

1 **Public Lands Duty of Care Amendments**

2026 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Ken Ivory

Senate Sponsor: Keven J. Stratton

2
3 **LONG TITLE**

4 **General Description:**

5 This bill addresses the jurisdictional management of public lands.

6 **Highlighted Provisions:**

7 This bill:

- 8 ▶ defines terms;
- 9 ▶ asserts the state's jurisdictional interest in land controlled by the federal government under

10 a proprietary interest;

- 11 ▶ directs the Public Lands Policy Coordinating Office (office) to promote the state's

12 jurisdictional interests on landscape-scale public lands;

- 13 ▶ requires the office to:

- 14 • identify and map landscape-scale lands in the state;
- 15 • establish map layers for certain criteria on landscape-scale lands;
- 16 • map a landscape public nuisance area on landscape-scale lands containing forested

17 areas; and

- 18 • report annually on the map to the Federalism Commission ~~H~~→ **and Natural Resources,**

18a **Agriculture, and Environment Interim Committee** ←~~H~~ ;

- 19 ▶ requires the Division of Forestry, Fire, and State Lands to assist the office in identifying a
- 20 landscape public nuisance area for landscape-scale lands containing forested areas; and

- 21 ▶ makes technical and conforming changes.

22 **Money Appropriated in this Bill:**

23 None

24 **Other Special Clauses:**

25 None

26 **Utah Code Sections Affected:**

27 AMENDS:

28 **63G-16-101**, as last amended by Laws of Utah 2025, Chapter 401

29 **63L-11-302**, as last amended by Laws of Utah 2024, Chapters 84, 184

30 ENACTS:

31 **63L-11-501**, Utah Code Annotated 1953

32 **63L-11-502**, Utah Code Annotated 1953

33 **63L-11-503**, Utah Code Annotated 1953

34 REPEALS:

35 **63L-11-101**, as enacted by Laws of Utah 2021, Chapter 382

36

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

38 Section 1. Section **63G-16-101** is amended to read:

39 **63G-16-101 . Principles of state sovereignty -- Presumption of state subject**
 40 **matter jurisdiction -- Resolution of jurisdictional conflicts.**

41 (1) As used in this section:

42 (a) "Commission" means the Federalism Commission created in Section 63C-4a-302.

43 (b) "Federal proprietary interest lands" means federally controlled lands in which the
 44 federal government holds only a proprietary interest:

45 (i) as an ordinary landowner with no governing or legislative jurisdiction; and

46 (ii) as described in:

47 (A) the Report to the Interdepartmental Committee for the Study of Jurisdiction
 48 Over Federal Areas within the States, Parts 1 and 2, published in April 1956;
 49 and

50 (B) the Inventory Report on Jurisdictional Status of Federal Areas within States,
 51 prepared by the General Services Administration in June 1962.

52 (c) "Legislative jurisdiction" means the authority of a government to create, enforce, and
 53 carry out laws within a jurisdiction.

54 [(b)] (d) "State entity" means:

55 (i) any department, agency, board, commission, or other instrumentality of the state;
 56 or

57 (ii) a political subdivision of the state.

58 (2) Pursuant to the Ninth and Tenth Amendments of the United States Constitution, Utah
 59 solemnly affirms the state's sovereignty and fully and unconditionally reserves and
 60 asserts all rights and powers, directly and indirectly related to those rights and powers.

61 (3) The affirmation, reservation, and assertion of state sovereignty under Subsection (2)
 62 includes rights and claims of set-off by the state for any amounts the state claims to have
 63 been inequitably or unlawfully caused or imposed by the federal government.

- 64 (4) The federal government is a government of limited jurisdiction and power.
- 65 (5)(a) The state has general governing authority under the state's inherent police power
66 jurisdiction over all governing matters within the state affecting public welfare,
67 safety, health, and morality, as recognized under the Tenth Amendment to the United
68 States Constitution.
- 69 (b) The state affirms that the state has never ceded legislative jurisdiction over federal
70 propriety interest lands, which account for approximately 35 million acres in Utah, or
71 96% of federally controlled lands in the state.
- 72 [(b)] (c) The subject areas within the state's police powers jurisdiction [~~under Subsection~~
73 ~~(5)(a)~~] over federal proprietary interest lands include, without limitation:
- 74 (i) natural resources;
- 75 (ii) water resources and water rights;
- 76 (iii) agriculture;
- 77 (iv) health, safety, and welfare;
- 78 (v) land health, access, and productivity;
- 79 (vi) zoning and planning;
- 80 (vii) enforcement of state law;
- 81 [(iv)] (viii) education; and
- 82 [(v)] (ix) energy resources.
- 83 (d) In asserting the state's inherent police power, a state entity shall:
- 84 (i) identify federally controlled lands that are federal proprietary interest lands; and
- 85 (ii) presume that all federally controlled lands are federal proprietary interest lands
86 unless the federal government can demonstrate, through specific constitutional
87 enumeration or cession of legislative jurisdiction by the state, that the federal
88 government has constitutional or legislative jurisdiction over the lands.
- 89 (6) The federalism canon, as prescribed by the United States Supreme Court, requires
90 courts to presume that federal law does not preempt state law because of the sovereignty
91 the states enjoy under the United States Constitution, as amended.
- 92 (7) The balance of governing jurisdiction and power protects the diversity of the states and
93 ensures the self-governing voice of the people.
- 94 (8)(a) Jurisdiction over all governing subject matters arising within the state is presumed
95 to reside with the state except as otherwise enumerated in the United States
96 Constitution, as amended.
- 97 (b) The presumption of state jurisdiction under this Subsection (8) may only be

98 overcome if the federal government demonstrates that jurisdiction over the subject
99 matter in question is specifically enumerated to the federal government under the
100 United States Constitution, as amended.

101 (c) If a conflict arises whereby the federal government asserts jurisdiction over subject
102 matters not enumerated under the United States Constitution, as amended, the federal
103 government bears the burden of establishing federal jurisdiction over the subject
104 matter through coordination with the state.

105 Section 2. Section **63L-11-302** is amended to read:

106 **63L-11-302 . Principles to be recognized and promoted.**

107 The office shall recognize and promote the following principles when preparing any
108 policies, plans, programs, processes, or desired outcomes relating to federal lands and natural
109 resources on federal lands under Section 63L-11-301:

- 110 (1)(a) the citizens of the state are best served by applying multiple-use and
111 sustained-yield principles in public land use planning and management; and
- 112 (b) multiple-use and sustained-yield management means that federal agencies should
113 develop and implement management plans and make other resource-use decisions
114 that:
- 115 (i) achieve and maintain in perpetuity a high-level annual or regular periodic output
116 of mineral and various renewable resources from public lands;
- 117 (ii) support valid existing transportation, mineral, and grazing privileges at the
118 highest reasonably sustainable levels;
- 119 (iii) support the specific plans, programs, processes, and policies of state agencies
120 and local governments;
- 121 (iv) are designed to produce and provide the desired vegetation for the watersheds,
122 timber, food, fiber, livestock forage, wildlife forage, and minerals that are
123 necessary to meet present needs and future economic growth and community
124 expansion without permanent impairment of the productivity of the land;
- 125 (v) meet the recreational needs and the personal and business-related transportation
126 needs of the citizens of the state by providing access throughout the state;
- 127 (vi) meet the recreational needs of the citizens of the state;
- 128 (vii) meet the needs of wildlife;
- 129 (viii) provide for the preservation of cultural resources, both historical and
130 archaeological;
- 131 (ix) meet the needs of economic development;

- 132 (x) meet the needs of community development; and
133 (xi) provide for the protection of water rights;
- 134 (2) managing public lands for wilderness characteristics circumvents the statutory
135 wilderness process and is inconsistent with the multiple-use and sustained-yield
136 management standard that applies to all Bureau of Land Management and United States.
137 Forest Service lands that are not wilderness areas or wilderness study areas;
- 138 (3) all waters of the state are:
139 (a) owned exclusively by the state in trust for the state's citizens;
140 (b) are subject to appropriation for beneficial use; and
141 (c) are essential to the future prosperity of the state and the quality of life within the state;
- 142 (4) the state has the right to develop and use the state's entitlement to interstate rivers;
- 143 (5) all water rights desired by the federal government must be obtained through the state
144 water appropriation system;
- 145 (6) land management and resource-use decisions which affect federal lands should give
146 priority to and support the purposes of the compact between the state and the United
147 States related to school and institutional trust lands;
- 148 (7) development of the solid, fluid, and gaseous mineral resources of the state is an
149 important part of the economy of the state, and of local regions within the state;
- 150 (8) the state should foster and support industries that take advantage of the state's
151 outstanding opportunities for outdoor recreation;
- 152 (9) wildlife constitutes an important resource and provides recreational and economic
153 opportunities for the state's citizens;
- 154 (10) proper stewardship of the land and natural resources is necessary to ensure the health
155 of the watersheds, timber, forage, and wildlife resources to provide for a continuous
156 supply of resources for the people of the state and the people of the local communities
157 who depend on these resources for a sustainable economy;
- 158 (11) forests, rangelands, timber, and other vegetative resources:
159 (a) provide forage for livestock;
160 (b) provide forage and habitat for wildlife;
161 (c) provide resources for the state's timber and logging industries;
162 (d) contribute to the state's economic stability and growth; and
163 (e) are important for a wide variety of recreational pursuits;
- 164 (12) management programs and initiatives that improve watersheds and forests and increase
165 forage for the mutual benefit of wildlife species and livestock, logging, and other

- 166 agricultural industries by utilizing proven techniques and tools are vital to the state's
167 economy and the quality of life in the state;
- 168 (13)(a) land management plans, programs, and initiatives should provide that the amount
169 of domestic livestock forage, expressed in animal unit months, for permitted, active
170 use as well as the wildlife forage included in that amount, be no less than the
171 maximum number of animal unit months sustainable by range conditions in grazing
172 allotments and districts, based on an on-the-ground and scientific analysis;
- 173 (b) the state opposes the relinquishment or retirement of grazing animal unit months in
174 favor of conservation, wildlife, and other uses;
- 175 (c) the state supports the multiple-use, sustained-yield framework required by federal
176 law for management of public lands and opposes federal prioritization of
177 conservation as a use equal to other productive uses of public lands;
- 178 (d)(i) the state favors the best management practices that are jointly sponsored by
179 cattlemen, sportsmen, and wildlife management groups such as chaining, logging,
180 seeding, burning, and other direct soil and vegetation prescriptions that are
181 demonstrated to restore forest and rangeland health, increase forage, and improve
182 watersheds in grazing districts and allotments for the benefit of domestic livestock
183 and wildlife;
- 184 (ii) when practices described in Subsection (13)(d)(i) increase a grazing allotment's
185 forage beyond the total permitted forage use that was allocated to that allotment in
186 the last federal land use plan or allotment management plan still in existence as of
187 January 1, 2005, a reasonable and fair portion of the increase in forage beyond the
188 previously allocated total permitted use should be allocated to wildlife as
189 recommended by a joint, evenly balanced committee of livestock and wildlife
190 representatives that is appointed and constituted by the governor for that purpose;
191 and
- 192 (iii) the state favors quickly and effectively adjusting wildlife population goals and
193 population census numbers in response to variations in the amount of available
194 forage caused by drought or other climatic adjustments, and state agencies
195 responsible for managing wildlife population goals and population census
196 numbers will, when making those adjustments, give due regard to both the needs
197 of the livestock industry and the need to prevent the decline of species to a point
198 of listing under the terms of the Endangered Species Act;
- 199 (e) the state opposes the transfer of grazing animal unit months to wildlife for supposed

- 200 reasons of rangeland health;
- 201 (f) reductions in domestic livestock animal unit months must be temporary and
- 202 scientifically based upon rangeland conditions;
- 203 (g) policies, plans, programs, initiatives, resource management plans, and forest plans
- 204 may not allow the placement of grazing animal unit months in a suspended use
- 205 category unless there is a rational and scientific determination that the condition of
- 206 the rangeland allotment or district in question will not sustain the animal unit months
- 207 sought to be placed in suspended use;
- 208 (h) any grazing animal unit months that are placed in a suspended use category should
- 209 be returned to active use when range conditions improve;
- 210 (i) policies, plans, programs, and initiatives related to vegetation management should
- 211 recognize and uphold the preference for domestic grazing over alternate forage uses
- 212 in established grazing districts while upholding management practices that optimize
- 213 and expand forage for grazing and wildlife in conjunction with state wildlife
- 214 management plans and programs in order to provide maximum available forage for
- 215 all uses; and
- 216 (j) in established grazing districts, animal unit months that have been reduced due to
- 217 rangeland health concerns should be restored to livestock when rangeland conditions
- 218 improve, and should not be converted to wildlife use;[-and]
- 219 (14) a grazing allotment on federal public lands is a valid existing right for purposes of
- 220 federal land withdrawals when the owner of the grazing allotment meets the
- 221 requirements described in Section 63L-8-404[-] ; and
- 222 (15) the state has a jurisdictional interest in the ability to maintain and manage
- 223 landscape-scale lands, as defined in Section 63L-11-501, for the health, safety, and
- 224 well-being of the people of the state, including:
- 225 (a) establishing land management responsibilities related to zoning and planning;
- 226 (b) generating income from renewable and non-renewable resources to provide essential
- 227 government services;
- 228 (c) protecting the health of the state's forested lands, watersheds, wildlife, and wildlife
- 229 habitat;
- 230 (d) collecting adequate tax revenue to fund schools and public safety programs for local
- 231 governments; and
- 232 (e) maintaining a road across public lands, in which the state or county has vested title,
- 233 to protect rural transportation, public safety, and emergency response.

234 Section 3. Section **63L-11-501** is enacted to read:

235 **Part 5. Access, Health, and Productivity of Landscape-scale Lands**

236 **63L-11-501 . Definitions.**

237 As used in this part:

238 (1) "Department" means the Department of Natural Resources created in Section 79-2-201.

239 (2) "Division" means the Division of Forestry, Fire, and State Lands created in Section
240 65A-1-4.

241 (3) "Forested area" means an acre of land containing 50% or greater canopy cover from tree
242 species.

243 (4) "Geographic Information System" or "GIS" means a computer driven data integration
244 and map production system that interrelates disparate layers of data to specific
245 geographic locations.

246 (5) "High value mineral area" means an area within priority mineral lands that:

247 (a) are close in proximity to mineral processing and transport infrastructure;

248 (b) have minimal conflicts with other resources; and

249 (c) have the highest potential for responsible mineral production consistent with multiple
250 use and sustained yield.

251 (6) "Landscape access" means a point of access for ingress and egress by the public from
252 landscape-scale lands, including:

253 (a) a road;

254 (b) a trail; or

255 (c) another access point that is open to the public.

256 (7) "Landscape health" means the ecological health of landscape-scale lands, including:

257 (a) appropriate forest or foliage cover;

258 (b) prevalence of invasive or disruptive species;

259 (c) the ability of the lands to recover from disturbance or disaster; and

260 (d) any other ecological health parameter identified in department rule made in
261 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

262 (8) "Landscape productivity" means the total output or extraction of natural resources from
263 landscape-scale lands consistent with multiple use and sustained yield.

264 (9) "Landscape-scale lands" means one or more contiguous tracts of land:

265 (a) greater than or equal to 250,000 acres;

266 (b) under common title, lease, or unified management; and

267 (c) within the state.

- 268 (10) "Multiple use" means the same as that term is defined in Section 63L-8-102.
- 269 (11) "Polygon" means a GIS-generated representation of a geographic area for spatial
- 270 analysis.
- 271 (12) "Priority mineral lands" means landscape-scale lands containing deposits of:
- 272 (a) a mineral identified in the most recent list of:
- 273 (i) critical minerals published United States Geological Survey; or
- 274 (ii) critical materials published by the United States Department of Energy;
- 275 (b) a mineral, element, substance, or material designated as critical by the Secretary of
- 276 the Interior in accordance with 30 U.S.C. Sec. 1606; and
- 277 (c) a mineral designated as critical, rare, strategic, or energy-rich by department rule
- 278 made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- 279 (13) "Sustained yield" means the same as that term is defined in Section 63L-8-102.

280 Section 4. Section **63L-11-502** is enacted to read:

281 **63L-11-502 . Map of landscape-scale lands -- Map layers for access, health, and**

282 **productivity -- Report.**

- 283 (1)(a) Before January 1, 2028, the office shall identify and digitally map landscape-scale
- 284 lands in the state.
- 285 (b) The digital map described in Subsection (1)(a) shall include GIS data layers for:
- 286 (i) landscape access;
- 287 (ii) landscape public nuisance areas based on criteria described in Section 63L-11-503;
- 288 (iii) priority mineral lands; and
- 289 (iv) high value mineral areas.
- 290 (2) The office shall:
- 291 (a) coordinate with public and private entities to develop the map described in
- 292 Subsection (1); and
- 293 (b) coordinate with the division to identify polygons for any landscape public nuisance
- 294 areas based on criteria described in Section 63L-11-503.
- 295 (3)(a) No later than October 1 of each year, the office shall submit an annual report to
- 296 the Federalism Commission ~~and~~ and the Natural Resources, Agriculture, and
- 296a Environment Interim Committee ~~and~~ .
- 297 (b) The report described in Subsection (3)(a) shall include:
- 298 (i) updates to the digital map described in Subsection (1); and
- 299 (ii) recommendations for establishing zones for high value mineral areas.

300 Section 5. Section **63L-11-503** is enacted to read:

301 **63L-11-503 . Monitoring of landscape public nuisance conditions.**

- 302 (1) The division may identify a landscape public nuisance area on landscape-scale lands
303 containing forested areas.
- 304 (2) In evaluating whether a landscape public nuisance area exists, the division may consider:
- 305 (a) tree or foliage density;
306 (b) landscape health;
307 (c) insect and disease infestation, including insect and disease hazard ratings;
308 (d) fuel loads;
309 (e) forest or range type;
310 (f) slope and other natural characteristics of an area;
311 (g) quantity and quality of the water supply in a watershed;
312 (h) weather and climate; and
313 (i) any other factor that the division considers reasonably relevant.

314 Section 6. **Repealer.**

315 This bill repeals:

316 Section **63L-11-101, Title.**

317 Section 7. **Effective Date.**

318 This bill takes effect on May 6, 2026.