

Representative Bradley T. Johnson proposes the following substitute bill:

ARCHEOLOGICAL RESOURCES AMENDMENTS

2005 GENERAL SESSION

STATE OF UTAH

Sponsor: Bradley T. Johnson

LONG TITLE

General Description:

This bill provides for an analysis of proposed undertakings on lands owned or controlled by the state.

Highlighted Provisions:

This bill:

- ▶ declares that historical preservation must be kept in balance with other uses of state land and natural resources which benefit the citizens of Utah;
- ▶ provides for an analysis of proposed undertakings on lands owned or controlled by the state or its subdivisions and lists the individuals who are to take part in the analysis; and
- ▶ directs the Legislature's Natural Resources, Agriculture, and Environment Interim Committee to perform a study and make a recommendation.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-8-301, as last amended by Chapter 42, Laws of Utah 1998



26 9-8-404, as last amended by Chapter 170, Laws of Utah 1995

27 **Uncodified Material Affected:**

28 ENACTS UNCODIFIED MATERIAL



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

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

32 **9-8-301. Purpose.**

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

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

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

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

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

53 (3) The Legislature declares that the historical preservation purposes of this chapter
54 must be kept in balance with the other uses of land and natural resources which benefit the
55 health and welfare of the state's citizens.

56 [~~3~~] (4) It is the purpose of this part and Part 4 to provide that the survey, excavation,

57 curation, study, and exhibition of the state's archaeological and anthropological resources be
58 undertaken in a coordinated, professional, and organized manner for the general welfare of the
59 public and beneficiaries alike.

60 Section 2. Section **9-8-404** is amended to read:

61 **9-8-404. Agency responsibilities -- State historic preservation officer to include**
62 **antiquities section comments.**

63 (1) Before expending any state funds or approving any undertaking, each state agency
64 shall:

65 (a) take into account the effect of the undertaking on any district, site, building,
66 structure, or specimen that is included in or eligible for inclusion in the National Register of
67 Historic Places, or the State Register; and

68 (b) subject to Subsection (3), allow the state historic preservation officer a reasonable
69 opportunity to comment with regard to the undertaking or expenditure.

70 (2) (a) The state historic preservation officer shall include the comments of the section
71 in all responses.

72 (b) The section may include advice on ways to maximize the amount of historic,
73 scientific, archaeological, anthropological, and educational information recovered, in addition
74 to the physical recovery of specimens and the reporting of archaeological information at current
75 standards of scientific rigor.

76 (c) The section shall include the results of the joint analysis conducted pursuant to
77 Subsection (3).

78 (3) (a) When requested by a state agency, the comments of the state historic
79 preservation officer shall be preceded by a period of joint analysis of the proposed undertaking
80 involving the state agency, the state historic preservation officer, the section, and the state
81 planning coordinator or the coordinator's designee.

82 (b) The joint analysis conducted pursuant to Subsection (3)(a) shall consider:

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

85 (ii) ownership of the land involved;

86 (iii) the opinion of the section about the likelihood of the presence and the nature and
87 type of historical properties which may be involved; and

88 (iv) formulation and presentation by the section of clear and distinct alternatives for the
89 identification, recovery, or excavation of historic properties, including estimated costs of these
90 efforts in total and as percentages of the total cost of the project identified in Subsection
91 (3)(b)(i), provided that one of the alternatives shall be ~~to~~ present a plan for identification,
92 recovery, or excavation of historic properties which does not substantially increase the cost of
93 the proposed undertaking.

94 Section 3. **Interim Committee Study.**

95 (1) It is the intent of the Legislature that the Natural Resources, Agriculture, and
96 Environment Interim Committee study and make recommendations regarding the most
97 appropriate location ~~to~~ ~~[, other than the Division of State History,]~~ for the analysis of proposed
98 undertakings on lands owned or controlled by the state or its subdivisions.

99 (2) It is the intent of the Legislature that the recommendations provided in Subsection
100 (1), together with proposed legislation, if determined to be necessary, be presented to the
101 Legislative Management Committee by the Natural Resources, Agriculture, and Environment
102 Interim Committee no later than October 31, 2005.

Fiscal Note

Archeological Resources Amendments

23-Feb-05

Bill Number HB0308S032:11 PM

State Impact

No fiscal impact on current budgets. Any changes would be decided by the study. Ultimately funding would be transferred out of State History to the entity designated ultimately by the Legislature.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst