

**NATIVE AMERICAN REMAINS REPATRIATION**

2017 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael E. Noel**

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

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**LONG TITLE**

**General Description:**

This bill modifies provisions related to state parks and the burial of ancient Native American remains.

**Highlighted Provisions:**

This bill:

- ▶ directs the Native American Remains Review Committee to advise the Board of Parks and Recreation regarding reserving land in state parks for the burial of ancient Native American remains;
- ▶ requires the Board of Parks and Recreation to reserve land in certain state parks for the burial of ancient Native American Remains;
- ▶ requires the Board of Parks and Recreation to report to the Native American Legislative Liaison Committee; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**9-9-405**, as last amended by Laws of Utah 2014, Chapter 371



28 ENACTS:

29 **79-4-306**, Utah Code Annotated 1953

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

32 Section 1. Section **9-9-405** is amended to read:

33 **9-9-405. Review committee.**

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

35 (2) (a) The review committee [~~shall be~~] is composed of seven members as follows:

36 (i) four Tribal members shall be appointed by the director from nominations submitted  
37 by the elected officials of Indian Tribal Nations described in Subsection **9-9-104.5(2)(b)**; and

38 (ii) three shall be appointed by the director from nominations submitted by  
39 representatives of Utah's repositories.

40 (b) A member appointed under Subsection (2)(a)(i) shall have familiarity and  
41 experience with this part.

42 (c) (i) A member appointed under Subsection (2)(a)(i) serves at the will of the director,  
43 and if the member represents an Indian Tribal Nation, at the will of that Indian Tribal Nation.  
44 Removal of a member who represents an Indian Tribal Nation requires the joint decision of the  
45 director and the Indian Tribal Nation.

46 (ii) A member appointed under Subsection (2)(a)(ii) serves at the will of the director,  
47 and if the member represents a repository, at the will of the Division of State History. Removal  
48 of a member who represents a repository requires the joint decision of the director and the  
49 Division of State History.

50 (d) When a vacancy occurs in the membership for any reason, the director shall appoint  
51 a replacement in the same manner as the original appointment under Subsection (2)(a).

52 (e) A member may not receive compensation or benefits for the member's service, but  
53 may receive per diem and travel expenses in accordance with:

54 (i) Section **63A-3-106**;

55 (ii) Section **63A-3-107**; and

56 (iii) rules made by the Division of Finance pursuant to Sections **63A-3-106** and  
57 **63A-3-107**.

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

- 59 (3) The review committee shall:
- 60 (a) monitor the identification process conducted under Section 9-9-403 to ensure a fair  
61 and objective consideration and assessment of all available relevant information and evidence;
- 62 (b) review a finding relating to the following, subject to the rules made by the division  
63 under Subsection 9-9-403(6):
- 64 (i) the identity or cultural affiliation of Native American remains; or  
65 (ii) the return of Native American remains;
- 66 (c) facilitate the resolution of a dispute among Indian Tribal Nations or lineal  
67 descendants and state agencies relating to the return of Native American remains, including  
68 convening the parties to the dispute if considered desirable;
- 69 (d) consult with Indian Tribal Nations on matters within the scope of the work of the  
70 review committee affecting these Indian Tribal Nations;
- 71 (e) consult with the division in the development of rules to carry out this part;
- 72 (f) perform other related functions as the division may assign to the review committee;
- 73 [and]
- 74 (g) make recommendations, if appropriate, regarding care of Native American remains  
75 that are to be repatriated[-]; and
- 76 (h) in accordance with Section 79-4-306, advise the Board of Parks and Recreation,  
77 created in Section 79-4-301, regarding the Board of Parks and Recreation reserving land in  
78 state parks for the burial of ancient Native American remains.
- 79 (4) A record or finding made by the review committee relating to the identity of or  
80 cultural affiliation of Native American remains and the return of Native American remains may  
81 be admissible in any action brought under this part.
- 82 (5) The appropriate state agency having primary authority over the lands as provided in  
83 Chapter 8, Part 3, Antiquities, shall ensure that the review committee has reasonable access to:
- 84 (a) Native American remains under review; and  
85 (b) associated scientific and historical documents.
- 86 (6) The division shall provide reasonable administrative and staff support necessary for  
87 the deliberations of the review committee.
- 88 (7) The department shall include in the annual written report described in Section  
89 9-1-208, a description of the progress made, and any barriers encountered, by the review

90 committee in implementing this section during the previous year.

91 Section 2. Section **79-4-306** is enacted to read:

92 **79-4-306. Burial of ancient Native American remains in state parks.**

93 (1) As used in this section, "ancient Native American remains" means ancient human  
94 remains, as defined in Section [9-8-302](#), that are Native American remains, as defined in  
95 Section [9-9-402](#).

96 (2) (a) By no later than July 1, 2018, the board shall reserve land for the burial of  
97 ancient Native American remains in each state park for which the board finds:

98 (i) burial of ancient Native American remains is permissible under the purposes of the  
99 state park, after working with federal agencies when necessary; and

100 (ii) the state park has land sufficient and appropriate to reserve a portion of the land for  
101 the burial of ancient Native American remains.

102 (b) The Native American Remains Review Committee, created under Section [9-9-405](#),  
103 shall advise the board regarding the appropriateness of land on state parks for the burial of  
104 ancient Native American remains and the cultural requirements for the burial of ancient Native  
105 American remains.

106 (3) The board shall report in writing, in accordance with Section [68-3-14](#), to the Native  
107 American Legislative Liaison Committee by November 1, 2017, regarding the implementation  
108 of this section.

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**Legislative Review Note**  
**Office of Legislative Research and General Counsel**