

**Representative Bradley T. Johnson** proposes the following substitute bill:

**ARCHEOLOGICAL RESOURCES AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

**Sponsor: Bradley T. Johnson**

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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



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

27 **Uncodified Material Affected:**

28 ENACTS UNCODIFIED MATERIAL

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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 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, 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.

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**Fiscal Note**

Archeological Resources Amendments

23-Feb-05

**Bill Number HB0308S03**2:11 PM

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**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.

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**Individual and Business Impact**

No fiscal impact.

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**Office of the Legislative Fiscal Analyst**