

Senator Margaret Dayton proposes the following substitute bill:

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:



- 26 [63L-8-102](#), as enacted by Laws of Utah 2016, Chapter 317
- 27 [63L-8-103](#), as enacted by Laws of Utah 2016, Chapter 317
- 28 [63L-8-104](#), as enacted by Laws of Utah 2016, Chapter 317
- 29 [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
40 317)

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)



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
56 Food, or the commissioner's designee.

57 (3) "DAF" means the Department of Agriculture and Food.

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

60 (5) "DLM" means the [~~Division~~] Department of Land Management, [~~a division~~]
61 created [~~within the Department of Natural Resources~~] in Section [~~79-6-102~~] 63L-9-102.

62 (6) "Grazing permit" means a document, issued by the [~~Division~~] Department of Land
63 Management, authorizing use of public land for the purpose of grazing domestic livestock.

64 (7) "Land use authorization" means an easement, lease, permit, or license to occupy,
65 use, or traverse public land granted for a particular purpose.

66 (8) "Minerals" means all classes of inorganic material upon, within, or beneath the
67 surface of public land, including silver, gold, copper, lead, zinc, uranium, gemstones, potash,
68 gypsum, clay, salts, sand, rock, gravel, oil, oil shale, oil sands, gas, coal, and all carboniferous
69 materials.

70 (9) "Multiple use" means:

71 (a) the management of the public land and the public land's various resource values so
72 resources are best utilized in the combination that will meet the present and future needs of the
73 citizens of Utah;

74 (b) making the most judicious use of land for some or all of the resources or related
75 services over areas large enough to provide sufficient latitude for periodic adjustments in use to
76 conform to changing needs and conditions;

77 (c) a combination of balanced and diverse resource uses that take into account the
78 long-term needs of future generations for renewable and nonrenewable resources, including
79 recreation, hunting, fishing, trapping, range, timber, minerals, watershed, wildlife and fish, and
80 natural scenic, scientific, and historic values; and

81 (d) harmonious and coordinated management of the various resources without
82 permanent impairment of the productivity of the land and the quality of the environment with
83 consideration being given to the relative values of the resources.

84 (10) "Public land" means any land or land interest:

85 (a) acquired by the state from the federal government pursuant to Section 63L-6-103,
86 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
92 government.

93 (11) "Rangeland" means open public land used for grazing domestic livestock.

94 (12) "Sustained yield" means the achievement and maintenance in perpetuity of a
95 high-level annual or regular periodic output of the various renewable resources of the public
96 land consistent with multiple use.

97 (13) "Wilderness" means the same as that term is defined in Section [63L-7-103](#).

98 Section 2. Section **63L-8-103** is amended to read:

99 **63L-8-103. Principal or major use.**

100 Each parcel of public land in this state shall be managed, as much as possible, to
101 promote the following principal or major uses of the land, consistent with the principles of
102 multiple use and sustained yield:

103 (1) domestic livestock grazing;

104 (2) fish and wildlife development and utilization, including hunting, fishing, and
105 trapping;

106 (3) mineral exploration and production;

107 (4) rights-of-way;

108 (5) outdoor recreation;

109 (6) timber production; and

110 (7) wilderness conservation.

111 Section 3. Section **63L-8-104** is amended to read:

112 **63L-8-104. Declaration of policy -- Sales and exchanges.**

113 (1) The Legislature declares that it is the policy of the state that:

114 (a) public land be retained in state ownership consistent with the provisions of this
115 chapter for the enjoyment and betterment of the public and the state;

116 (b) public land may not be sold, except:

117 (i) as consistent with Section [63L-8-204](#) and the other provisions of this chapter;

118 (ii) as consistent with local land use plans;

- 119 (iii) with the approval of the director and the board;
120 (iv) after sufficient opportunity for public comment; and
121 (v) for an important public interest;
- 122 (c) goals and objectives be established by law as guidelines for public land use
123 planning, and that management be on the basis of multiple use and sustained yield, unless
124 otherwise provided by statute; and
- 125 (d) the public land be managed in a manner that will:
- 126 (i) recognize the state's need for domestic sources of minerals, food, timber, and fiber;
127 (ii) protect the quality of scientific, scenic, historical, ecological, environmental, air
128 and atmospheric, water resource, and archeological values;
- 129 (iii) where appropriate, preserve and protect certain public land in its natural condition;
130 (iv) provide food and habitat for fish, wildlife, and domestic animals; and
131 (v) provide for hunting, fishing, trapping, outdoor recreation, human occupancy, and
132 other human use, including the general enjoyment of nature and solitude.

133 (2) All rules made to effectuate the purposes of this chapter shall be made in
134 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

135 Section 4. Section **63L-8-105** is amended to read:

136 **63L-8-105. Interdepartmental cooperation.**

137 (1) The director, subject to periodic review of the Legislature, may establish programs
138 to conduct projects, planning, permitting, leasing, contracting and other activities on public
139 land.

140 (2) (a) The director shall provide management policies and programs for all uses of
141 public land, including the principal or major uses described in Section [63L-8-103](#).

142 (b) The director shall consult with the commissioner, who may make recommendations
143 to the director on rangeland management issues on public land, including:

144 (i) determining the number of domestic animals that may be sustained on a tract of land
145 while maintaining that land for wildlife and fish use and future grazing use; and

146 (ii) issuing grazing permits.

147 (c) The director shall consult with other state agencies having management
148 responsibility over natural resources that may be impacted by management decisions and
149 actions on public land, including the Department of Natural Resources, the Department of

150 Agriculture and Food, and the Division of Wildlife Resources.

151 Section 5. Section **63L-8-204** is enacted to read:

152 **63L-8-204. Exchanges and sales.**

153 (1) (a) It is the policy of this state that exchanges of public land are preferred to any
154 sale of public land, and that when pursuing an exchange, an exchange with the School and
155 Institutional Trust Lands Administration is preferred to an exchange with any other party.

156 (b) If the DLM proposes an exchange of public land for a different parcel of land, the
157 land the DLM seeks to acquire shall be larger in acreage or considered more valuable for one or
158 more of the principal or major uses described in Section [63L-8-103](#) than the land the DLM is
159 offering in exchange.

160 (c) The state may exchange a parcel of public land with the federal government, the
161 School and Institutional Trust Lands Administration, or a private party for a similarly valued
162 parcel of land if:

163 (i) no more than 1,000 acres of public land is exchanged with the federal government,
164 the School and Institutional Trust Lands Administration, or the private party in one calendar
165 year; or

166 (ii) the exchange is approved by a two-thirds vote of the Legislature.

167 (2) The DLM may execute a sale of a parcel of public land if:

168 (a) the requirements of Subsection [63L-8-104\(1\)\(b\)](#) have been met;

169 (b) the following information is made available on the DLM's website for 30 days
170 before the day on which the director executes the sale:

171 (i) the legal description of the parcel;

172 (ii) the local land use plan governing the parcel;

173 (iii) the proposed purchaser of the parcel;

174 (iv) the DLM's findings that the sale will further an important public objective,
175 including expansion of a local community;

176 (v) the minutes or a recording of a meeting in which the public comment was taken on
177 the proposed sale; and

178 (vi) the purchase price, which may not be less than fair market value;

179 (c) the director, having completed the land use planning process described in Section
180 [63L-8-202](#), has determined that the parcel in question:

181 (i) is not suitable for long-term management by the DLM or another state agency
 182 because of the parcel's location or other characteristics; and
 183 (ii) has minimal value for hunting, fishing, or other outdoor recreation;
 184 (d) the parcel is 100 acres or smaller;
 185 (e) the director has determined an exchange, as described in Subsection (1), is not
 186 possible;

187 (f) a competitive bidding process is used to determine the purchaser of the parcel;
 188 (g) the sale is approved by a two-thirds vote of the Legislature; and
 189 (h) the sale is approved by the governor.

190 (3) All proceeds of a sale under Subsection (2) shall be:

191 (a) deposited in the Public Land Management Fund created in Section [63L-8-308](#); and

192 (b) used to:

193 (i) acquire additional land that the DLM has determined would be appropriate for
 194 public purposes;

195 (ii) improve existing public land for one or more principal or major uses, as described
 196 in Section [63L-8-103](#); and

197 (iii) increase the utilization of the public land by the public.

198 Section 6. Section **63L-8-302** is amended to read:

199 **63L-8-302. Department of Land Management.**

200 Except as otherwise provided by law, the [~~Division~~] Department of Land Management,
 201 created in Section [~~79-6-102~~] [63L-9-102](#), shall provide necessary staff support for the
 202 implementation of this chapter.

203 Section 7. Section **63L-8-304** is amended to read:

204 **63L-8-304. Enforcement authority.**

205 (1) The director shall issue rules as necessary to implement the provisions of this
 206 chapter with respect to the management, use, and protection of the public land and property
 207 located on the public land.

208 (2) At the request of the director, the attorney general may institute a civil action in a
 209 district court for an injunction or other appropriate remedy to prevent any person from utilizing
 210 public land in violation of this chapter or rules issued by the director under this chapter.

211 (3) The use, occupancy, or development of any portion of the public land contrary to

212 any rule issued by the DLM in accordance with this chapter, and without proper authorization,
213 is unlawful and prohibited.

214 (4) (a) ~~[Except as provided in Subsections (4)(b) and (c), the local]~~ The locally elected
215 county sheriff is the primary law enforcement authority with jurisdiction on public land to
216 enforce:

217 (i) all the laws of this state; and

218 (ii) this chapter and rules issued by the director pursuant to Subsection (1).

219 ~~[(b) The director may employ and utilize within the DLM certified peace officers that,~~
220 ~~if and when deployed, will be the primary law enforcement authority with jurisdiction on~~
221 ~~public land to enforce this chapter and rules issued pursuant to Subsection (1).]~~

222 (b) The governor may utilize the Department of Public Safety for the purposes of
223 assisting the county sheriff in enforcing:

224 (i) all the laws of this state and this chapter; and

225 (ii) rules issued by the director pursuant to Subsection (1).

226 (c) Conservation officers employed by the Division of Wildlife Resources ~~[are the~~
227 ~~primary law enforcement authority with jurisdiction on public land]~~ have authority to enforce
228 the laws and regulations under Title 23, Wildlife Resources Code of Utah, for the sake of any
229 protected wildlife.

230 (d) A conservation officer shall work cooperatively with the locally elected county
231 sheriff to enforce the laws and regulations under Title 23, Wildlife Resources Code of Utah, for
232 the sake of protected wildlife.

233 (d) Nothing herein shall be construed as enlarging or diminishing the responsibility or
234 authority of a state certified peace officer in performing the officer's duties on public land.

235 Section 8. Section **63L-8-308** is amended to read:

236 **63L-8-308. Public Land Management Fund.**

237 (1) There is created an expendable special revenue fund known as the "Public Land
238 Management Fund."

239 (2) The fund shall consist of:

240 (a) fees collected by the DLM under this chapter;

241 (b) money appropriated to the fund by the Legislature;

242 (c) money collected under Section [63L-8-505](#);

243 (d) money voluntarily donated or contributed to the fund; [~~and~~]

244 (e) proceeds, as described in Subsection 63L-8-104(3); and

245 [~~(e)~~] (f) interest earned on the fund.

246 (3) The DLM may expend money in the fund on:

247 (a) administration costs;

248 (b) project planning;

249 (c) a payment authorized by this chapter; and

250 (d) other duties required under this chapter, including the acquisition and improvement
251 of public land, as described in Section 63L-8-104.

252 (4) The DLM shall annually expend money in the fund to pay a county in lieu of taxes
253 the county cannot levy on public land owned by the state:

254 (a) in an amount no less than the highest amount ever fully authorized by Congress for
255 payment to the county under the federal Payments in Lieu of Taxes and Secure Rural Schools
256 programs, according to the most recent federal formulas before the effective date of this
257 chapter, as described in Section 63L-8-602; and

258 (b) as funding allows.

259 Section 9. Section **63L-8-402** is amended to read:

260 **63L-8-402. Grazing fees -- Feasibility study -- Contents -- Submission of report --**
261 **Annual distribution and use of range betterment funds -- Nature of distributions.**

262 (1) As used in this section:

263 (a) "Animal unit" means one mature 1,000 pound cow and the cow's suckling calf.

264 (b) "Animal unit month" means the amount of forage needed by an animal unit grazing
265 for one month.

266 (c) "Forage" means the food and water necessary to sustain a cow, according to the
267 cow's metabolic weight.

268 [~~(1)~~] (2) The Legislature finds that, as of 2016, a substantial amount of the rangelands
269 on the public land is deteriorating in quality due to federal mismanagement, and that
270 installation of additional range improvements could arrest much of the continuing deterioration
271 and lead to substantial betterment of forage conditions with resulting benefits to wildlife,
272 watershed protection, and livestock production.

273 [~~(2)~~] (3) The director, in consultation with the commissioner, shall~~[(a) conduct a~~

274 study to determine necessary range improvements on public land; and (b)] establish a fee, in
275 accordance with Section 63J-1-504, to be charged for domestic livestock grazing on public
276 land that is equitable to the:

277 ~~[(i)]~~ (a) state and the state's citizens; and

278 ~~[(ii)]~~ (b) holders of grazing permits and leases on rangeland.

279 ~~[(3) The director shall report the result of the study described in Subsection (2)(a) to
280 the Natural Resources, Agriculture, and Environment Interim Committee, together with
281 recommendations to implement a reasonable grazing fee schedule.]~~

282 (4) Subject to Subsection (5), the fee described in Subsection (3) shall be:

283 (a) determined using the following indices:

284 (i) the rental charge of pasturing cattle on private rangeland, or the forage value index
285 (FVI);

286 (ii) the average annual sales price of beef cattle, or the beef cattle price index (BCPI);
287 and

288 (iii) the cost of livestock production, or the prices paid index (PPI); and

289 (b) calculated as follows: ((FVI + BCPI - PPI)/100).

290 (5) (a) The minimum grazing fee shall be \$1.35 per animal unit month.

291 (b) The annual fee adjustment may not exceed 25% of the grazing fee from the
292 previous fiscal year.

293 ~~[(4)]~~ (6) (a) Fifty percent of all money received by the state as fees for grazing
294 domestic livestock on public land shall be deposited into the Grazing Land Fund created in
295 Section 63L-8-310.

296 (b) Fifty percent of money received by the state as fees for grazing domestic livestock
297 on the public land shall be deposited into the Public Land Management Fund created in Section
298 63L-8-308.

299 Section 10. Section 63L-8-602 is amended to read:

300 **63L-8-602. Effective date.**

301 This chapter becomes effective upon the day the state receives title to at least [~~100,000~~]
302 250,000 acres of public land from the federal government pursuant to Section 63L-6-103.

303 Section 11. Section 63L-9-101, which is renumbered from Section 79-6-101 is
304 renumbered and amended to read:

305 CHAPTER 9. DEPARTMENT OF LAND MANAGEMENT

306 ~~[79-6-101].~~ 63L-9-101. Title.307 This chapter is known as the "~~[Division]~~ Department of Land Management."308 Section 12. Section 63L-9-102, which is renumbered from Section 79-6-102 is

309 renumbered and amended to read:

310 ~~[79-6-102].~~ 63L-9-102. Creation of the Department of Land Management.311 (1) There is created a ~~[Division of Land Management within the Department of Natural~~
312 ~~Resources, created in Section 79-2-201]~~ Department of Land Management.313 (2) The ~~[division]~~ department shall be staffed:314 (a) upon the state receiving title to at least ~~[100,000]~~ 250,000 acres of public land from
315 the federal government pursuant to Section 63L-6-103; and316 (b) as funding ~~[is]~~ appropriated by the Legislature ~~[and]~~ allows~~[-and]~~.317 ~~[(c) as determined by the director of the Department of Natural Resources.]~~318 (3) The ~~[division]~~ department may sue and be sued as required to carry out the
319 purposes of this chapter and Title 63L, Chapter 8, Utah Public Land Management Act.320 Section 13. Section 63L-9-103, which is renumbered from Section 79-6-103 is

321 renumbered and amended to read:

322 ~~[79-6-103].~~ 63L-9-103. Director.323 (1) Upon the requirements described in Subsection ~~[79-6-102]~~ 63L-9-102(2) being
324 fulfilled, the ~~[executive director of the Department of Natural Resources]~~ governor shall, with
325 the consent of the Senate, appoint a director of the Division of Land Management~~[-and~~
326 ~~thereafter hire personnel to staff the division].~~

327 (2) The director shall:

328 (a) be the executive and administrative head of the ~~[Division]~~ Department of Land
329 Management;330 (b) have demonstrated ability and experience in the administration and management of
331 state or federal lands; ~~[and]~~332 (c) not hold any other public office or be involved in a political party or
333 organization~~[-]; and~~334 (d) hire personnel to staff the department.335 (3) The director ~~[of the Division of Land Management, under administrative direction~~

336 of the executive director,] shall have:

337 (a) executive authority and control of the [~~Division~~] Department of Land Management;

338 and

339 (b) authority over all personnel matters.

340 Section 14. Section **63L-9-104**, which is renumbered from Section 79-6-104 is

341 renumbered and amended to read:

342 ~~[79-6-104]~~. **63L-9-104. Public Land Management Advisory Board.**

343 (1) There is created the Public Land Management Advisory Board.

344 (2) The board consists of the following 11 members:

345 (a) the lieutenant governor, or the lieutenant governor's designee;

346 (b) one representative, appointed by the governor, who represents the interests of oil,
347 gas, and mining;

348 (c) one representative, appointed by the governor, who represents the interests of
349 agriculture;

350 (d) one representative, appointed by the governor, who represents the interests of
351 outdoor recreation;

352 (e) one representative, appointed by the governor, who represents the interests of
353 environmental groups;

354 (f) three representatives, appointed by the governor, who represent the interests of
355 county commissioners;

356 (g) one representative, appointed by the governor, who represents the interests of rural
357 transportation;

358 (h) one representative, appointed by the governor, who represents the interests of
359 wildlife management; and

360 (i) one representative, appointed by the governor, who represents the interests of forest
361 management.

362 (3) (a) Members shall be appointed for a term of four years.

363 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
364 time of appointment or reappointment, adjust the length of terms of the members described in
365 Subsections (2)(b) through (i) to ensure that the terms of board members are staggered so that
366 half of the appointed board is appointed every two years.

367 (4) A member may serve more than one term.

368 (5) A member shall hold office until the expiration of the member's term and until the
369 member's successor is appointed, but not more than 90 days after the expiration of the
370 member's term.

371 (6) When a vacancy occurs in the membership for any reason, a replacement shall be
372 appointed for the unexpired term.

373 (7) The board shall elect annually a chair and a vice chair from the board's members.

374 (8) (a) The board shall meet at least quarterly.

375 (b) Special meetings may be called by the chair upon the chair's own initiative, upon
376 the request of the director, or upon the request of three members of the board.

377 (c) Three days' notice shall be given to each member of the board before a meeting.

378 (9) Six members constitute a quorum at a meeting, and the action of a majority of
379 members present is the action of the board.

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

382 (a) Section [63A-3-106](#);

383 (b) Section [63A-3-107](#); and

384 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
385 [63A-3-107](#).

386 Section 15. Section **63L-9-105**, which is renumbered from Section 79-6-105 is
387 renumbered and amended to read:

388 ~~[79-6-105].~~ **63L-9-105. Department of Land Management duties.**

389 ~~[Under the direct supervision of the executive director and in consultation with the~~
390 ~~board, the division]~~ The department shall manage and administer all public land, as defined in
391 Section [63L-8-102](#), consistent with the procedures, policies, and directives in Title 63L,
392 Chapter 8, Utah Public Land Management Act.

393 Section 16. Section **79-2-201** is amended to read:

394 **79-2-201. Department of Natural Resources created.**

395 (1) There is created the Department of Natural Resources.

396 (2) The department comprises the following:

397 (a) Board of Water Resources, created in Section [73-10-1.5](#);

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