

**SCHOOL AND INSTITUTIONAL TRUST LAND AMENDMENTS**

1998 GENERAL SESSION

STATE OF UTAH

**Sponsor: Thomas Hatch**

AN ACT RELATING TO SCHOOL AND INSTITUTIONAL TRUST LANDS; MODIFYING LEGISLATIVE FINDINGS REGARDING THE PRESERVATION AND DEVELOPMENT OF SITES FOUND ON SCHOOL OR INSTITUTIONAL TRUST LANDS FOR SCIENTIFIC OR EDUCATIONAL PURPOSES; MAINTAINING HIGHWAY EASEMENT PROVISIONS RELATED TO TRUST LANDS THROUGH JUNE 30, 2004; PROVIDING FOR THE RETENTION OF REALIZED AND UNREALIZED GAINS IN THE PERMANENT STATE SCHOOL FUND; AND PROVIDING AN EFFECTIVE DATE.

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

AMENDS:

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

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

**53C-3-103**, as last amended by Chapter 299, Laws of Utah 1995

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

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

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

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

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

(b) The Legislature finds that the preservation, placement in a repository, curation, and

exhibition of specimens found on school or institutional trust lands for scientific and educational purposes is consistent with the school and institutional land grants.

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

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

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

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

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

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

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

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

(2) (a) The School and Institutional Trust Lands Administration and the Division of Forestry, Fire and State Lands shall make rules in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act, establishing an application process for a responsible authority to obtain a permanent easement or right of entry over any temporary public easement granted under

Subsection (1), subject to the provisions of Subsections (2)(b), (c), and (d).

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

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

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

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

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

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

Section 3. Section **53C-3-103** is amended to read:

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

(1) The interest, including dividends, derived from the investment of funds belonging to the Permanent State School Fund, less the amount required to be retained in the Permanent Fund pursuant to the Utah Constitution Article X, Section [14] 5, and the interest, including dividends, and other income of the permanent funds of the respective state institutions shall be distributed for use for the maintenance of public elementary and secondary schools or the state institutions in

accordance with Title 51, Chapter 7, State Money Management Act.

(2) Realized and unrealized gains shall be retained in the Permanent State School Fund.

**Section 4. Effective date.**

If approved by two-thirds of all the members elected to each house, this act takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.