nature upon a  
531 finding that the interests of the trust would best be served through withdrawal[-]; or

532 (2) surface occupancy or use upon a finding that continued use would cause resource  
533 degradation.

534 [~~(2) Any withdrawal which is in force on May 5, 2003, shall continue in force until~~  
535 ~~revoked by the director.]~~

536 Section 13. Section **53C-2-301** is amended to read:

537 **53C-2-301. Trespassing on trust lands -- Penalties.**

538 (1) A person is liable for the civil damages prescribed in Subsection (2) and, unless a  
539 greater penalty is prescribed in another part of the law, is guilty of a class B misdemeanor if the  
540 person, without written authorization from the director:

541 (a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand,  
542 soil, vegetation, water resource, or improvement on trust lands;

543 (b) grazes livestock on trust lands;

544 (c) uses, occupies, or constructs improvements or structures on trust lands;

545 (d) uses or occupies trust lands for more than 30 days after the cancellation or  
546 expiration of written authorization;

547 (e) knowingly and willfully uses trust lands for commercial gain;

548 (f) appropriates, alters, injures, or destroys any improvement or any historical,  
549 prehistorical, archaeological, or paleontological resource on trust lands;

550 (g) trespasses upon, uses, commits waste, dumps refuse, or occupies trust land;

551 (h) interferes with the activities of an employee or agent of the administration on trust  
552 lands; or

553 (i) interferes with activities of a lessee or other person which have been authorized by  
554 the administration.

555 (2) A person who commits any act described in Subsection (1) is liable for damages in  
556 the amount of whichever of the following is greatest:

557 (a) three times the value at the point of sale of the mineral or other resource removed,  
558 destroyed, or extracted;

559 (b) three times the amount of damage committed;

560 (c) three times the cost to cure the damage;

561 ~~(d)~~ (d) three times the value of any losses suffered as a result of interference with  
562 authorized activities; or

563 ~~(e)~~ (e) three times the consideration which would have been charged by the director  
564 for use of the land during the period of trespass~~[, whichever is greater]~~.

565 (3) In addition to the damages described in Subsection (2), a person found guilty of a  
566 criminal act under Subsection (1) is subject to the penalties provided in Title 76, Chapter 3,  
567 Punishments.

568 (4) The director shall deposit money collected under this section in the fund in which  
569 like revenues from that land would be deposited.

570 (5) The director may award a portion of any of the damages collected under this section  
571 in excess of actual damages to the general fund of the county in which the trespass occurred as  
572 a reward for county assistance in the apprehension and prosecution of the trespassing party.

573 Section 14. Section **53C-2-404** is amended to read:

574 **53C-2-404. Applicants for mineral leases -- Qualifications.**

575 Applicants for mineral leases must, throughout the application period and throughout  
576 the duration of the lease, be in full compliance with all of the laws of the state as to  
577 qualification to do business within the state and must not be in default under those laws or the  
578 rules of the administration.

579 Section 15. Section **53C-2-407** is amended to read:

580 **53C-2-407. Mineral lease application procedures.**

581 (1) Lands that are not encumbered by a current mineral lease for the same resource, a  
582 withdrawal order, or other rule of the director prohibiting the lease of the lands, may be offered  
583 for lease as provided in this section or may, with board approval, be committed to another

584 contractual arrangement under Subsection 53C-2-401(1)(d).

585 (2) (a) A notice of the land available for leasing shall be posted in the administration's  
586 office.

587 (b) The notice shall:

588 (i) describe the land;

589 (ii) indicate what mineral interest in each tract is available for leasing; and

590 (iii) state the last date, which shall be no less than 15 days after the notice is posted, on  
591 which bids may be received.

592 (3) (a) Applications for the lease of lands filed before the closing date stated in the  
593 notice shall be considered to be filed simultaneously.

594 (b) The applications shall be:

595 (i) submitted in sealed envelopes; and

596 (ii) opened in the administration's office at [~~10:00~~] 10 a.m. of the first business day  
597 following the last day on which bids may be received.

598 (c) Leases shall be awarded to the highest responsible, qualified bidder, in terms of the  
599 bonus paid in addition to the first year's rental, who submitted a bid in the manner required.

600 (d) In cases of identical bids of successful bidders:

601 (i) the right to lease shall be determined by drawing or oral auction;

602 (ii) the determination of whether to award the lease by drawing or oral auction shall be  
603 made at the sole discretion of the director; and

604 (iii) the drawing or oral auction shall be held in public at the administration's office in a  
605 manner calculated to optimize the return to the trust land beneficiary.

606 (4) (a) At the discretion of the director, mineral leases may be offered at an oral public  
607 auction.

608 (b) The director may set a minimum bid for a public auction.

609 (5) The director may award a mineral lease without following the competitive bidding  
610 procedures specified in Subsections (3) and (4) or conducting an oral public auction, if the  
611 mineral lessee waives or relinquishes to the trust a prior mining claim, mineral lease, or other  
612 right which in the opinion of the director might otherwise:

613 (a) defeat or encumber the selection of newly acquired land, either for indemnity or  
614 other purposes, or the acquisition by the trust of any land; or

615 (b) cloud the title to any of those lands.

616 (6) Following the awarding of a lease to a successful bidder, deposits, except filing  
617 fees, made by unsuccessful bidders shall be returned to those bidders.

618 (7) (a) [~~Lands~~] Subject to Section 53C-2-104, lands acquired through exchange or  
619 indemnity selection from the federal government shall be subject to the vested rights of  
620 unpatented mining claimants under the Mining Law of 1872, as amended, and other federal  
621 vested rights, both surface and minerals.

622 (b) Subsection (7)(a) does not prevent the director from negotiating the  
623 accommodation of vested rights through any method acceptable to the parties.

624 (8) The director may lease lands in the order in which applications are filed if:

625 (a) the director offers trust lands for lease for mineral purposes according to the  
626 procedures in Subsections (3) through (6) and the lands are not leased; or

627 (b) a period of time of not less than one year but less than three years has elapsed  
628 following:

629 (i) a revocation of a withdrawal; or

630 (ii) the date an existing mineral lease is canceled, relinquished, surrendered, or  
631 terminated.

632 Section 16. Section **53C-3-101** is amended to read:

633 **53C-3-101. Land Grant Management Fund -- Contents -- Use of money.**

634 (1) (a) There is created an enterprise fund known as the Land Grant Management Fund.

635 (b) This fund shall consist of:

636 (i) all revenues derived from trust lands except revenues from the sale of those lands;

637 (ii) all interest earned by the fund;

638 (iii) all revenues deposited in the fund in accordance with Subsection 41-22-19(3); and

639 (iv) all revenues obtained from other activities of the director or administration.

640 (2) The director may expend money:

641 (a) from the Land Grant Management Fund in accordance with the approved budget for  
642 the support of director and administration activities; and

643 (b) deposited in the fund in accordance with Subsection 41-22-19(3) as necessary to  
644 fulfill the purposes of Subsection 41-22-19(3)(b).

645 (3) Except for revenues deposited under Subsection (1)(b)(iii), any amount in excess of

646 that required to fund the budget shall be distributed to the various trust beneficiaries as of June  
647 30 of each calendar year, and at other times determined by the director, in shares equal to the  
648 portion of total Land Grant Management Fund revenues obtained from each beneficiary's land  
649 during the accounting period.

650 (4) Money from the lease or rental of school trust lands or from the use, sale, or lease  
651 of resources on school trust lands, all sums paid for fees, [~~including grazing fees,~~] and all  
652 forfeitures or penalties received in connection with those transactions shall be deposited in the  
653 Permanent State School Fund.

654 (5) Money from the lease or rental of lands acquired by the state for the benefit of an  
655 institution named in Sections 7, 8, and 12 of the Utah Enabling Act, or from the use, sale, or  
656 lease of renewable or nonrenewable resources on those lands, and all forfeitures or penalties  
657 received in connection with those transactions, shall be distributed to the institution.

658 (6) Except for revenues deposited under Subsection (1)(b)(iii), any remaining money,  
659 including interest earned on the account, shall be distributed in pro rata shares to the various  
660 beneficiaries.

661 Section 17. Section **53C-3-203** is amended to read:

662 **53C-3-203. Land Exchange Distribution Account.**

663 (1) As used in this section, "account" means the Land Exchange Distribution Account  
664 created in Subsection (2)(a).

665 (2) (a) There is created within the General Fund a restricted account known as the Land  
666 Exchange Distribution Account.

667 (b) The account shall consist of revenue deposited in the account as required by  
668 Section 53C-3-202.

669 (3) (a) The state treasurer shall invest money in the account according to Title 51,  
670 Chapter 7, State Money Management Act.

671 (b) The Division of Finance shall deposit interest or other earnings derived from  
672 investment of account money into the General Fund.

673 (4) The Legislature shall annually appropriate from the account in the following order:

674 (a) \$1,000,000 to the Constitutional Defense Restricted Account, created in 63C-4-103,  
675 to be used in accordance with Subsection 63C-4-103(6) for:

676 (i) fiscal year 2010-11;

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 Permanent Community Impact Fund Board shall consult with the

708 administration before awarding the grants described in 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.



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

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

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

746 (7) Upon payment in full of principal and interest and the surrender of the original  
747 certificate of sale for any tract of land sold, [or] payment in full of any amounts required to be  
748 paid for the partial release of property, or acceptance of appropriate conveyance documents in  
749 satisfaction of a land exchange, the governor, or the governor's designee, shall issue a patent to  
750 the purchaser, heir, assignee, successor in interest, or other grantee as determined by the  
751 director.

752 (8) (a) If a purchaser of trust lands defaults in the payment of any installment of  
753 principal or interest due under the terms of the contract of sale, the director shall notify the  
754 purchaser that if the default is not corrected within 30 days after issuance of the notice the  
755 director shall proceed with any remedy which the administration may pursue under law or the  
756 contract of sale.

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

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

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

764 Section 20. Section **53C-4-201** is amended to read:

765 **53C-4-201. Surface leases and user permits -- Procedures for issuing leases and**  
766 **user permits.**

767 (1) The director may issue surface leases and user permits of trust lands for any term  
768 consistent with sound and prudent real estate practices.

769 (2) This section does not apply to leases for grazing, oil, gas, and hydrocarbons, or

770 other minerals.

771 (3) (a) (i) Surface leases or user permits may be entered into by negotiation, public  
772 auction, or other public competitive bidding process as determined by rules of the director.

773 ~~[(ii) Any lease or permit which includes an option to purchase at a future date must be~~  
774 ~~entered into through a public competitive process.]~~

775 (ii) The director may lease trust lands for development and subsequent sale of all or  
776 portions of such lands to third parties for no less than fair market value.

777 (b) Requests for proposals (RFP) on trust lands may be offered by the director after  
778 public notice.

779 Section 21. Section **53C-4-301** is amended to read:

780 **53C-4-301. Exchange of trust lands -- Based on equal value -- Lands encumbered**  
781 **by a lease.**

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

784 (b) The director~~[, upon authorization from the governor,]~~ shall ~~[execute and]~~ deliver the  
785 necessary patents to other proprietors and receive proper deeds for the lands exchanged.

786 ~~[(c) The director may not make an exchange until a deed or patent for the land received~~  
787 ~~in exchange has been issued by the proprietors.]~~

788 (c) The director shall issue, deliver, and accept conveyance documents in land  
789 exchanges in accordance with accepted real estate closing practices.

790 (2) (a) If trust lands are encumbered by an existing lease, the director may, upon  
791 approval of an exchange, and with the consent of the lessee, terminate the existing lease and  
792 issue a lease of the same type on lands ~~[of comparable acreage or value]~~ which may be  
793 acquired in the same exchange in which the leased lands are used as base.

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

795 Section 22. Section **63J-1-504** is amended to read:

796 **63J-1-504. Fees -- Adoption, procedure, and approval -- Establishing and**  
797 **assessing fees without legislative approval.**

798 (1) As used in this section:

799 (a) (i) "Agency" means each department, commission, board, council, agency,  
800 institution, officer, corporation, fund, division, office, committee, authority, laboratory, library,

801 unit, bureau, panel, or other administrative unit of the state.

802 (ii) "Agency" does not mean the Legislature or its committees.

803 (b) "Fee agency" means any agency that is authorized to establish fees.

804 (c) "Fee schedule" means the complete list of fees charged by a fee agency and the  
805 amount of those fees.

806 (2) Each fee agency shall adopt a schedule of fees assessed for services provided by the  
807 fee agency that are:

808 (a) reasonable, fair, and reflect the cost of services provided; and

809 (b) established according to a cost formula determined by the director of the Governor's  
810 Office of Planning and Budget and the director of the Division of Finance in conjunction with  
811 the agency seeking to establish the fee.

812 (3) Except as provided in Subsection (6), a fee agency may not:

813 (a) set fees by rule; or

814 (b) create, change, or collect any fee unless the fee has been established according to  
815 the procedures and requirements of this section.

816 (4) Each fee agency that is proposing a new fee or proposing to change a fee shall:

817 (a) present each proposed fee at a public hearing, subject to the requirements of Title  
818 52, Chapter 4, Open and Public Meetings Act;

819 (b) increase, decrease, or affirm each proposed fee based on the results of the public  
820 hearing;

821 (c) except as provided in Subsection (6), submit the fee schedule to the Legislature as  
822 part of the agency's annual appropriations request; and

823 (d) where necessary, modify the fee schedule to implement the Legislature's actions.

824 (5) (a) Each fee agency shall submit its fee schedule or special assessment amount to  
825 the Legislature for its approval on an annual basis.

826 (b) The Legislature may approve, increase or decrease and approve, or reject any fee  
827 submitted to it by a fee agency.

828 (6) After conducting the public hearing required by this section, a fee agency may  
829 establish and assess fees without first obtaining legislative approval if:

830 (a) (i) the Legislature creates a new program that is to be funded by fees to be set by the  
831 Legislature;

832 (ii) the new program's effective date is before the Legislature's next annual general  
833 session; and

834 (iii) the fee agency submits the fee schedule for the new program to the Legislature for  
835 its approval at a special session, if allowed in the governor's call, or at the next annual general  
836 session of the Legislature, whichever is sooner;

837 (b) the Division of Occupational and Professional licensing makes a special  
838 assessment against qualified beneficiaries under the Residence Lien Restriction and Lien  
839 Recovery Fund Act as provided in Subsection 38-11-206(1); or

840 (c) (i) the fee agency proposes to increase or decrease an existing fee for the purpose of  
841 adding or removing a transactional fee that is charged or assessed by a non-governmental third  
842 party but is included as part of the fee charged by the fee agency;

843 (ii) the amount of the increase or decrease in the fee is equal to the amount of the  
844 transactional fee charged or assessed by the non-governmental third party; and

845 (iii) the increased or decreased fee is submitted to the Legislature for its approval at a  
846 special session, if allowed in the governor's call, or at the next annual session of the  
847 Legislature, whichever is sooner.

848 (7) (a) Each fee agency that wishes to change any fee shall submit to the governor as  
849 part of the agency's annual appropriation request a list that identifies:

850 (i) the title or purpose of the fee;

851 (ii) the present amount of the fee;

852 (iii) the proposed new amount of the fee;

853 (iv) the percent that the fee will have increased if the Legislature approves the higher  
854 fee;

855 (v) the estimated total annual revenue change that will result from the change in the  
856 fee;

857 (vi) the account or fund into which the fee will be deposited; and

858 (vii) the reason for the change in the fee.

859 (b) (i) The governor may review and approve, modify and approve, or reject the fee  
860 increases.

861 (ii) The governor shall transmit the list required by Subsection (7)(a), with any  
862 modifications, to the Legislative Fiscal Analyst with the governor's budget recommendations.

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 School and Institutional Trust Lands Administration, established in 53C-1-201,  
866 is exempt from the requirements of this section.

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.

# FISCAL NOTE

H.B. 51 1st Sub. (Buff)

SHORT TITLE: School and Institutional Trust Lands

SPONSOR: Barrus, R.

2011 GENERAL SESSION, STATE OF UTAH

## STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will increase the revenue to the Permanent Trust Fund by up to \$1,400 per year.

### STATE BUDGET DETAIL TABLE

	FY 2011	FY 2012	FY 2013
Revenue:			
Trust Funds	\$0	\$1,400	\$1,400
Total Revenue	\$0	\$1,400	\$1,400
Expenditure	\$0	\$0	\$0
Net Impact, All Funds (Rev.-Exp.)	\$0	\$1,400	\$1,400
Net Impact, General/Education Funds	\$0	\$0	\$0

## LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for local governments.

## DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Up to 28 claimants might pay \$50 more per claim for a total cost of \$1,400.