

1 **STATE ANTIQUITIES AND HISTORIC**
2 **SITES AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Bradley T. Johnson**

6 Senate Sponsor: Michael G. Waddoups

8 **LONG TITLE**

9 **General Description:**

10 This bill modifies survey and excavation permit requirements and modifies comment
11 requirements for state undertakings on historic property.

12 **Highlighted Provisions:**

13 This bill:

- 14 ▶ defines terms;
- 15 ▶ modifies the duties of the Antiquities Section;
- 16 ▶ establishes qualifications for survey and excavation permit applicants;
- 17 ▶ establishes requirements for survey and excavation permit applications;
- 18 ▶ requires permit holders to submit information gathered from permitted work to the

19 Antiquities Section;

- 20 ▶ establishes permit time limits;
- 21 ▶ authorizes the Public Lands Policy Coordinating Office to:
 - 22 • issue survey and excavation permits for archaeological resources;
 - 23 • delegate the authority to issue an excavation permit to an agency;
 - 24 • make rules;
 - 25 • investigate principal investigators and permitted work;
 - 26 • revoke or suspend permits; and
 - 27 • consult with the state historic preservation officer about comments on state

28 undertakings affecting historic property;

- 29 ▶ requires the state historic preservation officer to consult with the Public Lands

30 Policy Coordinating Office about comments on state undertakings affecting historic property;
31 and
32 ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill provides an effective date.

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **9-8-302**, as last amended by Chapter 10, Laws of Utah 1997
- 40 **9-8-304**, as renumbered and amended by Chapters 241 and 286, Laws of Utah 1992
- 41 **9-8-305**, as last amended by Chapter 170, Laws of Utah 1995
- 42 **9-8-404**, as last amended by Chapter 145, Laws of Utah 2005
- 43 **17B-4-403**, as last amended by Chapter 292, Laws of Utah 2005
- 44 **17B-4-405**, as enacted by Chapter 133, Laws of Utah 2001
- 45 **63-38d-603**, as enacted by Chapter 298, Laws of Utah 2005

46 REPEALS:

- 47 **9-8-303**, as last amended by Chapter 170, Laws of Utah 1995



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

50 Section 1. Section **9-8-302** is amended to read:

51 **9-8-302. Definitions.**

52 As used in this part and Part 4, Historic Sites:

53 (1) "Agency" means a department, division, office, bureau, board, commission, or
54 other administrative unit of the state.

55 (2) "Antiquities Section" means the Antiquities Section of the Division of State History
56 created in Section 9-8-304.

57 [~~(2)~~] (3) "Archaeological resources" means all material remains and their associations,

58 recoverable or discoverable through excavation or survey, that provide information pertaining
59 to the historic or prehistoric peoples of the state.

60 ~~[(3)]~~ (4) "Collection" means a specimen and the associated records documenting the
61 specimen and its recovery.

62 ~~[(4)]~~ (5) "Curation" means management and care of collections according to standard
63 professional museum practice, which may include inventorying, accessioning, labeling,
64 cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting,
65 cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original
66 collections or reproductions, and providing access to and facilities for studying collections.

67 ~~[(5)]~~ (6) "Curation facility" is defined as provided in Section 53B-17-603.

68 (7) "Division" means the Division of State History created in Section 9-8-201.

69 ~~[(6)]~~ (8) "Excavate" means the recovery of archaeological resources.

70 (9) "Historic property" means any prehistoric or historic district, site, building,
71 structure, or specimen included in, or eligible for inclusion in, the National Register of Historic
72 Places or the State Register.

73 ~~[(7)]~~ (10) "Museum" means the Utah Museum of Natural History.

74 (11) "Principal investigator" means the individual with overall administrative
75 responsibility for the survey or excavation project authorized by the permit.

76 ~~[(8)]~~ (12) "Repository" is defined as provided in Section 53B-17-603.

77 ~~[(9)] "School and institutional land grants" means the transfer of properties pursuant to~~
78 ~~Sections 6, 8, and 12 of the Utah Enabling Act and Article XX, Utah Constitution.]~~

79 ~~[(10)]~~ (13) "School and institutional trust lands" are those properties defined in Section
80 53C-1-103.

81 ~~[(11)] "Section" means the State Antiquities Section.]~~

82 ~~[(12)]~~ (14) "Site" means any petroglyphs, pictographs, structural remains[, location of
83 archaeological deposits, or other location which is the source of specimens], or geographic
84 location that is the source of archaeological resources or specimens.

85 ~~[(13)]~~ (15) "Specimen" means all man-made artifacts and remains of an archaeological

86 or anthropological nature found on or below the surface of the earth, excluding structural
87 remains.

88 ~~[(14)]~~ (16) "State historic preservation officer" means that position mentioned in 16
89 U.S.C. Sec. 470a of the National Historic Preservation Act of 1966, as amended.

90 ~~[(15)]~~ (17) "Survey" means a surface ~~[investigations of]~~ investigation for
91 archaeological resources~~[-]~~ that may include:

92 (a) insubstantial surface collection of archaeological resources; and

93 (b) limited subsurface testing that disturbs no more of a site than is necessary to
94 determine the nature and extent of the archaeological resources or whether the site is a historic
95 property.

96 Section 2. Section **9-8-304** is amended to read:

97 **9-8-304. Antiquities section created -- Duties.**

98 ~~[(1) The section is responsible for:]~~

99 ~~[(a) the stimulation of]~~

100 (1) There is created within the division the Antiquities Section.

101 (2) The Antiquities Section shall:

102 (a) promote research, study, and activities in the field of antiquities;

103 (b) assist with the marking, protection, and preservation of sites;

104 (c) assist with the collection, preservation, and administration of specimens until they
105 are placed in a repository or curation facility;

106 (d) ~~[the administration of]~~ provide advice on the protection and orderly development of
107 archaeological resources and in doing so confer with the Public Lands Policy Coordinating
108 Office if requested;

109 (e) assist with the proper care of ancient human remains as authorized by Subsection
110 76-9-704(3) and federal law;

111 (f) collect and administer site survey and excavation records; ~~[and]~~

112 ~~[(e) the editing and publication of]~~

113 (g) edit and publish antiquities records~~[-]~~;

114 (h) inform the state historic preservation officer in writing about any request for advice
115 or consultation from an agency or an agency's agent; and

116 (i) employ an archaeologist meeting the requirements of 36 CFR 61.4.

117 ~~[(2)]~~ (3) The ~~[section]~~ Antiquities Section shall cooperate with local, state, and federal
118 agencies and all interested persons to achieve the purposes of this part and Part 4, Historic
119 Sites.

120 (4) Before performing the duties specified in Subsections (2)(a) through (e), the
121 Antiquities Section shall obtain permission from the landowner.

122 Section 3. Section **9-8-305** is amended to read:

123 **9-8-305. Permit required to survey or excavate on state lands -- Public Lands**
124 **Policy Coordinating Office to issue permits and make rules -- Ownership of collections**
125 **and resources -- Revocation or suspension of permits -- Criminal penalties.**

126 ~~[(1) (a) Before any person may survey or excavate for archaeological resources on any~~
127 ~~lands owned or controlled by the state or its subdivisions, other than school or institutional~~
128 ~~trust lands, that person shall obtain a permit from the division. The division may enter into~~
129 ~~memoranda of agreement to issue permits, project numbers, or to retain other data for federal~~
130 ~~lands and Native American lands within the state.]~~

131 ~~[(b) Application for a permit shall be made on a form furnished by the section.]~~

132 ~~[(c) The division shall make rules for the issuance of permits specifying or requiring:]~~

133 ~~[(i) minimum permittee qualifications;]~~

134 ~~[(ii) duration;]~~

135 ~~[(iii) for excavation permits, proof of permission from the landowner to enter the~~
136 ~~property for the purposes of the permit;]~~

137 ~~[(iv) for excavation permits, research designs that provide for the recovery of the~~
138 ~~maximum amount of historic, scientific, archaeological, anthropological, and educational~~
139 ~~information, in addition to the physical recovery of specimens and the reporting of~~
140 ~~archaeological information meeting current standards of scientific rigor;]~~

141 ~~[(v) the need, if any, to submit data obtained in the course of field investigations to the~~

142 ~~division;]~~

143 ~~[(vi) proof of consultation with the appropriate Native American tribe, if necessary;]~~

144 ~~[(vii) proof of consultation with the museum regarding curation of collections;]~~

145 ~~[(viii) for excavation permits, proof of consultation with other agencies that may~~
146 ~~manage other legal interests in the land; and]~~

147 ~~[(ix) other information the division considers necessary.]~~

148 ~~[(d) All archaeological work shall be carried out under the supervision of the state~~
149 ~~archaeologist, which shall be under the direction of the director.]~~

150 (1) (a) Except as provided by Subsections (1)(d) and (3)(c), each principal investigator
151 who wishes to survey or excavate on any lands owned or controlled by the state, its political
152 subdivisions, or by the School and Institutional Trust Lands Administration shall obtain a
153 survey or excavation permit from the Public Lands Policy Coordinating Office.

154 (b) A principal investigator who holds a valid permit under this section may allow
155 other individuals to assist the principal investigator in a survey or excavation if the principal
156 investigator ensures that all the individuals comply with the law, the rules, the permit, and the
157 appropriate professional standards.

158 (c) A person, other than a principal investigator, may not survey or excavate on any
159 lands owned or controlled by the state, its political subdivisions, or by the School and
160 Institutional Trust Lands Administration unless the person works under the direction of a
161 principal investigator who holds a valid permit.

162 (d) A permit obtained before July 1, 2006 shall continue until the permit terminates on
163 its own terms.

164 (2) (a) To obtain a survey permit, a principal investigator shall:

165 (i) submit a permit application on a form furnished by the Public Lands Policy
166 Coordinating Office;

167 (ii) except as provided in Subsection (2)(b), possess a graduate degree in anthropology,
168 archaeology, or history;

169 (iii) have one year of full-time professional experience or equivalent specialized

170 training in archaeological research, administration, or management; and

171 (iv) have one year of supervised field and analytical experience in Utah prehistoric or
172 historic archaeology.

173 (b) In lieu of the graduate degree required by Subsection (2)(a)(ii), a principal
174 investigator may submit evidence of training and experience equivalent to a graduate degree.

175 (c) Unless the permit is revoked or suspended, a survey permit is valid for the time
176 period specified in the permit by the Public Lands Policy Coordinating Office, which may not
177 exceed three years.

178 (3) (a) Except as provided by Subsection (3)(c), to obtain an excavation permit, a
179 principal investigator shall, in addition to complying with Subsection (2)(a), submit:

180 (i) a research design to the Public Lands Policy Coordinating Office and the Antiquities
181 Section that:

182 (A) states the questions to be addressed;

183 (B) states the reasons for conducting the work;

184 (C) defines the methods to be used;

185 (D) describes the analysis to be performed;

186 (E) outlines the expected results and the plan for reporting;

187 (F) evaluates expected contributions of the proposed work to archaeological or
188 anthropological science; and

189 (G) estimates the cost and the time of the work that the principal investigator believes
190 is necessary to provide the maximum amount of historic, scientific, archaeological,
191 anthropological, and educational information; and

192 (ii) proof of permission from the landowner to enter the property for the purposes of
193 the permit.

194 (b) An excavation permit is valid for the amount of time specified in the permit, unless
195 the permit is revoked according to Subsection (9).

196 (c) The Public Lands Policy Coordinating Office may delegate to an agency the
197 authority to issue excavation permits if the agency:

- 198 (i) requests the delegation; and
199 (ii) employs or has a long-term contract with a principal investigator with a valid
200 survey permit.
- 201 (d) The Public Lands Policy Coordinating Office shall conduct an independent review
202 of the delegation authorized by Subsection (3)(c) every three years and may revoke the
203 delegation at any time without cause.
- 204 (4) The Public Lands Policy Coordinating Office shall:
- 205 (a) grant a survey permit to a principal investigator who meets the requirements of this
206 section;
- 207 (b) grant an excavation permit to a principal investigator after approving, in
208 consultation with the Antiquities Section, the research design for the project; and
- 209 (c) assemble a committee of qualified individuals to advise the Public Lands Policy
210 Coordinating Office in its duties under this section.
- 211 (5) By following the procedures and requirements of Title 63, Chapter 46a, Utah
212 Administrative Rulemaking Act, the Public Lands Policy Coordinating Office shall, after
213 consulting with the Antiquities Section, make rules to:
- 214 (a) establish survey methodology;
- 215 (b) standardize report and data preparation and submission;
- 216 (c) require other permit application information that the Public Lands Policy
217 Coordinating Office finds necessary, including proof of consultation with the appropriate
218 Native American tribe;
- 219 (d) establish what training and experience is equivalent to a graduate degree;
- 220 (e) establish requirements for a person authorized by Subsection (1)(b) to assist the
221 principal investigator;
- 222 (f) establish requirements for a principal investigator's employer, if applicable; and
- 223 (g) establish criteria, that if met, would allow the Public Lands Policy Coordinating
224 Office to reinstate a suspended permit.
- 225 (6) Each principal investigator shall submit a summary report of the work for each

226 project to the Antiquities Section in a form prescribed by a rule established under Subsection
227 (5)(b), which shall include copies of all:

- 228 (a) site forms;
- 229 (b) data;
- 230 (c) maps;
- 231 (d) drawings;
- 232 (e) photographs; and
- 233 (f) descriptions of specimens.

234 ~~[(e) A] (7) (a) Except as provided in Subsection (7)(c), a person may not remove from~~
235 ~~[the state, prior to placement in a repository or curation facility,] Utah~~ any specimen, site, or
236 portion of any site from lands owned or controlled by the state or its political subdivisions,
237 other than school ~~[or]~~ and institutional trust lands, without permission from the ~~[division]~~
238 Antiquities Section, and prior consultation with the landowner and any other agencies
239 managing other interests in the land.

240 ~~[(2) (a) Before any person may survey or excavate for archaeological resources on~~
241 ~~school or institutional trust lands, that person shall obtain a permit from the School and~~
242 ~~Institutional Trust Lands Administration.]~~

243 ~~[(b) The School and Institutional Trust Lands Administration may, by rule, delegate the~~
244 ~~authority to issue either survey or excavation permits, or both, for archaeological resources to~~
245 ~~the Division of State History.]~~

246 ~~[(c) Application for a permit shall be made on a form furnished by the School and~~
247 ~~Institutional Trust Lands Administration.]~~

248 ~~[(d) Issuance of a permit is an undertaking requiring consultation with the state historic~~
249 ~~preservation officer pursuant to Section 9-8-404.]~~

250 ~~[(e) The School and Institutional Trust Lands Administration shall enact rules for the~~
251 ~~issuance of permits specifying or requiring:]~~

252 ~~[(i) minimum permittee qualifications;]~~

253 ~~[(ii) duration;]~~

254 ~~[(iii) the need to submit data obtained in the course of field investigations to the~~
255 ~~administration;]~~

256 ~~[(iv) proof of consultation with the appropriate Native American tribe, if necessary;]~~

257 ~~[(v) proof of consultation with the museum regarding curation of collections; and]~~

258 ~~[(vi) other information the School and Institutional Trust Lands Administration~~
259 ~~considers necessary.]~~

260 ~~[(f) A]~~ (b) Except as provided in Subsection (7)(c), a person may not remove from [the
261 state, prior to placement in a repository or curation facility;] Utah any specimen, site, or portion
262 of any site from school ~~[or]~~ and institutional trust lands without permission from the School
263 and Institutional Trust Lands Administration, granted after consultation with the ~~[Division of~~
264 ~~State History]~~ Antiquities Section.

265 (c) If a specimen, site, or portion of a site is placed in a repository or curation facility, a
266 person may remove it by following the procedures established by the repository or curation
267 facility.

268 ~~[(3)]~~ (8) (a) Collections recovered from school and institutional trust lands ~~[shall be]~~
269 are owned by the respective trust.

270 (b) Collections recovered from lands owned or controlled by the state or its
271 subdivisions, other than school ~~[or]~~ and institutional trust lands, ~~[shall be]~~ are owned by the
272 state.

273 (c) Within a reasonable time after the completion of fieldwork, each permit holder
274 shall deposit all collections at the museum, a curation facility, or a repository.

275 ~~[(c)]~~ (d) The repository or curation facility for collections from lands owned or
276 controlled by the state or its subdivisions shall be designated ~~[pursuant to]~~ according to the
277 rules made under the authority of Section 53B-17-603.

278 ~~[(4) The permitting agency]~~

279 (9) (a) Upon complaint by an agency, the Public Lands Policy Coordinating Office
280 shall investigate a principal investigator and the work conducted under a permit.

281 (b) By following the procedures and requirements of Title 63, Chapter 46b,

282 Administrative Procedures Act, the Public Lands Policy Coordinating Office may revoke or
283 suspend a permit if the [~~permittee~~] principal investigator fails to conduct a survey or excavation
284 [~~pursuant~~] according to law, the rules enacted by the [~~permitting agency~~] Public Lands Policy
285 Coordinating Office, or permit provisions.

286 [~~(5)~~] (10) (a) Any person violating this section is guilty of a class B misdemeanor.

287 (b) A person convicted of violating this section, or found to have violated the rules
288 [~~promulgated by the Division of State History or the School and Institutional Trust Lands~~
289 ~~Administration under~~] authorized by this section, shall, in addition to any other penalties
290 imposed, forfeit [~~to the state or the respective trust~~] all archaeological resources discovered by
291 or through the person's efforts to the state or the respective trust.

292 (11) The division may enter into memoranda of agreement to issue project numbers or
293 to retain other data for federal lands or Native American lands within the state.

294 Section 4. Section **9-8-404** is amended to read:

295 **9-8-404. Agency responsibilities -- State historic preservation officer to comment**
296 **on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.**

297 (1) (a) Before expending any state funds or approving any undertaking, each [~~state~~]
298 agency shall:

299 [~~(a)~~] (i) take into account the effect of the expenditure or undertaking on any [~~district;~~
300 ~~site, building, structure, or specimen that is included in or eligible for inclusion in the National~~
301 ~~Register of Historic Places, or the State Register~~] historic property; and

302 [~~(b)~~] subject to Subsection (3), allow the state historic preservation officer a reasonable
303 opportunity to comment with regard to the undertaking or expenditure.]

304 (ii) unless exempted by agreement between the agency and the state historic
305 preservation officer, provide the state historic preservation officer with a written evaluation of
306 the expenditure's or undertaking's effect on the historic property.

307 (b) Once per month, the state historic preservation officer shall provide the Public
308 Lands Policy Coordinating Office with a list of undertakings on which an agency or federal
309 agency has requested the state historic preservation officer's or the Antiquities Section's advice

310 or consultation.

311 (c) The Public Lands Policy Coordinating Office may request the joint analysis
312 described in Subsections (2)(c) and (d) of any proposed undertaking on which the state historic
313 preservation officer or Antiquities Section is providing advice or consultation.

314 ~~(2) (a) [The state historic preservation officer shall include the comments of the section~~
315 ~~in all responses] If the state historic preservation officer does not concur with the agency's~~
316 ~~written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall~~
317 ~~inform the Public Lands Policy Coordinating Office of any objections.~~

318 (b) The Public Lands Policy Coordinating Office shall review the state historic
319 preservation officer's objections and determine whether or not to initiate the joint analysis
320 established in Subsections (2)(c) and (d).

321 (c) If the Public Lands Policy Coordinating Office determines further analysis is
322 necessary, the Public Lands Policy Coordinating Office shall, jointly with the agency and the
323 state historic preservation officer, analyze:

324 ~~[(b) The section may include advice on ways to maximize the amount of historic;~~
325 ~~scientific, archaeological, anthropological, and educational information recovered, in addition~~
326 ~~to the physical recovery of specimens and the reporting of archaeological information at current~~
327 ~~standards of scientific rigor.]~~

328 ~~[(c) The section shall include the results of the joint analysis conducted pursuant to~~
329 ~~Subsection (3).]~~

330 ~~[(3) (a) When requested by a state agency, the comments of the state historic~~
331 ~~preservation officer shall be preceded by a period of joint analysis of the proposed undertaking~~
332 ~~involving the state agency, the state historic preservation officer, the section, and the state~~
333 ~~planning coordinator or the coordinator's designee.]~~

334 ~~[(b) The joint analysis conducted pursuant to Subsection (3)(a) shall consider:]~~

335 ~~(i) the cost of the undertaking, excluding costs attributable to the identification,~~
336 ~~potential recovery, or excavation of historic properties;~~

337 ~~(ii) the ownership of the land involved;~~

338 (iii) ~~[the opinion of the section about]~~ the likelihood of the presence and the nature and
339 type of historical properties ~~[which may be involved]~~ that may be affected by the expenditure
340 or undertaking; and

341 (iv) ~~[formulation and presentation by the section of]~~ clear and distinct alternatives for
342 the identification, recovery, or excavation of historic properties, including ways to maximize
343 the amount of information recovered and report that information at current standards of
344 scientific rigor.

345 (d) The Public Lands Policy Coordinating Office, the agency, and the state historic
346 preservation officer shall also consider as part of the joint analysis:

347 (i) the estimated costs of [these efforts] the alternatives in Subsection (2)(c)(iv) in total
348 and as [percentages] a percentage of the total cost of the [project identified in Subsection
349 (3)(b)(i), provided that one of the alternatives shall be to present a] undertaking; and

350 (ii) at least one plan for the identification, recovery, or excavation of historic properties
351 [which] that does not substantially increase the cost of the proposed undertaking.

352 (3) (a) (i) If the state historic preservation officer concurs with the agency's evaluation
353 or if the Public Lands Policy Coordinating Office determines that the joint analysis is
354 unnecessary, the state historic preservation officer shall, no later than 30 calendar days after
355 receiving the agency's evaluation, provide formal comments on the agency's evaluation.

356 (ii) If a joint analysis is conducted, the state historic preservation officer shall provide
357 formal comments on the agency's evaluation no later than 30 calendar days after the conclusion
358 of the joint analysis.

359 (b) The state historic preservation officer shall ensure that the comments include the
360 results of any joint analysis conducted under Subsection (2).

361 (c) If a joint analysis is not conducted, the state historic preservation officer's
362 comments may include advice about ways to maximize the amount of historic, scientific,
363 archaeological, anthropological, and educational information recovered, in addition to the
364 physical recovery of specimens and the reporting of archaeological information at current
365 standards of scientific rigor.

366 (4) (a) Once per month, the state historic preservation officer shall provide the Public
367 Lands Policy Coordinating Office with a list of comments the state historic preservation officer
368 intends to make or has made as required or authorized by the National Historic Preservation
369 Act, 16 U.S.C. Sec. 470 et seq.

370 (b) At the request of the Public Lands Policy Coordinating Office, the state historic
371 preservation officer shall discuss the comments with the Public Lands Policy Coordinating
372 Office.

373 Section 5. Section **17B-4-403** is amended to read:

374 **17B-4-403. Project area plan requirements.**

375 (1) Each project area plan and draft project area plan shall:

376 (a) describe the boundaries of the project area;

377 (b) contain a general statement of the land uses, layout of principal streets, population
378 densities, and building intensities of the project area and how they will be affected by the
379 redevelopment, economic development, or education housing development;

380 (c) state the standards that will guide the redevelopment, economic development, or
381 education housing development;

382 (d) show how the purposes of this chapter will be attained by the redevelopment,
383 economic development, or education housing development;

384 (e) be consistent with the general plan of the community in which the project area is
385 located and show that the redevelopment, economic development, or education housing
386 development will conform to the community's general plan;

387 (f) if the agency board made a finding of blight under Subsection 17B-4-601(1)(d)(ii),
388 describe how the redevelopment will reduce or eliminate blight in the project area;

389 (g) if the project area plan is for economic development, describe how the economic
390 development will create additional jobs;

391 (h) if the project area plan is for education housing development, describe how the
392 education housing development will meet the needs of the community in which the project area
393 is located;

- 394 (i) describe any specific project or projects that are the object of the proposed
395 redevelopment, economic development, or education housing development;
- 396 (j) identify how private developers, if any, will be selected to undertake the
397 redevelopment, economic development, or education housing development and identify each
398 private developer currently involved in the redevelopment, economic development, or
399 education housing development process;
- 400 (k) contain a time limit of no more than three years after adoption of the project area
401 plan for the agency to commence implementation of the project area plan, unless the project
402 area plan is adopted again as if it were an amended project area plan under Section 17B-4-411;
- 403 (l) if the project area plan authorizes the use of eminent domain, contain a time limit of
404 no more than five years after the effective date of the project area plan for the agency to
405 commence acquisition of property through the use of eminent domain;
- 406 (m) if the project area plan provides for tax increment to be paid to the agency:
 - 407 (i) contain a time limit of no more than 25 years for tax increment to be paid to the
408 agency from the project area unless the taxing entity committee consents to a longer period;
 - 409 and
 - 410 (ii) contain a provision that the project area may not exceed 100 acres of private real
411 property unless:
 - 412 (A) the agency obtains the consent of the taxing entity committee; or
 - 413 (B) the project area is a superfund site;
 - 414 (n) state the reasons for the selection of the project area;
 - 415 (o) describe the physical, social, and economic conditions existing in the project area;
 - 416 (p) provide a financial analysis describing the proposed method of financing the
417 proposed redevelopment, economic development, or education housing development;
 - 418 (q) describe any tax incentives offered private entities for facilities located in the
419 project area;
 - 420 (r) contain the report and state any recommendations of the community's planning
421 commission;

422 (s) include an analysis, as provided in Subsection (2), of whether adoption of the
423 project area plan is:

424 (i) for a redevelopment project area plan, necessary and appropriate to reduce or
425 eliminate blight; or

426 (ii) for an economic development or education housing development project area plan,
427 beneficial under a benefit analysis;

428 (t) if any of the existing buildings or uses in the project area are included in or eligible
429 for inclusion in the National Register of Historic Places or the State Register, state that the
430 agency shall comply with [~~Subsection~~] Section 9-8-404[~~(t)~~] as though the agency were a state
431 agency; and

432 (u) include other information that the agency determines to be necessary or advisable.

433 (2) Each analysis under Subsection (1)(s)(ii) shall consider:

434 (a) the benefit of any financial assistance or other public subsidy proposed to be
435 provided by the agency, including:

436 (i) an evaluation of the reasonableness of the costs of economic development or
437 education housing development;

438 (ii) efforts the agency has made or will make to maximize private investment;

439 (iii) the rationale for use of tax increment, including an analysis of whether the
440 proposed development might reasonably be expected to occur in the foreseeable future solely
441 through private investment; and

442 (iv) an estimate of the total amount of tax increment that will be expended in
443 undertaking economic development or education housing development and the length of time
444 for which it will be expended; and

445 (b) the anticipated public benefit to be derived from the economic development or
446 education housing development, including:

447 (i) the beneficial influences upon the tax base of the community;

448 (ii) the associated business and economic activity likely to be stimulated; and

449 (iii) in the case of economic development, the number of jobs or employment

450 anticipated to be generated or preserved.

451 Section 6. Section **17B-4-405** is amended to read:

452 **17B-4-405. Existing and historic buildings and uses.**

453 If any of the existing buildings or uses in a project area are included in or eligible for
454 inclusion in the National Register of Historic Places or the State Register, the agency shall
455 comply with [~~Subsection~~] Section 9-8-404[~~(1)~~] as though the agency were a state agency.

456 Section 7. Section **63-38d-603** is amended to read:

457 **63-38d-603. Powers and duties of coordinator and office.**

458 (1) The coordinator and the office shall:

459 (a) assist the state planning coordinator in fulfilling the duties outlined in Section
460 63-38d-401 as those duties relate to the development of public lands policies by:

461 (i) developing cooperative contracts and agreements between the state, political
462 subdivisions, and agencies of the federal government for involvement in the development of
463 public lands policies;

464 (ii) producing research, documents, maps, studies, analysis, or other information that
465 supports the state's participation in the development of public lands policy;

466 (iii) preparing comments to ensure that the positions of the state and political
467 subdivisions are considered in the development of public lands policy;

468 (iv) partnering with state agencies and political subdivisions in an effort to:

469 (A) prepare coordinated public lands policies;

470 (B) develop consistency reviews and responses to public lands policies;

471 (C) develop management plans that relate to public lands policies; and

472 (D) develop and maintain a statewide land use plan that is based on cooperation and in
473 conjunction with political subdivisions; and

474 (v) providing other information or services related to public lands policies as requested
475 by the state planning coordinator; and

476 (b) facilitate and coordinate the exchange of information, comments, and
477 recommendations on public lands policies between and among:

478 (i) state agencies;
479 (ii) political subdivisions;
480 (iii) the ~~[Office of]~~ Rural Development Program created under Section ~~[9-16-102]~~
481 63-38f-1602;
482 (iv) the Resource Development Coordinating Committee created under Section
483 63-38d-501;
484 (v) School and Institutional Trust Lands Administration created under Section
485 53C-1-201;
486 (vi) the committee created under Section ~~[63A-6-204]~~ 63F-1-508 to award grants to
487 counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other
488 features; and
489 (vii) the Constitutional Defense Council created under Section 63C-4-101[-];
490 (c) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9,
491 Chapter 8, Part 4, Historic Sites; and
492 (d) consistent with other statutory duties, encourage agencies to responsibly preserve
493 archaeological resources.
494 (2) In providing assistance to the state planning coordinator under Subsection (1)(a),
495 the coordinator and office shall take into consideration the:
496 (a) findings provided under Subsections 63-38d-401(6) and (7); and
497 (b) recommendations of the council.
498 **Section 8. Repealer.**
499 This bill repeals:
500 **Section 9-8-303, State Antiquities Section.**
501 **Section 9. Effective date.**
502 This bill takes effect on May 1, 2006, except that the amendments in Subsections
503 9-8-305(1) through (4), (6), and (9) in this bill take effect on July 1, 2006.