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Title 65: State Lands Chapter 01-04 Board to Acquisition - 1993 Replacement Volume

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TITLE 65

STATE LANDS

(Repealed by Laws 1988, ch. 121, § 19.)

Repeals. — Laws 1988, ch. 121, § 19 repeals Title 65, State Lands, effective July 1, 1988. Sections 2 to 14 of the same act enact Title 65A, the present provisions governing state lands.

Sections 65-1-2, 65-1-3, 65-1-5, 65-1-6, 65-1-8, 65-1-19 to 65-1-21, 65-1-66, 65-1-86, 65-1-88, 65-1-89, 65-1-91, 65-1-94, 65-1-95, 65-1-115, 65-6-1, 65-7-6, 65-8-3, 65-8-8 to 65-8-14, and 65-10-1 to 65-10-7 were repealed before 1988.

Sections 65-1-1, 65-1-2.1, 65-1-18, 65-1-64.5, 65-1-67, 65-1-70, 65-1-116, 65-4-10, 65-4-11, 65-7-7, and 65-11-2 were purportedly amended by Laws 1988, ch. 169; however, the amendments were not given effect because of the repeal of Title 65.

Compiler's Notes. — Laws 1988, ch. 121, § 17 provides that the following sections are to become uncodified but are to remain in full force and effect: §§ 65-1-49 to 65-1-53, Utah Code Annotated 1953; § 65-1-53.1, as enacted by Laws 1971, ch. 162, § 1; §§ 65-1-54 to 65-1-62, Utah Code Annotated 1953; §§ 65-1-83 to 65-1-85, as enacted by Laws 1957, ch. 144, §§ 1 to 3; § 65-1-107, as enacted by Laws 1963, ch. 164, § 1; § 65-1-107.5, as enacted by Laws 1965, ch. 149, § 1; and §§ 65-12-1 to 65-12-5, as enacted by Laws 1980, ch. 85, §§ 1 to 5.

These sections read as follows:

[65-1-49.] Delivery of lease of land to Daughters of Utah Pioneers — Description. The State Land Board is authorized and directed to execute in writing and deliver to the Daughters of Utah Pioneers, Incorporated, a nonpecuniary corporation, organized and existing under and by virtue of the laws of the state of Utah, a lease covering certain land, situated in Salt Lake County, state of Utah, lying between Columbus and north Main streets at the southwest corner of the capitol grounds, and more particularly described as follows, to wit:

Commencing at the sw cor. of lot 5, block 11, plat "E," Salt Lake City survey; thence no. 23° 51' 45" w. 25.0'; thence no. 89° 59' 13" e. 187.43' to the west line of Columbus Street; thence along the west line of Columbus Street so. 17° 47' 15" w. 257.49'; thence no. 23° 51' 45" w. 243.52' to the point of commencement.

[65-1-50.] Term of lease given to Daughters of Utah Pioneers. The lease shall run for a period of ninety-nine years from the date of its execution and delivery at a rental of one dollar per year, payable annually to the state treasurer on the first day of March of each year, commencing with the year 1943.

[65-1-51.] Erection of pioneer memorial building. The lease shall be subject to the following conditions: The lessee, the Daughters of the Utah Pioneers, Inc., shall have available for immediate use the sum of \$75,000 or its equivalent, in United States or Utah state bonds not later than February 1, 1946, as evidence of its ability to carry out a memorial building project. Said sum, with other funds, is to be used in the erection of the pioneer memorial building, for the purpose of depicting the history of Utah in a proper display of pioneer relics; and for the purchase of additional land in the name of the state of Utah in the event such purchase is consented to in writing by the governor. It is further provided that the pioneer memorial building and contents thereof shall not be subject to taxes, liens or assessments of any kind whatsoever. The erection of said pioneer memorial building shall be commenced when the governor shall determine that labor and materials are available, and that the best interests of the state will be served.

[65-1-52.] Funds for construction of memorial — Conditions precedent. There is hereby appropriated to the Utah State Building Board out of any unappropriated funds in the General Fund the sum of \$225,000 to be used toward the construction of the said memorial building and for the purchase of additional land adjacent to the said capitol grounds in the event the governor shall consent in writing to such purchase. Provided, however, that no portion of the said \$225,000 shall be used until the Daughters of the Utah Pioneers, Inc., shall have deposited with the state treasurer the sum \$75,000, or its equivalent, in United States or Utah state bonds, and provided that the funds herein appropriated shall be available only to the extent that may be required to supplement the funds of the Daughters of Utah Pioneers, Inc., and any federal funds that may become available for such construction. All unexpended balances of any moneys appropriated by this act shall be turned over to the state treasurer for the credit of the Utah State Building Board for the purposes herein specified.

STATE LANDS

[65-1-53.] Termination of lease given to Daughters of Utah Pioneers. Failure on the part of the lessee, Daughters of Utah Pioneers, Incorporated, to perform the foregoing conditions will automatically terminate the lease.

[65-1-53.1.] Erection of building to house historical objects. The State Building Board is empowered and directed, with the approval of the governor, to accept land and moneys from the Daughters of Utah Pioneers, Inc., for the purpose of obtaining land and erecting a building to house horse carriages and other early Utah historical objects.

The land acquired shall be adjacent to the Daughters of Utah Pioneers memorial museum.

Upon receipt of moneys from the Daughters of Utah Pioneers, Inc., or from federal and other sources which may be used for this project, the State Building Board may proceed to the extent money has been received, to purchase land, and let contracts for the project.

The board is further empowered and directed, at the time the project is completed, to execute in writing and deliver to the Daughters of the Utah Pioneers, Inc., a lease covering that certain land and the improvements thereon as are in this project. The lease shall run for a period of 99 years from the date of its execution and delivery. It is further provided that the real property, improvements and contents thereof shall not be subject to taxes, liens or assessments of any kind whatsoever.

[65-1-54.] Authority to lease State land for bombing range — Description. The governor of the state of Utah is authorized to lease to the United States of America for use as a bombing range certain tracts of land, and buildings, improvements and appurtenances thereunto belonging, situated in Tooele County, state of Utah, containing thirty-nine thousand nine hundred (39,900) acres, more or less, said land being more particularly described as follows: All that land designated as state land in the sections herewith enumerated:

In range 19 west; section 31 township 1 south section 31 of township 2 south; sections 2, 17, 31, 36 of township 3 south, sections 2, 17, 31, 36 of township 4 south.

In range 18 west; sections 32, 36 of township 2 south, sections 2, 16, 32, 36 of township 4 south.

In range 17 west; sections 32, 36 of township 1 south, sections 2, 16, 32, 36 of township 2 south.

In range 16 west; section 32 of township 1 south, sections 2, 16, 32, 36 of township 2 south, sections 31, 32 of township 9 south, section 31 of township 10 south.

In range 15 west; sections 2, 16, 32, 36 of township 2 north, sections 2, 16, 32, 36 of township 1 north, sections 2, 16, 18, 19, 32, 36 of township 1 south, sections 2, 16, 32, 36 of township 2 south, sections 2, 16, 32, 36 of township 3 south.

In range 13 west; sections 2, 16, 32, 36 of township 7 south.

In range 12 west; sections 16, 32, 36 of township 7 south, sections 13, 35 of township 8 south; said premises being shown on map identified as "Utah state planning board, 1937, map of region west of Great Salt Lake, corrected to January, 1938," attached hereto and made a part hereof.

[65-1-55.] Terms of bombing-range lease — Exchange of lands. Such lease shall be made for such consideration and for such period of time and upon such terms as may be agreed upon by the governor and the authorized agents of the United States of America, provided that at such time as the United States of America shall cease to use such land as a bombing range or for other military purpose said lease shall terminate, and further provided, that the state reserves the right to use said lands or any part thereof as based in exchange for other lands belonging to the United States of America in accordance with the laws of the state of Utah and of the United States relating to the exchange of lands.

[65-1-56.] Jurisdiction over bombing range — Right to serve process reserved. Jurisdiction is ceded to the United States in and over the lands described in § 65-1-54 during the period of such lease, reserving however, to this state the right to serve all civil process and such criminal process as may lawfully issue under the authority of this state against persons charged with crimes against the laws of this state committed within or without said reservation.

[65-1-57.] Authority to lease state land for federal defense purposes. For the purpose of cooperating with, and assisting the United States of America in its defense program, and more particularly for the establishment of airports and for other public purposes, the governor of the state of Utah is authorized to lease for a period not to exceed ninety-nine years to the United States of America or to any municipal corporation of the state of Utah, upon such terms and conditions as he may determine, such right, title, and interest which the state now has, or which it may acquire in and to the lands hereinafter described or any part of the same, and to grant any easement or right of way in, upon, or across any state lands in and around Utah Lake as may be necessary or desirable in connection with the defense program of the United States of America for the establishment of airports.

[65-1-58.] Description of lands leased for federal defense purposes. The lands subject to this act are located in Utah County, state of Utah, and more particularly described as follows:

STATE LANDS

All lands along the east shore of Utah Lake lying between the south bank of Provo River and the Provo Bay Channel and located west of the east boundary of sections 3, 10 and 15 township 7 south range 2 east, Salt Lake base meridian extended south to the Provo River south to the Provo Bay Channel.

[65-1-59.] Manner of executing lease for federal defense purposes. All deeds, leases, conveyances or other instruments herein authorized to be executed shall be executed in the manner in which patents to state lands are executed and attested.

[65-1-60.] Use of leased lands for airports or other projects. Any lands conveyed, granted, leased or otherwise conveyed under this act shall be used for the establishment of airports or other projects by the United States Government, and for other public purposes.

[65-1-61.] Water storage rights not affected by lease for federal defense purposes. The powers herein granted, and to be exercised hereunder, are intended to, and shall be construed to apply to the rights, title, and interest which the state of Utah may have in and to the lands herein described, and are not intended to, and shall not be construed to in any wise change or affect the legal title of any person whomsoever, in and to said lands, or any part thereof; for the storage and reservoir rights of Utah Lake.

[65-1-62.] Powers granted by Utah Lake dike-project provisions. The powers herein granted, and to be exercised hereunder, are subject to any and all powers granted to the governor of the state of Utah by chapter 109, Laws of Utah, 1935.

[65-1-83.] Sale of specified state lands to Ute Indian Tribe. The State Land Board shall sell to the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah tracts of land owned by the state of Utah and within the exterior boundary of the Uintah and Ouray Reservation, Utah, described as follows:

[The section lists various ranges and sections, together with descriptions and number of acres, in Townships 85, 95, 105, 115, 125, 135, 145, 155, 15½ S, 165, 175, 185, and 195 for a total acreage of 38,501.20.]

[65-1-84.] Conveyance to United States in trust for Ute Indian Tribe — Reservation of minerals — Right of ingress and egress. All conveyances pursuant to this act shall be to the United States of America in trust for the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, and shall reserve to the state of Utah all minerals within or underlying the lands conveyed, and shall also reserve the right of ingress and egress to prospect for and mine such minerals.

[65-1-85.] Consideration for lands sold to Ute Indian Tribe. The lands sold pursuant to this act shall be sold for a consideration of \$2.50 per acre, and the consideration shall be paid in advance of the conveyance of the lands.

[65-1-107.] Lease of land to Great Salt Lake Council, Boy Scouts of America. Notwithstanding the provisions of §§ 65-1-24, and 65-1-29, Utah Code Annotated 1953, the State Land Board is hereby authorized and directed to exchange a part of section 36, township 2 north, range 10 east, Salt Lake Base and Meridian, to the Federal Government for a similar amount of ground, and to lease the remaining part of said section, and the land received in said exchange to the Great Salt Lake Council of the Boy Scouts of America, for a period of ninety-nine years for such rental and on such terms as may be mutually agreed upon by said council and the State Land Board; provided, that said council shall designate the land in said section to be exchanged and the land to be received in exchange.

[65-1-107.5.] Lease of land to National Parks Council, Boy Scouts of America. Notwithstanding the provisions of §§ 65-1-24 and 65-1-29, Utah Code Annotated 1953, the State Land Board is authorized to lease to the National Parks Council of the Boy Scouts of America for a period of ninety-nine years for such rental and on such terms as may be mutually agreed upon by said council and the State Land Board the following described lands: S½, NW¼, S½ NE¼, and NW¼ NE¼, Section 16, T 29 S, R 5 W, SLB&M, provided, that the council shall not transfer or assign said land without the consent of the State Land Board.

[65-12-1.] Legislative intent. The Legislature recognizes that Camp Williams is vital to the continued mission of the Utah National Guard to provide military training to the citizens of the state. In order to preserve the function of Camp Williams as a military training base, it is the intent of the Legislature to authorize the purchase of certain private land located near the camp which is incompatible with its use as a viable military reservation and training base.

[65-12-2.] Authorization for acquisition. The Utah National Guard is authorized to purchase and acquire the land set forth in § 65-12-3 for an amount not to exceed the value per acre documented by a certified appraiser approved by the Division of State Lands. Title to the land, upon acquisition, shall be vested in the Utah National Guard.

[65-12-3.] Description of land. The land authorized to be acquired consists of approximately 1,312.93 acres more specifically described as: Township 4 south, range 2 west, Salt Lake base and meridian

STATE LANDS

	Acreage
Section 22: SE ¹ / ₄ SE ¹ / ₄	40.00
Section 23: SW ¹ / ₄ SW ¹ / ₄	40.00
Section 26: W ¹ / ₂ NW ¹ / ₄ , S ¹ / ₂ SW ¹ / ₄ , NW ¹ / ₄ SW ¹ / ₄	200.00
Section 27: NE ¹ / ₄ , E ¹ / ₂ SE ¹ / ₄	240.00
Section 29: SW ¹ / ₄ SW ¹ / ₄	40.00
Section 30: SE ¹ / ₄ SE ¹ / ₄ , lot 6 (44.7 ac)	84.77
Section 34: NE ¹ / ₄ NW ¹ / ₄ , NW ¹ / ₄ NE ¹ / ₄ , E ¹ / ₂ NE ¹ / ₄	160.00
Section 35: NW ¹ / ₄ , N ¹ / ₂ SW ¹ / ₄ , SE ¹ / ₄ SW ¹ / ₄	1,084.77

Together with:

Township 5 south, range 2 west, Salt Lake base and meridian, section 2, north 226.66/640 fractional part, containing 228.16 acres more or less, said acreage being in accordance with federal cadastral survey of section 2, but only insofar as said 226.66/640 fractional part, or any part thereof, is not at the time of exercise of the option subject to then-subexisting contract purchase or other rights, executory or otherwise, in favor of Washington Financial Corporation (the present contract purchaser) or any person or entity (except seller) deriving or taking title or right through or because of said Washington Financial Corporation; and such other land needed to fulfill the requirements of this act.

[65-12-4.] Appropriation. (1) There is appropriated to the Utah National Guard from the General Fund, from funds not otherwise appropriated, for the fiscal year ending June 30, 1981, the sum of \$160,000, or 29% of the total purchase price to acquire the land described in § 65-12-3. Any part of this appropriation not expended to accomplish the purposes of this act shall lapse to the General Fund at the expiration of two years from the effective date of this act, unless there is litigation pending which relates to the acquisition of the land, in which event, the appropriation shall not lapse until the litigation is fully settled or adjudicated.

(2) The purchase agreement provides for the installment purchase of the land with the initial payment being 29% of the total purchase price payable in the fiscal year ending June 30, 1981, 36% of the total purchase price payable in the fiscal year ending June 30, 1982, and 35% of the total purchase price payable in the fiscal year ending June 30, 1983. Interest paid by the state on the unpaid principal balance shall not exceed 6%.

[65-12-5.] Use of land — Fees. (1) The land acquired under authorization of this act shall be held by the Utah National Guard as part of its military reservation at Camp Williams and used as a firing range. During parts of the year when the land is not used as a firing range, grazing rights to the land may be leased by the Utah National Guard at fees determined by the Division of State Lands.

(2) Fees derived from grazing leases, less administrative costs, shall accrue to the General Fund. The Utah National Guard may enter into an agreement with the Division of State Lands to administer the grazing leases.

TITLE 65A

STATE LANDS

Chapter

1. Board of State Lands and Forestry — Division of State Lands and Forestry.
2. Administration and Management of State Lands.
3. Illegal Activities on State Lands.
4. Acquisition and Disposition of Land by State Agencies.
5. Deposit and Allocation of Revenues from State Lands.
6. Mineral Leases.
7. Sale, Exchange, and Lease of State Lands.
8. Management of Forest Lands and Fire Control.
9. Management of Range Resources.
10. Management of Sovereign Lands.
11. State Forest and Wildland Designation.
12. Flood Control and Prevention.
13. Lands Granted Under the Carey Act.

CHAPTER 1

BOARD OF STATE LANDS AND FORESTRY — DIVISION OF STATE LANDS AND FORESTRY

Section		Section	
65A-1-1.	Definitions.		governed by Administrative Procedures Act.
65A-1-2.	Board of State Lands and Forestry — Creation — Responsibilities.	65A-1-8.	Board members and division employees — Prohibited from acquiring an interest in state lands.
65A-1-3.	Board of State Lands and Forestry — Membership — Appointment of successors — Chairman — Quorum.	65A-1-9.	Board members and division employees — Prohibited from interfering with an application to acquire an interest in state lands.
65A-1-4.	Division of State Lands and Forestry — Creation — Power and authority.	65A-1-10.	Proprietary geologic or financial information — Kept confidential — Board to adopt rules.
65A-1-5.	Attorney general — Role in affairs of the board and division.	65A-1-11.	Division's authority to examine records and inspect premises.
65A-1-6.	Witnesses — Subpoena and oaths.	65A-1-12.	Filing date of applications and bids.
65A-1-7.	Appeals of agency action — Board to review and modify division action — Appointment of hearing examiner — Review to be		

65A-1-1. Definitions.

As used in this title:

- (1) "Board" means the Board of State Lands and Forestry.
- (2) "Division" means the Division of State Lands and Forestry.
- (3) "Multiple use" means the management of various surface and sub-surface resources so they are utilized in the combination that will best meet the present and future needs of the people of this state.
- (4) "Public trust assets" means those lands and resources, including sovereign lands, administered by the division that are not part of the school or institutional trust lands.
- (5) "School and institutional trust lands" means those properties granted by the United States in the Utah Enabling Act to the state of Utah in trust and other lands transferred to the trust, which must be managed for the benefit of:
 - (a) the public school system; or
 - (b) the institutions of the state which are designated by the Utah Enabling Act.
- (6) "Sovereign lands" means those lands lying below the ordinary high water mark of navigable bodies of water at the date of statehood and owned by the state by virtue of its sovereignty.
- (7) "State lands" means all lands administered under the authority of the board and the division.
- (8) "Sustained yield" means the achievement and maintenance of high level annual or periodic output of the various renewable resources of land without impairment of the productivity of the land.

History: C. 1953, 65A-1-1, enacted by L. 1988, ch. 121, § 2.

Utah Enabling Act. — See Volume 1A.

COLLATERAL REFERENCES

Journal of Energy Law and Policy. — Revisiting the Utah School Trust Lands Dilemma: Golden Arches National Park?, 11 J. Energy L. & Pol'y 347 (1991).

65A-1-2. Board of State Lands and Forestry — Creation — Responsibilities.

- (1) (a) The Board of State Lands and Forestry is created within the Department of Natural Resources.
- (b) The board is the policymaking body for the Division of State Lands and Forestry.
- (c) (i) Where reference is made in the Utah Code to the State Land Board or the Board of State Lands, it shall be construed as referring to the Board of State Lands and Forestry, but only if the reference pertains to policymaking functions, powers, and duties.
- (ii) In all other instances, the reference shall be construed as referring to the Division of State Lands and Forestry.
- (2) The board shall establish policy for:
 - (a) the management of school and institutional trust lands and sovereign lands; and

- (b) fire and forestry management responsibilities as prescribed in Title 65A, Chapter 8.
- (3) (a) Policies shall be consistent with the Utah Enabling Act, the Utah Constitution, and state law.
- (b) The board shall adopt rules under Title 63, Chapter 46a, Utah Administrative Rulemaking Act, necessary to fulfill the purposes of this title.
- (4) In carrying out its responsibilities the board shall do the following:
 - (a) administer school and institutional trust lands in a prudent manner with undivided loyalty to the beneficiaries and make the interest of the beneficiaries paramount;
 - (b) administer state lands under comprehensive land management policies using multiple use-sustained yield principles, except that the policies shall be subordinate to standard trust administration principles as applied to the school and institutional trust lands;
 - (c) receive at least fair market value for the use, sale, or exchange of school and institutional trust assets; and
 - (d) administer sovereign land assets in the best interest of the state.

History: C. 1953, 65A-1-2, enacted by L. 1988, ch. 121, § 2; 1988 (2nd S.S.), ch. 1, § 1; 1992, ch. 136, § 1.

Amendment Notes. — The 1992 amendment, effective April 27, 1992, divided former Subsection (1) into Subsections (1) and (2), subdividing Subsection (1); redesignated former Subsection (2) as present Subsection (3), dividing it into Subsections (3)(a) and (3)(b), and redesignated former Subsection (3) as Subsection (4); inserted the chapter and title reference in Subsection (3)(b); rewrote Subsection (4)(a); substituted the exception at the end of Subsection (4)(b) for "consistent with the respective school and institutional or public trust responsibilities"; substituted "administer sovereign land assets" for "insure that the public trust assets are administered" in Subsection (4)(d); and made stylistic changes throughout the section.

Sunset Act. — See Sections 63-55-263 and 63-55-265 for the repeal date of the Board of State Lands and Forestry.

Utah Enabling Act. — See Volume 1A.

Cross-References. — Creation of Department of Natural Resources and boards and divisions within department, § 63-34-3.

Disclaimer of rights in unappropriated lands, Enabling Act, § 3; Utah Const., Art. III.

Fish and Game Division, Wildlife Board and Division of Wildlife Resources as successors to, § 23-14-3.

Forests to be preserved, Utah Const., Art. XVIII, § 1.

Hunting, fishing and trapping, public access to state lands for, § 23-21-4.

Indian lands, Enabling Act, § 3; Utah Const., Art. III.

Land grant for common schools, Enabling Act, § 6.

Land grant for public buildings, Enabling Act, § 7.

Land grant to university and agricultural college, permanent fund, Enabling Act, § 8; Utah Const., Art. X, Sec. 7.

Land grants, acceptance by state on terms of trust, Utah Const., Art. XX, Sec. 1.

Land grants for educational purposes, lands not subject to entry under laws of United States, Enabling Act, § 10.

Land grants, proceeds of sales of lands granted by United States and public lands sold by United States used for State School Fund, Enabling Act, § 9; Utah Const., Art. X, Sec. 5.

Land grants, selection of lands, Enabling Act, § 13.

Parks and Recreation, Division of, §§ 63-11-17.1, 63-34-3.

Sale, exchange, and lease of state lands, § 65A-7-1 et seq.

School and institutional trust lands, Title 53C.

Wildlife Resources, Division of, §§ 23-14-1, 63-34-3.

NOTES TO DECISIONS

ANALYSIS

Actions against board.

—Mandamus.

—Review.

Adverse possession.

Duty of trust.

Federal leases.

Lease of school land.

Tax exemption.

Actions against board.

An action against board for damages resulting from a break in an irrigation canal was, in effect, an action against the state where judgment was directed to be paid out of state funds. *Wilkinson v. State*, 42 Utah 483, 134 P. 626 (1913); *Dall v. State*, 42 Utah 498, 134 P. 632 (1913).

—Mandamus.

A court had no jurisdiction to direct, by mandamus, how the discretionary power vested in the board should be exercised. *Miles v. Wells*, 22 Utah 55, 61 P. 534 (1900).

Former chapter placed the whole matter of making disposition of the state's lands in the hands and under the control of the state land board. No right of appeal to the courts, or of reviewing the board's actions otherwise by the courts, except where lack or excess of power was alleged, was given. All the courts could do, therefore, was to inquire into and determine in a proper proceeding whether the board had acted without or in excess of its powers or jurisdiction. *Whitmore v. Candland*, 47 Utah 77, 151 P. 528 (1915).

The board is not protected under the doctrine of sovereign immunity from a mandamus proceeding to compel the board to comply with its statutory duty. *Archer v. Utah State Land Bd.*, 15 Utah 2d 321, 392 P.2d 622 (1964).

—Review.

Courts may not review the acts or conduct of the board for the purpose of correcting mere irregularities. *Whitmore v. Candland*, 47 Utah 77, 151 P. 528 (1915).

Adverse possession.

School lands cannot be acquired by adverse possession against the state. *Van Wagoner v. Whitmore*, 58 Utah 418, 199 P. 670 (1921).

Duty of trust.

Trust obligations take priority and must first be met before consideration can be given to multiple use-sustained yield principles. *National Parks & Conservation Ass'n v. Board of State Lands*, 215 Utah Adv. Rep. 21 (1993).

The Board of State Lands and Forestry did not breach its trust duties by refusing to give priority to the scenic, aesthetic, and recreational values of a parcel of school trust land over economic values when it approved a land exchange. *National Parks & Conservation Ass'n v. Board of State Lands*, 215 Utah Adv. Rep. 21 (1993).

Federal leases.

The state must recognize leases and the extensions granted by federal law on mineral school lands transferred to the state under the federal Dawson Acts. *Jacobson v. State Land Bd.*, 12 Utah 2d 307, 366 P.2d 70 (1961).

Lease of school land.

Territorial legislature held to have had no right to pass law giving to county court authority to lease sections of land reserved by United States for common school purposes. *Burrows v. Kimball*, 11 Utah 149, 41 P. 719 (1885).

Tax exemption.

Where state accepted deed of land from defaulting mortgagor rather than foreclose the mortgage given upon the purchase of the land from the state, the state could not claim the land free from county taxes levied while the mortgagor had the title. *State v. Salt Lake County*, 96 Utah 464, 85 P.2d 851 (1938).

Taxes cannot be levied upon lands where the state has retained title under a contract of sale; assessments can be made only against improvements and the buyer's interest in the land to the extent of money paid, or due, whether an extension of payment has been granted or not. *Stowell v. State*, 100 Utah 420, 115 P.2d 916 (1941).

Lands, title to which is acquired by the state by foreclosure of mortgage or conveyance for the extinguishment of a debt for money loaned from the state, are exempt from taxation. *Duchesne County v. State Tax Comm'n*, 104 Utah 365, 140 P.2d 335 (1943).

COLLATERAL REFERENCES

Utah Law Review. — *Utah v. United States*, 1976 Utah L. Rev. 245.

Journal of Energy Law and Policy. — *Utah's School Trust Lands: Dilemma in Land Use Management and the Possible Effect of*

Utah's Trust Land Management Act, 9 J. Energy L. & Pol'y 195 (1989).

Am. Jur. 2d. — 72 Am. Jur. 2d States, Territories, and Dependencies § 66.

C.J.S. — 81A C.J.S. States § 82.

A.L.R. — Cost of substitute facilities as measure of compensation paid to state or municipality for condemnation of public property, 40 A.L.R.3d 143.

Right of public in shore of inland navigable lake between high and low water mark, 40 A.L.R.3d 776.

Key Numbers. — States ⇌ 45.

65A-1-3. Board of State Lands and Forestry — Membership — Appointment of successors — Chairman — Quorum.

- (1) (a) The Board of State Lands and Forestry is composed of:
 - (i) ten members appointed by the governor with the advice and consent of the Senate; and
 - (ii) the state superintendent of public instruction or the superintendent's designee.
- (b) Except as provided in Subsection (4), the board members appointed by the governor shall serve four-year terms.
- (c) No more than six board members may be from the same political party.
- (d) (i) The governor shall select each appointee to the board from a nomination list of three to five candidates for each board position.
- (ii) A committee consisting of the following shall prepare and submit the nomination lists to the governor:
 - (A) four individuals selected by the State Board of Education, not to include the state superintendent of public instruction;
 - (B) one individual selected by the institutional trust lands beneficiaries, other than the public school trust lands beneficiary;
 - (C) one individual selected by the livestock industry;
 - (D) one individual selected by the Utah Petroleum Association;
 - (E) one individual selected by the Utah Mining Association; and
 - (F) one individual selected by a statewide wildlife and conservation organization.
- (iii) The representatives shall submit one list for each district described in Subsection (2), except that two lists shall be submitted for Districts 6 and 7.
- (iv) The governor may request additional nominations from the committee if the initial candidates are unacceptable.
- (e) The board members shall be appointed consistent with Section 63-34-4.
- (f) Board members shall have experience and knowledge in:
 - (i) the transactions which generate the principal income sources to the trust;
 - (ii) trust management and related trust responsibilities; or
 - (iii) both transactions and trust management or related trust responsibilities.
- (2) The board shall consist of:
 - (a) the state superintendent of public instruction or the superintendent's designee;
 - (b) a person knowledgeable in forestry and fire control matters;

- (c) one member appointed from each of the following districts:
 - (i) District 1 — Beaver, Garfield, Iron, Kane, and Washington Counties;
 - (ii) District 2 — Morgan, Rich, Summit, and Wasatch Counties;
 - (iii) District 3 — Juab, Millard, Piute, Sanpete, Sevier, and Wayne Counties;
 - (iv) District 4 — Carbon, Emery, Grand, and San Juan Counties;
 - (v) District 5 — Daggett, Duchesne, and Uintah Counties;
 - (d) two members appointed from District 6 — Box Elder, Cache, Davis, and Weber Counties; and
 - (e) two members appointed from District 7 — Salt Lake, Tooele, and Utah Counties.
- (3) (a) At least one member appointed under Subsection (2) shall be actively engaged in grazing livestock on state lands.
- (b) At least one member appointed under Subsection (2) shall be knowledgeable in mining.
- (c) At least one member appointed under Subsection (2) shall be a member of the petroleum industry.
- (d) At least one member appointed under Subsection (2) shall be:
- (i) well informed about, and interested in, the subject of wildlife conservation and restoration; and
 - (ii) an active member of a statewide conservation and wildlife organization.
- (4) (a) When a vacancy occurs on the board, the governor shall appoint a replacement, with the advice and consent of the Senate, to fill the unexpired term.
- (b) The replacement must be from the same district as the member being replaced.
- (5) (a) The board shall select a chairman from the membership.
- (b) Six members of the board constitute a quorum for the transaction of business.
- (6) The director of the division shall act as the executive secretary of the board and shall keep a full record of board actions, including all documents submitted to the board.

History: C. 1953, 65A-1-3, enacted by L. 1988, ch. 121, § 2; 1988 (2nd S.S.), ch. 1, § 2; 1990, ch. 168, § 1; 1992, ch. 281, § 1.

Amendment Notes. — The 1990 amendment, effective April 23, 1990, substituted "board and division actions" for "the board actions" and added "or division" in Subsection (7).

The 1992 amendment, effective April 27, 1992, made stylistic changes in Subsections (1) and (2); added Subsection (1)(d); redesignated former Subsection (1)(d) as Subsection (1)(e);

rewrote Subsection (1)(f); deleted former Subsection (4), relating to terms of members first appointed under Title 65A; redesignated former Subsections (5) and (6) as Subsections (4) and (5) while adding the internal subsection designations therein; and redesignated former Subsection (7) as Subsection (6) while therein deleting "and division" before "actions" and deleting "or division" at the end of the subsection.

Cross-References. — Superintendent of public instruction, § 53A-1-301.

65A-1-4. Division of State Lands and Forestry — Creation — Power and authority.

(1) (a) The Division of State Lands and Forestry is created within the Department of Natural Resources under the administration and general supervision of the executive director of the department and under the policy direction of the Board of State Lands and Forestry.

(b) The division is the executive authority for the management of the school and institutional trust lands, sovereign lands, and the state's mineral estates and shall provide for forestry and fire control activities on state and private lands as required in Section 65A-8-1.

(2) In managing the school and institutional trust lands and in accordance with its trust responsibility of undivided loyalty to the beneficiaries, the division, notwithstanding any other provision in this title, shall do the following:

(a) seek to maximize trust land revenue, 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;

(b) maintain integrity of the trust and prevent misapplication of its lands and revenues through prudent management; and

(c) make the interest of the school and institutional trust beneficiaries paramount.

(3) The director of the Division of State Lands and Forestry is the executive and administrative head of the division and shall be a person experienced in administration and management of natural resources.

History: C. 1953, 65A-1-4, enacted by L. 1988, ch. 121, § 2; 1992, ch. 136, § 2; 1992, ch. 138, § 1.

Amendment Notes. — The 1992 amendment by ch. 136, effective April 27, 1992, designated the former second sentence of Subsection (1) as Subsection (2) and made a stylistic change therein; inserted Subsection (3); and re-designated former Subsection (2) as Subsection (4).

The 1992 amendment by ch. 138, effective April 27, 1992, added the (a) and (b) designa-

tions in Subsection (1) and made a stylistic change in Subsection (1)(b).

This section is set out as reconciled by the Office of Legislative Research and General Counsel.

Sunset Act. — See Sections 63-55-263 and 63-55-265 for the repeal date of the Division of State Lands and Forestry.

Cross-References. — Department of Natural Resources, § 63-34-3.

Fire prevention, Title 53, Chapter 7.

Preservation of forests, Utah Const., Art. XVIII, Sec. 1.

NOTES TO DECISIONS

Appraisals.

The Division of State Lands and Forestry improperly relied solely on appraisals submitted by a county in ascertaining the fair market value of both state school trust land and the county's land. The Division breached its trust

duty by not securing appraisals from appraisers either retained or employed by the Division. *National Parks & Conservation Ass'n v. Board of State Lands*, 215 Utah Adv. Rep. 21 (1993).

COLLATERAL REFERENCES

Am. Jur. 2d. — 35 Am. Jur. 2d Fires §§ 2 to 4; 52 Am. Jur. 2d Logs and Timber § 64.

C.J.S. — 98 C.J.S. Woods and Forests § 13.

65A-1-5. Attorney general — Role in affairs of the board and division.

(1) The attorney general shall represent the board and the division in any legal action relating to state lands and upon request by the director may institute action to enforce the provisions of this title. Whenever an action is brought contesting a decision or act of the board or division, the board or division may be named a party in the case rather than the individuals that comprise the board or division.

(2) All leases, contracts, and agreements entered into by the division shall be approved as to form by the attorney general prior to execution.

(3) All suits for the collection of rental and damages shall be instituted by the attorney general, upon request by the director, in the name of the state. The attorney general, upon request by the director, shall prosecute actions for suppression costs or other damage caused by fires on state lands.

History: C. 1953, 65A-1-5, enacted by L. 1988, ch. 121, § 2.

Cross-References. — Attorney general, Title 67, Chapter 5.

65A-1-6. Witnesses — Subpoena and oaths.

The board or director may issue subpoenas to compel the attendance of witnesses and the production of documents in adjudicative proceedings authorized by law. Any member of the board or the director may administer oaths in the performance of the board's official duties.

History: C. 1953, 65A-1-6, enacted by L. 1988, ch. 121, § 2; 1990, ch. 168, § 2.

Amendment Notes. — The 1990 amendment, effective April 23, 1990, inserted "or di-

rector" after "board" and added "in adjudicative proceedings authorized by law" at the end of the first sentence.

65A-1-7. Appeals of agency action — Board to review and modify division action — Appointment of hearing examiner — Review to be governed by Administrative Procedures Act.

(1) The board shall make rules governing practice and procedure in adjudication of individual rights and responsibilities. These rules shall ensure procedural due process.

(2) Upon the petition of an aggrieved party to a final division action, the board may review the action on the record and issue an order modifying or rescinding division action inconsistent with statutes, rules, or board policy.

(3) Upon the motion of a board member, the board may initiate a review of division action to consider whether the action is consistent with statutes, rules, or board policy. The board may issue an order modifying or rescinding a division action it considers inconsistent with statutes, rules, or board policy.

(4) A qualified hearing examiner may be appointed for purposes of taking evidence and making recommendations for a board order. The board shall consider the recommendations of the examiner in making decisions.

(5) Board review of final agency action and judicial review of final board action shall be governed by Title 63, Chapter 46b, Administrative Procedures Act.

History: C. 1953, 65A-1-7, enacted by L. 1988, ch. 121, § 2; 1990, ch. 168, § 3; 1991, ch. 283, § 1.

Amendment Notes. — The 1990 amendment, effective April 23, 1990, inserted "final" before "division action" and substituted "the action on the record" for "division actions" in Subsection (2); substituted "board order" for "declaratory order" at the end of the first sentence in Subsection (3); deleted former Subsection (4) which read "Any party to an agency

order may seek review of the order"; and designated former Subsection (5) as present Subsection (4) and substituted "board action" for "agency action" therein.

The 1991 amendment, effective April 29, 1991, added present Subsection (3); redesignated former Subsections (3) and (4) as present Subsections (4) and (5); and substituted "Board review" for "Reconsideration" at the beginning of Subsection (5).

NOTES TO DECISIONS

Administrative Procedures Act.

Even though § 63-46b-1(2)(g) exempts agency proceedings relating to the purchase and sale of real property from the Administrative Procedures Act, Subsection (5) of this section

specifically provides that the act governs judicial review of proceedings of the board and is controlling. *Southern Utah Wilderness Alliance v. Board of State Lands & Forestry*, 830 P.2d 233 (Utah 1992).

65A-1-8. Board members and division employees — Prohibited from acquiring an interest in state lands.

Board members, except as provided in Section 65A-1-3, or division employees may not directly or indirectly acquire any interest in state lands.

History: C. 1953, 65A-1-8, enacted by L. 1988, ch. 121, § 2.

65A-1-9. Board members and division employees — Prohibited from interfering with an application to acquire an interest in state lands.

Any board member or division employee who, in furtherance of his own or another's interest, interferes in any manner with the application of a bona fide applicant to acquire an interest in state lands is guilty of a class A misdemeanor.

History: C. 1953, 65A-1-9, enacted by L. 1988, ch. 121, § 2; 1991, ch. 241, § 87; 1992, ch. 30, § 143.

Amendment Notes. — The 1991 amendment, effective April 29, 1991, substituted "class A" for "class B."

The 1992 amendment, effective April 27, 1992, substituted "his" for "their" near the beginning of the section.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

65A-1-10. Proprietary geologic or financial information — Kept confidential — Board to adopt rules.

The division may keep geologic and financial information, which the provider and the division agree is of a proprietary nature, confidential except when that information is required by federal or state law to be of a nonproprietary nature. The board shall adopt rules to determine when to accept confidential information.

History: C. 1953, 65A-1-10, enacted by L. 1988, ch. 121, § 2.

Cross-References. — Administrative rule-making, Title 63, Chapter 46a.

65A-1-11. Division's authority to examine records and inspect premises.

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

(a) require that the lessee, permittee, or contractor provide any pertinent books, records, or other documents of the lessee, permittee, or contractor; or

(b) 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.

(2) Nothing in the section shall be construed to limit or invalidate audits conducted by the division prior to the effective date of this act.

History: C. 1953, 65A-1-11, enacted by L. 1990, ch. 325, § 1.

"Effective date of this act." — The phrase "effective date of this act" in Subsection (2) means April 23, 1990, the effective date of L. 1990, ch. 325.

Effective Dates. — Laws 1990, ch. 325 became effective on April 23, 1990, pursuant to Utah Const., Art. VI, Sec. 25.

65A-1-12. Filing date of applications and bids.

Any application or bid required for the lease, permitting, or sale of state lands in a competitive process shall be considered filed or made on the date received by the appropriate division office, whether transmitted by the United States mail or in any other manner.

History: C. 1953, 65A-1-12, enacted by L. 1991, ch. 283, § 2.

Effective Dates. — Laws 1991, ch. 283 be-

came effective on April 29, 1991, pursuant to Utah Const., Art. VI, Sec. 25.

CHAPTER 2

ADMINISTRATION AND MANAGEMENT OF STATE LANDS

Section

65A-2-1. Administration of state lands — Multiple-use sustained yield management — Subordinate to trust administration principles.

65A-2-2. State land management planning procedures for natural and cultural resources — Assistance from other state agencies — Management plans consistent

Section

with trust responsibilities — Division action.

65A-2-3. Endangered or threatened plant species — Division authorized to protect.

65A-2-4. State land management plans — Board to adopt rules for notifying and consulting with interested parties.

65A-2-1. Administration of state lands — Multiple-use sustained yield management — Subordinate to trust administration principles.

All state lands are administered under comprehensive land management programs using multiple-use sustained yield principles, except that the programs shall recognize the multiple-use sustained yield principles are subordinate to standard trust administration principles as applied to school and institutional trust lands and the interest of the beneficiaries is paramount.

History: C. 1953, 65A-2-1, enacted by L. 1988, ch. 121, § 3; 1992, ch. 138, § 2.

Amendment Notes. — The 1992 amendment, effective April 27, 1992, substituted the language beginning "except that the program" for "consistent with trust responsibilities" at

the end of the first sentence and deleted the former second sentence, which read "Stewardship management programs shall be considered in the development of comprehensive land management programs."

NOTES TO DECISIONS

Trust obligations.

Trust obligations take priority and must first be met before consideration can be given

to multiple use-sustained yield principles. *National Parks & Conservation Ass'n v. Board of State Lands*, 215 Utah Adv. Rep. 21 (1993).

COLLATERAL REFERENCES

Journal of Energy Law and Policy. — Utah's School Trust Lands: Dilemma in Land Use Management and the Possible Effect of

Utah's Trust Land Management Act, 9 J. Energy L. & Pol'y 195 (1989).

65A-2-2. State land management planning procedures for natural and cultural resources — Assistance from other state agencies — Management plans consistent with trust responsibilities — Division action.

(1) The division:

(a) shall develop planning procedures for natural and cultural resources on state lands; and

(b) may request other state agencies to generate technical data or other management support services for the development and implementation of state land management plans.

(2) The management plans for state school and institutional trust lands shall be developed in a manner consistent with the division's responsibility to insure that the interest of the trust beneficiaries is paramount.

(3) The development of a general management plan is not a prerequisite to management actions by the division, if approved by a vote of the board.

History: C. 1953, 65A-2-2, enacted by L. 1988, ch. 121, § 3; 1991, ch. 283, § 3; 1992, ch. 138, § 3.

Amendment Notes. — The 1991 amendment, effective April 29, 1991, subdivided the section, substituted "state lands" for "lands" in

Subsection (1), and made changes in phraseology.

The 1992 amendment, effective April 27, 1992, designated the introductory language and former Subsections (1) and (2) as Subsection (1), making related internal designation

changes; substituted "planning procedures" for "management plans" in Subsection (1)(a); and added Subsections (2) and (3).

65A-2-3. Endangered or threatened plant species — Division authorized to protect.

The division shall have the authority to 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 state lands.

History: C. 1953, 65A-2-3, enacted by L. 1988, ch. 121, § 3. Species Act of 1973, cited above, is 16 U.S.C. § 1531 et seq.

Federal Law. — The federal Endangered

65A-2-4. State land management plans — Board to adopt rules for notifying and consulting with interested parties.

The board shall adopt rules for notifying and consulting with interested parties including trust beneficiaries, the general public, resources users, and federal, state, and local agencies on state land management plans. Board rules shall provide:

- (1) for reasonable notice and comment periods; and
- (2) that the division respond to all commenting parties and give the rationale for the acceptance or nonacceptance of the comments.

History: C. 1953, 65A-2-4, enacted by L. 1988, ch. 121, § 3.

CHAPTER 3 ILLEGAL ACTIVITIES ON STATE LANDS

Section		Section	
65A-3-1.	Trespassing on state lands — Penalties.		lands — County attorney or district attorney to prosecute.
65A-3-2.	Prohibited acts on state lands.	65A-3-4.	Liability for causing wildland fires.
65A-3-3.	Enforcement of laws on state		

65A-3-1. Trespassing on state lands — Penalties.

(1) A person is guilty of a class B misdemeanor and liable for the civil damages prescribed in Subsection (2) if he:

- (a) without written authorization from the division:
 - (i) removes, extracts, uses, consumes, or destroys any mineral resource, gravel, sand, soil, vegetation, or improvement on state lands;
 - (ii) grazes livestock on state lands;

- (iii) uses, occupies, or constructs improvements or structures on state lands;
 - (iv) uses or occupies state lands for more than 30 days after the cancellation or expiration of written authorization;
 - (v) knowingly and willfully uses state lands for commercial gain; or
 - (vi) appropriates, alters, injures, or destroys any historical, prehistorical, archaeological, or paleontological resource on state lands; or
 - (b) uses or occupies state lands in violation of board rules.
- (2) A person who commits any act described in Subsection (1) is liable for damages in the amount of:
- (a) three times the value of the mineral or other resource removed, destroyed, or extracted;
 - (b) three times the amount of damage committed; or
 - (c) three times the consideration which would have been charged by the division 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 misdemeanor under Subsection (1) is subject to the penalties provided in Section 76-3-204.
- (4) Money collected under this section shall be deposited in the fund in which like revenues from that land would be deposited.

History: C. 1953, 65A-3-1, enacted by L. 1988, ch. 121, § 4; 1990, ch. 168, § 4; 1991, ch. 283, § 4; 1992, ch. 286, § 18.

Amendment Notes. — The 1990 amendment, effective April 23, 1990, substituted "if he" for "and liable for a civil trespass who" in the introductory paragraph in Subsection (1); inserted "uses, consumes," in Subsection (1)(a); deleted "except as provided by board rules" at the end of Subsection (1)(b); rewrote Subsection (1)(c) which read "constructs unauthorized improvements or structures"; substituted "written authorization" for "a lease or permit" at the end of Subsection (1)(d); added Subsection (1)(e); rewrote Subsection (2) so that a detailed analysis is impracticable; and rewrote Subsection (4), which read "All money collected under this section will be deposited in the same fund that revenues from a lease or permit on the land would be deposited."

The 1991 amendment, effective April 29,

1991, inserted "and liable for the civil damages prescribed in Subsection (2)" near the beginning of Subsection (1); redesignated former Subsections (1)(a) to (1)(e) as present Subsections (1)(a)(i) to (1)(a)(v); added present Subsection (1)(b); substituted "who commits any act described in" for "found guilty under" near the beginning of Subsection (2); deleted the former second sentence in Subsection (3), which read "This section does not restrict the prosecution of a person committing any act punishable under any other criminal statute"; and made changes in style and phraseology.

The 1992 amendment, effective March 17, 1992, deleted "cultural resource" after "vegetation" in Subsection (1)(a)(i) and added Subsection (1)(a)(vi), making related changes.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

Trespassing, criminal provisions, § 76-6-206.

65A-3-2. Prohibited acts on state lands.

- (1) A person is guilty of a class B misdemeanor who:
- (a) throws or places any lighted cigarette, cigar, firecracker, ashes, or other flaming or glowing substance which may cause a fire on a highway or wildland;
 - (b) obstructs the state forester, or any of his deputies, in the performance of controlling a fire;
 - (c) refuses, on proper request of the state forester or any of his deputies, to assist in the controlling of a fire, without good and sufficient reason; or

(d) fires any tracer or incendiary ammunition anywhere except within the confines of established military reservations.

(2) Fines assessed under this section are deposited in the General Fund.

History: C. 1953, 65A-3-2, enacted by L. 1988, ch. 121, § 4.

Cross-References. — Sentencing for misdemeanors, §§ 76-3-201, 76-3-204, 76-3-301.

65A-3-3. Enforcement of laws on state lands — County attorney or district attorney to prosecute.

(1) It is the duty of the division, county sheriffs, their deputies, police officers, and other law enforcement officers within their jurisdiction to enforce the provisions of this chapter and to investigate and gather evidence that may indicate a violation under this chapter.

(2) The county attorney or district attorney as appropriate under Sections 17-18-1, 17-18-1.5, and 17-18-1.7 shall prosecute any criminal violations of this chapter and shall initiate a civil action to recover suppression costs incurred by the county or state for suppression of fire on private land.

History: C. 1953, 65A-3-3, enacted by L. 1988, ch. 121, § 4; 1993, ch. 38, § 72.

Amendment Notes. — The 1993 amendment, effective May 3, 1993, inserted "or dis-

trict attorney as appropriate under Sections 17-18-1, 17-18-1.5, and 17-18-1.7" in Subsection (2).

65A-3-4. Liability for causing wildland fires.

Any person responsible for the existence or spread of a wildland fire necessitating suppression action shall be liable for the payment of the costs of the suppression action.

History: C. 1953, 65A-3-4, enacted by L. 1988, ch. 121, § 4.

CHAPTER 4

ACQUISITION AND DISPOSITION OF LAND BY STATE AGENCIES

Section		Section	
65A-4-1.	Acquisition and disposition of land by state agencies.		of Natural Resources — Information to be furnished.
65A-4-2.	Central index — Division to maintain index of lands owned by agencies of the Department	65A-4-3.	Mineral leases — Made exclusively by division — Disposition of state mineral lease revenues.

65A-4-1. Acquisition and disposition of land by state agencies.

(1) All state agencies may acquire land by gift, devise, bequest, exchange, compensation for public resource value loss, or in satisfaction of a debt and are authorized to sell, lease, or otherwise dispose of land no longer needed for public purposes, unless otherwise provided by law.

(2) The proceeds from the sale, lease, or other disposition of land shall go to the state agency using or holding the land unless:

(a) the governor or the Legislature order its deposit in the fund from which the state agency receives its appropriations; or

(b) the use or disposition of the proceeds is specified elsewhere in law.

History: C. 1953, 65A-4-1, enacted by L. 1988, ch. 121, § 5.

65A-4-2. Central index — Division to maintain index of lands owned by agencies of the Department of Natural Resources — Information to be furnished.

(1) The division shall maintain a central index of all lands owned by agencies of the Department of Natural Resources and shall make that index available for the public.

(2) All agencies of the Department of Natural Resources having any right, title, or interest in lands shall furnish the division with the following information:

- (a) legal description of the land;
- (b) when the land was acquired;
- (c) where the abstracts, deeds, or other indicia of interest in the property may be found;
- (d) name of agency acquiring or holding the mineral interest;
- (e) name of the grantor; and
- (f) nature of state's interest in the land including whether mineral interests were obtained.

(3) This section does not apply to Board of Water Resources lands that are subject to a repurchase agreement by the water project sponsor.

History: C. 1953, 65A-4-2, enacted by L. 1988, ch. 121, § 5.

Cross-References. — Department of Natural Resources, § 63-34-3.

65A-4-3. Mineral leases — Made exclusively by division — Disposition of state mineral lease revenues.

(1) Mineral leases of all lands owned by the state shall be made exclusively by the division, under rules made by the board, with the consent of the state agency using or holding the land.

(2) (a) Twenty percent of all revenues from mineral leases of lands owned by the state that are not school or institutional trust lands shall be deposited in the Land Grant Maintenance Account.

(b) The balance of state mineral lease revenues from the lands referred to in Subsection (2)(a) shall be deposited in the permanent State School Fund, except the balance of revenues from mineral leases on lands acquired by state agencies through gift or purchase shall be utilized as directed by the agency or donor.

History: C. 1953, 65A-4-3, enacted by L. 1988, ch. 121, § 5; 1988 (2nd S.S.), ch. 1, § 3; 1989, ch. 87, § 1; 1993, ch. 89, § 1.

Amendment Notes. — The 1989 amendment, effective April 24, 1989, deleted former Subsection (3), which read "Notwithstanding Subsection (2), revenues, except lease application fees, from mineral leases on lands administered by the Division of Wildlife Resources and purchased with fish and wildlife restoration federal aid funds shall be deposited in the Wildlife Resources Restricted Account. The lease application fees shall be deposited in the Land Grant Maintenance Account."

The 1993 amendment, effective July 1, 1993,

inserted the (a) and (b) designations in Subsection (2), inserted "that are not school or institutional trust lands" in Subsection (2)(a), inserted "from the lands referred to in Subsection (2)(a)" in Subsection (2)(b), deleted former Subsection (2)(a) which distributed revenues from mineral leases to state institutions and a (b) designation before "the balance of revenues," and made stylistic changes.

Sunset. — Laws 1993, ch. 89, which amended this section, provides in § 3 that the act "is subject to sunset on June 30, 1995, unless reenacted."

Cross-References. — Payments from United States, §§ 59-21-1, 59-21-2.

COLLATERAL REFERENCES

Journal of Energy Law and Policy. — The Utah Law of Oil and Gas, 7 J. Energy L. & Pol'y 191 (1986).

A.L.R. — Gas and oil lease force majeure provisions: construction and effect, 46 A.L.R.4th 976.

CHAPTER 5

DEPOSIT AND ALLOCATION OF REVENUES FROM STATE LANDS

Section		Section	
65A-5-1.	Land Grant Maintenance Account — Creation — Contents — Appropriation to fund division expenses — Balance.	65A-5-3.	Repealed.
		65A-5-4.	Disposition of Reservoir Land Grant revenue.
65A-5-2.	Deposit and allocation of money received.		

65A-5-1. Land Grant Maintenance Account — Creation — Contents — Appropriation to fund division expenses — Balance.

(1) There is created within the General Fund a restricted account known as the Land Grant Maintenance Account.

(2) This account shall consist of the following:

(a) all revenues derived from state school and institutional trust lands except revenues from the sale of these lands; and

(b) 20% of all revenues derived from mineral leases on other lands owned by the state that are not school or institutional trust lands.