

**ARCHEOLOGICAL RESOURCES AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Bradley T. Johnson**

Senate Sponsor: Michael G. Waddoups

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**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

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

**Uncodified Material Affected:**

ENACTS UNCODIFIED MATERIAL

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

~~[(3)]~~ (4) 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 **9-8-404** is amended to read:

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

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

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

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

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

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

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

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

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

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

(ii) ownership of the land involved;

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

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

**Section 3. Interim Committee Study.**

(1) It is the intent of the Legislature that the Natural Resources, Agriculture, and Environment Interim Committee study and make recommendations regarding the most appropriate location for the analysis of proposed undertakings on lands owned or controlled by the state or its subdivisions.

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