

Representative Bradley T. Johnson proposes the following substitute bill:

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: Michael G. Waddoups

7
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 • delegate the authority to issue an excavation permit to an agency;
- 24 • make rules;
- 25 • investigate principal investigators and permitted work;



- 26 • revoke or suspend permits; and
- 27 • consult with the state historic preservation ~~H~~→ **officer** ←~~H~~ about comments on state
- 28 undertakings affecting historic property;
- 29 ▶ requires the state historic preservation officer to consult with the Public Lands
- 30 Policy Coordinating Office about comments on state undertakings affecting historic
- 31 property; and
- 32 ▶ makes technical changes.

33 **Monies Appropriated in this Bill:**

34 None

35 **Other Special Clauses:**

36 This bill provides an effective date.

37 **Utah Code Sections Affected:**

38 AMENDS:

- 39 **9-8-302**, as last amended by Chapter 10, Laws of Utah 1997
- 40 **9-8-304**, as renumbered and amended by Chapters 241 and 286, Laws of Utah 1992
- 41 **9-8-305**, as last amended by Chapter 170, Laws of Utah 1995
- 42 **9-8-404**, as last amended by Chapter 145, Laws of Utah 2005
- 43 **17B-4-403**, as last amended by Chapter 292, Laws of Utah 2005
- 44 **17B-4-405**, as enacted by Chapter 133, Laws of Utah 2001
- 45 **63-38d-603**, as enacted by Chapter 298, Laws of Utah 2005

46 REPEALS:

- 47 **9-8-303**, as last amended by Chapter 170, Laws of Utah 1995



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

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

51 **9-8-302. Definitions.**

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

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

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

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

60 ~~[(3)]~~ (4) "Collection" means a specimen and the associated records documenting the
61 specimen and its recovery.

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

67 ~~[(5)]~~ (6) "Curation facility" is defined as provided in Section 53B-17-603.

68 (7) "Division" means the Division of State History created in Section 9-8-201.

69 ~~[(6)]~~ (8) "Excavate" means the recovery of archaeological resources.

70 (9) "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)]~~ (10) "Museum" means the Utah Museum of Natural History.

74 (11) "Principal investigator" means the individual with overall administrative
75 responsibility for the survey or excavation project authorized by the permit.

76 ~~[(8)]~~ (12) "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)]~~ (13) "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)]~~ (14) "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 or specimens.

85 ~~[(13)]~~ (15) "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)]~~ (16) "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)]~~ (17) "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 that disturbs no more of a site than is necessary to
 94 determine the nature and extent of the archaeological resources or whether the site is a historic
 95 property.

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

97 **9-8-304. Antiquities section created -- Duties.**

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

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

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

101 (2) The Antiquities Section shall:

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

103 (b) assist with the marking, protection, and preservation of sites;

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

106 (d) ~~the administration of~~ provide advice on the protection and orderly development of
 107 archaeological resources and in doing so confer with the Public ~~H~~→ ~~[Land]~~ Lands ←~~H~~ Policy

107a Coordinating

108 Office if requested;

109 (e) assist with the proper care of ancient human remains as authorized by Subsection
 110 76-9-704(3) and federal law;

111 (f) collect and administer site survey and excavation records; ~~[and]~~

112 ~~[(e) the editing and publication of]~~

113 (g) edit and publish antiquities records[:]; ~~H~~→ ~~[and]~~ ←~~H~~

114 (h) inform the state historic preservation officer in writing about any request for advice
 115 or consultation from an agency or an agency's agent ~~H~~→ [:] ; and

115a (i) employ an archaeologist meeting the requirements of 36 CFR 61.4. ←~~H~~

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

119 (4) Before performing the duties specified in Subsections (2)(a) through (e), the
120 Antiquities Section shall obtain permission from the landowner.

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

122 **9-8-305. Permit required to survey or excavate on state lands -- Ownership of**
123 **collections and resources -- Revocation or suspension of permits -- Criminal penalties.**

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

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

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

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

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

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

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

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

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

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

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

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

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

148 (1) (a) Except as provided by Subsections (1)(d) and (3)(c), each principal investigator
149 who wishes to survey or excavate on any lands owned or controlled by the state, its political

150 subdivisions, or by the School and Institutional Trust Lands Administration shall obtain a
 151 survey or excavation permit from the Public Lands Policy Coordinating Office.

152 (b) A principal investigator who holds a valid permit under this section may allow
 153 other individuals to assist the principal investigator in a survey or excavation if the principal
 154 investigator ensures that all the individuals comply with the law, the rules, the permit, and the
 155 appropriate professional standards.

156 (c) A person, other than a principal investigator, may not survey or excavate on any
 157 lands owned or controlled by the state, its political subdivisions, or by the School and
 158 Institutional Trust Lands Administration unless the person works under the direction of a
 159 principal investigator who holds a valid permit.

160 (d) A permit obtained before July 1, 2006 shall continue until the permit terminates on
 161 its own terms.

162 (2) (a) To obtain a survey permit, a principal investigator shall:

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

165 (ii) except as provided in Subsection (2)(b), possess a graduate degree in anthropology,
 166 archaeology, or history;

167 (iii) have one year of full-time professional experience or equivalent specialized
 168 training in archaeological research, administration, or management; and

169 (iv) have one year of supervised field and analytical experience in Utah prehistoric or
 170 historic archaeology.

171 (b) In lieu of the graduate degree required by Subsection (2)(a)(ii), a principal
 172 investigator may submit evidence of training and experience equivalent to a graduate degree.

173 (c) ~~H~~→ [A] Unless the permit is revoked or suspended, a ~~←H~~ survey permit is valid
 173a for ~~H~~→ [five] the time period specified in the permit by the Public Lands Policy Coordinating
 173b Office, which may not exceed three ~~←H~~ years ~~H~~→ . [unless the permit is revoked according to
 174 Subsection (9).] ~~←H~~

175 (3) (a) Except as provided by Subsection (3)(c), to obtain an excavation permit, a
 176 principal investigator shall, in addition to complying with Subsection (2)(a), submit:

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

179 (A) states the questions to be addressed;

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

181 (C) defines the methods to be used;

182 (D) describes the analysis to be performed;

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

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

186 (G) estimates the cost and the time of the work that the principal investigator believes
 187 is necessary to provide the maximum amount of historic, scientific, archaeological,
 188 anthropological, and educational information; and

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

191 (b) An excavation permit is valid for the amount of time specified in the permit, unless
 192 the permit is revoked according to Subsection (9).

193 (c) The Public Lands Policy Coordinating Office may delegate to an agency the
 194 authority to issue excavation permits if the agency:

195 (i) requests the delegation; and

196 (ii) employs or has a ~~H~~→ [long-term] long-term ←~~H~~ contract with a principal
 196a investigator with a valid
 197 survey permit.

198 (d) The Public Lands Policy Coordinating Office shall conduct an independent review
 199 of the delegation authorized by Subsection (3)(c) every three years and may revoke the
 200 delegation at any time without cause.

201 (4) The Public Lands Policy Coordinating Office shall:

202 (a) grant a survey permit to a principal investigator who meets the requirements of this
 203 section; ~~H~~→ [and] ←~~H~~

204 (b) grant an excavation permit to a principal investigator after approving, in
 205 consultation with the Antiquities Section, the research design for the project ~~H~~→ []; and

205a (c) assemble a committee of qualified individuals to advise the Public Lands Policy
 205b Coordinating Office in its duties under this section. ←~~H~~

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

209 (a) establish survey methodology;

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

211 (c) require other permit application information that the Public Lands Policy

- 212 Coordinating Office finds necessary, including proof of consultation with the appropriate
 213 Native American tribe; ~~H→~~ [and] ~~←H~~
- 214 (d) establish what training and experience is equivalent to a graduate degree ~~H→~~ [:] ;
 214a (e) establish requirements for a person authorized by Subsection (1)(b) to assist the
 214b principal investigator;
 214c (f) establish requirements for a principal investigator's employer, if applicable; and
 214d (g) establish criteria, that if met, would allow the Public Lands Policy Coordinating
 214e Office to reinstate a suspended permit. ~~←H~~
- 215 (6) Each principal investigator shall submit a summary report of the work for each
 216 project to the Antiquities Section in a form prescribed by a rule established under Subsection
 217 (5)(b), which shall include copies of all:
- 218 (a) site forms;
 219 (b) data;
 220 (c) maps;
 221 (d) drawings;
 222 (e) photographs; and
 223 (f) descriptions of specimens.
- 224 ~~[(e)-A] (7) (a) Except as provided in Subsection (7)(c), a person may not remove from~~
 225 ~~[the state, prior to placement in a repository or curation facility,] Utah any specimen, site, or~~
 226 ~~portion of any site from lands owned or controlled by the state or its political subdivisions,~~
 227 ~~other than school [or] and institutional trust lands, without permission from the [division]~~
 228 ~~Antiquities Section, and prior consultation with the landowner and any other agencies~~
 229 ~~managing other interests in the land.~~
- 230 ~~[(2) (a) Before any person may survey or excavate for archaeological resources on~~
 231 ~~school or institutional trust lands, that person shall obtain a permit from the School and~~
 232 ~~Institutional Trust Lands Administration.]~~
- 233 ~~[(b) The School and Institutional Trust Lands Administration may, by rule, delegate the~~
 234 ~~authority to issue either survey or excavation permits, or both, for archaeological resources to~~
 235 ~~the Division of State History.]~~
- 236 ~~[(c) Application for a permit shall be made on a form furnished by the School and~~
 237 ~~Institutional Trust Lands Administration.]~~
- 238 ~~[(d) Issuance of a permit is an undertaking requiring consultation with the state historic~~
 239 ~~preservation officer pursuant to Section 9-8-404.]~~
- 240 ~~[(e) The School and Institutional Trust Lands Administration shall enact rules for the~~
 241 ~~issuance of permits specifying or requiring:]~~
- 242 ~~[(i) minimum permittee qualifications;]~~

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

244 ~~[(iii) the need to submit data obtained in the course of field investigations to the~~

245 ~~administration;]~~

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

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

248 ~~[(vi) other information the School and Institutional Trust Lands Administration~~

249 ~~considers necessary.]~~

250 ~~[(f) A]~~ (b) Except as provided in Subsection (7)(c), a person may not remove from [the

251 state, prior to placement in a repository or curation facility;] Utah any specimen, site, or portion

252 of any site from school ~~[or]~~ and institutional trust lands without permission from the School

253 and Institutional Trust Lands Administration, granted after consultation with the ~~[Division of~~

254 ~~State History]~~ Antiquities Section.

255 (c) If a specimen, site, or portion of a site is placed in a repository or curation facility, a

256 person may remove it by following the procedures established by the repository or curation

257 facility.

258 ~~[(3)]~~ (8) (a) Collections recovered from school and institutional trust lands ~~[shall be]~~

259 are owned by the respective trust.

260 (b) Collections recovered from lands owned or controlled by the state or its

261 subdivisions, other than school ~~[or]~~ and institutional trust lands, ~~[shall be]~~ are owned by the

262 state.

263 (c) Within a reasonable time after the completion of fieldwork, each permit holder

264 shall deposit all collections at the museum, a curation facility, or a repository.

265 ~~[(e)]~~ (d) The repository or curation facility for collections from lands owned or

266 controlled by the state or its subdivisions shall be designated ~~[pursuant to]~~ according to the

267 rules made under the authority of Section 53B-17-603.

268 ~~[(4) The permitting agency]~~

269 (9) (a) Upon complaint by an agency, the Public Lands Policy Coordinating Office

270 shall investigate a principal investigator and the work conducted under a permit.

271 (b) By following the procedures and requirements of Title 63, Chapter 46b,

272 Administrative Procedures Act, the Public Lands Policy Coordinating Office may revoke or

273 suspend a permit if the [permittee] principal investigator fails to conduct a survey or excavation

274 [~~pursuant~~] according to law, the rules enacted by the [~~permitting agency~~] Public Lands Policy
275 Coordinating Office, or permit provisions.

276 [~~(5)~~] (10) (a) Any person violating this section is guilty of a class B misdemeanor.

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

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

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

285 **9-8-404. Agency responsibilities -- State historic preservation officer to comment**
286 **on undertaking -- Public Lands Policy Coordinating Office may require joint analysis.**

287 (1) (a) Before expending any state funds or approving any undertaking, each [state]
288 agency shall:

289 [~~(a)~~] (i) take into account the effect of the expenditure or undertaking on any [district,
290 site, building, structure, or specimen that is included in or eligible for inclusion in the National
291 Register of Historic Places, or the State Register] historic property; and

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

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

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

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

304 (2) (a) [~~The state historic preservation officer shall include the comments of the section~~

305 ~~in all responses]~~ If the state historic preservation officer does not concur with the agency's
306 written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall
307 inform the Public Lands Policy Coordinating Office of any objections.

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

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

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

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

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

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

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

327 (ii) the ownership of the land involved;

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

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

335 (d) The Public Lands Policy Coordinating Office, the agency, and the state historic

336 preservation officer shall also consider as part of the joint analysis:

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

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

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

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

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

351 (c) If a joint analysis is not conducted, the state historic preservation officer's
352 comments may include advice about ways to maximize the amount of historic, scientific,
353 archaeological, anthropological, and educational information recovered, in addition to the
354 physical recovery of specimens and the reporting of archaeological information at current
355 standards of scientific rigor.

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

360 (b) At the request of the Public Lands Policy Coordinating Office, the state historic
361 preservation officer shall discuss the comments with the Public Lands Policy Coordinating
362 Office.

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

364 **17B-4-403. Project area plan requirements.**

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

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

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

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

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

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

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

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

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

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

386 (j) identify how private developers, if any, will be selected to undertake the
387 redevelopment, economic development, or education housing development and identify each
388 private developer currently involved in the redevelopment, economic development, or
389 education housing development process;

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

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

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

397 (i) contain a time limit of no more than 25 years for tax increment to be paid to the

398 agency from the project area unless the taxing entity committee consents to a longer period;
399 and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

426 (i) an evaluation of the reasonableness of the costs of economic development or
427 education housing development;

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

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

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

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

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

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

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

441 Section 6. Section **17B-4-405** is amended to read:

442 **17B-4-405. Existing and historic buildings and uses.**

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

446 Section 7. Section **63-38d-603** is amended to read:

447 **63-38d-603. Powers and duties of coordinator and office.**

448 (1) The coordinator and the office shall:

449 (a) assist the state planning coordinator in fulfilling the duties outlined in Section
450 63-38d-401 as those duties relate to the development of public lands policies by:

451 (i) developing cooperative contracts and agreements between the state, political
452 subdivisions, and agencies of the federal government for involvement in the development of
453 public lands policies;

454 (ii) producing research, documents, maps, studies, analysis, or other information that
455 supports the state's participation in the development of public lands policy;

456 (iii) preparing comments to ensure that the positions of the state and political
457 subdivisions are considered in the development of public lands policy;

458 (iv) partnering with state agencies and political subdivisions in an effort to:

459 (A) prepare coordinated public lands policies;

460 (B) develop consistency reviews and responses to public lands policies;
 461 (C) develop management plans that relate to public lands policies; and
 462 (D) develop and maintain a statewide land use plan that is based on cooperation and in
 463 conjunction with political subdivisions; and
 464 (v) providing other information or services related to public lands policies as requested
 465 by the state planning coordinator; and
 466 (b) facilitate and coordinate the exchange of information, comments, and
 467 recommendations on public lands policies between and among:
 468 (i) state agencies;
 469 (ii) political subdivisions;
 470 (iii) the ~~[Office of]~~ Rural Development Program created under Section ~~[9-16-102]~~
 471 63-38f-1602;
 472 (iv) the Resource Development Coordinating Committee created under Section
 473 63-38d-501;
 474 (v) School and Institutional Trust Lands Administration created under Section
 475 53C-1-201;
 476 (vi) the committee created under Section ~~[63A-6-204]~~ 63F-1-508 to award grants to
 477 counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other
 478 features; and
 479 (vii) the Constitutional Defense Council created under Section 63C-4-101[-]; ~~H→~~ **[and]** ~~←H~~
 480 (c) perform the duties established in Title 9, Chapter 8, Part 3, Antiquities, and Title 9,
 481 Chapter 8, Part 4, Historic Sites ~~H→~~ [-] ; **and**
 481a **(d) consistent with other statutory duties, encourage agencies to responsibly preserve**
 481b **archaeological resources.** ~~←H~~
 482 (2) In providing assistance to the state planning coordinator under Subsection (1)(a),
 483 the coordinator and office shall take into consideration the:
 484 (a) findings provided under Subsections 63-38d-401(6) and (7); and
 485 (b) recommendations of the council.

486 **Section 8. Repealer.**
 487 This bill repeals:
 488 **Section 9-8-303, State Antiquities Section.**
 489 **Section 9. Effective date.**
 490 This bill takes effect on May 1, 2006, except that the amendments in Subsections

491 9-8-305(1) through (4), (6), and (9) in this bill take effect on July 1, 2006.

Fiscal Note

State Antiquities and Historic Sites Amendments

08-Feb-06

Bill Number HB0139S019:27 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst