UTAH PUBLIC LAND MANAGEMENT ACT AMENDMENTS
2017 GENERAL SESSION
STATE OF UTAH
Chief Sponsor: Michael E. Noel
Senate Sponsor: Margaret Dayton
LONG TITLE
General Description:
This bill modifies provisions in the Utah Public Land Management Act.
Highlighted Provisions:
This bill:
 states that public land shall be managed, as much as possible, to promote multiple
uses of the land, including hunting;
 describes the process to sell or exchange a parcel of public land;
 states that a county sheriff is the primary law enforcement authority on public land;
 creates the prospective Department of Land Management;
 describes the procedure to select the director of the Department of Land
Management; and
makes technical changes.
Money Appropriated in this Bill:
None
Other Special Clauses:
None
Utah Code Sections Affected:
AMENDS:
63L-8-102, as enacted by Laws of Utah 2016, Chapter 317
63L-8-103, as enacted by Laws of Utah 2016, Chapter 317
63L-8-104, as enacted by Laws of Utah 2016, Chapter 317
63L-8-105, as enacted by Laws of Utah 2016, Chapter 317

```
30
             63L-8-302, as enacted by Laws of Utah 2016, Chapter 317
31
            63L-8-304, as enacted by Laws of Utah 2016, Chapter 317
32
            63L-8-308, as enacted by Laws of Utah 2016, Chapter 317
33
            63L-8-402, as enacted by Laws of Utah 2016, Chapter 317
34
            63L-8-602, as enacted by Laws of Utah 2016, Chapter 317
35
             79-2-201, as last amended by Laws of Utah 2016, Chapter 317
36
     ENACTS:
37
            63L-8-204, Utah Code Annotated 1953
38
     RENUMBERS AND AMENDS:
39
             63L-9-101, (Renumbered from 79-6-101, as enacted by Laws of Utah 2016, Chapter
     317)
40
41
            63L-9-102, (Renumbered from 79-6-102, as enacted by Laws of Utah 2016, Chapter
42
     317)
43
            63L-9-103, (Renumbered from 79-6-103, as enacted by Laws of Utah 2016, Chapter
44
     317)
45
            63L-9-104, (Renumbered from 79-6-104, as enacted by Laws of Utah 2016, Chapter
46
     317)
47
            63L-9-105, (Renumbered from 79-6-105, as enacted by Laws of Utah 2016, Chapter
48
     317)
49
50
     Be it enacted by the Legislature of the state of Utah:
51
             Section 1. Section 63L-8-102 is amended to read:
52
            63L-8-102. Definitions.
53
            As used in this chapter:
54
            (1) "Board" means the board created in Section 79-6-104.
55
            (2) "Commissioner" means the commissioner of the Department of Agriculture and
     Food, or the commissioner's designee.
56
            (3) "DAF" means the Department of Agriculture and Food.
57
```

(4) "Director" means the director of the [Division] Department of Land Management or the director's designee.

- (5) "DLM" means the [Division] Department of Land Management, [a division] created [within the Department of Natural Resources] in Section [79-6-102] 63L-9-102.
- (6) "Grazing permit" means a document, issued by the [Division] Department of Land Management, authorizing use of public land for the purpose of grazing domestic livestock.
- (7) "Land use authorization" means an easement, lease, permit, or license to occupy, use, or traverse public land granted for a particular purpose.
- (8) "Minerals" means all classes of inorganic material upon, within, or beneath the surface of public land, including silver, gold, copper, lead, zinc, uranium, gemstones, potash, gypsum, clay, salts, sand, rock, gravel, oil, oil shale, oil sands, gas, coal, and all carboniferous materials.
 - (9) "Multiple use" means:

- (a) the management of the public land and the public land's various resource values so resources are best utilized in the combination that will meet the present and future needs of the citizens of Utah;
- (b) making the most judicious use of land for some or all of the resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions;
- (c) a combination of balanced and diverse resource uses that take into account the long-term needs of future generations for renewable and nonrenewable resources, including recreation, hunting.fishing.trapping.t
- (d) harmonious and coordinated management of the various resources without permanent impairment of the productivity of the land and the quality of the environment with consideration being given to the relative values of the resources.
 - (10) "Public land" means any land or land interest:
- (a) acquired by the state from the federal government pursuant to Section 63L-6-103,

80	except:
87	[(a)] (i) areas subsequently designated as a protected wilderness area, as described in
88	Title 63L, Chapter 7, Utah Wilderness Act; and
89	[(b)] (ii) lands managed by the School and Institutional Trust Lands Administration
90	pursuant to Title 53C, School and Institutional Trust Lands Management Act[-]; or
91	(b) for which the state is given management responsibility from the federal government.
92	(11) "Rangeland" means open public land used for grazing domestic livestock.
93	(12) "Sustained yield" means the achievement and maintenance in perpetuity of a
94	high-level annual or regular periodic output of the various renewable resources of the public
95	land consistent with multiple use.
96	(13) "Wilderness" means the same as that term is defined in Section 63L-7-103.
97	Section 2. Section 63L-8-103 is amended to read:
98	63L-8-103. Principal or major use.
99	Each parcel of public land in this state shall be managed, as much as possible, to
100	promote the following principal or major uses of the land, consistent with the principles of
101	multiple use and sustained yield:
102	(1) domestic livestock grazing;
103	(2) fish and wildlife development and utilization, including hunting, fishing, and
104	trapping;
105	(3) mineral exploration and production;
106	(4) rights-of-way;
107	(5) outdoor recreation;
108	(6) timber production; and
109	(7) wilderness conservation.
110	Section 3. Section 63L-8-104 is amended to read:
111	63L-8-104. Declaration of policy Sales and exchanges.
112	(1) The Legislature declares that it is the policy of the state that:
113	(a) public land be retained in state ownership consistent with the provisions of this

114	chapter for the enjoyment and betterment of the public and the state;
115	(b) public land may not be sold, except:
116	(i) as consistent with <u>Section 63L-8-204</u> and the other provisions of this chapter;
117	(ii) as consistent with local land use plans;
118	(iii) with the approval of the director and the board;
119	(iv) after sufficient opportunity for public comment; and
120	(v) for an important public interest;
121	(c) goals and objectives be established by law as guidelines for public land use planning,
122	and that management be on the basis of multiple use and sustained yield, unless otherwise
123	provided by statute; and
124	(d) the public land be managed in a manner that will:
125	(i) recognize the state's need for domestic sources of minerals, food, timber, and fiber;
126	(ii) protect the quality of scientific, scenic, historical, ecological, environmental, air and
127	atmospheric, water resource, and archeological values;
128	(iii) where appropriate, preserve and protect certain public land in its natural condition;
129	(iv) provide food and habitat for fish, wildlife, and domestic animals; and
130	(v) provide for hunting, fishing, trapping, outdoor recreation, human occupancy, and
131	other human use, including the general enjoyment of nature and solitude.
132	(2) All rules made to effectuate the purposes of this chapter shall be made in accordance
133	with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
134	Section 4. Section 63L-8-105 is amended to read:
135	63L-8-105. Interdepartmental cooperation.
136	(1) The director, subject to periodic review of the Legislature, may establish programs
137	to conduct projects, planning, permitting, leasing, contracting and other activities on public
138	land.
139	(2) (a) The director shall provide management policies and programs for all uses of
140	public land, including the principal or major uses described in Section 63L-8-103.
141	(b) The director shall consult with the commissioner, who may make recommendations

142	to the director on rangeland management issues on public land, including:
143	(i) determining the number of domestic animals that may be sustained on a tract of land
144	while maintaining that land for wildlife and fish use and future grazing use; and
145	(ii) issuing grazing permits.
146	(c) The director shall consult with other state agencies having management
147	responsibility over natural resources that may be impacted by management decisions and actions
148	on public land, including the Department of Natural Resources, the Department of Agriculture
149	and Food, and the Division of Wildlife Resources.
150	Section 5. Section 63L-8-204 is enacted to read:
151	63L-8-204. Exchanges and sales.
152	(1) (a) It is the policy of this state that exchanges of public land are preferred to any
153	sale of public land, and that when pursuing an exchange, an exchange with the School and
154	Institutional Trust Lands Administration is preferred to an exchange with any other party.
155	(b) If the DLM proposes an exchange of public land for a different parcel of land, the
156	land the DLM seeks to acquire shall be larger in acreage or considered more valuable for one or
157	more of the principal or major uses described in Section 63L-8-103 than the land the DLM is
158	offering in exchange.
159	(c) The state may exchange a parcel of public land with the federal government, the
160	School and Institutional Trust Lands Administration, or a private party for a similarly valued
161	parcel of land if:
162	(i) no more than 1,000 acres of public land is exchanged with the federal government,
163	the School and Institutional Trust Lands Administration, or the private party in one calendar
164	year; or
165	(ii) the exchange is approved by a two-thirds vote of the Legislature.
166	(2) The DLM may execute a sale of a parcel of public land if:
167	(a) the requirements of Subsection 63L-8-104(1)(b) have been met;
168	(b) the following information is made available on the DLM's website for 30 days
169	before the day on which the director executes the sale:

170	(i) the legal description of the parcel;
171	(ii) the local land use plan governing the parcel;
172	(iii) the proposed purchaser of the parcel;
173	(iv) the DLM's findings that the sale will further an important public objective, including
174	expansion of a local community;
175	(v) the minutes or a recording of a meeting in which the public comment was taken on
176	the proposed sale; and
177	(vi) the purchase price, which may not be less than fair market value;
178	(c) the director, having completed the land use planning process described in Section
179	63L-8-202, has determined that the parcel in question:
180	(i) is not suitable for long-term management by the DLM or another state agency
181	because of the parcel's location or other characteristics; and
182	(ii) has minimal value for hunting, fishing, or other outdoor recreation;
183	(d) the parcel is 100 acres or smaller;
184	(e) the director has determined an exchange, as described in Subsection (1), is not
185	possible;
186	(f) a competitive bidding process is used to determine the purchaser of the parcel;
187	(g) the sale is approved by a two-thirds vote of the Legislature; and
188	(h) the sale is approved by the governor.
189	(3) All proceeds of a sale under Subsection (2) shall be:
190	(a) deposited in the Public Land Management Fund created in Section 63L-8-308; and
191	(b) used to:
192	(i) acquire additional land that the DLM has determined would be appropriate for public
193	purposes;
194	(ii) improve existing public land for one or more principal or major uses, as described in
195	Section 63L-8-103; and
196	(iii) increase the utilization of the public land by the public.
197	Section 6. Section 63L-8-302 is amended to read:

198	63L-8-302. Department of Land Management.
199	Except as otherwise provided by law, the [Division] Department of Land Management,
200	created in Section [79-6-102] 63L-9-102, shall provide necessary staff support for the
201	implementation of this chapter.
202	Section 7. Section 63L-8-304 is amended to read:
203	63L-8-304. Enforcement authority.
204	(1) The director shall issue rules as necessary to implement the provisions of this
205	chapter with respect to the management, use, and protection of the public land and property
206	located on the public land.
207	(2) At the request of the director, the attorney general may institute a civil action in a
208	district court for an injunction or other appropriate remedy to prevent any person from utilizing
209	public land in violation of this chapter or rules issued by the director under this chapter.
210	(3) The use, occupancy, or development of any portion of the public land contrary to
211	any rule issued by the DLM in accordance with this chapter, and without proper authorization,
212	is unlawful and prohibited.
213	(4) (a) [Except as provided in Subsections (4)(b) and (c), the local] The locally elected
214	county sheriff is the primary law enforcement authority with jurisdiction on public land to
215	enforce:
216	(i) all the laws of this state; and
217	(ii) this chapter and rules issued by the director pursuant to Subsection (1).
218	[(b) The director may employ and utilize within the DLM certified peace officers that, if
219	and when deployed, will be the primary law enforcement authority with jurisdiction on public
220	land to enforce this chapter and rules issued pursuant to Subsection (1).
221	(b) The governor may utilize the Department of Public Safety for the purposes of
222	assisting the county sheriff in enforcing:
223	(i) all the laws of this state and this chapter; and
224	(ii) rules issued by the director pursuant to Subsection (1).
225	(c) Conservation officers employed by the Division of Wildlife Resources [are the

226	primary law enforcement authority with jurisdiction on public land] have authority to enforce
227	the laws and regulations under Title 23, Wildlife Resources Code of Utah, for the sake of <u>any</u>
228	protected wildlife.
229	(d) A conservation officer shall work cooperatively with the locally elected county
230	sheriff to enforce the laws and regulations under Title 23, Wildlife Resources Code of Utah, for
231	the sake of protected wildlife.
232	(d) Nothing herein shall be construed as enlarging or diminishing the responsibility or
233	authority of a state certified peace officer in performing the officer's duties on public land.
234	Section 8. Section 63L-8-308 is amended to read:
235	63L-8-308. Public Land Management Fund.
236	(1) There is created an expendable special revenue fund known as the "Public Land
237	Management Fund."
238	(2) The fund shall consist of:
239	(a) fees collected by the DLM under this chapter;
240	(b) money appropriated to the fund by the Legislature;
241	(c) money collected under Section 63L-8-505;
242	(d) money voluntarily donated or contributed to the fund; [and]
243	(e) proceeds, as described in Subsection 63L-8-104(3); and
244	[(e)] <u>(f)</u> interest earned on the fund.
245	(3) The DLM may expend money in the fund on:
246	(a) administration costs;
247	(b) project planning;
248	(c) a payment authorized by this chapter; and
249	(d) other duties required under this chapter, including the acquisition and improvement
250	of public land, as described in Section 63L-8-104.
251	(4) The DLM shall annually expend money in the fund to pay a county in lieu of taxes
252	the county cannot levy on public land owned by the state:
253	(a) in an amount no less than the highest amount ever fully authorized by Congress for

H.B. 407	Enrolled Copy

254	payment to the county under the federal Payments in Lieu of Taxes and Secure Rural Schools
255	programs, according to the most recent federal formulas before the effective date of this
256	chapter, as described in Section 63L-8-602; and
257	(b) as funding allows.
258	Section 9. Section 63L-8-402 is amended to read:
259	63L-8-402. Grazing fees Feasibility study Contents Submission of report
260	Annual distribution and use of range betterment funds Nature of distributions.
261	(1) As used in this section:
262	(a) "Animal unit" means one mature 1,000 pound cow and the cow's suckling calf.
263	(b) "Animal unit month" means the amount of forage needed by an animal unit grazing
264	for one month.
265	(c) "Forage" means the food and water necessary to sustain a cow, according to the
266	cow's metabolic weight.
267	[(1)] (2) The Legislature finds that, as of 2016, a substantial amount of the rangelands
268	on the public land is deteriorating in quality due to federal mismanagement, and that installation
269	of additional range improvements could arrest much of the continuing deterioration and lead to
270	substantial betterment of forage conditions with resulting benefits to wildlife, watershed
271	protection, and livestock production.
272	[(2)] (3) The director, in consultation with the commissioner, shall[: (a) conduct a study
273	to determine necessary range improvements on public land; and (b)] establish a fee, in
274	accordance with Section 63J-1-504, to be charged for domestic livestock grazing on public land
275	that is equitable to the:
276	[(i)] (a) state and the state's citizens; and
277	[(ii)] (b) holders of grazing permits and leases on rangeland.
278	[(3) The director shall report the result of the study described in Subsection (2)(a) to
279	the Natural Resources, Agriculture, and Environment Interim Committee, together with
280	recommendations to implement a reasonable grazing fee schedule.]
281	(4) Subject to Subsection (5), the fee described in Subsection (3) shall be:

282	(a) determined using the following indices:
283	(i) the rental charge of pasturing cattle on private rangeland, or the forage value index
284	<u>(FVI);</u>
285	(ii) the average annual sales price of beef cattle, or the beef cattle price index (BCPI);
286	<u>and</u>
287	(iii) the cost of livestock production, or the prices paid index (PPI); and
288	(b) calculated as follows: ((FVI + BCPI - PPI)/100).
289	(5) (a) The minimum grazing fee shall be \$1.35 per animal unit month.
290	(b) The annual fee adjustment may not exceed 25% of the grazing fee from the previous
291	fiscal year.
292	[(4)] (6) (a) Fifty percent of all money received by the state as fees for grazing domestic
293	livestock on public land shall be deposited into the Grazing Land Fund created in Section
294	63L-8-310.
295	(b) Fifty percent of money received by the state as fees for grazing domestic livestock
296	on the public land shall be deposited into the Public Land Management Fund created in Section
297	63L-8-308.
298	Section 10. Section 63L-8-602 is amended to read:
299	63L-8-602. Effective date.
300	This chapter becomes effective upon the day the state receives title to at least [100,000]
301	250,000 acres of public land from the federal government pursuant to Section 63L-6-103.
302	Section 11. Section 63L-9-101, which is renumbered from Section 79-6-101 is
303	renumbered and amended to read:
304	CHAPTER 9. DEPARTMENT OF LAND MANAGEMENT
305	[79-6-101]. <u>63L-9-101.</u> Title.
306	This chapter is known as the "[Division] Department of Land Management."
307	Section 12. Section 63L-9-102, which is renumbered from Section 79-6-102 is
308	renumbered and amended to read:
309	[79_6_102] 631_9_102 Creation of the Department of Land Management

310	(1) There is created a [Division of Land Management within the Department of Natural
311	Resources, created in Section 79-2-201] Department of Land Management.
312	(2) The [division] department shall be staffed:
313	(a) upon the state receiving title to at least $[\frac{100,000}{250,000}]$ acres of public land from
314	the federal government pursuant to Section 63L-6-103; and
315	(b) as funding [is] appropriated by the Legislature [and] allows[; and].
316	[(c) as determined by the director of the Department of Natural Resources.]
317	(3) The [division] department may sue and be sued as required to carry out the
318	purposes of this chapter and Title 63L, Chapter 8, Utah Public Land Management Act.
319	Section 13. Section 63L-9-103, which is renumbered from Section 79-6-103 is
320	renumbered and amended to read:
321	$[\frac{79-6-103}{63L-9-103}]$. <u>63L-9-103.</u> Director.
322	(1) Upon the requirements described in Subsection [79-6-102] <u>63L-9-102</u> (2) being
323	fulfilled, the [executive director of the Department of Natural Resources] governor shall, with
324	the consent of the Senate, appoint a director of the [Division] Department of Land
325	Management[, and thereafter hire personnel to staff the division].
326	(2) The director shall:
327	(a) be the executive and administrative head of the [Division] Department of Land
328	Management;
329	(b) have demonstrated ability and experience in the administration and management of
330	state or federal lands; [and]
331	(c) not hold any other public office or be involved in a political party or organization[-];
332	<u>and</u>
333	(d) hire personnel to staff the department.
334	(3) The director [of the Division of Land Management, under administrative direction
335	of the executive director,] shall have:
336	(a) executive authority and control of the [Division] Department of Land Management;
337	and

338	(b) authority over all personnel matters.
339	Section 14. Section 63L-9-104, which is renumbered from Section 79-6-104 is
340	renumbered and amended to read:
341	[79-6-104]. <u>63L-9-104.</u> Public Land Management Advisory Board.
342	(1) There is created the Public Land Management Advisory Board.
343	(2) The board consists of the following 11 members:
344	(a) the lieutenant governor, or the lieutenant governor's designee;
345	(b) one representative, appointed by the governor, who represents the interests of oil,
346	gas, and mining;
347	(c) one representative, appointed by the governor, who represents the interests of
348	agriculture;
349	(d) one representative, appointed by the governor, who represents the interests of
350	outdoor recreation;
351	(e) one representative, appointed by the governor, who represents the interests of
352	environmental groups;
353	(f) three representatives, appointed by the governor, who represent the interests of
354	county commissioners;
355	(g) one representative, appointed by the governor, who represents the interests of rural
356	transportation;
357	(h) one representative, appointed by the governor, who represents the interests of
358	wildlife management; and
359	(i) one representative, appointed by the governor, who represents the interests of forest
360	management.
361	(3) (a) Members shall be appointed for a term of four years.
362	(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
363	time of appointment or reappointment, adjust the length of terms of the members described in
364	Subsections (2)(b) through (i) to ensure that the terms of board members are staggered so that
365	half of the appointed board is appointed every two years.

366	(4) A member may serve more than one term.
367	(5) A member shall hold office until the expiration of the member's term and until the
368	member's successor is appointed, but not more than 90 days after the expiration of the member's
369	term.
370	(6) When a vacancy occurs in the membership for any reason, a replacement shall be
371	appointed for the unexpired term.
372	(7) The board shall elect annually a chair and a vice chair from the board's members.
373	(8) (a) The board shall meet at least quarterly.
374	(b) Special meetings may be called by the chair upon the chair's own initiative, upon the
375	request of the director, or upon the request of three members of the board.
376	(c) Three days' notice shall be given to each member of the board before a meeting.
377	(9) Six members constitute a quorum at a meeting, and the action of a majority of
378	members present is the action of the board.
379	(10) A member may not receive compensation or benefits for the member's service, but
380	may receive per diem and travel expenses in accordance with:
381	(a) Section 63A-3-106;
382	(b) Section 63A-3-107; and
383	(c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
384	63A-3-107.
385	Section 15. Section 63L-9-105 , which is renumbered from Section 79-6-105 is
386	renumbered and amended to read:
387	[79-6-105]. <u>63L-9-105.</u> Department of Land Management duties.
388	[Under the direct supervision of the executive director and in consultation with the
389	board, the division] The department shall manage and administer all public land, as defined in
390	Section 63L-8-102, consistent with the procedures, policies, and directives in Title 63L,
391	Chapter 8, Utah Public Land Management Act.
392	Section 16. Section 79-2-201 is amended to read:
393	79-2-201. Department of Natural Resources created.

```
394
              (1) There is created the Department of Natural Resources.
395
              (2) The department comprises the following:
396
              (a) Board of Water Resources, created in Section 73-10-1.5;
397
              (b) Board of Oil, Gas, and Mining, created in Section 40-6-4;
              (c) Board of Parks and Recreation, created in Section 79-4-301;
398
399
              (d) Wildlife Board, created in Section 23-14-2;
400
              (e) Board of the Utah Geological Survey, created in Section 79-3-301;
401
              (f) Water Development Coordinating Council, created in Section 73-10c-3;
402
              (g) Division of Water Rights, created in Section 73-2-1.1;
403
              (h) Division of Water Resources, created in Section 73-10-18;
404
              (i) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
405
              (j) Division of Oil, Gas, and Mining, created in Section 40-6-15;
406
               (k) Division of Parks and Recreation, created in Section 79-4-201;
407
              (1) Division of Wildlife Resources, created in Section 23-14-1;
408
               [(m) Division of Land Management, created in Section 79-6-102;]
409
               [<del>(n)</del>] (m) Utah Geological Survey, created in Section 79-3-201;
410
               [(o)] (n) Heritage Trees Advisory Committee, created in Section 65A-8-306;
               [(p)] (o) Recreational Trails Advisory Council, authorized by Section 79-5-201;
411
               [(a)] (p) Boating Advisory Council, authorized by Section 73-18-3.5:
412
413
               [(r)] (q) Wildlife Board Nominating Committee, created in Section 23-14-2.5; and
414
               [(s)] (r) Wildlife Regional Advisory Councils, created in Section 23-14-2.6.
```