

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: \_\_\_\_\_

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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                   • make rules;
  - 24                   • revoke or suspend permits; and
  - 25                   • consult with the state historic preservation about comments on state

26 undertakings affecting historic property;

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



28 Policy Coordinating Office about comments on state undertakings affecting historic property;  
29 and

30       ▶ makes technical changes.

31 **Monies Appropriated in this Bill:**

32       None

33 **Other Special Clauses:**

34       None

35 **Utah Code Sections Affected:**

36 AMENDS:

37       **9-8-302**, as last amended by Chapter 10, Laws of Utah 1997

38       **9-8-304**, as renumbered and amended by Chapters 241 and 286, Laws of Utah 1992

39       **9-8-305**, as last amended by Chapter 170, Laws of Utah 1995

40       **9-8-404**, as last amended by Chapter 145, Laws of Utah 2005

41       **17B-4-403**, as last amended by Chapter 292, Laws of Utah 2005

42       **17B-4-405**, as enacted by Chapter 133, Laws of Utah 2001

43       **63-38d-603**, as enacted by Chapter 298, Laws of Utah 2005

44 REPEALS:

45       **9-8-303**, as last amended by Chapter 170, Laws of Utah 1995



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

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

49       **9-8-302. Definitions.**

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

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

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

55       ~~(2)~~ (3) "Archaeological resources" means all material remains and their associations,  
56 recoverable or discoverable through excavation or survey, that provide information pertaining  
57 to the historic or prehistoric peoples of the state.

58       ~~(3)~~ (4) "Collection" means a specimen and the associated records documenting the

59 specimen and its recovery.

60 ~~[(4)]~~ (5) "Curation" means management and care of collections according to standard  
61 professional museum practice, which may include inventorying, accessioning, labeling,  
62 cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting,  
63 cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original  
64 collections or reproductions, and providing access to and facilities for studying collections.

65 ~~[(5)]~~ (6) "Curation facility" is defined as provided in Section 53B-17-603.

66 ~~[(7)]~~ (8) "Division" means the Division of State History created in Section 9-8-201.

67 ~~[(6)]~~ (8) "Excavate" means the recovery of archaeological resources.

68 (9) "Field supervisor" means the person who directly supervises the fieldwork  
69 authorized by a permit and works under the authority of the project director.

70 (10) "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)]~~ (11) "Museum" means the Utah Museum of Natural History.

74 (12) "Project director" means the person with overall administrative responsibility for  
75 the survey or excavation project authorized by the permit.

76 ~~[(8)]~~ (13) "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)]~~ (14) "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)]~~ (15) "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.

85 ~~[(13)]~~ (16) "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)]~~ (17) "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)]~~ (18) "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 for archaeological resources that disturbs less than 0.05%  
94 of a site.

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

96 **9-8-304. Antiquities Section created -- Duties.**

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

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

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

100 (2) The Antiquities Section shall:

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

102 (b) if requested, assist an agency with the marking, protection, and preservation of  
103 sites;

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

106 ~~[(d) the administration of site survey and excavation records; and]~~

107 ~~[(e) the editing and publication of]~~ (d) edit and publish antiquities records[-];

108 (e) if requested, provide advice on the protection and orderly development of  
109 archaeological and anthropological resources;

110 (f) inform the state historic preservation officer in writing about any request for advise  
111 or consultation from an agency or an agency's agent or representative; and

112 (g) collect and administer the data collected from the survey or excavation of historic  
113 properties.

114 ~~[(2)]~~ (3) The ~~[section]~~ Antiquities Section shall cooperate with local, state, and federal  
115 agencies and all interested persons to achieve the purposes of this part and Part 4, Historic  
116 Sites.

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

118 **9-8-305. Permit required to survey or excavate on state lands -- Ownership of**  
119 **collections and resources -- Revocation or suspension of permits -- Criminal penalties.**

120 ~~[(1)(a) Before any person may survey or excavate for archaeological resources on any~~

121 ~~lands owned or controlled by the state or its subdivisions, other than school or institutional~~  
122 ~~trust lands, that person shall obtain a permit from the division. The division may enter into~~  
123 ~~memoranda of agreement to issue permits, project numbers, or to retain other data for federal~~  
124 ~~lands and Native American lands within the state.]~~

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

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

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

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

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

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

135 ~~[(v) the need, if any, to submit data obtained in the course of field investigations to the~~  
136 ~~division;]~~

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

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

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

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

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

144 (1) Each person who wishes to survey or excavate for archaeological resources on any  
145 lands owned or controlled by the state, its political subdivisions, or by the School and  
146 Institutional Trust Lands Administration shall obtain a survey or excavation permit from the  
147 Public Lands Policy Coordinating Office.

148 (2) (a) To obtain a survey permit, a person shall:

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

151 (ii) ensure that the project director meets at least the minimum qualifications outlined

152 in Subsection (4)(a); and

153 (iii) ensure that the field supervisor meets the qualifications outlined in Subsection  
154 (4)(c).

155 (b) A survey permit is valid for five years unless the permit is revoked according to  
156 Subsection (10).

157 (3) (a) To obtain an excavation permit, a person shall, in addition to complying with  
158 Subsection (2)(a), submit:

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

161 (A) states the questions to be addressed;

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

163 (C) defines the methods to be used;

164 (D) describes the analysis to be performed;

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

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

168 (G) estimates the cost and the time of the work that the applicant believes is necessary  
169 to provide the maximum amount of historic, scientific, archaeological, anthropological, and  
170 educational information; and

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

173 (b) An excavation permit is valid for the amount of time specified by the Public Lands  
174 Policy Coordinating Office in the permit, unless the permit is revoked according to Subsection  
175 (10).

176 (4) (a) A project director conducting a survey or excavation shall have:

177 (i) except as provided in Subsection (4)(b), a graduate degree in anthropology,  
178 archaeology, or history;

179 (ii) one year of full-time professional experience or equivalent specialized training in  
180 archaeological research, administration, or management; and

181 (iii) one year of supervised field and analytical experience in Utah prehistoric or  
182 historic archaeology.

183 (b) A project director may offer equivalent training and experience in lieu of a graduate  
184 degree.

185 (c) A field supervisor conducting a survey or excavation shall have:

186 (i) a bachelor's degree in anthropology or archaeology; and

187 (ii) one year of full-time supervised field and analytical experience in Utah prehistoric  
188 or historic archaeology.

189 (5) The Public Lands Policy Coordinating Office shall:

190 (a) grant a survey permit to an applicant who meets the requirements of this section;

191 and

192 (b) grant an excavation permit to an applicant after approving, in consultation with the  
193 Antiquities Section, the research design for the project.

194 (6) By following the procedures and requirements of Title 63, Chapter 46a, Utah  
195 Administrative Rulemaking Act, the Public Lands Policy Coordinating Office shall, after  
196 consulting with the Antiquities Section, make rules to:

197 (a) establish survey methodology;

198 (b) standardize report and data preparation and submission;

199 (c) require other permit application information that the Public Lands Policy  
200 Coordinating Office finds necessary; and

201 (d) establish what training and experience is equivalent to a graduate degree.

202 (7) Each permit holder shall submit a summary report of the work authorized by the  
203 permit to the Antiquities Section in a form prescribed by rule which shall include copies of all:

204 (a) records;

205 (b) documents;

206 (c) site forms;

207 (d) data;

208 (e) maps;

209 (f) drawings;

210 (g) photographs; and

211 (h) descriptions of specimens.

212 ~~[(e) A]~~ (8) (a) Except as provided in Subsection (8)(c), a person may not remove from  
213 [the state, prior to placement in a repository or curation facility,] Utah any specimen, site, or

214 portion of any site from lands owned or controlled by the state or its political subdivisions,  
215 other than school [~~or~~] and institutional trust lands, without permission from the [~~division~~]  
216 Antiquities Section, and prior consultation with the landowner and any other agencies  
217 managing other interests in the land.

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

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

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

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

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

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

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

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

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

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

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

238 [~~(f) A~~] (b) Except as provided in Subsection (8)(c), a person may not remove from [the  
239 state, prior to placement in a repository or curation facility;] Utah any specimen, site, or portion  
240 of any site from school [~~or~~] and institutional trust lands without permission from the School  
241 and Institutional Trust Lands Administration, granted after consultation with the [Division of  
242 State History] Antiquities Section.

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

245 facility.

246 [~~(3)~~] (9) (a) Collections recovered from school and institutional trust lands [~~shall be~~]  
247 are owned by the [~~respective trust~~] School and Institutional Trust Lands Administration.

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

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

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

256 [~~(4)~~] (10) The [~~permitting agency~~] Public Lands Policy Coordinating Office may  
257 revoke or suspend a permit if the permittee fails to conduct a survey or excavation pursuant to  
258 law, the rules enacted by the [~~permitting agency~~] Public Lands Policy Coordinating Office, or  
259 permit provisions.

260 [~~(5)~~] (11) (a) Any person violating this section is guilty of a class B misdemeanor.

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

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

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

270 **9-8-404. Agency responsibilities -- State historic preservation officer to comment**  
271 **on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.**

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

274 [~~(a)~~] (i) take into account the effect of the expenditure or undertaking on any [~~district,~~  
275 ~~site, building, structure, or specimen that is included in or eligible for inclusion in the National~~

276 Register of Historic Places, or the State Register] historic property; and

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

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

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

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

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

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

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

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

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

304 ~~[(3) (a) When requested by a state agency, the comments of the state historic~~  
305 ~~preservation officer shall be preceded by a period of joint analysis of the proposed undertaking~~  
306 ~~involving the state agency, the state historic preservation officer, the section, and the state~~

307 ~~planning coordinator or the coordinator's designee.]~~

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

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

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

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

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

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

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

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

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

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

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

335 (c) If a joint analysis is not conducted, the state historic preservation officer's  
336 comments may include advice about ways to maximize the amount of historic, scientific,  
337 archaeological, anthropological, and educational information recovered, in addition to the

338 physical recovery of specimens and the reporting of archaeological information at current  
339 standards of scientific rigor.

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

344 (b) At the request of the Public Lands Policy Coordinating Office, the state historic  
345 preservation officer shall discuss the comments with the Public Lands Policy Coordinating  
346 Office.

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

348 **17B-4-403. Project area plan requirements.**

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

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

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

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

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

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

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

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

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

368 (i) describe any specific project or projects that are the object of the proposed

369 redevelopment, economic development, or education housing development;

370 (j) identify how private developers, if any, will be selected to undertake the  
371 redevelopment, economic development, or education housing development and identify each  
372 private developer currently involved in the redevelopment, economic development, or  
373 education housing development process;

374 (k) contain a time limit of no more than three years after adoption of the project area  
375 plan for the agency to commence implementation of the project area plan, unless the project  
376 area plan is adopted again as if it were an amended project area plan under Section 17B-4-411;

377 (l) if the project area plan authorizes the use of eminent domain, contain a time limit of  
378 no more than five years after the effective date of the project area plan for the agency to  
379 commence acquisition of property through the use of eminent domain;

380 (m) if the project area plan provides for tax increment to be paid to the agency:

381 (i) contain a time limit of no more than 25 years for tax increment to be paid to the  
382 agency from the project area unless the taxing entity committee consents to a longer period;  
383 and

384 (ii) contain a provision that the project area may not exceed 100 acres of private real  
385 property unless:

386 (A) the agency obtains the consent of the taxing entity committee; or

387 (B) the project area is a superfund site;

388 (n) state the reasons for the selection of the project area;

389 (o) describe the physical, social, and economic conditions existing in the project area;

390 (p) provide a financial analysis describing the proposed method of financing the  
391 proposed redevelopment, economic development, or education housing development;

392 (q) describe any tax incentives offered private entities for facilities located in the  
393 project area;

394 (r) contain the report and state any recommendations of the community's planning  
395 commission;

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

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

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

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

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

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

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

410 (i) an evaluation of the reasonableness of the costs of economic development or  
411 education housing development;

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

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

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

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

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

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

423 (iii) in the case of economic development, the number of jobs or employment  
424 anticipated to be generated or preserved.

425 Section 6. Section ~~17B-4-405~~ is amended to read:

426 **17B-4-405. Existing and historic buildings and uses.**

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

430 Section 7. Section ~~63-38d-603~~ is amended to read:

- 431           **63-38d-603. Powers and duties of coordinator and office.**
- 432           (1) The coordinator and the office shall:
- 433           (a) assist the state planning coordinator in fulfilling the duties outlined in Section
- 434 63-38d-401 as those duties relate to the development of public lands policies by:
- 435           (i) developing cooperative contracts and agreements between the state, political
- 436 subdivisions, and agencies of the federal government for involvement in the development of
- 437 public lands policies;
- 438           (ii) producing research, documents, maps, studies, analysis, or other information that
- 439 supports the state's participation in the development of public lands policy;
- 440           (iii) preparing comments to ensure that the positions of the state and political
- 441 subdivisions are considered in the development of public lands policy;
- 442           (iv) partnering with state agencies and political subdivisions in an effort to:
- 443           (A) prepare coordinated public lands policies;
- 444           (B) develop consistency reviews and responses to public lands policies;
- 445           (C) develop management plans that relate to public lands policies; and
- 446           (D) develop and maintain a statewide land use plan that is based on cooperation and in
- 447 conjunction with political subdivisions; and
- 448           (v) providing other information or services related to public lands policies as requested
- 449 by the state planning coordinator; and
- 450           (b) facilitate and coordinate the exchange of information, comments, and
- 451 recommendations on public lands policies between and among:
- 452           (i) state agencies;
- 453           (ii) political subdivisions;
- 454           (iii) the [~~Office of~~] Rural Development Program created under Section [~~9-16-102~~]
- 455 63-38f-1602;
- 456           (iv) the Resource Development Coordinating Committee created under Section
- 457 63-38d-501;
- 458           (v) School and Institutional Trust Lands Administration created under Section
- 459 53C-1-201;
- 460           (vi) the committee created under Section [~~63A-6-204~~] 63F-1-508 to award grants to
- 461 counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other

462 features; and

463 (vii) the Constitutional Defense Council created under Section 63C-4-101[-]; and

464 (c) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9,

465 Chapter 8, Part 4, Historic Sites.

466 (2) In providing assistance to the state planning coordinator under Subsection (1)(a),  
467 the coordinator and office shall take into consideration the:

468 (a) findings provided under Subsections 63-38d-401(6) and (7); and

469 (b) recommendations of the council.

470 Section 8. **Repealer.**

471 This bill repeals:

472 Section **9-8-303, State Antiquities Section.**

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**Legislative Review Note**

**as of 1-19-06 11:14 AM**

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

**Office of Legislative Research and General Counsel**

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**Fiscal Note**  
**Bill Number HB0139**

**State Antiquities and Historic Sites Amendments**

*26-Jan-06*

*10:24 AM*

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**State Impact**

No fiscal impact.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**