

## **Title 53C. School and Institutional Trust Lands Management Act**

### **Chapter 1 Administration**

#### **Part 1 General Provisions**

##### **53C-1-101 Title.**

This title is known as the "School and Institutional Trust Lands Management Act."

Repealed and Re-enacted by Chapter 294, 1994 General Session

##### **53C-1-102 Purpose.**

- (1)
  - (a) The purpose of this title is to establish an administration and board to manage lands that Congress granted to the state for the support of common schools and other beneficiary institutions, under the Utah Enabling Act.
  - (b) This grant was expressly accepted in the Utah Constitution, thereby creating a compact between the federal and state governments which imposes upon the state a perpetual trust obligation to which standard trust principles are applied.
  - (c) Title to these trust lands is vested in the state as trustee to be administered for the financial support of the trust beneficiaries.
- (2)
  - (a) The trust principles referred to in Subsection (1) impose fiduciary duties upon the state, including a duty of undivided loyalty to, and a strict requirement to administer the trust corpus for the exclusive benefit of, the trust beneficiaries.
  - (b) As trustee, the state must manage the lands and revenues generated from the lands in the most prudent and profitable manner possible, and not for any purpose inconsistent with the best interests of the trust beneficiaries.
  - (c) The trustee must be concerned with both income for the current beneficiaries and the preservation of trust assets for future beneficiaries, which requires a balancing of short and long-term interests so that long-term benefits are not lost in an effort to maximize short-term gains.
  - (d) The beneficiaries do not include other governmental institutions or agencies, the public at large, or the general welfare of this state.
- (3) This title shall be liberally construed to enable the board of trustees, the director, and the administration to faithfully fulfill the state's obligations to the trust beneficiaries.

Repealed and Re-enacted by Chapter 294, 1994 General Session

##### **53C-1-103 Definitions.**

As used in this title:

- (1) "Administration" means the School and Institutional Trust Lands Administration.
- (2) "Board" or "board of trustees" means the School and Institutional Trust Lands Board of Trustees.

- (3) "Director" or "director of school and institutional trust lands" means the chief executive officer of the School and Institutional Trust Lands Administration.
- (4) "Mineral" includes oil, gas, and hydrocarbons.
- (5) "Nominating committee" means the committee that nominates candidates for positions and vacancies on the board.
- (6) "Policies" means statements applying to the administration that broadly prescribe a future course of action and guiding principles.
- (7) "Primary beneficiary representative" means the State Board of Education acting as representative on behalf of the following trusts:
  - (a) the trust established for common schools;
  - (b) the trust established for schools for the blind; and
  - (c) the trust established for schools for the deaf.
- (8) "School and institutional trust lands" or "trust lands" means those properties granted by the United States in the Utah Enabling Act to the state in trust, and other lands transferred to the trust, which must be managed for the benefit of:
  - (a) the state's public education system; or
  - (b) the institutions of the state which are designated by the Utah Enabling Act as beneficiaries of trust lands.

Amended by Chapter 224, 2012 General Session

## **Part 2**

### **School and Institutional Trust Lands Administration**

#### **53C-1-201 Creation of administration -- Purpose -- Director -- Participation in Risk Management Fund.**

- (1)
  - (a) There is established within state government the School and Institutional Trust Lands Administration.
  - (b) The administration shall manage all school and institutional trust lands and assets within the state, except as otherwise provided in Title 53C, Chapter 3, Deposit and Allocation of Revenue from Trust Lands, and Title 53D, Chapter 1, School and Institutional Trust Fund Management Act.
- (2) The administration is an independent state agency and not a division of any other department.
- (3)
  - (a) It is subject to the usual legislative and executive department controls except as provided in this Subsection (3).
  - (b)
    - (i) The director may make rules as approved by the board that allow the administration to classify a business proposal submitted to the administration as protected under Section 63G-2-305, for as long as is necessary to evaluate the proposal.
    - (ii) The administration shall return the proposal to the party who submitted the proposal, and incur no further duties under Title 63G, Chapter 2, Government Records Access and Management Act, if the administration determines not to proceed with the proposal.
    - (iii) The administration shall classify the proposal pursuant to law if it decides to proceed with the proposal.

- (iv) Section 63G-2-403 does not apply during the review period.
- (c) The director shall make rules in compliance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, except that the administration is not subject to Subsections 63G-3-301(6) and (7) and Section 63G-3-601, and the director, with the board's approval, may establish a procedure for the expedited approval of rules, based on written findings by the director showing:
  - (i) the changes in business opportunities affecting the assets of the trust;
  - (ii) the specific business opportunity arising out of those changes which may be lost without the rule or changes to the rule;
  - (iii) the reasons the normal procedures under Section 63G-3-301 cannot be met without causing the loss of the specific opportunity;
  - (iv) approval by at least five board members; and
  - (v) that the director has filed a copy of the rule and a rule analysis, stating the specific reasons and justifications for its findings, with the Division of Administrative Rules and notified interested parties as provided in Subsection 63G-3-301(10).
- (d)
  - (i) The administration shall comply with Title 67, Chapter 19, Utah State Personnel Management Act, except as provided in this Subsection (3)(d).
  - (ii) The board may approve, upon recommendation of the director, that exemption for specific positions under Subsections 67-19-12(2) and 67-19-15(1) is required in order to enable the administration to efficiently fulfill its responsibilities under the law. The director shall consult with the executive director of the Department of Human Resource Management prior to making such a recommendation.
  - (iii) The positions of director, deputy director, associate director, assistant director, legal counsel appointed under Section 53C-1-305, administrative assistant, and public affairs officer are exempt under Subsections 67-19-12(2) and 67-19-15(1).
  - (iv) Salaries for exempted positions, except for the director, shall be set by the director, after consultation with the executive director of the Department of Human Resource Management, within ranges approved by the board. The board and director shall consider salaries for similar positions in private enterprise and other public employment when setting salary ranges.
  - (v) The board may create an annual incentive and bonus plan for the director and other administration employees designated by the board, based upon the attainment of financial performance goals and other measurable criteria defined and budgeted in advance by the board.
- (e) The administration shall comply with Title 63G, Chapter 6a, Utah Procurement Code, except where the board approves, upon recommendation of the director, exemption from the Utah Procurement Code, and simultaneous adoption of rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for procurement, which enable the administration to efficiently fulfill its responsibilities under the law.
- (f)
  - (i) Except as provided in Subsection (3)(f)(ii), the administration is not subject to the fee agency requirements of Section 63J-1-504.
  - (ii) The following fees of the administration are subject to the requirements of Section 63J-1-504: application, assignment, amendment, affidavit for lost documents, name change, reinstatement, grazing nonuse, extension of time, partial conveyance, patent reissue, collateral assignment, electronic payment, and processing.

- (4) The administration is managed by a director of school and institutional trust lands appointed by a majority vote of the board of trustees with the consent of the governor.
- (5)
  - (a) The board of trustees shall provide policies for the management of the administration and for the management of trust lands and assets.
  - (b) The board shall provide policies for the ownership and control of Native American remains that are discovered or excavated on school and institutional trust lands in consultation with the Division of Indian Affairs and giving due consideration to Title 9, Chapter 9, Part 4, Native American Grave Protection and Repatriation Act. The director may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement policies provided by the board regarding Native American remains.
- (6) In connection with joint ventures and other transactions involving trust lands and minerals approved under Sections 53C-1-303 and 53C-2-401, the administration, with board approval, may become a member of a limited liability company under Title 48, Chapter 2c, Utah Revised Limited Liability Company Act, or Title 48, Chapter 3a, Utah Revised Uniform Limited Liability Company Act, as appropriate pursuant to Section 48-3a-1405 and is considered a person under Section 48-2c-102 or Section 48-3a-102.
- (7) Subject to the requirements of Subsection 63E-1-304(2), the administration may participate in coverage under the Risk Management Fund created by Section 63A-4-201.

Amended by Chapter 426, 2014 General Session

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

- (1) There is established the School and Institutional Trust Lands Board of Trustees.
- (2) The board shall consist of seven members appointed on a nonpartisan basis by the governor with the consent of the Senate.
- (3)
  - (a) Except for the appointment made pursuant to Subsection (5), all appointments to the board shall be for a nonconsecutive term of six years, or until a replacement has been appointed and confirmed pursuant to this section.
  - (b) If a vacancy occurs, the governor shall appoint a replacement, following the procedures set forth in Subsections (2), (4), (5), and (6), to fill the unexpired term.
  - (c) Any member of the board who has served less than six years upon the expiration of that member's term is eligible for a consecutive reappointment.
- (4)
  - (a) The governor shall select six of the seven appointees to the board from a nomination list of at least two candidates for each position or vacancy submitted pursuant to Section 53C-1-203.
  - (b) The governor may request an additional nomination list of at least two candidates from the nominating committee if the initial list of candidates for a given position is unacceptable.
  - (c)
    - (i) If the governor fails to select an appointee within 60 days after receipt of the initial list or within 60 days after the receipt of an additional list, the nominating committee shall make an interim appointment by majority vote.
    - (ii) The interim appointee shall serve until the matter is resolved by the committee and the governor or until replaced pursuant to this chapter.
- (5)
  - (a) The governor may appoint one member without requiring a nomination list.

- (b) The member appointed under Subsection (5)(a) serves at the pleasure of the governor.
- (6)
  - (a) Each board candidate shall possess outstanding professional qualifications pertinent to the purposes and activities of the trust.
  - (b) The board shall represent the following areas of expertise:
    - (i) nonrenewable resource management or development;
    - (ii) renewable resource management or development; and
    - (iii) real estate.
  - (c) Other qualifications which are pertinent for membership to the board are expertise in any of the following areas:
    - (i) business;
    - (ii) investment banking;
    - (iii) finance;
    - (iv) trust administration;
    - (v) asset management; and
    - (vi) the practice of law in any of the areas referred to in Subsections (6)(b) and (6)(c)(i) through (v).
- (7) The board of trustees shall select a chair and vice chair from its membership.
- (8) Before assuming a position on the board, each member shall take an oath of office.
- (9) Four members of the board constitute a quorum for the transaction of business.
- (10) The governor or five board members may, for cause, remove a member of the board.

Amended by Chapter 247, 2011 General Session

**53C-1-203 Board of trustees nominating committee -- Composition -- Responsibilities -- Per diem and expenses.**

- (1) There is established an 11 member board of trustees nominating committee.
- (2)
  - (a) The State Board of Education shall appoint five members to the nominating committee from different geographical areas of the state.
  - (b) The governor shall appoint five members to the nominating committee on or before the December 1 of the year preceding the vacancy on the nominating committee as follows:
    - (i) one individual from a nomination list of at least two names of individuals knowledgeable about institutional trust lands submitted on or before the October 1 of the year preceding the vacancy on the nominating committee by the University of Utah and Utah State University on an alternating basis every four years;
    - (ii) one individual from a nomination list of at least two names submitted by the Utah Farm Bureau in consultation with the Utah Cattleman's Association and the Utah Wool Growers' Association on or before the October 1 of the year preceding the vacancy on the nominating committee;
    - (iii) one individual from a nomination list of at least two names submitted by the Utah Petroleum Association on or before the October 1 of the year preceding the vacancy on the nominating committee;
    - (iv) one individual from a nomination list of at least two names submitted by the Utah Mining Association on or before the October 1 of the year preceding the vacancy on the nominating committee; and
    - (v) one individual from a nomination list of at least two names submitted by the executive director of the Department of Natural Resources after consultation with statewide wildlife

and conservation organizations on or before the October 1 of the year preceding the vacancy on the nominating committee.

- (c) The president of the Utah Association of Counties shall designate the chair of the Public Lands Steering Committee, who must be an elected county commissioner or councilor, to serve as the eleventh member of the nominating committee.
- (3)
- (a) Except as required by Subsection (3)(b), each member shall serve a four-year term.
  - (b) Notwithstanding the requirements of Subsection (3)(a), the state board and the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.
  - (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
- (4) The nominating committee shall select a chair and vice chair from its membership by majority vote.
- (5)
- (a) The nominating committee shall nominate at least two candidates for each position or vacancy which occurs on the board of trustees except for the governor's appointee under Subsection 53C-1-202(5).
  - (b) The nominations shall be by majority vote of the committee.
- (6) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:
- (a) Section 63A-3-106;
  - (b) Section 63A-3-107; and
  - (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (7) The School Children's Trust Section, established in Section 53A-16-101.6, shall provide staff support to the nominating committee.

Amended by Chapter 426, 2014 General Session

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

- (1)
- (a) The board shall establish policies for the management of the School and Institutional Trust Lands Administration.
  - (b) The policies shall:
    - (i) be consistent with the Utah Enabling Act, the Utah Constitution, and state law;
    - (ii) reflect undivided loyalty to the beneficiaries consistent with fiduciary duties;
    - (iii) require the return of not less than fair market value for the use, sale, or exchange of school and institutional trust assets;
    - (iv) seek to optimize trust land revenues and increase the value of trust land holdings consistent with the balancing of short and long-term interests, so that long-term benefits are not lost in an effort to maximize short-term gains;
    - (v) maintain the integrity of the trust and prevent the misapplication of its lands and its revenues; and
    - (vi) have regard for and seek General Fund appropriation compensation for the general public's use of natural and cultural resources consistent with the duties of the administration as trustee for the beneficiaries.
- (2) The board shall ensure that the administration is managed according to law.

- (3) The board shall establish due process procedures governing adjudicative proceedings conducted by the board and the administration.
- (4) The board and the director shall recommend to the governor and the Legislature any necessary or desirable changes in statutes relating to the trust or their trust responsibilities.
- (5) The board shall develop policies for the long-term benefit of the trust utilizing the broad discretion and power granted to it in this title.
- (6)
  - (a)
    - (i) On at least three occasions during each calendar year and in cooperation with the director, the board shall consult with an advisory committee consisting of five county commissioners appointed by the Utah Association of Counties concerning the impact of trust land management practices on rural economies.
    - (ii) The director shall notify the chair of the committee prior to any proposed board actions. At the request of the committee and prior to taking the proposed action, the board shall meet with the committee at the next scheduled board meeting.
  - (b) The association shall appoint the commissioners from five different counties based on such factors as a county's total acreage of trust lands, the revenues generated from trust lands in the county, and the potential for economic development of trust lands within the county.
  - (c) The advisory committee may request additional consultations it considers necessary or appropriate, to be scheduled within a reasonable time after receipt of the request by the administration.
- (7) The board shall utilize the services of the attorney general as provided in Section 53C-1-305.
- (8) The board may:
  - (a)
    - (i) establish advisory committees to advise the board, director, or administration on policies affecting the management of the trust, and pay the compensation and travel expenses in accordance with rules adopted by the Division of Finance; and
    - (ii) after conferring with the director, hire consultants to advise the board, director, or administration on issues affecting the management of the trust, and pay compensation to the consultants from money appropriated for that purpose;
  - (b) with the consent of the state risk manager, authorize the director to manage lands or interests in lands held by any other public or private party, if:
    - (i) all management costs are compensated by the parties;
    - (ii) there is a commensurate return to the beneficiaries; and
    - (iii) the additional responsibilities do not detract from the administration's responsibilities and its duty of undivided loyalty to the beneficiaries;
  - (c) issue subpoenas or authorize a hearing officer to issue subpoenas, to compel the attendance of witnesses and the production of documents in adjudicative proceedings authorized by law and administer oaths in the performance of official duties; and
  - (d) submit in writing to the director a request for responses, to be made within a reasonable time, to questions concerning policies and practices affecting the management of the trust.
- (9) Board members shall be given access to all administration records and personnel consistent with law and as necessary to permit the board to accomplish its responsibilities to ensure that the administration is in full compliance with applicable policies and law.

Amended by Chapter 247, 2011 General Session

**Part 3**  
**Director and School and Institutional Trust Lands Administration**

**53C-1-301 Director -- Term -- Compensation -- Removal from office.**

- (1)
  - (a) The board, with the consent of the governor, shall select the director on the basis of outstanding professional qualifications pertinent to the purposes and activities of the trust.
  - (b) If the governor withholds his consent from a candidate agreed upon by the board, he shall give his reasons in writing to the board.
- (2) The director shall serve a term of four years, or until a successor is selected and qualified.
- (3) When a vacancy occurs in the office of the director, the vacancy shall be filled pursuant to Subsection (1) for the remainder of the term.
- (4)
  - (a) The board:
    - (i) shall establish the compensation of the director; and
    - (ii) annually report the director's compensation to the Legislature.
  - (b) The compensation and performance of the director shall be examined each year as part of the board's budget review process.
- (5)
  - (a) The board may remove the director from office for cause by a majority vote of the board.
  - (b)
    - (i) The governor may petition the board for removal of the director for cause.
    - (ii) The board shall hold a hearing on the governor's petition within 60 days after its receipt.
    - (iii) If after the hearing the board finds by a preponderance of the evidence cause for removal, it shall remove the director from office by a majority vote.

Amended by Chapter 337, 1996 General Session

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

- (1)
  - (a) The director has broad authority to:
    - (i) manage the School and Institutional Trust Lands Administration in fulfillment of its purpose;
    - (ii) establish fees, procedures, and rules consistent with general policies prescribed by the board of trustees; and
    - (iii) acquire and dispose of lands and assets in accordance with law.
  - (b) The procedures and rules shall:
    - (i) be consistent with the Utah Enabling Act, the Utah Constitution, and policies of the board;
    - (ii) reflect undivided loyalty to the beneficiaries consistent with the director's fiduciary duties and responsibilities;
    - (iii) subject to Subsection (2), obtain the optimum values from use of trust lands and revenues for the trust beneficiaries, including the return of not less than fair market value for the use, sale, or exchange of school and institutional trust assets; and
    - (iv) be broadly construed to grant the board, director, and administration full discretionary authority to manage, maintain, or dispose of trust assets in the manner they consider most favorable to the beneficiaries.



- (2) The director shall seek to optimize trust land revenues consistent with the balancing of short and long-term interests, so that long-term benefits are not lost in an effort to maximize short-term gains.
- (3) The director shall maintain the integrity of the trust and prevent, through prudent management, the misapplication of its lands and revenues.

Amended by Chapter 247, 2011 General Session

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

- (1) In carrying out the policies of the board of trustees and in establishing procedures and rules the director shall:
  - (a) take an oath of office before assuming any duties as the director;
  - (b) adopt procedures and rules necessary for the proper administration of matters entrusted to the director by state law and board policy;
  - (c) submit to the board for its review and concurrence on any rules necessary for the proper management of matters entrusted to the administration;
  - (d) faithfully manage the administration under the policies established by the board;
  - (e) submit to the board for public inspection an annual management budget and financial plan for operations of the administration and, after approval by the board, submit the budget to the governor;
  - (f) direct and control the budget expenditures as finally authorized and appropriated;
  - (g) establish job descriptions and employ, within the limitation of the budget, staff necessary to accomplish the purposes of the office subject to Section 53C-1-201;
  - (h) establish, in accordance with generally accepted principles of fund accounting, a system to identify and account for the assets and vested interests of each beneficiary;
  - (i) notify the primary beneficiary representative's designee regarding the trusts listed in Subsection 53C-1-103(7) on major items that the director knows may be useful to the primary beneficiary representative's designee in protecting beneficiary rights;
  - (j) permit the primary beneficiary representative's designee regarding a trust listed in Subsection 53C-1-103(7) reasonable access to inspect records, documents, and other trust property pertaining to that trust, provided that the primary beneficiary representative's designee shall maintain confidentiality if confidentiality is required of the director;
  - (k) maintain appropriate records of trust activities to enable auditors appointed by appropriate state agencies or the board to conduct periodic audits of trust activities;
  - (l) provide that all leases, contracts, and agreements be submitted to legal counsel for review of compliance with applicable law and fiduciary duties prior to execution and utilize the services of the attorney general as provided in Section 53C-1-305;
  - (m) keep the board, beneficiaries, governor, Legislature, and the public informed about the work of the director and administration by reporting to the board in a public meeting at least once during each calendar quarter; and
  - (n) respond in writing within a reasonable time to a request by the board or the primary beneficiary representative's designee regarding a trust listed in Subsection 53C-1-103(7) for responses to questions on policies and practices affecting the management of the trust.
- (2) The administration shall be the named party in substitution of the Division of State Lands and Forestry or its predecessor agencies, with respect to all documents affecting trust lands from the effective date of this act.
- (3) The director may:

- (a) with the consent of the state risk manager and the board, manage lands or interests in lands held by any other public or private party pursuant to policies established by the board and may make rules to implement these board policies;
  - (b) sue or be sued as the director of school and institutional trust lands;
  - (c) contract with other public agencies for personnel management services;
  - (d) contract with any public or private entity to make improvements to or upon trust lands and to carry out any of the responsibilities of the office, so long as the contract requires strict adherence to trust management principles, applicable law and regulation, and is subject to immediate suspension or termination for cause; and
  - (e) with the approval of the board enter into joint ventures and other business arrangements consistent with the purposes of the trust.
- (4) Any application or bid required for the lease, permitting, or sale of lands in a competitive process or any request for review pursuant to Section 53C-1-304 shall be considered filed or made on the date received by the appropriate administrative office, whether transmitted by United States mail or in any other manner.

Amended by Chapter 224, 2012 General Session

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

- (1) The board shall make rules to ensure procedural due process in the resolution of complaints concerning actions by the board, director, or the administration.
- (2)
- (a) Except as provided in Subsection (2)(b), an aggrieved party to a final action by the director or the administration may petition the board for administrative review of the decision.
  - (b) Final actions by the director or administration to lease, sell, or exchange specific real property or other trust assets are not subject to administrative review.
- (3)
- (a) The board may appoint a qualified hearing examiner for purposes of taking evidence and making recommendations for board action.
  - (b) The board shall consider the recommendations of the examiner in making decisions.
- (4)
- (a) The board shall uphold the decision of the director or the administration unless it finds, by a preponderance of the evidence, that the decision violated applicable law, policy, or rules.
  - (b) The board shall base its final actions on findings and conclusions and shall inform the aggrieved party of its right to judicial review.
- (5) An aggrieved party to a final action by the board may obtain judicial review of that action under Sections 63G-4-402 and 63G-4-403.

Amended by Chapter 247, 2011 General Session

**53C-1-305 Attorney general to represent administration.**

- (1) The attorney general shall:
- (a) represent the board, director, or administration in any legal action relating to trust lands except as otherwise provided in Subsection (3);
  - (b) review leases, contracts, and agreements submitted for review prior to execution; and
  - (c) undertake suits for the collection of royalties, rental, and other damages in the name of the state.

- (2) The attorney general may institute actions against any party to enforce this title or to protect the interests of the trust beneficiaries.
- (3) The administration may, with the consent of the attorney general, employ in house legal counsel to perform the duties of the attorney general under Subsections (1) and (2).
- (4) In those instances where the interests of the trust beneficiaries conflict with those of state officers or executive department agencies for which the attorney general acts as legal advisor under Utah Constitution Article VII, Section 16, the board may, with the consent of the attorney general, employ independent counsel to represent and protect those interests.

Amended by Chapter 237, 2000 General Session

**53C-1-306 Board and administration subject to Public Officers' and Employees' Ethics Act.**

- (1) Board members, the director, employees, and agents of the administration are subject to the requirements of Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act, and to any additional requirements established by the board.
- (2) A board member, the director, or an employee of the administration may not directly or indirectly acquire any interest in trust lands or receive any direct benefit from any transaction dealing with trust lands, except as provided by law and after providing notice to the board, director, attorney general, and the governor.

Enacted by Chapter 294, 1994 General Session

**Chapter 2  
Activities on Trust Lands**

**Part 1  
Records and Documents**

**53C-2-101 Central index -- Administration to maintain central index of trust lands -- Availability to public.**

- (1) The administration shall maintain a central index of all trust lands, including interests therein, and shall make that index available to the public.
- (2) The index shall include the following information:
  - (a) legal description of the land;
  - (b) when and from whom the land was acquired;
  - (c) where the abstracts, deeds, or other indicia of interest in the property may be found;
  - (d) name of any party holding an interest in the land;
  - (e) name of the grantor; and
  - (f) nature of the trust's interest in the land.

Enacted by Chapter 294, 1994 General Session

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

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

- (2)
  - (a) The administration may require a provider to furnish any information necessary to carry out the duties of this title, including financial information, geological and mine maps, well logs, and assays.
  - (b) Any information submitted to the administration which the provider and the director agree in writing is of a proprietary nature shall be kept confidential and may not be released without written permission from the provider.
- (3) The director shall adopt rules under which the administration may retain, without disclosure to third parties, information including that received under Subsection (2) which the provider and the director agree is of a protected or proprietary nature, unless the information is required by federal or state law to be of a nonproprietary nature.

Amended by Chapter 247, 2011 General Session

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

For the purpose of determining compliance with any rule or any performance or payment obligation under a lease, permit, or contract, the director may, at reasonable times, places, and intervals:

- (1) require that the lessee, permittee, or contractor provide any pertinent books, records, or other documents of the lessee, permittee, or contractor; and
- (2) inspect the property acquired, used, or developed under the lease, permit, or contract after reasonable notice or as provided in the lease, permit, or contract.

Amended by Chapter 247, 2011 General Session

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

- (1) The Legislature recognizes the importance of having an effective state filing system for unpatented federal mining claims located on trust lands prior to the state's acquisition of title that would allow the state to determine the extent of preexisting unpatented mining claims on those lands and eliminate the cloud on the state's title created by abandoned unpatented mining claims, while preserving the rights of owners of valid preexisting unpatented mining claims located on those lands.
- (2) Annually on or before December 31, each owner of an unpatented lode mining claim, placer mining claim, mill site claim, or tunnel site claim located pursuant to the general mining laws of the United States on lands now owned of record by the state in trust for the common schools or other beneficiary institutions shall file with the administration a notice as prescribed by Subsection (3).
- (3)
  - (a) The initial notice required by Subsection (2) that is filed by a claimant shall include:
    - (i) a statement of the owner's intention to hold or abandon the claim;
    - (ii) a brief description of the type and nature of the claim;
    - (iii) the date the claim was located, and the date the claim was filed of record in county and federal records;
    - (iv) a copy of the official record of the notice of location or certificate of location of the claim; and
    - (v) a legal description of the claim, by legal subdivision or metes and bounds description, sufficient to locate the claimed lands on the ground.

- (b) Each subsequent notice required by Subsection (2) shall include:
  - (i) the name of the claim; and
  - (ii) a statement of the owner's intention to hold or abandon the claim.
- (4)
  - (a) The administration shall note the existence of all claims for which notices have been filed in the central index of all trust lands required under Section 53C-2-101.
  - (b) The administration may impose a reasonable filing fee as a condition for accepting the required notices, not to exceed \$100 per claim, to defray the administrative costs of maintaining an index of claims.
- (5)
  - (a) Failure to file the notice required by this section constitutes an abandonment of the claim by the owner.
  - (b) Filing of the required notice by one owner of a claim in which multiple persons own or claim interests fulfills the filing requirements of this section.
- (6) Filing of a notice under this section does not make valid a claim which is otherwise invalid under other applicable law.
- (7) Acquisition of rights to extract minerals underlying trust lands is governed by Part 4, Mineral Leases.
- (8) This section does not waive any fees, filings, or other requirements imposed by federal law.

Amended by Chapter 247, 2011 General Session

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

The director may at any time withdraw trust lands from:

- (1) applications for leasing, permitting, sale, or other disposition of any nature upon a finding that the interests of the trust would best be served through withdrawal; or
- (2) surface occupancy or use upon a finding that continued use would cause resource degradation.

Amended by Chapter 247, 2011 General Session

**Part 2  
Management Plans**

**53C-2-201 Planning procedures -- Assistance from other state agencies -- Plans consistent with trust responsibilities.**

- (1) The director:
  - (a) shall develop rules describing the degree of planning necessary for each category of activity on trust lands; and
  - (b) may request other state agencies to generate technical data or other support services for the development and implementation of trust lands plans.
- (2) The plans for school and institutional trust lands shall be:
  - (a) developed in a manner consistent with the director's responsibility to insure that the interest of the trust beneficiaries is paramount; and
  - (b) if required by rule, approved by the board.
- (3) The director shall make rules under Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for notifying and consulting with interested parties under this section.

- (4) Subject to Subsection (1), the development of a written plan is not a prerequisite to actions by the director.

Amended by Chapter 382, 2008 General Session

**53C-2-202 Endangered and threatened plant species.**

The director may make determinations concerning the management, protection, and conservation of plant species officially designated as endangered or threatened under the federal Endangered Species Act of 1973, as amended, on trust lands.

Enacted by Chapter 294, 1994 General Session

**Part 3  
Illegal Activities on Trust Lands**

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

- (1) A person is liable for the civil damages prescribed in Subsection (2) and, unless a greater penalty is prescribed in another part of the law, is guilty of a class B misdemeanor if the person, without written authorization from the director:
- (a) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, water resource, or improvement on trust lands;
  - (b) grazes livestock on trust lands;
  - (c) uses, occupies, or constructs improvements or structures on trust lands;
  - (d) uses or occupies trust lands for more than 30 days after the cancellation or expiration of written authorization;
  - (e) knowingly and willfully uses trust lands for commercial gain;
  - (f) appropriates, alters, injures, or destroys any improvement or any historical, prehistorical, archaeological, or paleontological resource on trust lands;
  - (g) trespasses upon, uses, commits waste, dumps refuse, or occupies trust land;
  - (h) interferes with the activities of an employee or agent of the administration on trust lands; or
  - (i) interferes with activities of a lessee or other person which have been authorized by the administration.
- (2) A person who commits any act described in Subsection (1) is liable for damages in the amount of whichever of the following is greatest:
- (a) three times the value at the point of sale of the mineral or other resource removed, destroyed, or extracted;
  - (b) three times the amount of damage committed;
  - (c) three times the cost to cure the damage;
  - (d) three times the value of any losses suffered as a result of interference with authorized activities; or
  - (e) three times the consideration which would have been charged by the director for use of the land during the period of trespass.
- (3) In addition to the damages described in Subsection (2), a person found guilty of a criminal act under Subsection (1) is subject to the penalties provided in Title 76, Chapter 3, Punishments.
- (4) The director shall deposit money collected under this section in the fund in which like revenues from that land would be deposited.

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

Amended by Chapter 247, 2011 General Session

**53C-2-302 Enforcement of this chapter -- County attorney to prosecute.**

- (1) It is the duty of the administration and all law enforcement officers to enforce this chapter within their respective jurisdictions and to investigate and gather evidence that may indicate a violation under this chapter.
- (2) The county attorney shall prosecute any criminal violation of this chapter.

Enacted by Chapter 294, 1994 General Session

**Part 4  
Mineral Leases**

**53C-2-401 Coal and mineral deposits reserved -- Exceptions.**

- (1)
  - (a) Except as otherwise expressly provided by law, coal and mineral deposits in trust lands are reserved to the respective trust.
  - (b) Each certificate of sale and patent issued shall contain such a reservation.
  - (c) The purchaser of any lands belonging to the trust:
    - (i) acquires no right, title, or interest in coal or mineral deposits; and
    - (ii) is subject to the conditions and limitations prescribed by law providing for the state and any person authorized by it to:
      - (A) prospect or mine;
      - (B) remove the deposits; and
      - (C) occupy and use as much of the surface of the lands as may be required for any purpose reasonably incident to the mining and removal of the deposits.
  - (d)
    - (i) Coal and mineral deposits in trust lands may be leased on a rental and royalty basis.
    - (ii) The administration may also, with board approval, enter into joint ventures, farmout agreements, exploration agreements, operating agreements, and other business arrangements for the disposition of coal and mineral deposits in trust lands.
    - (iii) The mineral estate in trust lands may not be sold except as authorized in Subsection (2).
    - (iv) Agreements made under Subsection (1)(d)(ii) are not subject to Subsections 53C-2-405(3) and (4).
- (2) Except as otherwise prohibited by the Jones Act of January 25, 1927, 43 U.S.C. Sections 870-871, mineral interests in trust lands may be exchanged for mineral interests of comparable value or otherwise disposed of, if their retention would create a liability exceeding their value.
- (3)
  - (a) Common varieties of sand, gravel, and cinders are not considered to be minerals under this section but may be reserved by specific action of the director.
  - (b) Common varieties do not include deposits which are valuable because the deposit contains characteristics which give it distinct and special value.

Amended by Chapter 192, 2003 General Session

**53C-2-402 Mineral leases -- Director to establish rules for mineral leases -- Revenues to be deposited in Land Grant Management Fund.**

- (1) Mineral leases of all trust lands owned by the state shall be made exclusively by the director, under rules made by the director.
- (2) Revenues from mineral leases of trust lands shall be deposited in the Land Grant Management Fund.

Enacted by Chapter 294, 1994 General Session

**53C-2-403 Mineral leases -- Director to establish forms, term, rental, and royalty.**

The director shall establish the:

- (1) form of a mineral lease application;
- (2) form of the lease;
- (3) term of the lease;
- (4) annual rental;
- (5) amount of royalty in addition to or in lieu of rental; and
- (6) basis upon which the royalty shall be computed.

Enacted by Chapter 294, 1994 General Session

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

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

Amended by Chapter 247, 2011 General Session

**53C-2-405 Mineral leases -- Multiple leases on same land -- Lease terms.**

- (1)
  - (a) Mineral leases, including oil, gas, and hydrocarbon leases, may be issued for prospecting, exploring, developing, and producing minerals described by rule as available for lease on any portion of trust lands or the reserved mineral interests of the trust.
  - (b)
    - (i) Leases may be issued for different types of minerals on the same land.
    - (ii) If leases are issued for different types of minerals on the same land, the leases shall include stipulations for simultaneous operations.
  - (c) Leases may not be issued for the same resource on the same land.
- (2)
  - (a) Each mineral lease issued by the administration shall provide for an annual rental of not less than \$1 per acre per year.
  - (b) However, a lease may provide for a rental credit, minimum rental, or minimum royalty upon commencement of production, as prescribed by rules of the director.
- (3) The primary term of a mineral lease may not exceed 10 years.



- (4) The director shall make rules regarding the continuation of a mineral lease after the primary term has expired.

Amended by Chapter 39, 2005 General Session

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

- (1) Lands that are not encumbered by a current mineral lease for the same resource, a withdrawal order, or other rule of the director prohibiting the lease of the lands, may be offered for lease as provided in this section or may, with board approval, be committed to another contractual arrangement under Subsection 53C-2-401(1)(d).
- (2)
  - (a) A notice of the land available for leasing shall be posted in the administration's office.
  - (b) The notice shall:
    - (i) describe the land;
    - (ii) indicate what mineral interest in each tract is available for leasing; and
    - (iii) state the last date, which shall be no less than 15 days after the notice is posted, on which bids may be received.
- (3)
  - (a) Applications for the lease of lands filed before the closing date stated in the notice shall be considered to be filed simultaneously.
  - (b) The applications shall be:
    - (i) submitted in sealed envelopes; and
    - (ii) opened in the administration's office at 10 a.m. of the first business day following the last day on which bids may be received.
  - (c) Leases shall be awarded to the highest responsible, qualified bidder, in terms of the bonus paid in addition to the first year's rental, who submitted a bid in the manner required.
  - (d) In cases of identical bids of successful bidders:
    - (i) the right to lease shall be determined by drawing or oral auction;
    - (ii) the determination of whether to award the lease by drawing or oral auction shall be made at the sole discretion of the director; and
    - (iii) the drawing or oral auction shall be held in public at the administration's office in a manner calculated to optimize the return to the trust land beneficiary.
- (4)
  - (a) At the discretion of the director, mineral leases may be offered at an oral public auction.
  - (b) The director may set a minimum bid for a public auction.
- (5) The director may award a mineral lease without following the competitive bidding procedures specified in Subsections (3) and (4) or conducting an oral public auction, if the mineral lessee waives or relinquishes to the trust a prior mining claim, mineral lease, or other right which in the opinion of the director might otherwise:
  - (a) defeat or encumber the selection of newly acquired land, either for indemnity or other purposes, or the acquisition by the trust of any land; or
  - (b) cloud the title to any of those lands.
- (6) Following the awarding of a lease to a successful bidder, deposits, except filing fees, made by unsuccessful bidders shall be returned to those bidders.
- (7)
  - (a) Subject to Section 53C-2-104, lands acquired through exchange or indemnity selection from the federal government shall be subject to the vested rights of unpatented mining claimants

under the Mining Law of 1872, as amended, and other federal vested rights, both surface and minerals.

- (b) Subsection (7)(a) does not prevent the director from negotiating the accommodation of vested rights through any method acceptable to the parties.
- (8) The director may lease lands in the order in which applications are filed if:
  - (a) the director offers trust lands for lease for mineral purposes according to the procedures in Subsections (3) through (6) and the lands are not leased; or
  - (b) a period of time of not less than one year but less than three years has elapsed following:
    - (i) a revocation of a withdrawal; or
    - (ii) the date an existing mineral lease is canceled, relinquished, surrendered, or terminated.

Amended by Chapter 247, 2011 General Session

**53C-2-408 Mineral lease covenants.**

Each mineral lease shall contain the following covenants:

- (1) the lessee shall promptly pay any rent annually in advance;
- (2) waste may not be committed on the land;
- (3) the premises shall be surrendered at the expiration of the term;
- (4) the lessee may not assign or sublet without the prior written authorization of the director; and
- (5) if authorized improvements have been placed on the land by any person other than the lessee, the lessee shall allow the owner of the improvements to remove them within 90 days.

Enacted by Chapter 294, 1994 General Session

**53C-2-409 Mineral leases -- Cancellation -- Use of surface land -- Liability for damage.**

- (1) Upon violation by the lessee of any lawful provision in a mineral lease, the director may, without further notice or appeal, cancel the lease after 30 days notice by registered or certified return receipt mail, unless the lessee remedies the violation, rectifies the condition, or requests a hearing pursuant to Section 53C-1-304 within the 30 days or within any extension of time the director grants.
- (2)
  - (a) A mineral lessee, subject to conditions required by the director, has the right at all times to enter upon the leasehold for prospecting, exploring, developing, and producing minerals and shall have reasonable use of the surface.
  - (b) The lessee may not injure, damage, or destroy the improvements of the surface owner or lessee.
  - (c) The lessee is liable to the surface owner or lessee for all damage to the surface of the land and improvements, except for reasonable use.
- (3) Any mineral lessee may occupy as much of the surface of the leased land as may be required for all purposes reasonably incident to the exercise of lessee's rights under the lease by:
  - (a) securing the written consent or waiver of the surface owner or lessee;
  - (b) payment for the damage to the surface of the land and improvements to the surface owner or lessee where there is agreement as to the amount of the damage; or
  - (c) upon the execution of a good and sufficient bond to the director for the use and benefit of the surface owner or lessee of the land to secure the payment of damages as may be determined and fixed by agreement or in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties of the bond. The bond shall be in a form and amount as prescribed by the director and shall be filed with the administration.

Amended by Chapter 72, 1997 General Session

**53C-2-410 Shut-in gas wells.**

- (1) Under a mineral lease for oil and gas, gas is considered to be produced in paying quantities from a shut-in gas well if the shut-in gas well is capable of producing gas in paying quantities, but the gas cannot be marketed at a reasonable price due to existing marketing or transportation conditions.
- (2)
  - (a) The director shall make rules establishing:
    - (i) a minimum rental or minimum royalty for a shut-in gas well that is considered to be producing gas in paying quantities; and
    - (ii) the basis upon which the minimum rental or minimum royalty shall be paid.
  - (b) The minimum rental or minimum royalty may not be less than twice the annual lease rental.

Enacted by Chapter 294, 1994 General Session

**53C-2-411 Unitization of mineral leases.**

- (1) Mineral lessees, upon prior written authorization from the director, may commit leased trust lands to unit, cooperative, or other plans of development with other lands.
- (2) The director may, with the consent of the mineral lessee, modify any term of a mineral lease for lands that are committed to a unit, cooperative, or other plan of development.
- (3) Production allocated to leased trust lands under the terms of a unit, cooperative, or other plan of development shall be considered produced from the leased lands whether or not the point of production is located on the leased trust lands.

Enacted by Chapter 294, 1994 General Session

**53C-2-412 Land subject to federal mineral lease.**

- (1) With respect to any tract of land in which the trust acquires or has acquired any interest subject to an outstanding federal mineral lease or prospecting permit, the lessee or permittee may submit a petition seeking extension of the permit or lease or any other action as may be necessary to give to the lessee or permittee any and all rights, privileges, and benefits which he would have had under the permit or lease had the trust not acquired its interest in the tract.
- (2) In consideration of the voluntary termination by the federal lessee or permittee of his lease or permit as it relates to that tract, the director may issue to that lessee or permittee a lease of the acquired tract or any portion of that tract for recovery of the same mineral substances, granting the lessee all the rights, privileges, and benefits with reference to that tract which he would have had by reason of his lease or permit from the United States had the state not acquired its interest in the tract.

Enacted by Chapter 294, 1994 General Session

**53C-2-413 Agreements for the administration of mineral leases by a federal agency.**

- (1) Where this trust has succeeded or will succeed to the position of the United States under a federal mineral or prospecting permit in which only a portion of the lands are subject to the permit, agreements may be entered into with the federal agency having jurisdiction over the

remaining portion providing for the continued administration by that agency of the entire lease or permit or any lease pursuant to that permit.

- (2) Consideration for continued administration by the federal agency may not exceed 10% of the revenue allocable to the trust's portion.

Enacted by Chapter 294, 1994 General Session

**53C-2-414 Oil shale and tar sands development -- Participation by the administration -- Credit against future rentals -- Limits.**

- (1) The director may participate with oil shale or tar sands lessees in programs for the development of technology for the economic recovery of fuel substances from oil shale or tar sands.

(2)

- (a) A trust land oil shale or tar sands lessee may apply to the director for credit against future rentals by submitting to the director the details of a plan for research, experimentation, or investigation to develop technology for the economic recovery of fuel substances from oil shale or tar sands.

- (b) The director may prescribe the format of the plan.

(3)

- (a) If the submitted plan is meritorious and designed to advance oil shale or tar sands technology, credit may be granted against rentals to become due in the future under any oil shale or tar sands leases held by the lessee, in accordance with rules promulgated by the director.

- (b) The credit may not be given in an amount which reduces the actual amount payable by the lessee under any oil shale or tar sands lease to less than 50 cents per acre per year.

- (4) Lessees proceeding under a plan approved for director participation shall:

- (a) maintain accurate books and records;

- (b) make them available for inspection by the director at all reasonable times; and

- (c) submit an accounting to the director at the conclusion of the program and at any other times the administration requests.

Enacted by Chapter 294, 1994 General Session

### **Chapter 3**

## **Deposit and Allocation of Revenue from Trust Lands**

### **Part 1**

## **Land Grant Management Fund - Disposition of Revenue**

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

(1)

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

- (b) This fund shall consist of:

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

- (ii) all interest earned by the fund;

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

- (iv) all revenues obtained from other activities of the director or administration.
- (2) The director may expend money:
  - (a) from the Land Grant Management Fund in accordance with the approved budget for the support of director and administration activities; and
  - (b) deposited in the fund in accordance with Subsection 41-22-19(3) as necessary to fulfill the purposes of Subsection 41-22-19(3)(b).
- (3) Except for revenues deposited under Subsection (1)(b)(iii), any amount in excess of that required to fund the budget shall be distributed to the various trust beneficiaries as of June 30 of each calendar year, and at other times determined by the director, in shares equal to the portion of total Land Grant Management Fund revenues obtained from each beneficiary's land during the accounting period.
- (4) Money from the lease or rental of school trust lands or from the use, sale, or lease of resources on school trust lands, all sums paid for fees, and all forfeitures or penalties received in connection with those transactions shall be deposited in the Permanent State School Fund.
- (5) Money from the lease or rental of lands acquired by the state for the benefit of an institution named in Sections 7, 8, and 12 of the Utah Enabling Act, or from the use, sale, or lease of renewable or nonrenewable resources on those lands, and all forfeitures or penalties received in connection with those transactions, shall be distributed to the institution.
- (6) Except for revenues deposited under Subsection (1)(b)(iii), any remaining money, including interest earned on the account, shall be distributed in pro rata shares to the various beneficiaries.

Amended by Chapter 247, 2011 General Session

**53C-3-102 Deposit and allocation of money received.**

- (1)
  - (a) The director shall pay to the School and Institutional Trust Fund Office, created in Section 53D-1-201, all money received, accompanied by a statement showing the respective sources of this money.
  - (b) Each source shall be classified as to sales, rentals, royalties, interest, fees, penalties, and forfeitures.
- (2) All money received from the sale of lands granted by Section 6 of the Utah Enabling Act for the support of the common schools, all money received from the sale of lands selected in lieu of those lands, all money received from the United States under Section 9 of the Utah Enabling Act, all money received from the sale of lands or other securities acquired by the state from the investment of those funds, all sums paid for fees, all forfeitures, and all penalties paid in connection with these sales shall be deposited in the Permanent State School Fund.
- (3) All money received from the sale or other disposition of institutional trust lands granted to the state by the United States under Section 7, 8, or 12 of the Utah Enabling Act, and all sums paid for fees, forfeitures, and penalties received in connection with these sales or dispositions shall go to the respective permanent funds established for the benefit of those institutions under the Utah Enabling Act and the Utah Constitution.
- (4)
  - (a) All lands acquired by the state through foreclosure of mortgages securing school or institutional trust funds or through deeds from mortgagors or owners of those lands shall become a part of the respective school or institutional trust lands.
  - (b) All money received from these lands shall be treated as money received from school or institutional trust lands.

- (5) All money received from the sale of lands acquired by the state through foreclosure of mortgages securing trust funds or through deeds from mortgagors or owners of such lands, whether a profit is realized or a loss sustained on the principal invested, shall be regarded as principal and shall go into the principal or permanent fund from which it was originally taken in reimbursement of that fund, with profits being used to offset losses.
- (6)
  - (a) All money received by the director as a first or down payment on applications to purchase, permit, or lease trust lands or minerals shall be paid to the state treasurer and held in suspense pending final action on those applications.
  - (b) After final action the payments received under Subsection (6)(a) shall either be credited to the appropriate fund or account, or refunded to the applicant in accordance with the action taken.

Amended by Chapter 426, 2014 General Session

**53C-3-103 Disposition of interest on permanent funds.**

- (1) The interest and dividends derived from the investment of funds belonging to the permanent State School Fund and the interest, dividends, and other income of the permanent funds of the respective state institutions shall be distributed for use for the maintenance of public elementary and secondary schools or the state institutions in accordance with Title 51, Chapter 7, State Money Management Act.
- (2) Realized and unrealized gains shall be retained in the Permanent State School Fund.

Amended by Chapter 226, 2003 General Session

**53C-3-104 Disposition of reservoir land grant revenue.**

Money from the sale or management of land selected under the Reservoir Land Grant for the establishment of permanent water reservoirs and water development and conservation projects for irrigation purposes shall be deposited in the Water Resources Construction Fund created in Section 73-10-8.

Enacted by Chapter 294, 1994 General Session

**53C-3-105 Disposition of revenue for normal schools.**

Money distributed for the benefit of the state's normal schools, as provided under the Utah Enabling Act, Section 12, Utah Constitution Article X, Section 7, Utah Constitution Article XX, Section 2, and Sections 53C-3-101 and 53C-3-103, shall be allocated to institutions within the state system of higher education, as defined in Section 53B-1-102, that offer bachelor's degrees in education in proportion to the number of bachelor's degrees awarded by those institutions in the previous fiscal year.

Enacted by Chapter 189, 2005 General Session

**Part 2  
Federal-State Land Exchange**

**53C-3-201 Definitions.**

As used in this part:

- (1) "Acquired lands" means lands acquired by the administration under the agreement.
- (2) "Acquired mineral interests" means mineral interests acquired by the administration pursuant to Section 3(F), (K), (L), or (M) of the agreement.
- (3) "Agreement" means the Agreement to Exchange Utah School Trust Lands Between the State of Utah and the United States of America, signed May 8, 1998, as ratified by the Utah School and Lands Exchange Act of 1998, Pub. L. No. 105-335.
- (4) "Exchange" means a land or mineral interest exchange by the administration and the United States of America after March 1, 2007 that is directed by Congressional action.
- (5) "Exchanged lands" means lands:
  - (a) acquired by the administration through an exchange; and
  - (b) reduced in value to take into account the presence of minerals subject to leasing under the Mineral Leasing Act, 30 U.S.C. Sec. 181 et seq.
- (6) "Exchanged mineral interests" means mineral interests:
  - (a) acquired by the administration through an exchange; and
  - (b) reduced in value to take into account the presence of minerals subject to leasing under the Mineral Leasing Act, 30 U.S.C. Sec. 181 et seq.
- (7) "Identified tracts" means the tracts identified in Section 3(F), (G), (J), (K), (L), and (M) of the agreement, generally referred to as the Cottonwood Tract, Westridge Coal Tract, Ferron Field, Mill Fork Tract, Dugout Canyon Tract, Muddy Tract, and North Horn Coal Tract.
- (8) "Subject mineral" means a mineral that is covered by the Mineral Leasing Act, 30 U.S.C. Sec. 181 et seq.

Amended by Chapter 79, 2010 General Session

**53C-3-202 Collection and distribution of revenues from federal land exchange parcels.**

- (1) The director shall collect all bonus payments, rentals, and royalties from the lease of:
  - (a) minerals on acquired lands;
  - (b) acquired mineral interests;
  - (c) minerals on exchanged lands; and
  - (d) exchanged mineral interests.
- (2) No later than the last day of the second month following each calendar quarter, the director shall distribute:
  - (a) bonus payments received during the calendar quarter from the lease of coal, oil and gas, and coalbed methane on the identified tracts as follows:
    - (i) 50% to the United States; and
    - (ii) 50% to the Land Exchange Distribution Account created in Section 53C-3-203;
  - (b) rentals and royalties received during the calendar quarter from the lease of subject minerals on the acquired lands and the lease of acquired mineral interests as follows:
    - (i) 50% to the Land Grant Management Fund created by Section 53C-3-101; and
    - (ii) 50% to the Land Exchange Distribution Account created in Section 53C-3-203;
  - (c) mineral bonus, rental, and royalty revenue generated from the lease of subject minerals, other than oil shale, on exchanged lands or from the lease of exchanged mineral interests, other than interests in oil shale, as follows:
    - (i) 50% to the Land Grant Management Fund created by Section 53C-3-101; and
    - (ii) 50% to the Land Exchange Distribution Account created in Section 53C-3-203; and
  - (d) mineral bonus, rental, and royalty revenue generated from the lease of oil shale on exchanged lands or the lease of exchanged mineral interests that are interests in oil shale,

net of amounts paid to the United States pursuant to a reserved interest of the United States in oil shale, as follows:

- (i) 50% to the Land Grant Management Fund created by Section 53C-3-101; and
  - (ii) 50% to the Land Exchange Distribution Account created in Section 53C-3-203.
- (3)
- (a) Except as provided in Subsection (3)(c), the director may retain up to 3% of the money collected under Subsection (1) to pay for administrative costs incurred under Subsections (1) and (2).
  - (b) Except as provided in Subsection (3)(c), the director may deduct administrative costs before distributions are made under Subsection (2).
  - (c) The director may not deduct administrative costs from the portion of collections derived from minerals on exchanged lands or exchanged mineral interests that is equal to the United States' reserved interest in oil shale.
  - (d) The director shall keep the administrative cost deductions in separate accounts.
  - (e) The money retained under Subsection (3)(a) is nonlapsing.
  - (f) The director shall distribute in accordance with Subsection (2) the unused balance of the money retained under Subsection (3)(a) that exceeds \$2,000,000 at the end of a fiscal year.

Amended by Chapter 342, 2011 General Session

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

- (1) As used in this section, "account" means the Land Exchange Distribution Account created in Subsection (2)(a).
- (2)
- (a) There is created within the General Fund a restricted account known as the Land Exchange Distribution Account.
  - (b) The account shall consist of revenue deposited in the account as required by Section 53C-3-202.
- (3)
- (a) The state treasurer shall invest money in the account according to Title 51, Chapter 7, State Money Management Act.
  - (b) The Division of Finance shall deposit interest or other earnings derived from investment of account money into the General Fund.
- (4) The Legislature shall annually appropriate from the account in the following order:
- (a) \$1,000,000 to the Constitutional Defense Restricted Account created in Section 63C-4a-402; and
  - (b) from the deposits to the account remaining after the appropriation in Subsection (4)(a), the following amounts:
    - (i) 55% of the deposits to counties in amounts proportionate to the amounts of mineral revenue generated from the acquired land, exchanged land, acquired mineral interests, or exchanged mineral interests located in each county, to be used to mitigate the impacts caused by mineral development;
    - (ii) 25% of the deposits to counties in amounts proportionate to the total surface and mineral acreage within each county that was conveyed to the United States under the agreement or an exchange, to be used to mitigate the loss of mineral development opportunities resulting from the agreement or exchange;



- (iii) 1.68% of the deposits to the State Board of Education, to be used for education research and experimentation in the use of staff and facilities designed to improve the quality of education in Utah;
  - (iv) 1.66% of the deposits to the Geological Survey, to be used for natural resources development in the state;
  - (v) 1.66% of the deposits to the Water Research Laboratory at Utah State University, to be used for water development in the state;
  - (vi) 11% of the deposits to the Constitutional Defense Restricted Account created in Section 63C-4a-402;
  - (vii) 1% of the deposits to the Geological Survey, to be used for test wells, other hydrologic studies, and air quality monitoring in the West Desert; and
  - (viii) 3% of the deposits to the Permanent Community Impact Fund created in Section 35A-8-303, to be used for grants to political subdivisions of the state to mitigate the impacts resulting from the development or use of school and institutional trust lands.
- (5) The administration shall make recommendations to the Permanent Community Impact Fund Board for its consideration when awarding the grants described in Subsection (4)(b)(viii).

Amended by Chapter 101, 2013 General Session

## **Chapter 4 Sales, Exchanges, and Leases of Trust Lands**

### **Part 1 Sales of Trust Lands**

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

- (1)
- (a) The director shall establish criteria by rule for the sale, exchange, lease, or other disposition or conveyance of trust lands, including procedures for determining fair market value of those lands.
  - (b)
    - (i) Nothing in this title or in the administration's rules and procedures shall be considered to require the director or the administration to execute any transaction for the disposition of trust lands on terms that the director determines by a written finding to be unfavorable to the beneficiaries.
    - (ii) The director shall send a copy of the written finding to each board member for review and comment.
- (2) The governor, with the consent of the board, may participate in efforts and initiatives related to school and institutional trust lands inholdings.

Amended by Chapter 247, 2011 General Session

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

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

- (2)
  - (a) The director shall determine whether disposal or retention of all or a portion of a property interest in trust lands is in the best interest of the trust.
  - (b) When it is determined that the disposal of an interest in trust lands is in the best interest of the applicable trust, the transaction shall be accomplished in an orderly and timely manner.
- (3) The director shall advertise any proposed sale, lease, or exchange of an interest in trust lands in a reasonable manner consistent with the director's fiduciary responsibilities.
- (4)
  - (a) Any tract of trust land may be subdivided and sold, leased, or exchanged in accordance with a plan, contract, or other action designating the land to be subdivided that is approved by the director.
  - (b) The director may survey the tract and direct its subdivision.
  - (c) A plat of the survey shall be filed with the county recorder of the county in which the land is located and with the administration.
- (5) Sale conditions, including qualification of prospective purchasers, shall be in accordance with accepted mortgage lending and real estate practices.
- (6) Upon the sale of land, the director shall issue to the purchaser a certificate of sale which describes the land purchased and states the amount paid, the amount due, and the time when the principal and interest will become due.
- (7) Upon payment in full of principal and interest and the surrender of the original certificate of sale for any tract of land sold, payment in full of any amounts required to be paid for the partial release of property, or acceptance of appropriate conveyance documents in satisfaction of a land exchange, the governor, or the governor's designee, shall issue a patent to the purchaser, heir, assignee, successor in interest, or other grantee as determined by the director.
- (8)
  - (a) If a purchaser of trust lands defaults in the payment of any installment of principal or interest due under the terms of the contract of sale, the director shall notify the purchaser that if the default is not corrected within 30 days after issuance of the notice the director shall proceed with any remedy which the administration may pursue under law or the contract of sale.
  - (b) The notice shall be sent by registered or certified mail to the purchaser at the latest address as shown by the records of the administration.
  - (c) If the default is not corrected by compliance with the requirements of the notice of default within the time provided by the notice, the director may pursue any available remedy under the contract of sale, including forfeiture.
  - (d) If forfeited lands are sold again to the same purchaser, the sale may be made by a new and independent contract without regard to the forfeited agreement.

Amended by Chapter 247, 2011 General Session

**53C-4-103 Rulemaking for sale of real property -- Licensed or certified appraisers -- Exceptions.**

- (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the administration buys, sells, or exchanges real property, the administration shall make rules to ensure that the value of the real property is congruent with the proposed price and other terms of the purchase, sale, or exchange.
- (2) The rules:
  - (a) shall establish procedures for determining the value of the real property;

- (b) may provide that an appraisal, as defined under Section 61-2g-102, demonstrates the real property's value; and
  - (c) may require that the appraisal be completed by a state-certified general appraiser, as defined under Section 61-2g-102.
- (3) Subsection (1) does not apply to the purchase, sale, or exchange of real property, or to an interest in real property:
- (a) that is under a contract or other written agreement before May 5, 2008; or
  - (b) with a value of less than \$100,000, as estimated by the state agency.

Amended by Chapter 289, 2011 General Session

## **Part 2**

### **Surface Leases and Easements**

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

- (1) The director may issue surface leases and user permits of trust lands for any term consistent with sound and prudent real estate practices.
- (2) This section does not apply to leases for grazing, oil, gas, and hydrocarbons, or other minerals.
- (3)
  - (a)
    - (i) Surface leases or user permits may be entered into by negotiation, public auction, or other public competitive bidding process as determined by rules of the director.
    - (ii) The director may lease trust lands for development and subsequent sale of all or portions of such lands to third parties for no less than fair market value.
  - (b) Requests for proposals (RFP) on trust lands may be offered by the director after public notice.

Amended by Chapter 247, 2011 General Session

#### **53C-4-202 Lease and permit covenants.**

Each surface lease or user permit shall contain the following covenants:

- (1) the lessee or permittee shall promptly pay the rent annually upon demand;
- (2) no waste may be committed on the land;
- (3) the premises shall be promptly surrendered at the expiration of the term;
- (4) the lessee or permittee may not sublet or assign without the prior written consent of the director;
- (5) failure to pay the agreed rent for a period of one month from the time rent is due shall result in a forfeiture of the lease or permit after notice; and
- (6) where authorized improvements have been placed on the land by any person other than the lessee or permittee, the director may require the lessee or permittee to allow the owner of the improvements to remove them within 90 days.

Amended by Chapter 299, 1995 General Session

#### **53C-4-203 Easements on trust lands -- Director to establish rules.**

- (1) The director shall establish rules for the issuance of easements on, through, and over any trust land, and may establish price schedules.
- (2) A patent for trust lands is subject to any valid existing easement or public right-of-way.

Amended by Chapter 299, 1995 General Session

### **Part 3 Exchanges and Grants**

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

- (1)
  - (a) In accordance with rules of the director, trust lands or other trust assets may be exchanged for other land or other assets.
  - (b) The director shall deliver the necessary patents to other proprietors and receive proper deeds for the lands exchanged.
  - (c) The director shall issue, deliver, and accept conveyance documents in land exchanges in accordance with accepted real estate closing practices.
- (2)
  - (a) If trust lands are encumbered by an existing lease, the director may, upon approval of an exchange, and with the consent of the lessee, terminate the existing lease and issue a lease of the same type on lands which may be acquired in the same exchange in which the leased lands are used as base.
  - (b) The state shall honor all vested rights upon acceptance of exchanged lands.

Amended by Chapter 247, 2011 General Session

#### **53C-4-302 Public land grants -- Board and director to request a survey.**

The board and director shall take all necessary steps to encourage the federal Bureau of Land Management to complete the survey of public unsurveyed lands for the purpose of satisfying the public land grants to this state in accordance with federal law.

Enacted by Chapter 294, 1994 General Session

#### **53C-4-303 Public land grants -- Procedures for selection of additional lands.**

- (1) All selections of land shall be made in legal subdivisions according to the United States survey.
- (2) When a selection has been made and approved by the director, the director shall take action necessary to secure the approval of the proper officers of the United States and the final transfer of the lands selected to this state.
- (3) The director may cancel, relinquish, or release the claims of the state to, and may reconvey to the United States, any particular tract of land erroneously listed to the state, or any tract upon which, at the time of selection, a bona fide claim has been initiated by an actual settler.

Enacted by Chapter 294, 1994 General Session

#### **53C-4-304 Public land grants -- Transcription of selected lands to be sent to county recorders.**

- (1) The director shall receive clear lists to lands in this state from the Department of the Interior.
- (2) Within 90 days of receipt, the director shall transmit to the county recorders a certified transcript of all lands within their respective counties selected and approved for this state under federal law.
- (3) The county recorder shall immediately, upon receipt of the certified transcripts, enter them in the records of the recorder's office.
- (4) Any certified transcript required by this section, when recorded, shall be accepted in lieu of the original approved lists, and shall be sufficient evidence of the conveyance of the lands described in it by the United States to the state.

Enacted by Chapter 294, 1994 General Session

## **Chapter 5 Management of Range Resources**

### **53C-5-101 Management of range resources.**

- (1) The director is responsible for the efficient management of all range resources on lands under the director's administration, consistent with his fiduciary duties of financial support to the beneficiaries.
- (2) This management shall be based on sound resource management principles.

Amended by Chapter 237, 2000 General Session

### **53C-5-102 Grazing permits -- Treatment of permits on federal lands required by the state.**

- (1)
  - (a) The director may issue grazing permits on trust lands under terms and conditions established by rules of the director.
  - (b) Those terms shall be based on the fair market value of the permit.
- (2)
  - (a) Upon selecting, exchanging, or otherwise acquiring lands of the United States, the director shall honor, for the remainder of the applicable term, all leases, permits, and contracts, and the related terms and conditions of user agreements on United States lands, including permitted stocking rates, grazing fee levels, access rights, and all existing activities that currently or historically have dictated an understanding of usage between the land user and the federal government.
  - (b) Improvements of the permittee or lessee to the land shall be honored by the state in the acquisition of federal lands.

Enacted by Chapter 294, 1994 General Session

### **53C-5-103 Control of noxious weeds, new and invading plant species, insects, and disease infestations.**

The director may enter into agreements with other public agencies and private landowners to cooperate in the control of noxious weeds, new and invading plant species, insects, and disease infestations on state-owned and adjacent lands.

Enacted by Chapter 294, 1994 General Session

**53C-5-104 Fees.**

- (1) The director shall collect a fee annually from each grazing permittee for the control of noxious weeds, new and invading plant species, insects, and disease infestations on trust rangelands.
- (2) The fee shall be 10 cents per animal unit month (AUM).
- (3) Fees collected by the director under this section shall be deposited in the Land Grant Management Fund created in Section 53C-3-101 and shall be used by the director for the payment of costs incurred in controlling noxious weeds, new and invading plant species, insects, and disease infestations on school and institutional trust lands.

Amended by Chapter 253, 2004 General Session