

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 moves the functions of the state historic preservation officer from the Division of State History to the Division of Wildlife Resources.

Highlighted Provisions:

This bill:

► moves the state historic preservation officer, the state antiquities section, and the cultural sites review committee to the Division of Wildlife Resources within the Department of Natural Resources.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2005.

Utah Code Sections Affected:

AMENDS:

9-9-403, as enacted by Chapter 286, Laws of Utah 1992

9-9-405, as last amended by Chapter 35, Laws of Utah 1997

17B-4-403, as last amended by Chapter 256, Laws of Utah 2003

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

53B-17-603, as last amended by Chapter 294, Laws of Utah 1994



26 **59-7-609**, as enacted by Chapter 42, Laws of Utah 1995
27 **59-10-108.5**, as last amended by Chapter 25, Laws of Utah 1995
28 **76-9-704**, as last amended by Chapter 1, Laws of Utah 2000

29 ENACTS:

30 **23-27-101**, Utah Code Annotated 1953
31 **23-27-103**, Utah Code Annotated 1953
32 **23-27-105**, Utah Code Annotated 1953
33 **23-27-107**, Utah Code Annotated 1953
34 **23-27-601**, Utah Code Annotated 1953
35 **23-27-602**, Utah Code Annotated 1953
36 **23-27-603**, Utah Code Annotated 1953
37 **23-27-604**, Utah Code Annotated 1953
38 **23-27-605**, Utah Code Annotated 1953
39 **23-27-606**, Utah Code Annotated 1953
40 **23-27-607**, Utah Code Annotated 1953
41 **23-27-608**, Utah Code Annotated 1953

42 RENUMBERS AND AMENDS:

43 **23-27-102**, (Renumbered from 9-8-102, as enacted by Chapters 150 and 241, Laws of
44 Utah 1992)
45 **23-27-104**, (Renumbered from 9-8-204, as last amended by Chapter 176, Laws of Utah
46 2002)
47 **23-27-106**, (Renumbered from 9-8-206, as renumbered and amended by Chapter 241,
48 Laws of Utah 1992)
49 **23-27-201**, (Renumbered from 9-8-301, as last amended by Chapter 42, Laws of Utah
50 1998)
51 **23-27-202**, (Renumbered from 9-8-302, as last amended by Chapter 10, Laws of Utah
52 1997)
53 **23-27-203**, (Renumbered from 9-8-303, as last amended by Chapter 170, Laws of Utah
54 1995)
55 **23-27-204**, (Renumbered from 9-8-304, as renumbered and amended by Chapters 241
56 and 286, Laws of Utah 1992)

57 **23-27-205**, (Renumbered from 9-8-305, as last amended by Chapter 170, Laws of Utah
58 1995)

59 **23-27-206**, (Renumbered from 9-8-306, as last amended by Chapter 170, Laws of Utah
60 1995)

61 **23-27-207**, (Renumbered from 9-8-307, as last amended by Chapter 170, Laws of Utah
62 1995)

63 **23-27-208**, (Renumbered from 9-8-308, as renumbered and amended by Chapter 241,
64 Laws of Utah 1992)

65 **23-27-301**, (Renumbered from 9-8-401, as renumbered and amended by Chapters 241
66 and 286, Laws of Utah 1992)

67 **23-27-302**, (Renumbered from 9-8-402, as last amended by Chapter 170, Laws of Utah
68 1995)

69 **23-27-303**, (Renumbered from 9-8-403, as renumbered and amended by Chapter 241,
70 Laws of Utah 1992)

71 **23-27-304**, (Renumbered from 9-8-404, as last amended by Chapter 170, Laws of Utah
72 1995)

73 **23-27-305**, (Renumbered from 9-8-405, as last amended by Chapter 352, Laws of Utah
74 2004)

75 **23-27-401**, (Renumbered from 9-8-502, as renumbered and amended by Chapter 241,
76 Laws of Utah 1992)

77 **23-27-402**, (Renumbered from 9-8-503, as renumbered and amended by Chapter 241,
78 Laws of Utah 1992)

79 **23-27-403**, (Renumbered from 9-8-504, as renumbered and amended by Chapter 241,
80 Laws of Utah 1992)

81 **23-27-404**, (Renumbered from 9-8-505, as renumbered and amended by Chapter 241,
82 Laws of Utah 1992)

83 **23-27-405**, (Renumbered from 9-8-506, as renumbered and amended by Chapter 241,
84 Laws of Utah 1992)

85 **23-27-501**, (Renumbered from 9-8-602, as enacted by Chapter 30, Laws of Utah 1991)

86 **23-27-502**, (Renumbered from 9-8-603, as enacted by Chapter 30, Laws of Utah 1991)

87 REPEALS:

88 **9-8-501**, as renumbered and amended by Chapter 241, Laws of Utah 1992

89 **Uncodified Material Affected:**

90 ENACTS UNCODIFIED MATERIAL

91

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

93 Section 1. Section **9-9-403** is amended to read:

94 **9-9-403. Ownership and disposition of Native American remains -- Removal --**
95 **Discovery -- Disputes.**

96 (1) The ownership or control of Native American remains that are excavated or
97 discovered on state lands after the effective date of this part shall be in the following priority:

98 (a) first, in the lineal descendants of the Native American;

99 (b) second, if the lineal descendants cannot be ascertained, in the Indian tribe that has
100 the closest cultural affiliation with the remains and that states a claim for the remains;

101 (c) third, if cultural affiliation of the remains cannot be reasonably ascertained and the
102 land is recognized either by a final judgment of the Indian Claims Commission or through
103 other evidence as the exclusive or joint aboriginal land of some Indian tribe, in the Indian tribe
104 that is recognized as aboriginally occupying the area in which the remains were discovered, if
105 that tribe states a claim for the remains, or in a different tribe if it can be shown by a
106 preponderance of the evidence that that different tribe has a stronger genetic or cultural
107 relationship with the remains and that different tribe states a claim for the remains.

108 (2) Native American remains not claimed under Subsection (1) shall be disposed of in
109 accordance with rules promulgated by the division consistent with Title 23, Chapter [8, Part 3]
110 Chapter 27, Historic Preservation Review Act, and in consultation with Native American
111 groups, representatives of repositories, and the review committee established under Section
112 ~~[9-9-405]~~ 23-27-205.

113 (3) The intentional removal or excavation of Native American remains from state lands
114 may be permitted only if:

115 (a) the remains are excavated or removed pursuant to a permit issued under Section
116 ~~[9-8-305]~~ 23-27-205;

117 (b) the remains are excavated or removed after consultation with and written consent of
118 the land owner; and

119 (c) the ownership or right of control of the disposition of the remains is determined as
120 provided in Subsections (1) and (2).

121 (4) (a) Any person who knows or has reason to know that he or she has discovered
122 Native American remains on state lands after the effective date of this part shall notify, in
123 writing, the appropriate state agency having primary management authority over the lands as
124 provided in Title 23, Chapter [8, Part 3] 27, Historic Preservation Review Act.

125 (b) If the discovery occurred in connection with construction, mining, logging,
126 agriculture, or a related activity the person shall cease the activity in the area of the discovery,
127 make a reasonable effort to protect the remains discovered before resuming the activity, and
128 provide notice of discovery to the appropriate state agency under Subsection (4)(a).

129 (c) Following notification under Subsections (4)(a) and (b) and upon certification by
130 the head of the appropriate state agency that notification has been received the activity may
131 resume after compliance with Section 76-9-704.

132 (5) Scientific study of remains may be carried out only with approval of the owner of
133 the remains as established in Subsections (1) and (2). If ownership is unknown, prior study
134 shall be restricted to those sufficient to identify ownership. This study shall be approved only
135 in accordance with rules made by the division in consultation with the review committee
136 established under Section 9-9-405. The remains shall be retained no longer than 90 days after
137 the date of establishing ownership.

138 (6) If there are multiple requests for repatriation of any remains and the division cannot
139 clearly determine which requesting party is the most appropriate claimant, the appropriate state
140 agency having primary authority over the lands as provided in Title 23, Chapter [8, Part 3] 27,
141 Historic Preservation Review Act may retain the remains until the requesting parties agree
142 upon its disposition or the dispute is otherwise resolved by a court of competent jurisdiction.

143 Section 2. Section **9-9-405** is amended to read:

144 **9-9-405. Review committee.**

145 (1) There is created a Native American Remains Review Committee.

146 (2) (a) The review committee shall be composed of seven members as follows:

147 (i) four shall be appointed by the division director from nominations submitted by
148 Indian tribes; and

149 (ii) three shall be appointed by the division director from nominations submitted by

150 representatives of repositories.

151 (b) Except as required by Subsection (2)(c), as terms of current committee members
152 expire, the division director shall appoint each new member or reappointed member to a
153 four-year term.

154 (c) Notwithstanding the requirements of Subsection (2)(b), the division director shall,
155 at the time of appointment or reappointment, adjust the length of terms to ensure that the terms
156 of committee members are staggered so that approximately half of the committee is appointed
157 every two years.

158 (d) When a vacancy occurs in the membership for any reason, the replacement shall be
159 appointed for the unexpired term.

160 (e) (i) A member shall receive no compensation or benefits for the member's services,
161 but may receive per diem and expenses incurred in the performance of the member's official
162 duties at the rates established by the Division of Finance under Sections 63A-3-106 and
163 63A-3-107.

164 (ii) A member may decline to receive per diem and expenses for the member's service.

165 (f) The review committee shall designate one of its members as chair.

166 (3) The review committee shall:

167 (a) monitor the identification process conducted under Section 9-9-403 to ensure a fair
168 and objective consideration and assessment of all available relevant information and evidence;

169 (b) review, upon the request of any affected party, any finding relating to:

170 (i) the identity or cultural affiliation of remains; or

171 (ii) the return of these remains;

172 (c) facilitate the resolution of any disputes among Indian tribes or lineal descendants
173 and state agencies relating to the return of remains, including convening the parties to the
174 dispute if [~~deemed~~] considered desirable;

175 (d) consult with Indian tribes on matters within the scope of the work of the review
176 committee affecting these tribes;

177 (e) consult with the division in the development of rules to carry out this part;

178 (f) perform other related functions as the division may assign to the committee; and

179 (g) make recommendations, if appropriate, regarding future care of remains that are to
180 be repatriated.

181 (4) Any records and findings made by the review committee relating to the identity of
182 or cultural affiliation of any remains and the return of any remains may be admissible in any
183 action brought under this part.

184 (5) The appropriate state agency having primary authority over the lands as provided in
185 Title 23, Chapter [8, ~~Part 3, Antiquities~~] 27, Historic Preservation Review Act, shall ensure
186 that the review committee have reasonable access to Native American remains under review
187 and to associated scientific and historical documents.

188 (6) The division shall provide reasonable administrative and staff support necessary for
189 the deliberations of the committee.

190 (7) The review committee shall submit an annual report to the Native American
191 Legislative Liaison Committee, created in Section 36-22-1, on the progress made, and any
192 barriers encountered, in implementing this section during the previous year.

193 Section 3. Section **17B-4-403** is amended to read:

194 **17B-4-403. Project area plan requirements.**

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

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

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

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

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

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

207 (f) if the agency board made a finding of blight under Subsection 17B-4-601(4)(b):

208 (i) describe how the redevelopment will reduce or eliminate blight in the project area;

209 and

210 (ii) if the agency is to have the power of eminent domain under the project area plan:

211 (A) provide record owners of property located within the redevelopment project area

212 and their tenants reasonable opportunities to participate in the redevelopment if the record
213 property owner or tenant enters into a participation agreement with the agency;

214 (B) state that the agency has adopted or will adopt guidelines setting forth and
215 governing the opportunities of record property owners and tenants to participate in the
216 redevelopment, as required by Subsection 17B-4-402(1)(h)(iv); and

217 (C) include a plan for the relocation of any families and persons who will be
218 temporarily or permanently displaced from housing facilities in the redevelopment project area;

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

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

224 (i) describe any specific project or projects that are the object of the proposed
225 redevelopment, economic development, or education housing development;

226 (j) identify how private developers, if any, will be selected to undertake the
227 redevelopment, economic development, or education housing development and identify each
228 private developer currently involved in the redevelopment, economic development, or
229 education housing development process;

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

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

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

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

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

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

- 243 (B) the project area is a superfund site;
- 244 (n) state the reasons for the selection of the project area;
- 245 (o) describe the physical, social, and economic conditions existing in the project area;
- 246 (p) provide a financial analysis describing the proposed method of financing the
- 247 proposed redevelopment, economic development, or education housing development;
- 248 (q) describe any tax incentives offered private entities for facilities located in the
- 249 project area;
- 250 (r) contain the report and state any recommendations of the community's planning
- 251 commission;
- 252 (s) include an analysis, as provided in Subsection (2), of whether adoption of the
- 253 project area plan is:
 - 254 (i) for a redevelopment project area plan, necessary and appropriate to reduce or
 - 255 eliminate blight; or
 - 256 (ii) for an economic development or education housing development project area plan,
 - 257 beneficial under a benefit analysis;
 - 258 (t) if any of the existing buildings or uses in the project area are included in or eligible
 - 259 for inclusion in the National Register of Historic Places or the State Register, state that the
 - 260 agency shall comply with Subsection [~~9-8-404~~] 23-27-304(1) as though the agency were a state
 - 261 agency; and
 - 262 (u) include other information that the agency determines to be necessary or advisable.
- 263 (2) Each analysis under Subsection (1)(s)(ii) shall consider:
 - 264 (a) the benefit of any financial assistance or other public subsidy proposed to be
 - 265 provided by the agency, including:
 - 266 (i) an evaluation of the reasonableness of the costs of economic development or
 - 267 education housing development;
 - 268 (ii) efforts the agency has made or will make to maximize private investment;
 - 269 (iii) the rationale for use of tax increment, including an analysis of whether the
 - 270 proposed development might reasonably be expected to occur in the foreseeable future solely
 - 271 through private investment; and
 - 272 (iv) an estimate of the total amount of tax increment that will be expended in
 - 273 undertaking economic development or education housing development and the length of time

274 for which it will be expended; and

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

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

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

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

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

282 **17B-4-405. Existing and historic buildings and uses.**

283 If any of the existing buildings or uses in a project area are included in or eligible for
284 inclusion in the National Register of Historic Places or the State Register, the agency shall
285 comply with Subsection [~~9-8-404~~] 23-27-304(1) as though the agency were a state agency.

286 Section 5. Section **23-27-101** is enacted to read:

287 **CHAPTER 27. HISTORIC PRESERVATION REVIEW ACT**

288 **23-27-101. Title.**

289 This chapter is known as the "Historic Preservation Review Act.

290 Section 6. Section **23-27-102**, which is renumbered from Section 9-8-102 is
291 renumbered and amended to read:

292 [~~9-8-102~~]. **23-27-102. Definitions.**

293 As used in this chapter:

294 (1) [~~"Board"~~] "Committee" means the [~~Board of State History~~] Cultural Sites Review
295 Committee.

296 (2) "Director" means the director of the Division of [~~State History~~] Wildlife Resources.

297 (3) "Division" means the Division of [~~State History~~] Wildlife Resources.

298 (4) "Documentary materials" means written or documentary information contained in
299 published materials, manuscript collections, archival materials, photographs, sound recordings,
300 motion pictures, and other written, visual, and aural materials, except government records.

301 (5) "Historical artifacts" means objects produced or shaped by human efforts, a natural
302 object deliberately selected and used by a human, an object of aesthetic interest, and any
303 human-made objects produced, used, or valued by the historic peoples of Utah.

304 (6) "Society" means the Utah State Historical Society.

305 Section 7. Section **23-27-103** is enacted to read:

306 **23-27-103. Division duties related to historic preservation.**

307 The Division shall:

308 (1) mark and preserve historic sites, areas, and remains;

309 (2) collect, preserve, and administer historical records relating to the history of Utah;

310 and

311 (3) provide grants and technical assistance as necessary and appropriate.

312 Section 8. Section **23-27-104**, which is renumbered from Section 9-8-204 is

313 renumbered and amended to read:

314 **[9-8-204]. 23-27-104. Cultural Sites Review Committee.**

315 (1) There is created within the department the [~~Board of State History~~] Cultural Sites
316 Review Committee.

317 (2) The [~~board~~] committee shall consist of 11 members appointed by the governor with
318 the consent of the Senate as follows:

319 (a) sufficient representatives to satisfy the federal requirements for an adequately
320 qualified State Historic Preservation Review Board; and

321 (b) other persons with an interest in the subject matter of the division's responsibilities.

322 (3) (a) Except as required by Subsection (3)(b), the members shall be appointed for
323 terms of four years and shall serve until their successors are appointed and qualified.

324 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the
325 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
326 board members are staggered so that approximately half of the board is appointed every two
327 years.

328 (4) When a vacancy occurs in the membership for any reason, the replacement shall be
329 appointed for the unexpired term with the consent of the Senate.

330 (5) Six members of the [~~board~~] committee are a quorum for the transaction of business.

331 (6) The governor shall select a chair and vice chair from the [~~board~~] committee
332 members.

333 (7) (a) Members shall receive no compensation or benefits for their services, but may
334 receive per diem and expenses incurred in the performance of the member's official duties at
335 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

336 (b) Members may decline to receive per diem and expenses for their service.

337 Section 9. Section **23-27-105** is enacted to read:

338 **23-27-105. Committee duties and powers.**

339 The committee shall:

340 (1) function as the State Review Board for purposes of the historic preservation
341 program; and

342 (2) recommend districts, sites, buildings, structures, and objects for listing on the State
343 and National Historic Registers to the director.

344 Section 10. Section **23-27-106**, which is renumbered from Section 9-8-206 is
345 renumbered and amended to read:

346 [~~9-8-206~~]. **23-27-106. Historical magazine, books, documents, and microfilms**
347 **-- Proceeds.**

348 (1) The division shall, under the direction of the [~~board~~] committee:

349 (a) compile and publish an historical magazine to be furnished to supporting members
350 of the society in accordance with membership subscriptions or to be sold independently of
351 membership; and

352 (b) publish and sell other books, documents, and microfilms at reasonable prices to be
353 approved by the director.

354 (2) Proceeds from sales under this section shall be retained in the treasury of the
355 society.

356 Section 11. Section **23-27-107** is enacted to read:

357 **23-27-107. Donations -- Accounting.**

358 The division may:

359 (1) receive gifts, donations, bequests, devises, and endowments of money or property,
360 which shall then become the property of the state of Utah.

361 (2) If the donor directs that money or property donated under Subsection (1) be used in
362 a specified manner, then the division shall use it in accordance with these directions.

363 Otherwise, all donated money and the proceeds from donated property, together with the
364 charges realized from society memberships, shall be deposited in the General Fund as restricted
365 revenue of the society.

366 (3) The division shall keep a correct account of funds and property received, held, or

367 disbursed by the division, and shall make reports to the governor as in the case of other state
368 institutions.

369 Section 12. Section **23-27-201**, which is renumbered from Section 9-8-301 is
370 renumbered and amended to read:

371 ~~[9-8-301].~~ **23-27-201. Purpose.**

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

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

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

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

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

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

396 Section 13. Section **23-27-202**, which is renumbered from Section 9-8-302 is
397 renumbered and amended to read:

398 ~~[9-8-302]~~. 23-27-202. Definitions.

399 As used in this ~~[part and Part 4]~~ chapter:

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

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

405 (3) "Collection" means a specimen and the associated records documenting the
406 specimen and its recovery.

407 ~~(4)~~ (4) "Committee" means the Cultural Sites Review Committee created in Section
408 23-27-104.

409 ~~[(4)]~~ (5) "Curation" means management and care of collections according to standard
410 professional museum practice, which may include inventorying, accessioning, labeling,
411 cataloging, identifying, evaluating, documenting, storing, maintaining, periodically inspecting,
412 cleaning, stabilizing, conserving, exhibiting, exchanging, or otherwise disposing of original
413 collections or reproductions, and providing access to and facilities for studying collections.

414 ~~[(5)]~~ (6) "Curation facility" is defined as provided in Section 53B-17-603.

415 ~~(7)~~ (7) "Division" means the Division of Wildlife Resources created in Section 23-14-1.

416 ~~[(6)]~~ (8) "Excavate" means the recovery of archaeological resources.

417 ~~[(7)]~~ (9) "Museum" means the Utah Museum of Natural History.

418 ~~[(8)]~~ (10) "Repository" is defined as provided in Section 53B-17-603.

419 ~~[(9)]~~ (11) "School and institutional land grants" means the transfer of properties
420 pursuant to Sections 6, 8, and 12 of the Utah Enabling Act and Article XX, Utah Constitution.

421 ~~[(10)]~~ (12) "School and institutional trust lands" are those properties defined in Section
422 53C-1-103.

423 ~~[(11)]~~ (13) "Section" means the State Antiquities Section.

424 ~~[(12)]~~ (14) "Site" means any petroglyphs, pictographs, structural remains, location of
425 archaeological deposits, or other location which is the source of specimens.

426 ~~[(13)]~~ (15) "Specimen" means all man-made artifacts and remains of an archaeological
427 or anthropological nature found on or below the surface of the earth, excluding structural
428 remains.

429 [(14)] (16) "State historic preservation officer" means that position mentioned in 16
 430 U.S.C. Sec. 470a of the National Historic Preservation Act of 1966, as amended.

431 [(15)] (17) "Survey" means surface investigations of archaeological resources.

432 Section 14. Section **23-27-203**, which is renumbered from Section 9-8-303 is
 433 renumbered and amended to read:

434 **[9-8-303]. 23-27-203. State Antiquities Section.**

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

436 (2) The division is the authority of the state for the protection and orderly development
 437 of archaeological and anthropological resources.

438 Section 15. Section **23-27-204**, which is renumbered from Section 9-8-304 is
 439 renumbered and amended to read:

440 **[9-8-304]. 23-27-204. Antiquities section duties.**

441 (1) The section is responsible for:

442 (a) the stimulation of research, study, and activities in the field of antiquities;

443 (b) the marking, protection, and preservation of sites;

444 (c) the collection, preservation, and administration of specimens until they are placed
 445 in a repository or curation facility;

446 (d) the administration of site survey and excavation records; and

447 (e) the editing and publication of antiquities records.

448 (2) The section shall cooperate with local, state, and federal agencies and all interested
 449 persons to achieve the purposes of this ~~[part and Part 4]~~ chapter.

450 Section 16. Section **23-27-205**, which is renumbered from Section 9-8-305 is
 451 renumbered and amended to read:

452 **[9-8-305]. 23-27-205. Permit required to survey or excavate on state lands --**

453 **Ownership of collections and resources -- Revocation or suspension of permits --**

454 **Criminal penalties.**

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

- 460 (b) Application for a permit shall be made on a form furnished by the section.
- 461 (c) The division shall make rules for the issuance of permits specifying or requiring:
- 462 (i) minimum permittee qualifications;
- 463 (ii) duration;
- 464 (iii) for excavation permits, proof of permission from the landowner to enter the
- 465 property for the purposes of the permit;
- 466 (iv) for excavation permits, research designs that provide for the recovery of the
- 467 maximum amount of historic, scientific, archaeological, anthropological, and educational
- 468 information, in addition to the physical recovery of specimens and the reporting of
- 469 archaeological information meeting current standards of scientific rigor;
- 470 (v) the need, if any, to submit data obtained in the course of field investigations to the
- 471 division;
- 472 (vi) proof of consultation with the appropriate Native American tribe, if necessary;
- 473 (vii) proof of consultation with the museum regarding curation of collections;
- 474 (viii) for excavation permits, proof of consultation with other agencies that may
- 475 manage other legal interests in the land; and
- 476 (ix) other information the division considers necessary.
- 477 (d) All archaeological work shall be carried out under the supervision of the state
- 478 archaeologist, which shall be under the direction of the director.
- 479 (e) A person may not remove from the state, prior to placement in a repository or
- 480 curation facility, any specimen, site, or portion of any site from lands owned or controlled by
- 481 the state or its subdivisions, other than school or institutional trust lands, without permission
- 482 from the division, and prior consultation with the landowner and any other agencies managing
- 483 other interests in the land.
- 484 (2) (a) Before any person may survey or excavate for archaeological resources on
- 485 school or institutional trust lands, that person shall obtain a permit from the School and
- 486 Institutional Trust Lands Administration.
- 487 (b) The School and Institutional Trust Lands Administration may, by rule, delegate the
- 488 authority to issue either survey or excavation permits, or both, for archaeological resources to
- 489 the ~~[Division of State History]~~ division.
- 490 (c) Application for a permit shall be made on a form furnished by the School and

491 Institutional Trust Lands Administration.

492 (d) Issuance of a permit is an undertaking requiring consultation with the state historic
493 preservation officer pursuant to Section [~~9-8-404~~] 23-27-303.

494 (e) The School and Institutional Trust Lands Administration shall enact rules for the
495 issuance of permits specifying or requiring:

496 (i) minimum permittee qualifications;

497 (ii) duration;

498 (iii) the need to submit data obtained in the course of field investigations to the
499 administration;

500 (iv) proof of consultation with the appropriate Native American tribe, if necessary;

501 (v) proof of consultation with the museum regarding curation of collections; and

502 (vi) other information the School and Institutional Trust Lands Administration
503 considers necessary.

504 (f) A person may not remove from the state, prior to placement in a repository or
505 curation facility, any specimen, site, or portion of any site from school or institutional trust
506 lands without permission from the School and Institutional Trust Lands Administration,
507 granted after consultation with the [~~Division of State History~~] division.

508 (3) (a) Collections recovered from school and institutional trust lands shall be owned
509 by the respective trust.

510 (b) Collections recovered from lands owned or controlled by the state or its
511 subdivisions, other than school or institutional trust lands, shall be owned by the state.

512 (c) The repository or curation facility for collections from lands owned or controlled by
513 the state or its subdivisions shall be designated pursuant to Section 53B-17-603.

514 (4) The permitting agency may revoke or suspend a permit if the permittee fails to
515 conduct a survey or excavation pursuant to law, the rules enacted by the permitting agency, or
516 permit provisions.

517 (5) (a) Any person violating this section is guilty of a class B misdemeanor.

518 (b) A person convicted of violating this section, or the rules promulgated by the
519 [~~Division of State History~~] division or the School and Institutional Trust Lands Administration
520 under this section, shall, in addition to any other penalties imposed, forfeit to the state or the
521 respective trust all archaeological resources discovered by or through the person's efforts.

522 Section 17. Section **23-27-206**, which is renumbered from Section 9-8-306 is
523 renumbered and amended to read:

524 **[9-8-306]. 23-27-206. Archaeological or anthropological landmarks.**

525 (1) (a) Sites of significance may be recommended to and approved by the board as state
526 archaeological or anthropological landmarks.

527 (b) No privately owned site or site on school or institutional trust lands may be so
528 designated without the written consent of the owner.

529 (2) A person may not excavate upon a privately owned designated landmark without a
530 permit from the division.

531 (3) Before any alteration is commenced on a designated landmark, three months' notice
532 of intent to alter the site shall be given the division.

533 Section 18. Section **23-27-207**, which is renumbered from Section 9-8-307 is
534 renumbered and amended to read:

535 **[9-8-307]. 23-27-207. Report of discovery on state or private lands.**

536 (1) Any person who discovers any archaeological resources on lands owned or
537 controlled by the state or its subdivisions shall promptly report the discovery to the division.

538 (2) Any person who discovers any archaeological resources on privately owned lands
539 shall promptly report the discovery to the division.

540 (3) Field investigations shall be discouraged except in accordance with this [~~part and~~
541 ~~Part 4]~~ chapter.

542 (4) Nothing in this section may be construed to authorize any person to survey or
543 excavate for archaeological resources.

544 Section 19. Section **23-27-208**, which is renumbered from Section 9-8-308 is
545 renumbered and amended to read:

546 **[9-8-308]. 23-27-208. Forgery or false labeling of specimens unlawful.**

547 (1) It is unlawful to reproduce, rework, or forge any specimen or make any object,
548 whether copied or not, or falsely label, describe, identify, or offer for sale or exchange any
549 object, with intent to represent it as an original and genuine specimen.

550 (2) No person may offer for sale or other exchange any object with knowledge that it
551 was collected or excavated in violation of this part.

552 Section 20. Section **23-27-301**, which is renumbered from Section 9-8-401 is

553 renumbered and amended to read:

554 ~~[9-8-401]~~. **23-27-301. Purpose.**

555 The Legislature determines and declares that the public has a vital interest in all
556 antiquities, historic and prehistoric ruins, and historic sites, buildings, and objects which, when
557 neglected, desecrated, destroyed or diminished in aesthetic value, result in an irreplaceable loss
558 to the people of this state.

559 Section 21. Section **23-27-302**, which is renumbered from Section 9-8-402 is
560 renumbered and amended to read:

561 ~~[9-8-402]~~. **23-27-302. State register -- Division duties.**

562 (1) As used in this part, "State Register" means a register of cultural sites and localities,
563 historic and prehistoric sites, and districts, buildings, and objects significant in Utah history.

564 (2) The division shall:

565 (a) constitute the historic preservation agency for this state;

566 (b) establish a state register for the orderly identification and recognition of the state's
567 cultural resources; and

568 (c) provide for participation in the National Historic Preservation Program.

569 Section 22. Section **23-27-303**, which is renumbered from Section 9-8-403 is
570 renumbered and amended to read:

571 ~~[9-8-403]~~. **23-27-303. Placement on State or National Register.**

572 The board shall notify owners of sites, buildings, structures, or objects before placing
573 those sites, buildings, structures, or objects on the State Register or nominating them to the
574 National Register.

575 Section 23. Section **23-27-304**, which is renumbered from Section 9-8-404 is
576 renumbered and amended to read:

577 ~~[9-8-404]~~. **23-27-304. Agency responsibilities -- State historic preservation
578 officer to include antiquities section comments.**

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

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

584 (b) allow the state historic preservation officer a reasonable opportunity to comment
585 with regard to the undertaking or expenditure.

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

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

592 Section 24. Section **23-27-305**, which is renumbered from Section 9-8-405 is
593 renumbered and amended to read:

594 **~~[9-8-405].~~ 23-27-305. Federal funds -- Agreements on standards and
595 procedures.**

596 By following the procedures and requirements of Title 63, Chapter 38e, Federal Funds
597 Procedures, the division may accept and administer federal funds provided under the provisions
598 of the National Historic Preservation Act of 1966, the Land and Water Conservation Act as
599 amended, and subsequent legislation directed toward the encouragement of historic
600 preservation, and to enter into those agreements on professional standards and procedures
601 required by participation in the National Historic Preservation Act of 1966 and the National
602 Register Office.

603 Section 25. Section **23-27-401**, which is renumbered from Section 9-8-502 is
604 renumbered and amended to read:

605 **~~[9-8-502].~~ 23-27-401. Legislative finding.**

606 The Legislature finds and declares that preservation and restoration of historically
607 significant real property and structures as identified by the State Register of Historic Sites are
608 in the public interest of the people of the state of Utah and should be promoted by the laws of
609 this state.

610 Section 26. Section **23-27-402**, which is renumbered from Section 9-8-503 is
611 renumbered and amended to read:

612 **~~[9-8-503].~~ 23-27-402. Preservation easement.**

613 Any owner of a fee simple interest in real property may convey, and any other party
614 entitled to own real property interests may accept, a preservation easement pertaining to the

615 real property if the real property possesses historical value that will be enhanced or preserved
616 by the terms of the easement regarding restoration or preservation of the real property.

617 Section 27. Section **23-27-403**, which is renumbered from Section 9-8-504 is
618 renumbered and amended to read:

619 ~~[9-8-504]~~. **23-27-403**. **Preservation easement -- Subject to other laws.**

620 Except as provided in this part, preservation easements are subject to the other laws of
621 this state governing easements, generally. Any preservation easement may, with respect to the
622 burdened land, entitle its owner to take certain action, to require certain action to be taken by
623 the owner of the burdened land, or require that certain action not be taken by the owner of the
624 burdened land, and under any such circumstances may be either appurtenant or in gross.

625 Section 28. Section **23-27-404**, which is renumbered from Section 9-8-505 is
626 renumbered and amended to read:

627 ~~[9-8-505]~~. **23-27-404**. **Rule Against Perpetuities and Rule Restricting**
628 **Unreasonable Restraints on Alienation not applicable.**

629 The rule of property known as the Rule Against Perpetuities and the rule of property
630 known as the Rule Restricting Unreasonable Restraints on Alienation may not be applied to
631 defeat any of the provisions of this part or of any deed, lease, conveyance, covenant, easement,
632 or other interest created or document executed in accordance with the provisions of this part.

633 Section 29. Section **23-27-405**, which is renumbered from Section 9-8-506 is
634 renumbered and amended to read:

635 ~~[9-8-506]~~. **23-27-405**. **Charitable contribution for tax purposes.**

636 Any conveyance of a preservation easement may be deemed a charitable contribution
637 for tax purposes in accordance with the laws, rules, and regulations pertaining to charitable
638 contributions of interests in real property.

639 Section 30. Section **23-27-501**, which is renumbered from Section 9-8-602 is
640 renumbered and amended to read:

641 ~~[9-8-602]~~. **23-27-501**. **Authority to write and publish county history --**
642 **Administration of project.**

643 (1) Any county may enter into an agreement with the division to write and publish a
644 complete and reliable history of that county. The county may designate its county historical
645 society, other agency of county government, or other entity to represent the county for purposes

646 of this agreement.

647 (2) The division shall supervise and administer this project to write and publish the
648 complete and reliable history of each county and shall render professional expertise to the
649 county or its designee as needed.

650 Section 31. Section **23-27-502**, which is renumbered from Section 9-8-603 is
651 renumbered and amended to read:

652 **[9-8-603]. 23-27-502. Standards -- Publication.**

653 (1) The writing and publishing of each history shall meet good historiographical and
654 other professional standards as prescribed and approved by the division. The history shall be
655 identified as the Centennial History of the County.

656 (2) After approval by the division, each county history may bear, with the approval of
657 the Utah State Centennial Commission, the state centennial history logo and shall be compiled,
658 published, and offered to the public before December 31, 1996, as part of the county's and
659 state's centennial celebrations at a cost not to exceed the cost of printing and binding. The
660 proceeds of the sales shall be returned to the county.

661 Section 32. Section **23-27-601** is enacted to read:

662 **23-27-601. Definitions.**

663 As used in this part:

664 (1) " Committee " means the Cultural Sites Review Committee created in Section
665 23-27-104.

666 (2) "Division" means the Division of Wildlife Resources.

667 (3) "Endowment fund" means any cultural sites endowment fund created under this
668 part by a qualifying organization.

669 (4) "Qualifying organization" means any Utah nonprofit history organization or local
670 government that qualifies under this chapter to create an endowment fund, receive state monies
671 into the endowment fund, match state monies deposited into the endowment fund, and expend
672 interest earned on the endowment fund.

673 (5) "State fund" means the Utah Cultural Sites Endowment Fund created under Section
674 23-27-602.

675 Section 33. Section **23-27-602** is enacted to read:

676 **23-27-602. Utah Cultural Sites Endowment Fund.**

677 There is created a restricted special revenue fund known as the "Utah Cultural Sites
678 Endowment Fund." The state fund shall be administered by the Division of Finance in
679 accordance with applicable law. The state fund shall contain all monies appropriated to it by
680 the Legislature and the interest and other income earned on the fund. The purpose of the state
681 fund is to provide monies to qualifying organizations to enable them to create their own
682 cultural sites endowment funds.

683 Section 34. Section **23-27-603** is enacted to read:

684 **23-27-603. Cultural Sites organization endowment funds.**

685 (1) Any qualifying organization may create an endowment fund into which there may
686 be deposited monies from the state fund. The principal of each endowment fund may not be
687 expended by the qualifying organization and shall be held in perpetuity solely by the qualifying
688 organization or by the Division of Finance on behalf of the qualifying organization. Only
689 interest income earned on the amount in each endowment fund may be expended by the
690 qualifying organization. The principal of each endowment fund shall be invested in accordance
691 with Title 51, Chapter 7, State Money Management Act of 1974.

692 (2) Each endowment fund shall be administered in accordance with generally accepted
693 accounting principles by professional endowment management personnel. If no professional
694 endowment management personnel is available to the qualifying organization, it shall place its
695 endowment fund in a state trust and agency fund administered by the Division of Finance,
696 which shall allocate interest income to the qualifying organization annually.

697 (3) If an endowment fund is administered by the Division of Finance the costs for this
698 administration shall be deducted from the interest income before allocations of interest income
699 may be made to the qualifying organization by the Division of Finance.

700 Section 35. Section **23-27-604** is enacted to read:

701 **23-27-604. Division duties related to the disposition of endowment funds.**

702 The division shall, according to policy established by the committee :

703 (1) allocate monies from the state fund to the endowment fund created by a qualifying
704 organization under Section 23-27-603;

705 (2) determine the eligibility of each qualifying organization to receive monies from the
706 state fund into the endowment fund of the qualifying organization;

707 (3) determine the matching amount each qualifying organization must raise in order to

708 qualify to receive monies from the state fund;

709 (4) establish a date by which each qualifying organization must provide its matching
710 funds;

711 (5) verify that matching funds have been provided by each qualifying organization by
712 the date determined in Subsection (4); and

713 (6) in accordance with Title 63, Chapter 46a, Utah Administrative Rulemaking Act,
714 establish criteria by rule not otherwise prescribed in this chapter for determining the eligibility
715 of qualifying organizations to receive monies from the state fund.

716 Section 36. Section **23-27-605** is enacted to read:

717 **23-27-605. Eligibility requirements of qualifying history organizations --**

718 **Allocation limitations -- Matching requirements.**

719 (1) Any qualifying organization may apply to receive monies from the state fund to be
720 deposited in an endowment fund it has created under Section 23-27-603:

721 (a) if it has received a grant from the division during one of the three years immediately
722 before making application for state fund monies under this subsection; or

723 (b) if it has not received a grant from the division within the past three years, it may
724 receive a grant upon approval by the division according to policy of the board.

725 (2) (a) The maximum amount that may be allocated to each qualifying organization
726 from the state fund shall be determined by the division in a format to be developed in
727 consultation with the board.

728 (b) The minimum amount that may be allocated to each qualifying organization from
729 the state fund is \$2,500.

730 (3) After the division determines that a qualifying organization is eligible to receive
731 monies from the state fund and before any money is allocated to the qualifying organization
732 from the state fund, the qualifying organization shall match the amount qualified for by monies
733 raised and designated exclusively for that purpose. State monies and in-kind contributions may
734 not be used to match monies from the state fund.

735 (4) Endowment match monies shall be based on a sliding scale as follows:

736 (a) amounts requested up to \$20,000 shall be matched one-to-one;

737 (b) any additional amount requested that makes the aggregate amount requested exceed
738 \$20,000 but not exceed \$50,000 shall be matched two-to-one; and

739 (c) any additional amount requested that makes the aggregate amount requested exceed
740 \$50,000 shall be matched three-to-one.

741 (5) (a) Qualifying organizations shall raise the matching amount by a date determined
742 by the board.

743 (b) Monies from the state fund shall be released to the qualifying organization only
744 upon verification by the division that the matching money has been received on or before the
745 date determined under Subsection (5)(a). Verification of matching funds shall be made by a
746 certified public accountant.

747 (c) Monies from the state fund shall be released to qualifying organizations with
748 professional endowment management in increments not less than \$2,500 as audited
749 confirmation of matching funds is received by the board.

750 (d) Monies from the state fund shall be granted to each qualifying organization on the
751 basis of the matching funds it has raised by the date determined under Subsection (5)(a).

752 Section 37. Section **23-27-606** is enacted to read:

753 **23-27-606. Unallocated monies.**

754 Monies in the state fund that are unallocated shall be reallocated by the division on a
755 proportionate basis, not exceeding existing match, to qualifying organizations that raise more
756 than 100% of their required match by the date determined by the board.

757 Section 38. Section **23-27-607** is enacted to read:

758 **23-27-607. Spending restrictions -- Return of endowment.**

759 (1) A qualifying organization, once it has received its endowment money from the state
760 fund, may not expend any of those monies or the required matching monies in its endowment
761 fund, but may expend only the interest income earned on the monies in its endowment fund.

762 (2) If a qualifying organization expends any amount of the endowment money received
763 from the state fund or any amount of the required matching monies, the qualifying organization
764 shall return the amount it received from the state fund. The division shall reallocate any such
765 returned monies to qualifying organizations in the manner as provided in Section 23-27-606.

766 Section 39. Section **23-27-608** is enacted to read:

767 **23-27-608. Federal match.**

768 The creation of the state fund and the use of its monies to enable qualifying
769 organizations to create their own endowment funds may be construed as a state match for any

770 history funding from the federal government that may be provided.

771 Section 40. Section **53B-17-603** is amended to read:

772 **53B-17-603. Curation and deposit of specimens.**

773 (1) For purposes of this section:

774 (a) "Collections" is defined as provided in Section [~~9-8-302~~] 23-27-202.

775 (b) "Curation facility" means:

776 (i) the museum;

777 (ii) an accredited facility meeting federal curation standards; or

778 (iii) an appropriate state park.

779 (c) "Museum" means the Utah Museum of Natural History.

780 (d) "Repository" means:

781 (i) a facility designated by the museum through memoranda of agreement; or

782 (ii) a place of reburial.

783 (e) "School and institutional trust lands" are those properties defined in Section

784 53C-1-103.

785 (2) The museum shall make rules to ensure the adequate curation of all collections
786 from lands owned or controlled by the state or its subdivisions. The rules shall:

787 (a) conform to, but not be limited by, federal curation policy;

788 (b) recognize that collections recovered from school and institutional trust lands are
789 owned by the respective trust, and shall be made available for exhibition as the beneficiaries of
790 the respective trust may request, subject to museum curation policy and the curation facility's
791 budgetary priorities;

792 (c) recognize that any collections obtained in exchange for collections found on school
793 and institutional trust lands shall be owned by the respective trust; and

794 (d) recognize that if, at its discretion, the curation facility makes and sells
795 reproductions derived from collections found on school or institutional trust lands, any monies
796 obtained from these sales shall be given to the respective trust, but the curation facility may
797 retain monies sufficient to recover the direct costs of preparation for sale and a reasonable fee
798 for handling the sale.

799 (3) (a) The museum may enter into memoranda of agreement with other repositories
800 located in and outside the state to act as its designee for the curation of collections.

801 (b) In these memoranda, the museum may delegate some or all of its authority to
802 curate.

803 (4) (a) All collections recovered from lands owned or controlled by the state or its
804 subdivisions shall be deposited at the museum, a curation facility, or at a repository within a
805 reasonable time after the completion of field work.

806 (b) The museum shall make rules establishing procedures for selection of the
807 appropriate curation facility or repository.

808 (c) The rules shall consider:

809 (i) whether the permittee, authorized pursuant to Section [~~9-8-305~~] 23-27-205, is a
810 curation facility;

811 (ii) the appropriateness of reburial;

812 (iii) the proximity of the curation facility or repository to the point of origin of the
813 collection;

814 (iv) the preference of the owner of the land on which the collection was found;

815 (v) the nature of the collection and the repository's or curation facility's ability and
816 desire to curate the collection in question, and ability to maximize the scientific, educational,
817 and cultural benefits for the people of the state and the school and institutional trusts;

818 (vi) selection of a second curation facility or repository, if the original repository or
819 curation facility becomes unable to curate the collections under its care; and

820 (vii) establishment of an arbitration process for the resolution of disputes over the
821 location of a curation facility or repository, which shall include an ultimate arbitration authority
822 consisting of the landowner, the state archaeologist or paleontologist, and a representative from
823 the governor's office.

824 (d) The repository or curation facility may charge a curation fee commensurate with the
825 costs of maintaining those collections, except that a fee may not be charged to the respective
826 trust for collections found on school or institutional trust lands.

827 (5) The repository or curation facility shall make specimens available through loans to
828 museums and research institutions in and out of the state when, in the opinion of the repository
829 or curation facility:

830 (a) the use of the specimens is appropriate; and

831 (b) arrangements are made for safe custodianship of the specimens.

832 (6) The museum shall comply with the procedures of Title 63, Chapter 46a, Utah
833 Administrative Rulemaking Act, regarding publication of its rules in the Utah State Bulletin
834 and the Utah Administrative Code.

835 Section 41. Section **59-7-609** is amended to read:

836 **59-7-609. Historic preservation credit.**

837 (1) (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to a taxpayer
838 subject to Section 59-7-104, as a credit against the tax due, an amount equal to 20% of
839 qualified rehabilitation expenditures, costing more than \$10,000, incurred in connection with
840 any residential certified historic building. When qualifying expenditures of more than \$10,000
841 are incurred, the credit allowed by this section shall apply to the full amount of expenditures.

842 (b) All rehabilitation work to which the credit may be applied shall be approved by the
843 State Historic Preservation Office prior to completion of the rehabilitation project as meeting
844 the Secretary of the Interior's Standards for Rehabilitation so that the office can provide
845 corrective comments to the taxpayer in order to preserve the historical qualities of the building.

846 (c) Any amount of credit remaining may be carried forward to each of the five taxable
847 years following the qualified expenditures.

848 (d) The commission, in consultation with the Division of [~~State History~~] Wildlife
849 Resources, shall promulgate rules to implement this section.

850 (2) As used in this section:

851 (a) "Certified historic building" means a building that is listed on the National Register
852 of Historic Places within three years of taking the credit under this section or that is located in a
853 National Register Historic District and the building has been designated by the Division of
854 State History as being of significance to the district.

855 (b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable
856 to the rehabilitation and restoration of the physical elements of the building, including the
857 historic decorative elements, and the upgrading of the structural, mechanical, electrical, and
858 plumbing systems to applicable codes.

859 (ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

860 (A) the taxpayer's personal labor;

861 (B) cost of acquisition of the property;

862 (C) any expenditure attributable to the enlargement of an existing building;

863 (D) rehabilitation of a certified historic building without the approval required in
864 Subsection (1)(b); or

865 (E) any expenditure attributable to landscaping and other site features, outbuildings,
866 garages, and related features.

867 (c) "Residential" means a building used for residential use, either owner occupied or
868 income producing.

869 Section 42. Section **59-10-108.5** is amended to read:

870 **59-10-108.5. Historic preservation credit.**

871 (1) (a) For tax years beginning January 1, 1993, and thereafter, there is allowed to
872 resident individuals, as a credit against the income tax due, an amount equal to 20% of
873 qualified rehabilitation expenditures, costing more than \$10,000, incurred in connection with
874 any residential certified historic building. When qualifying expenditures of more than \$10,000
875 are incurred, the credit allowed by this section shall apply to the full amount of expenditures.

876 (b) All rehabilitation work to which the credit may be applied shall be approved by the
877 State Historic Preservation Office prior to completion of the rehabilitation project as meeting
878 the Secretary of the Interior's Standards for Rehabilitation so that the office can provide
879 corrective comments to the taxpayer in order to preserve the historical qualities of the building.

880 (c) Any amount of credit remaining may be carried forward to each of the five taxable
881 years following the qualified expenditures.

882 (d) The commission, in consultation with the Division of [~~State History~~] Wildlife
883 Resources, shall promulgate rules to implement this section.

884 (2) As used in this section:

885 (a) "Certified historic building" means a building that is listed on the National Register
886 of Historic Places within three years of taking the credit under this section or that is located in a
887 National Register Historic District and the building has been designated by the Division of
888 [~~State History~~] Wildlife Resources as being of significance to the district.

889 (b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable
890 to the rehabilitation and restoration of the physical elements of the building, including the
891 historic decorative elements, and the upgrading of the structural, mechanical, electrical, and
892 plumbing systems to applicable codes.

893 (ii) "Qualified rehabilitation expenditures" does not include expenditures related to:

- 894 (A) the taxpayer's personal labor;
- 895 (B) cost of acquisition of the property;
- 896 (C) any expenditure attributable to the enlargement of an existing building;
- 897 (D) rehabilitation of a certified historic building without the approval required in
- 898 Subsection (1)(b); or
- 899 (E) any expenditure attributable to landscaping and other site features, outbuildings,
- 900 garages, and related features.

901 (c) "Residential" means a building used for residential use, either owner occupied or
902 income producing.

903 Section 43. Section **76-9-704** is amended to read:

904 **76-9-704. Abuse or desecration of a dead human body -- Penalties.**

905 (1) For purposes of this section, "dead human body" includes any part of a human body
906 in any stage of decomposition, including ancient human remains.

907 (2) A person is guilty of abuse or desecration of a dead human body if the person
908 intentionally and unlawfully:

909 (a) fails to report the finding of a dead human body to a local law enforcement agency;

910 (b) disturbs, moves, removes, conceals, or destroys a dead human body or any part of
911 it;

912 (c) disinters a buried or otherwise interred dead human body, without authority of a
913 court order;

914 (d) dismembers a dead human body to any extent, or damages or detaches any part or
915 portion of a dead human body; or

916 (e) commits, or attempts to commit upon any dead human body sexual penetration or
917 intercourse, object rape, sodomy, or object sodomy, as these acts are described in Chapter 5,
918 Offenses Against the Person.

919 (3) A person does not violate this section if when that person directs or carries out
920 procedures regarding a dead human body, that person complies with:

921 (a) Title ~~[9]23~~, Chapter ~~[8, Part 3, Antiquities]~~ 27, Historic Preservation Review Act;

922 (b) Title 26, Chapter 4, Utah Medical Examiner Act;

923 (c) Title 26, Chapter 28, Uniform Anatomical Gift Act;

924 (d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

925 (e) Title 58, Chapter 9, Funeral Services Licensing Act; or

926 (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to
927 practice medicine.

928 (4) (a) Failure to report the finding of a dead human body as required under Subsection
929 (2)(a) is a class B misdemeanor.

930 (b) Abuse or desecration of a dead human body as described in Subsections (2)(b)
931 through (e) is a third degree felony.

932 Section 44. **Repealer.**

933 This bill repeals:

934 Section **9-8-501, Short title.**

935 Section 45. **Legislative intent.**

936 To implement the requirements of this bill, it is the intent of the Legislature that,
937 beginning July 1, 2005, all funds appropriated to the Division of State History to fund the State
938 Historic Preservation Review Act be transferred to the Division of Wildlife Resources.

939 Section 46. **Effective date.**

940 This bill takes effect on July 1, 2005.

Fiscal Note

Archeological Resources Amendments

22-Feb-05

Bill Number HB0308S017:12 AM

State Impact

Passage of this bill would transfer funding and oversight of the State Historic Preservation Office to the Division of Wildlife Resources. There should be no net fiscal impact to the state as all oversight functions related to historic preservation would be provided by the Department of Wildlife Resources.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst