

1 **SCHOOL AND INSTITUTIONAL TRUST LAND**

2 **AMENDMENTS**

3 1998 GENERAL SESSION

4 STATE OF UTAH

5 **Sponsor: Thomas Hatch**

6 AN ACT RELATING TO SCHOOL AND INSTITUTIONAL TRUST LANDS; MODIFYING
7 LEGISLATIVE FINDINGS REGARDING THE PRESERVATION AND DEVELOPMENT
8 OF SITES FOUND ON SCHOOL OR INSTITUTIONAL TRUST LANDS FOR SCIENTIFIC
9 OR EDUCATIONAL PURPOSES; MAINTAINING HIGHWAY EASEMENT PROVISIONS
10 RELATED TO TRUST LANDS THROUGH JUNE 30, 2004; AND PROVIDING THAT
11 TRUST LANDS SOLD TO CERTAIN ENTITIES EXEMPT FROM PROPERTY TAXATION
12 CONTINUE TO BE RECOGNIZED AS TRUST LANDS FOR PURPOSES OF THE
13 PAYMENT OF IN LIEU OF TAXES TO COUNTIES IN WHICH THE LANDS ARE
14 LOCATED.

15 This act affects sections of Utah Code Annotated 1953 as follows:

16 AMENDS:

17 **9-8-301**, as last amended by Chapters 170 and 299, Laws of Utah 1995

18 **27-12-103.4**, as last amended by Chapters 103 and 159, Laws of Utah 1996

19 **53C-4-102**, as last amended by Chapter 103, Laws of Utah 1996

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

21 Section 1. Section **9-8-301** is amended to read:

22 **9-8-301. Purpose.**

23 (1) The Legislature declares that the general public and the beneficiaries of the school and
24 institutional land grants have an interest in the preservation and protection of the state's
25 archaeological and anthropological resources and a right to the knowledge derived and gained from
26 scientific study of those resources.

27 (2) (a) The Legislature finds that policies and procedures for the survey and excavation

1 of archaeological resources from school and institutional trust lands are consistent with the school
2 and institutional land grants, if these policies and procedures insure that primary consideration is
3 given, on a site or project specific basis, to the purpose of support for the beneficiaries of the
4 school and institutional land grants.

5 (b) The Legislature finds that the preservation, placement in a repository, curation, and
6 exhibition of specimens found on school or institutional trust lands for scientific and educational
7 purposes is consistent with the school and institutional land grants.

8 (c) The Legislature finds that the preservation and development of sites found on school
9 or institutional trust lands for scientific or educational purposes, or the disposition of sites found
10 on school or institutional trust lands, after consultation between the division and the School and
11 Institutional Trust Lands Administration to determine the appropriate level of data recovery or
12 implementation of other appropriate preservation measures, for preservation, development, or
13 economic purposes, is consistent with the school and institutional land grants.

14 (d) The Legislature declares that specimens found on lands owned or controlled by the
15 state or its subdivisions may not be sold.

16 (3) It is the purpose of this part and Part 4 to provide that the survey, excavation, curation,
17 study, and exhibition of the state's archaeological and anthropological resources be undertaken in
18 a coordinated, professional, and organized manner for the general welfare of the public and
19 beneficiaries alike.

20 Section 2. Section **27-12-103.4** is amended to read:

21 **27-12-103.4. Public easement or right of entry -- Grant -- Application -- Conditions.**

22 (1) (a) (i) Subject to Section 53C-1-302 and Subsection 53C-1-204(1), a temporary public
23 easement or right of entry is granted for each highway existing prior to January 1, 1992, that
24 terminates at or within or traverses any state lands and that has been constructed and maintained
25 or used by a responsible authority.

26 (ii) The temporary public easement or right of entry granted under Subsection (1)(a)(i) is
27 100 feet wide for each class A and B highway.

28 (b) Each easement shall remain in effect through June 30, [~~1998~~] 2004, or until a
29 permanent easement or right of entry has been established under Subsection (2), whichever is less.

30 (2) (a) The School and Institutional Trust Lands Administration and the Division of
31 Forestry, Fire and State Lands shall make rules in accordance with Title 63, Chapter 46a, Utah

1 Administrative Rulemaking Act, establishing an application process for a responsible authority
2 to obtain a permanent easement or right of entry over any temporary public easement granted
3 under Subsection (1), subject to the provisions of Subsections (2)(b), (c), and (d).

4 (b) A grant of a permanent easement or right of entry across sovereign lands shall be made
5 upon a showing to the Division of Forestry, Fire and State Lands that continued use of the
6 easement will provide a public benefit commensurate with the value of the permanent easement
7 or right of entry.

8 (c) A grant of a permanent easement or right of entry across trust lands shall be made upon
9 a showing to the School and Institutional Trust Lands Administration that the grant is consistent
10 with the state's fiduciary responsibilities under Section 53C-1-302 and Subsection 53C-1-204(1).

11 (d) A grant of a permanent easement or right of entry across state lands other than
12 sovereign and trust lands shall be made upon a showing to the managing unit of state government
13 that the continued use will provide a public benefit commensurate with the value of the easement
14 and will not unreasonably interfere with the purposes for which the land was obtained or is now
15 held.

16 (3) The grant of the temporary public easement or right of entry under Subsection (1) is
17 consistent with the trust responsibilities of the state and in the best interest of the state.

18 (4) A responsible authority that has been granted a permanent easement or right of entry
19 over state lands may maintain the permanent easement or right of entry for the uses to which the
20 permanent easement or right of entry was put prior to and including January 1, 1992, subject to
21 the right of the managing unit of state government or private party to relocate the permanent
22 easement or right of entry.

23 (5) The grant of a permanent easement or right of entry under this section is effective on
24 the date the highway was originally constructed or established for public use.

25 Section 3. Section **53C-4-102** is amended to read:

26 **53C-4-102. Sale of trust lands -- Fair market value -- Determination of sale --**
27 **Advertising proposed sales -- Sale procedures -- Defaults.**

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

29 (2) (a) The director shall determine whether disposal or retention of all or a portion of a
30 property interest in trust lands is in the best interest of the trust.

31 (b) When it is determined that the disposal of an interest in trust lands is in the best interest

1 of the applicable trust, the transaction shall be accomplished in an orderly and timely manner.

2 (3) The director shall advertise any proposed sale, lease, or exchange of an interest in trust
3 lands in a reasonable manner consistent with the director's fiduciary responsibilities.

4 (4) (a) Any tract of trust land may be subdivided and sold, leased, or exchanged in
5 accordance with a plan or other action designating the land to be subdivided that is approved by
6 the director.

7 (b) The director may survey the tract and direct its subdivision.

8 (c) A plat of the survey shall be filed with the county recorder of the county in which the
9 land is located and with the administration.

10 (5) Sale conditions, including qualification of prospective purchasers, shall be in
11 accordance with accepted mortgage lending and real estate practices.

12 (6) Upon the sale of land, the director shall issue to the purchaser a certificate of sale
13 which describes the land purchased and states the amount paid, the amount due, and the time when
14 the principal and interest will become due.

15 (7) Upon payment in full of principal and interest and the surrender of the original
16 certificate of sale for any tract of land sold, or payment in full of any amounts required to be paid
17 for the partial release of property, the governor shall issue a patent to the purchaser, heir, assignee,
18 successor in interest, or other grantee as determined by the director.

19 (8) (a) If a purchaser of trust lands defaults in the payment of any installment of principal
20 or interest due under the terms of the contract of sale, the director shall notify the purchaser that
21 if the default is not corrected within 30 days after issuance of the notice the director shall proceed
22 with any remedy which the administration may pursue under law or the contract of sale.

23 (b) The notice shall be sent by registered or certified mail to the purchaser at the latest
24 address as shown by the records of the administration.

25 (c) If the default is not corrected by compliance with the requirements of the notice of
26 default within the time provided by the notice, the director may pursue any available remedy under
27 the contract of sale, including forfeiture.

28 (d) If forfeited lands are sold again to the same purchaser, the sale may be made by a new
29 and independent contract without regard to the forfeited agreement.

30 (9) Lands sold to an entity exempt from property taxation under Subsection 59-2-1101(2)
31 continue to be recognized as school or institutional trust lands for the purposes of Subsection

1 59-21-2(2)(g)(i).

Legislative Review Note
as of 1-8-98 11:08 AM

A limited legal review of this bill raises no obvious constitutional or statutory concerns.

Office of Legislative Research and General Counsel