

# HB0396S01 compared with HB0396

~~{deleted text}~~ shows text that was in HB0396 but was deleted in HB0396S01.

inserted text shows text that was not in HB0396 but was inserted into HB0396S01.

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~~{CITY PROPERTY OWNERSHIP}~~ Representative Joseph H. Ellison proposes the following substitute bill:

## PALEONTOLOGICAL RESOURCES AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Joseph Ellison**

Senate Sponsor: \_\_\_\_\_

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### LONG TITLE

#### General Description:

This bill modifies provisions related to paleontological resources ~~{on city or county lands}~~ and collections.

#### Highlighted Provisions:

This bill:

- ▶ ~~{provides that, if a city or county makes an election and meets certain requirements, the city or county may elect to own}~~ defines terms; and
- ▶ provides that a city of the first or second class that has a paleontology museum may retain, curate, and manage specimens, collections, ~~{paleontological resources; }and{ critical}~~ paleontological resources ~~{that are discovered on the respective city's or county's land; and~~  
→ ~~makes technical changes}~~ recovered on lands owned or controlled by the city.

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### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

#### AMENDS:

~~{79-3-202}~~ 53B-17-603, as last amended by Laws of Utah ~~{2022}~~ 2008, Chapter ~~{216}~~ 382

~~{79-3-501}~~ 79-3-505, as renumbered and amended by Laws of Utah 2009, Chapter 344

~~{79-3-502, as renumbered and amended by Laws of Utah 2009, Chapter 344~~

~~79-3-503, as renumbered and amended by Laws of Utah 2009, Chapter 344~~

~~79-3-504, as renumbered and amended by Laws of Utah 2009, Chapter 344~~

~~79-3-508, as renumbered and amended by Laws of Utah 2009, Chapter 344~~

#### ENACTS:

~~79-3-502.5, Utah Code Annotated 1953~~

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

Section 1. Section 53B-17-603 is amended to read:

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

(1) For purposes of this section:

(a) "Collections" is defined as provided in Section 9-8-302.

(b) "Curation facility" means:

(i) the museum;

(ii) an accredited facility meeting federal curation standards; ~~[or]~~

~~(iii) a paleontology museum; or~~

~~[(iii)] (iv)~~ an appropriate state park.

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

~~{(d)}~~ (d) "Paleontology museum" means a museum, owned or established by a city of

the first or second class, that:

(i) is designed for the curation and display of specimens and paleontological resources;

(ii) has a designated paleontologist responsible for the care and preservation of

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specimens, collections, and paleontological resources; and

(iii) is an approved repository, as that term is defined in 43 C.F.R. Sec. 49.5, or has a detailed plan to become an approved repository.

~~(d)~~ (e) "Repository" means:

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

(ii) a paleontology museum; or

~~(ii)~~ (iii) a place of reburial.

~~(e)~~ (f) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

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

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

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

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

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

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

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

(c) A city that has a paleontology museum may retain, curate, and manage specimens, collections, and paleontological resources recovered on lands owned or controlled by the city.

(4) (a) All collections recovered from lands owned or controlled by the state or its

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subdivisions shall be deposited at the museum, a curation facility, or at a repository within a reasonable time after the completion of field work.

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

(c) The rules shall consider:

(i) whether the permittee, authorized pursuant to Section 9-8-305, is a curation facility;

(ii) the appropriateness of reburial;

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

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

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

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

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

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

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

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

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

(6) The museum shall comply with the procedures of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, regarding publication of its rules in the Utah State Bulletin and the Utah Administrative Code.

Section ~~{1}~~2. Section ~~{79-3-202}~~79-3-505 is amended to read:

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~~{ 79-3-202. Powers and duties of survey.~~

~~—— (1) The survey shall:~~

~~—— (a) assist and advise state and local agencies and state educational institutions on geologic, paleontologic, and mineralogic subjects;~~

~~—— (b) collect and distribute reliable information regarding the mineral industry and mineral resources, topography, paleontology, and geology of the state;~~

~~—— (c) survey the geology of the state, including mineral occurrences and the ores of metals, energy resources, industrial minerals and rocks, mineral-bearing waters, and surface and ground water resources, with special reference to their economic contents, values, uses, kind, and availability in order to facilitate their economic use;~~

~~—— (d) investigate the kind, amount, and availability of mineral substances contained in lands owned and controlled by the state, to contribute to the most effective and beneficial administration of these lands for the state;~~

~~—— (e) determine and investigate areas of geologic and topographic hazards that could affect the safety of, or cause economic loss to, the citizens of the state;~~

~~—— (f) assist local and state agencies in their planning, zoning, and building regulation functions by publishing maps, delineating appropriately wide special earthquake risk areas, and, at the request of state agencies or other governmental agencies, review the siting of critical facilities;~~

~~—— (g) cooperate with state agencies, political subdivisions of the state, quasi-governmental agencies, federal agencies, schools of higher education, and others in fields of mutual concern, which may include field investigations and preparation, publication, and distribution of reports and maps;~~

~~—— (h) collect and preserve data pertaining to mineral resource exploration and development programs and construction activities, such as claim maps, location of drill holes, location of surface and underground workings, geologic plans and sections, drill logs, and assay and sample maps, including the maintenance of a sample library of cores and cuttings;~~

~~—— (i) study and analyze other scientific, economic, or aesthetic problems as, in the judgment of the board, should be undertaken by the survey to serve the needs of the state and to support the development of natural resources and utilization of lands within the state;~~

~~—— (j) prepare, publish, distribute, and sell maps, reports, and bulletins, embodying the~~

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~~work accomplished by the survey, directly or in collaboration with others, and collect and prepare exhibits of the geological and mineral resources of this state and interpret their significance;~~

~~—— (k) collect, maintain, and preserve data and information in order to accomplish the purposes of this section and act as a repository for information concerning the geology of this state;~~

~~—— (l) stimulate research, study, and activities in the field of paleontology;~~

~~—— (m) mark, protect, and preserve critical paleontological sites;~~

~~—— (n) except as provided in Section 79-3-502.5, collect, preserve, and administer critical paleontological specimens until the specimens are placed in a repository or curation facility;~~

~~—— (o) administer critical paleontological site excavation records;~~

~~—— (p) edit and publish critical paleontological records and reports;~~

~~—— (q) by following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, seek federal grants, loans, or participation in federal programs, and, in accordance with applicable federal program guidelines, administer federally funded state programs regarding:~~

~~—— (i) renewable energy;~~

~~—— (ii) energy efficiency; and~~

~~—— (iii) energy conservation; and~~

~~—— (r) collect the land use permits described in Sections 10-9a-521 and 17-27a-520.~~

~~—— (2) (a) The survey may maintain as confidential, and not as a public record, information provided to the survey by any source:~~

~~—— (b) The board shall adopt rules in order to determine whether to accept the information described in Subsection (2)(a) and to maintain the confidentiality of the accepted information:~~

~~—— (c) The survey shall maintain information received from any source at the level of confidentiality assigned to it by the source.~~

~~—— (3) Upon approval of the board, the survey shall undertake other activities consistent with Subsection (1):~~

~~—— (4) (a) Subject to the authority granted to the department, the survey may enter into cooperative agreements with the entities specified in Subsection (1)(g), if approved by the board, and may accept or commit allocated or budgeted funds in connection with those~~

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agreements:

~~—— (b) The survey may undertake joint projects with private entities if:~~

~~—— (i) the action is approved by the board;~~

~~—— (ii) the projects are not inconsistent with the state's objectives; and~~

~~—— (iii) the results of the projects are available to the public.~~

~~—— Section 2. Section 79-3-501 is amended to read:~~

~~—— **79-3-501. Permit required to excavate critical paleontological resources on state lands -- Removal of specimen or site.**~~

~~—— (1) (a) Before excavating for critical paleontological resources on lands owned or controlled by the state or its subdivisions, except as provided in Section 79-3-502, a person must obtain a permit from the survey:~~

~~—— (b) Application for a permit shall be made on a form furnished by the survey.~~

~~—— (c) The survey shall make rules for the issuance of permits, specifying or requiring:~~

~~—— (i) the minimum permittee qualifications;~~

~~—— (ii) the duration of the permit;~~

~~—— (iii) proof of permission from the land owner that the permittee may enter the property for purposes specified in the permit;~~

~~—— (iv) research designs that provide for the maximum recovery of scientific, paleontological, and educational information, in addition to the physical recovery of specimens and the reporting of paleontological information meeting current standards of scientific rigor;~~

~~—— (v) the need, if any, to submit data obtained in the course of field investigations to the survey;~~

~~—— (vi) proof of consultation with the designated museum representative regarding curation of collections;~~

~~—— (vii) proof of consultation with other agencies that may manage other legal interests in the land; and~~

~~—— (viii) other information the survey considers necessary.~~

~~—— (2) All paleontological work shall be carried out under the supervision of the director, or assigned staff.~~

~~—— (3) [A] Except as provided in Sections 79-3-502 and 79-3-502.5, a person may not remove from the state, prior to placement in a repository or curation facility, a specimen, site,~~

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~~or portion of a specimen or site from lands owned or controlled by the state or its subdivisions], except as provided in Section 79-3-502,] without permission from the survey, and without prior consultation with the landowner or other agencies managing other interests in the land.~~

~~Section 3. Section 79-3-502 is amended to read:~~

~~79-3-502. Permit required to excavate critical paleontological resources on school and institutional trust lands -- Removal of specimen or site.~~

~~(1) (a) Before excavating for critical paleontological resources on school or institutional trust lands, a person must obtain a permit from the School and Institutional Trust Lands Administration:~~

~~(b) The School and Institutional Trust Lands Administration may, by rule, delegate the authority to issue excavation permits for critical paleontological resources to the survey:~~

~~(c) Application for a permit shall be made on a form furnished by the School and Institutional Trust Lands Administration:~~

~~(d) Prior to issuing a permit, the school and institutional trust lands administration shall consult with the survey director, or assigned staff, pursuant to Section 79-3-508:~~

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

~~(i) the minimum permittee qualifications;~~

~~(ii) the duration of the permit;~~

~~(iii) the need, if any, to submit data obtained in the course of field investigations to the administration;~~

~~(iv) proof of consultation with the designated museum representative regarding curation of collections; and~~

~~(v) other information the School and Institutional Trust Lands Administration considers necessary.~~

~~[(2) A person may not remove from the state, prior to placement in a repository or curation facility, a specimen, site, or portion of a specimen or site from school and institutional trust lands without permission from the School and Institutional Trust Lands Administration, granted after consultation with the survey.]~~

~~(2) (a) If the School and Institutional Trust Lands Administration has approved the removal, a person may remove from the state a specimen, site, or portion of a specimen or site~~

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~~originating from school and institutional trust lands prior to placement in a repository or curation facility.~~

~~—— (b) The School and Institutional Trust Lands Administration may only grant the approval under Subsection (2)(a) after consulting with the survey.~~

~~—— Section 4. Section 79-3-502.5 is enacted to read:~~

~~—— **79-3-502.5. Specimens and resources discovered on land of certain political subdivisions -- Removal of specimen or site:**~~

~~—— (1) A city or county that makes the election under Subsection 79-3-503(3)(a) may establish rules or ordinances governing paleontological resources that are discovered on the respective county's or city's land.~~

~~—— (2) A person may remove from the state a specimen, site, or portion of a specimen or site that is owned by a city or a county under Subsection 79-3-503(3), if:~~

~~—— (a) the removal is authorized under the city's or county's rules and ordinances adopted under Subsection 79-3-503(3)(b)(i); and~~

~~—— (b) the person places the specimen, site, or portion of the specimen or site at a location for the purpose of public display, education, research, or curation.~~

~~—— Section 5. Section 79-3-503 is amended to read:~~

~~—— **79-3-503. Ownership of specimens, resources, and collections:**~~

~~—— [(1) Collections recovered from lands owned or controlled by the state or its subdivisions, except as provided in Subsection (2), shall be owned by the state.]~~

~~—— [(2) Collections recovered from school and institutional trust lands shall be owned by the respective trust.]~~

~~—— [(3) Paleontological resources, other than critical paleontological resources, recovered from school and institutional trust lands, shall be owned by the respective trust and shall be managed pursuant to statutory authority of the School and Institutional Trust Lands Administration.]~~

~~—— (1) (a) Except as provided in Subsections (2) and (3), the state owns and shall manage specimens, collections, paleontological resources, and critical paleontological resources discovered on lands owned or controlled by the state or the state's subdivisions; and~~

~~—— (b) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions, except collections owned or controlled by a city or county under~~

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~~Subsection (3), shall be designated pursuant to Section 53B-17-603:~~

~~—— [(4)] (2) [The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated pursuant to Section 53B-17-603.]~~

~~The School and Institutional Trust Lands Administration owns and shall manage, pursuant to the School and Institutional Trust Lands Administration's statutory authority, specimens, collections, and paleontological resources, other than critical paleontological resources, recovered from school and institutional trust lands.~~

~~—— (3) (a) A city or county may own and manage specimens, collections, paleontological resources, and critical paleontological resources that are discovered, including those that have already been discovered, on lands owned or controlled by the respective city or county by making an election of ownership in accordance with Subsection (3)(b):~~

~~—— (b) A city's or county's legislative body may make the election of ownership under Subsection (3)(a) by:~~

~~—— (i) adopting rules or ordinances that ensure the proper curation and safekeeping of specimens, resources, and collections owned or controlled by the respective county or city; and~~

~~—— (ii) notifying the survey and the museum of the city's or county's election of ownership and the adopted rules and ordinances under Subsection (3)(b)(i):~~

~~—— (c) A city or county may loan a specimen, resource, or collection owned by the city or county under this Subsection (3) in accordance with adopted rules and ordinances of the respective city or county:~~

~~—— [(5)] (4) Specimens found on lands owned or controlled by the state or its subdivisions, including a city or county that makes the election under Subsection (3)(b), may not be sold.~~

~~—— Section 6. Section ~~79-3-504~~ is amended to read:~~

~~—— **79-3-504. Revocation or suspension of permits -- Criminal penalties:**~~

~~—— (1) A permitting agency under Section 79-3-501 or 79-3-502 may revoke or suspend a permit if the permittee fails to conduct the excavation pursuant to the law, the rules enacted by the permitting agency, or permit provisions:~~

~~—— (2) (a) A person violating any provision of Section 79-3-501 [or], 79-3-502, or 79-3-502.5 is guilty of a class B misdemeanor:~~

~~—— (b) [A person convicted of violating any provision of Section 79-3-501 or 79-3-502, or the rules promulgated by the survey or the School and Institutional Trust Lands Administration~~

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~~under those sections, shall forfeit to the state or the respective trust all paleontological resources discovered by or through the person's efforts, in addition to any penalties imposed.} A person shall forfeit to the state or the respective trust, city, or county, all paleontological resources discovered by or through the person's efforts, in addition to any penalties imposed, if the person violates:~~

- ~~—— (i) Section 79-3-501;~~
- ~~—— (ii) Section 79-3-502;~~
- ~~—— (iii) Section 79-3-502.5;~~
- ~~—— (iv) Section 79-3-503;~~
- ~~—— (v) rules made by the survey;~~
- ~~—— (vi) rules made by the School and Institutional Lands Administration under this chapter; or~~
- ~~—— (vii) city or county rules or ordinances regarding paleontological resources enacted under this chapter.~~

### ~~‡~~ **79-3-505. Paleontological landmarks.**

(1) (a) Sites of significance or sites with exceptional fossils may be recommended to and approved by the board as state paleontological landmarks.

(b) No privately owned site ~~[or], a site on school or institutional trust lands, or a site on lands owned or controlled by a city that has a paleontology museum~~ may be so designated without the written consent of the owner or the trust.

(2) A person may not excavate on a privately owned designated landmark without a permit from the survey.

(3) Before an alteration is commenced on a designated landmark, three months notice of intent to alter the site shall be given the survey.

~~{~~ ~~Section 7. Section 79-3-508 is amended to read:~~

### ~~——~~ **79-3-508. Agency, city, and county responsibilities -- Allowing director reasonable opportunity to comment.**

~~—— (1) Before expending state funds or approving an undertaking, each state agency, city, or county shall:~~

~~—— (a) take into account the effect of the undertaking on a specimen that is included in or eligible for inclusion in the State Paleontological Register; and~~

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~~—— (b) allow the director or assigned staff a reasonable opportunity to comment regarding the undertaking or expenditure.~~

~~—— (2) The director or assigned staff shall advise on ways to maximize the amount of scientific, paleontological, and educational information recovered, in addition to the physical recovery of specimens and the reporting of paleontological information, at current standards of scientific rigor.~~

‡