

**TRANSFER OF PUBLIC LANDS ACT AND RELATED
STUDY**

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Wayne L. Niederhauser

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28 **LONG TITLE**

29 **General Description:**

30 This bill addresses issues related to public lands, including the transfer of title to public
31 lands to the state and requiring the Constitutional Defense Council to study or draft
32 proposed legislation on certain issues related to public lands.

33 **Highlighted Provisions:**

34 This bill:

- 35 ▶ enacts the Transfer of Public Lands Act;
- 36 ▶ defines terms;
- 37 ▶ requires the United States to extinguish title to public lands and transfer title to
38 those public lands to the state on or before December 31, 2014;
- 39 ▶ provides that if the state transfers title to public lands with respect to which the state
40 receives title to the public lands under the Transfer of Public Lands Act, the state
41 shall retain 5% of the net proceeds the state receives, and pay 95% of the net
42 proceeds the state receives to the United States;
- 43 ▶ provides that the 5% of the net proceeds of those sales of public lands shall be
44 deposited into the permanent State School Fund;
- 45 ▶ provides a severability clause;
- 46 ▶ requires the Constitutional Defense Council to study or draft legislation on certain
47 issues related to the transfer, management, and taxation of public lands, including:
 - 48 • drafting proposed legislation creating a public lands commission; and
 - 49 • establishing actions that shall be taken to secure, preserve, and protect the state's
50 rights and benefits related to the United States' duty to have extinguished title to
51 public lands and transferred title to those public lands to the state; and
- 52 ▶ makes technical and conforming changes.

53 **Money Appropriated in this Bill:**

54 None

55 **Other Special Clauses:**

56 This bill provides an immediate effective date.

57 **Utah Code Sections Affected:**

58 ENACTS:

59 **63L-6-101**, Utah Code Annotated 1953

60 **63L-6-102**, Utah Code Annotated 1953

61 **63L-6-103**, Utah Code Annotated 1953

62 **63L-6-104**, Utah Code Annotated 1953

63 **Uncodified Material Affected:**

64 ENACTS UNCODIFIED MATERIAL



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

67 Section 1. Section **63L-6-101** is enacted to read:

68 **CHAPTER 6. TRANSFER OF PUBLIC LANDS ACT**

69 **63L-6-101. Title.**

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

71 Section 2. Section **63L-6-102** is enacted to read:

72 **63L-6-102. Definitions.**

73 As used in this chapter:

74 (1) "Governmental entity" is as defined in Section 59-2-511.

75 (2) "Net proceeds" means the proceeds from the sale of public lands, after subtracting
76 expenses incident to the sale of the public lands.

77 (3) "Public lands" means lands within the exterior boundaries of this state except:

78 (a) lands to which title is held by a person who is not a governmental entity;

79 (b) lands owned or held in trust by this state, a political subdivision of this state, or an
80 independent entity;

81 (c) lands reserved for use by the state system of public education as described in Utah
82 Constitution Article X, Section 2, or a state institution of higher education listed in Section

83 53B-1-102;

84 (d) school and institutional trust lands as defined in Section 53C-1-103;

85 (e) lands within the exterior boundaries as of January 1, 2012, of the following that are
86 designated as national parks:

- 87 (i) Arches National Park;
- 88 (ii) Bryce Canyon National Park;
- 89 (iii) Canyonlands National Park;
- 90 (iv) Capitol Reef National Park; and
- 91 (v) Zion National Park;

92 (f) lands within the exterior boundaries as of January 1, 2012, of the following national
93 monuments managed by the National Park Service as of January 1, 2012:

- 94 (i) Cedar Breaks National Monument;
- 95 (ii) Dinosaur National Monument;
- 96 (iii) Hovenweep National Monument;
- 97 (iv) Natural Bridges National Monument;
- 98 (v) Rainbow Bridge National Monument; and
- 99 (vi) Timpanogos Cave National Monument;

100 (g) lands within the exterior boundaries as of January 1, 2012, of the Golden Spike
101 National Historic Site;

102 (h) lands within the exterior boundaries as of January 1, 2012, of the following
103 wilderness areas located in the state that, as of January 1, 2012, are designated as part of the
104 National Wilderness Preservation System under the Wilderness Act of 1964, 16 U.S.C. 1131
105 et seq.:

- 106 (i) Ashdown Gorge Wilderness;
- 107 (ii) Beartrap Canyon Wilderness;
- 108 (iii) Beaver Dam Mountains Wilderness;
- 109 (iv) Black Ridge Canyons Wilderness;
- 110 (v) Blackridge Wilderness;
- 111 (vi) Box-Death Hollow Wilderness;
- 112 (vii) Canaan Mountain Wilderness;

- 113 (viii) Cedar Mountain Wilderness;
- 114 (ix) Cottonwood Canyon Wilderness;
- 115 (x) Cottonwood Forest Wilderness;
- 116 (xi) Cougar Canyon Wilderness;
- 117 (xii) Dark Canyon Wilderness;
- 118 (xiii) Deep Creek Wilderness;
- 119 (xiv) Deep Creek North Wilderness;
- 120 (xv) Deseret Peak Wilderness;
- 121 (xvi) Doc's Pass Wilderness;
- 122 (xvii) Goose Creek Wilderness;
- 123 (xviii) High Uintas Wilderness;
- 124 (xix) LaVerkin Creek Wilderness;
- 125 (xx) Lone Peak Wilderness;
- 126 (xxi) Mount Naomi Wilderness;
- 127 (xxii) Mount Nebo Wilderness;
- 128 (xxiii) Mount Olympus Wilderness;
- 129 (xxiv) Mount Timpanogos Wilderness;
- 130 (xxv) Paria Canyon-Vermilion Cliffs Wilderness;
- 131 (xxvi) Pine Valley Mountain Wilderness;
- 132 (xxvii) Red Butte Wilderness;
- 133 (xxviii) Red Mountain Wilderness;
- 134 (xxix) Slaughter Creek Wilderness;
- 135 (xxx) Taylor Creek Wilderness;
- 136 (xxxi) Twin Peaks Wilderness;
- 137 (xxxii) Wellsville Mountain Wilderness; and
- 138 (xxxiii) Zion Wilderness;
- 139 (i) lands with respect to which the jurisdiction is ceded to the United States as provided
- 140 in Section 63L-1-201 or 63L-1-203;

141 (j) real property or tangible personal property owned by the United States if the
142 property is within the boundaries of a municipality; or

143 (k) lands, including water rights, belonging to an Indian or Indian tribe, band, or
144 community that is held in trust by the United States or is subject to a restriction against
145 alienation imposed by the United States.

146 Section 3. Section **63L-6-103** is enacted to read:

147 **63L-6-103. Transfer of public lands.**

148 (1) On or before December 31, 2014, the United States shall:

149 (a) extinguish title to public lands; and

150 (b) transfer title to public lands to the state.

151 (2) If the state transfers title to any public lands with respect to which the state receives
152 title under Subsection (1)(b), the state shall:

153 (a) retain 5% of the net proceeds the state receives from the transfer of title; and

154 (b) pay 95% of the net proceeds the state receives from the transfer of title to the
155 United States.

156 (3) In accordance with Utah Constitution Article X, Section 5, the amounts the state
157 retains in accordance with Subsection (2)(a) shall be deposited into the permanent State School
158 Fund.

159 Section 4. Section **63L-6-104** is enacted to read:

160 **63L-6-104. Severability clause.**

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

165 Section 5. **Constitutional Defense Council study.**

166 (1) During the 2012 interim, the Constitutional Defense Council created in Section
167 63C-4-101 shall prepare proposed legislation:

168 (a) creating a public lands commission to:

169 (i) administer the transfer of title of public lands to the state; and
170 (ii) address the management of public lands and the management of multiple uses of
171 public lands, including addressing managing open space, access to public lands, local planning,
172 and the sustainable yield of natural resources on public lands;
173 (b) to establish actions that shall be taken to secure, preserve, and protect the state's
174 rights and benefits related to the United States' duty to have extinguished title to public lands,
175 in the event that the United States does not meet the requirements of Title 63L, Chapter 6,
176 Transfer of Public Lands Act;
177 (c) making any necessary modifications to the definition of "public lands" in Section
178 63L-6-102, including any necessary modifications to a list provided in Subsections
179 63L-6-102(3)(e) through (h);
180 (d) making a determination of or a process for determining interests, rights, or uses
181 related to:
182 (i) easements;
183 (ii) geothermal resources;
184 (iii) grazing;
185 (iv) mining;
186 (v) natural gas;
187 (vi) oil;
188 (vii) recreation;
189 (viii) rights of entry;
190 (ix) special uses;
191 (x) timber;
192 (xi) water; or
193 (xii) other natural resources or other resources; and
194 (e) determining what constitutes "expenses incident to the sale of public lands"
195 described in Subsection 63L-6-102(2).
196 (2) During the 2012 interim, the Constitutional Defense Council created in Section

197 63C-4-101 shall study and determine whether to prepare proposed legislation:
198 (a) to administer the process for:
199 (i) the United States to extinguish title to public lands;
200 (ii) the state to receive title to public lands from the United States; or
201 (iii) the state to transfer title to any public lands the state receives in accordance with
202 Title 63L, Chapter 6, Transfer of Public Lands Act;
203 (b) establishing a prioritized list of management actions for the state and the political
204 subdivisions of the state to perform on public lands:
205 (i) before and after the United States extinguishes title to public lands; and
206 (ii) to preserve and promote the state's interest in:
207 (A) protecting public health and safety;
208 (B) preventing catastrophic wild fire and forest insect infestation;
209 (C) preserving watersheds;
210 (D) preserving and enhancing energy and the production of minerals;
211 (E) preserving and improving range conditions; and
212 (F) increasing plant diversity and reducing invasive weeds on range and woodland
213 portions of the public lands;
214 (c) establishing procedures and requirements for subjecting public lands to property
215 taxation;
216 (d) establishing other requirements related to national forests, national recreation areas,
217 or other public lands administered by the United States; and
218 (e) addressing the indemnification of a political subdivision of the state for actions
219 taken in furtherance of Title 63L, Chapter 6, Transfer of Public Lands Act.
220 (3) The Constitutional Defense Council may study any other issue related to public
221 lands as determined by the Constitutional Defense Council.
222 (4) The Constitutional Defense Council shall:
223 (a) make a preliminary report on its study and preparation of proposed legislation to the
224 Natural Resources, Agriculture, and Environment Interim Committee and the Education

225 Interim Committee:

226 (i) on or before the June 2012 interim meeting; and

227 (ii) on or before the September 2012 interim meeting; and

228 (b) report on its findings, recommendations, and proposed legislation to the Natural

229 Resources, Agriculture, and Environment Interim Committee and the Education Interim

230 Committee on or before the November 2012 interim meeting.

231 **Section 6. Effective date.**

232 If approved by two-thirds of all the members elected to each house, this bill takes effect

233 upon approval by the governor, or the day following the constitutional time limit of Utah

234 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,

235 the date of veto override.