

## HB0302S02 compared with HB0302S01

~~text~~ shows text that was in HB0302S01 but was deleted in HB0302S02.

text shows text that was not in HB0302S01 but was inserted into HB0302S02.

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**Representative Robert M. Spendlove** proposes the following substitute bill:

### CULTURAL AND COMMUNITY ENGAGEMENT AMENDMENTS

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Robert M. Spendlove**

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

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#### LONG TITLE

##### General Description:

This bill modifies provisions related to the Department of Cultural and Community Engagement (department).

##### Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ clarifies the duties of the department's State Library Division;
- ~~▶ prohibits the State Library Division from providing for public access to certain publications without consent;~~
- ▶ requires ~~state~~certain agencies to provide ~~certain publications~~information to the State Library Division for retention in the digital library;
- ▶ repeals the State Library Division's depository library program;

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- ▶ modifies requirements related to public library ~~{internet}~~Internet safety;
- ▶ renames the Division of State History within the department as the Utah Historical Society;
- ▶ repeals the Board of State History's duties in relation to the State Historic Preservation Office;
- ▶ establishes the Museum of Utah within the Utah Historical Society to promote Utah's history and culture;
- ▶ transfers certain department functions related to antiquities and historical preservation to the State Historic Preservation Office;
- ▶ expands the membership of the National Register Review Committee;
- ▶ modifies the membership and duties of the Utah Multicultural Commission;
- ▶ modifies the membership of the STEM Action Center Board;
- ▶ allows the Pete Suazo Utah Athletic Commission to impose broadcast revenue fees on promoters;
- ▶ repeals the Utah Main Street Program Advisory Committee; and
- ▶ makes technical and conforming changes.

### **Money Appropriated in this Bill:**

None

### **Other Special Clauses:**

This bill provides a special effective date.

### **Utah Code Sections Affected:**

AMENDS:

**9-7-101**, as last amended by Laws of Utah 2019, Chapter 221

**9-7-201**, as renumbered and amended by Laws of Utah 1992, Chapter 241

**9-7-203**, as last amended by Laws of Utah 2017, Chapter 48

**9-7-205**, as last amended by Laws of Utah 2017, Chapter 48

**9-7-207**, as last amended by Laws of Utah 2006, Chapter 81

**9-7-208**, as repealed and reenacted by Laws of Utah 2006, Chapter 81

**9-7-213**, as last amended by Laws of Utah 2010, Chapter 378

**9-7-215**, as last amended by Laws of Utah 2017, Chapter 208

**9-8-102**, as last amended by Laws of Utah 2019, Chapter 221

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- 9-8-201, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 9-8-202, as last amended by Laws of Utah 2019, Chapter 221
- 9-8-203, as last amended by Laws of Utah 2018, Chapter 63
- 9-8-204, as last amended by Laws of Utah 2022, Chapter 369
- 9-8-205, as last amended by Laws of Utah 2022, Chapter 369
- 9-8-206, as last amended by Laws of Utah 2019, Chapter 221
- 9-8-207, as last amended by Laws of Utah 2018, Chapter 260
- 9-8-701, as last amended by Laws of Utah 2014, Chapter 166
- 9-8-704, as last amended by Laws of Utah 2014, Chapter 166
- 9-8-705, as last amended by Laws of Utah 2014, Chapter 166
- 9-8-707, as last amended by Laws of Utah 2014, Chapter 166
- 9-8-708, as last amended by Laws of Utah 2014, Chapter 166
- 9-9-402, as last amended by Laws of Utah 2019, Chapter 79
- 9-9-403, as last amended by Laws of Utah 2008, Chapter 114
- 9-9-405, as last amended by Laws of Utah 2019, Chapter 79
- 9-9-407, as last amended by Laws of Utah 2019, Chapter 79
- 9-9-408, as last amended by Laws of Utah 2021, Chapter 280
- 9-21-301, as enacted by Laws of Utah 2019, Chapter 221
- 9-21-302, as enacted by Laws of Utah 2019, Chapter 221
- 9-22-103, as last amended by Laws of Utah 2020, Chapter 365
- 9-23-304, as renumbered and amended by Laws of Utah 2022, Chapter 362
- 9-24-101, as renumbered and amended by Laws of Utah 2022, Chapter 362
- 9-24-102, as renumbered and amended by Laws of Utah 2022, Chapter 362
- 10-9a-534, as enacted by Laws of Utah 2021, First Special Session, Chapter 3
- 15A-2-103, as last amended by Laws of Utah 2021, Chapter 199
- 17-27a-530, as enacted by Laws of Utah 2021, First Special Session, Chapter 3
- 17C-2-103, as last amended by Laws of Utah 2019, Chapter 376
- 17C-2-104, as last amended by Laws of Utah 2006, Chapter 292 and renumbered and amended by Laws of Utah 2006, Chapter 359
- 17C-3-103, as last amended by Laws of Utah 2016, Chapter 350
- 17C-3-104, as enacted by Laws of Utah 2006, Chapter 359

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**17C-5-105**, as last amended by Laws of Utah 2019, Chapter 376  
**17C-5-106**, as enacted by Laws of Utah 2016, Chapter 350  
**53B-17-603**, as last amended by Laws of Utah 2008, Chapter 382  
**53B-18-1002**, as last amended by Laws of Utah 2021, Chapter 184  
**59-7-609**, as enacted by Laws of Utah 1995, Chapter 42  
**59-10-1006**, as renumbered and amended by Laws of Utah 2006, Chapter 223  
**63A-12-112**, as enacted by Laws of Utah 2019, Chapter 254  
**63C-9-301**, as last amended by Laws of Utah 2021, Chapters 382, 405  
**63C-9-601**, as last amended by Laws of Utah 2020, Chapter 419  
**63L-11-202**, as last amended by Laws of Utah 2021, Chapter 345 and renumbered and amended by Laws of Utah 2021, Chapter 382  
**63L-11-402**, as last amended by Laws of Utah 2022, Chapter 68  
**67-1-8.1**, as last amended by Laws of Utah 2021, Chapters 209, 344  
**76-9-704**, as last amended by Laws of Utah 2007, Chapters 60, 231

### ENACTS:

**9-8-209**, Utah Code Annotated 1953

### RENUMBERS AND AMENDS:

**9-8a-101**, (Renumbered from 9-8-901, as enacted by Laws of Utah 2022, Chapter 369)  
**9-8a-201**, (Renumbered from 9-8-902, as enacted by Laws of Utah 2022, Chapter 369)  
**9-8a-202**, (Renumbered from 9-8-903, as enacted by Laws of Utah 2022, Chapter 369)  
**9-8a-203**, (Renumbered from 9-8-904, as enacted by Laws of Utah 2022, Chapter 369)  
**9-8a-204**, (Renumbered from 9-8-905, as enacted by Laws of Utah 2022, Chapter 369)  
**9-8a-205**, (Renumbered from 9-8-208, as enacted by Laws of Utah 2020, Chapter 179)  
**9-8a-301**, (Renumbered from 9-8-301, as last amended by Laws of Utah 2014, Chapter 189)  
**9-8a-302**, (Renumbered from 9-8-302, as last amended by Laws of Utah 2016, Chapter 348)  
**9-8a-304**, (Renumbered from 9-8-304, as last amended by Laws of Utah 2007, Chapter 231)  
**9-8a-305**, (Renumbered from 9-8-305, as last amended by Laws of Utah 2020, Chapter 154)

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- 9-8a-306**, (Renumbered from 9-8-306, as last amended by Laws of Utah 1995, Chapter 170)
- 9-8a-307**, (Renumbered from 9-8-307, as last amended by Laws of Utah 2014, Chapter 189)
- 9-8a-308**, (Renumbered from 9-8-308, as renumbered and amended by Laws of Utah 1992, Chapter 241)
- 9-8a-309**, (Renumbered from 9-8-309, as last amended by Laws of Utah 2008, Chapter 382)
- 9-8a-401**, (Renumbered from 9-8-401, as renumbered and amended by Laws of Utah 1992, Chapters 241, 286)
- 9-8a-402**, (Renumbered from 9-8-402, as last amended by Laws of Utah 2019, Chapter 221)
- 9-8a-403**, (Renumbered from 9-8-403, as renumbered and amended by Laws of Utah 1992, Chapter 241)
- 9-8a-404**, (Renumbered from 9-8-404, as last amended by Laws of Utah 2020, Chapter 34)
- 9-8a-405**, (Renumbered from 9-8-405, as last amended by Laws of Utah 2014, Chapter 189)
- 9-8a-502**, (Renumbered from 9-8-502, as renumbered and amended by Laws of Utah 1992, Chapter 241)
- 9-8a-503**, (Renumbered from 9-8-503, as renumbered and amended by Laws of Utah 1992, Chapter 241)
- 9-8a-504**, (Renumbered from 9-8-504, as renumbered and amended by Laws of Utah 1992, Chapter 241)
- 9-8a-505**, (Renumbered from 9-8-505, as renumbered and amended by Laws of Utah 1992, Chapter 241)
- 9-8a-506**, (Renumbered from 9-8-506, as renumbered and amended by Laws of Utah 1992, Chapter 241)
- 9-23-203**, (Renumbered from 63N-10-202, as renumbered and amended by Laws of Utah 2015, Chapter 283)

REPEALS:

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9-7-209, as last amended by Laws of Utah 2006, Chapter 81

9-7-210, as last amended by Laws of Utah 1995, Chapter 32

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

9-24-103, as renumbered and amended by Laws of Utah 2022, Chapter 362

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

Section 1. Section 9-7-101 is amended to read:

**9-7-101. Definitions.**

As used in this chapter:

(1) "Board" means the State Library Board created in Section 9-7-204.

(2) "Digital library" means the web-accessible digital library of state publications created under Section 9-7-208.

~~[(2)]~~ (3) "Division" means the State Library Division.

(4) "Legislative publication" means:

(a) the Utah Code;

(b) the Laws of Utah; and

(c) a biennial version of the Utah Constitution after amendments that passed during the regular general election are incorporated into the Utah Constitution.

~~[(3)]~~ (5) "Library board" means the library board of directors appointed locally as authorized by Section 9-7-402 or 9-7-502 and which exercises general policy authority for library services within a city or county of the state, regardless of the title by which the board is known locally.

~~[(4)]~~ (6) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.

~~[(5)]~~ (7) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section 9-7-215.

~~[(6)]~~ (8) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.

~~[(7)]~~ (9)(a) "State agency" means:

~~[(a)]~~ (i) the state; or

~~[(b)]~~ (ii) an office, department, ~~[agency, authority, commission, board, institution,~~

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~~hospital, college, university,]~~ division, or other agency or instrumentality of the state.

(b) "State agency" does not include:

(i) the Office of Legislative Research and General Counsel;

(ii) a political subdivision; or

(iii) a state institution of higher education.

(10) "State institution of higher education" means an institution described in Section 53B-2-101 or any other university or college that is established and maintained by the state.

~~[(8)] (11) (a) "State publication" means [a book, compilation, directory, document, contract or grant report, hearing memorandum, journal, law, legislative bill, magazine, map, monograph, order, ordinance, pamphlet, periodical, proceeding, public memorandum, resolution, register, rule, report, statute, audiovisual material, electronic publication, micrographic form and tape or disc recording regardless of format or method of reproduction,]~~ any information issued or published by a state agency ~~[or political subdivision]~~ for distribution ~~{ } {any information}, regardless of format {, that a state agency makes available to the public, as required by law.~~

~~(b)}~~

(b) "State publication" includes a book, compilation, directory, map, fact sheet, newsletter, brochure, bulletin, journal, magazine, pamphlet, periodical, report, and electronic publication.

~~[(b)] (c) "State publication" does not include [correspondence, internal confidential publications, office memoranda, university press publications, or publications of the state historical society]~~ public information { that a political subdivision or state institution of higher education makes available to the public}, as that term is defined in Section 63A-16-601.

Section 2. Section **9-7-201** is amended to read:

### **9-7-201. State Library Division -- Creation -- Purpose.**

(1) There is created within the department the State Library Division under the administration and general supervision of the executive director or the designee of the executive director.

(2) The division shall be under the policy direction of the board.

(3) The division shall function as the library authority for ~~[the state and is responsible for general library services, extension services, the preservation, distribution and exchange of~~

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~~state publications, legislative reference, and other services considered proper for a state library.];~~

- (a) general library services;
- (b) mobile library services;
- (c) providing for permanent public access to state publications; and
- (d) other services considered proper for a state library.

Section 3. Section 9-7-203 is amended to read:

### 9-7-203. Division duties.

~~{ (1) }~~ [The] Subject to the requirements of this part, the division shall:

~~{(1) (a)}~~ establish, operate, and maintain:

~~{(a)}~~ a state publications collection[;];

~~{(b)}~~ a digital library of state publications[;]; and

~~{(c)}~~ a bibliographic control system[ ~~and depositories as provided in this part~~];

~~{(2) (b)}~~ cooperate with:

~~{(a) (i)}~~ other state agencies to facilitate public access to government information through electronic networks or other means;

~~{(b) (ii)}~~ other state or national libraries or library agencies; and

~~{(c) (iii)}~~ the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;

~~{(3) (c)}~~ receive bequests, gifts, and endowments of money and deposit the funds with the state treasurer to be placed in the State Library Donation Fund, which funds shall be held for the purpose, if any, specifically directed by the donor; and

~~{(4) (d)}~~ receive bequests, gifts, and endowments of property to be held, used, or disposed of, as directed by the donor[;];

~~{(a)}~~ in accordance with the division's policies for collection development; and

~~{(b)}~~ with the approval of the Division of Finance.

~~{ (2) The division may not provide for public access to a state publication for which access is limited by federal copyright law unless the state agency that produces the state publication consents to the public access.~~

~~{~~ Section 4. Section 9-7-205 is amended to read:

### 9-7-205. Duties of board and director.



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(1) The board shall:

(a) promote, develop, and organize a state library and make provisions for ~~[its]~~ the state library's housing;

(b) promote and develop library services throughout the state in cooperation with other state or municipal libraries, schools, or other agencies wherever practical;

(c) promote the establishment of district, regional, or multicounty libraries as conditions within particular areas of the state may require;

(d) supervise the books and materials of the state library and require the keeping of careful and complete records of the condition and affairs of the state library;

(e) establish policies for the administration of the division and for the control, distribution, and lending of books and materials to those libraries, institutions, groups, or individuals entitled to them under this chapter;

(f) serve as the agency of the state for the administration of state or federal funds that may be appropriated to further library development within the state;

(g) aid and provide general advisory assistance in the development of statewide school library service and encourage contractual and cooperative relations between school and public libraries;

(h) give assistance, advice, and counsel to all tax-supported libraries within the state and to all communities or persons proposing to establish a tax-supported library and conduct courses and institutes on the approved methods of operation, selection of books, or other activities necessary to the proper administration of a library;

(i) furnish or contract for the furnishing of library or information service to state officials, state departments, or any groups that in the opinion of the director warrant the furnishing of those services, particularly through the facilities of traveling libraries to those parts of the state otherwise inadequately supplied by libraries;

(j) where sufficient need exists and if the director considers it advisable, establish and maintain special departments in the state library to provide services for the blind, visually impaired, persons with disabilities, and professional, occupational, and other groups;

(k) administer a ~~[depository]~~ state publications library program by collecting state publications, providing access to state publications through the digital library, and providing a bibliographic information system;

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(l) require the collection of information and statistics necessary to the work of the state library and the distribution of findings and reports;

(m) make any report concerning the activities of the state library to the governor as the governor may require; and

(n) develop standards for public libraries.

(2) The director shall, under the policy direction of the board, carry out the responsibilities under Subsection (1).

Section 5. Section ~~9-7-207~~ is amended to read:

### **9-7-207. Deposit of state publications and legislative publications.**

~~[(1)(a) Each state agency and political subdivision publishing a digital version of a state publication shall deposit a digital copy with the division.]~~

~~[(b) Each state agency and political subdivision shall deposit with the division copies of each state publication that it elects to publish in a physical format in the numbers specified by the state librarian.]~~

~~[(c) The division shall forward two copies of each state publication published in a physical format deposited with it by a state agency to the Library of Congress, one copy to the state archivist, at least one copy to each depository library, and retain two copies.]~~

~~[(2) Each state agency or political subdivision shall deposit with the division a digital copy of each audio and video publication or recording issued by it for bibliographic listing and retention in the digital library.]~~

~~[(3) Each state agency or political subdivision shall deposit with the division copies of audio and video publications or recordings issued by it in physical formats in the numbers specified by the state librarian for bibliographic listing and retention in the state library collection.]~~

~~[(4)(a) The division shall publish or make available to the public through electronic networks a list of state agency publications.]~~

~~[(b) The list shall be published periodically and distributed to depository libraries and the state archivist.]~~

~~[(5) Materials the division considers not to be of major public interest will be listed, but no copies will be required for deposit.]~~

(1) (a) A state agency shall submit to the division a digital copy of each state

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publication the state agency makes available to the public regardless of format for ~~biographic~~ bibliographic listing and permanent retention in the digital library.

(b) A state agency may not remove a state publication that is posted to the state agency's public website until the state agency submits a digital copy of the state publication to the division under Subsection (1)(a).

(c) A state agency's submission of a state publication under Subsection (1)(a) constitutes the state agency's compliance with the requirement under Section 46-5-108 to ensure that the state publication is reasonably available for use by the public on a permanent basis.

(2) (a) In addition to the requirements of Subsection (1), a state agency that elects to publish a state publication in a physical format shall submit copies of the state publication to the division in the numbers specified by the state librarian.

(b) The division shall:

(i) forward one copy of each state publication described in Subsection (2)(a) to the state archivist; and

(ii) retain two copies of each state publication described in Subsection (2)(a) for the division's collection of state publications.

(3) The Office of Legislative Research and General Counsel shall submit to the division a digital copy of each legislative publication the Office of Legislative Research and General Counsel makes available to the public for permanent retention in the digital library.

(4) (a) A political subdivision or state institution of higher education may submit to the division a digital copy of any information the political subdivision or state institution of higher education makes available to the public.

(b) With respect to information submitted to the division by political subdivisions and state institutions of higher education, the division may select the information the division considers appropriate for permanent public access in the digital library.

Section 6. Section **9-7-208** is amended to read:

### **9-7-208. Digital library for permanent public access.**

(1) The division shall manage and maintain an online, web-accessible digital library for state publications submitted to the division by state agencies under Subsection 9-7-207(1).

(2) The division shall provide for permanent public access to ~~the~~ state publications in

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the digital library.

(3) The digital library shall be accessible by agency, author, title, subject, keyword, text search, and such other means as provided by the division.

~~[(4) (a) Each state agency publishing a digital version of a state publication shall deposit a digital copy of the publication with the division.]~~

~~[(b) A state agency may not remove a state publication it posts to its public website until a copy is deposited into the digital library for permanent public access.]~~

(4) The division shall make state publications in the digital library available for download.

Section 7. Section **9-7-213** is amended to read:

### **9-7-213. Rulemaking.**

The division may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, necessary to implement and administer the provisions of this chapter including:

(1) standards ~~[which shall be met by libraries to obtain and retain a designation as a depository library]~~ for submitting state publications to the division under Section 9-7-207;

(2) the method by which grants are made to individual libraries, but not including appropriations made directly to any other agency or institution;

(3) standards for the certification of public librarians; and

(4) standards for the public library online access policy required in Section 9-7-215.

Section 8. Section **9-7-215** is amended to read:

### **9-7-215. Internet and online access policy required.**

(1) As used in this section:

(a) "Child pornography" is as defined in Section 76-5b-103.

(b) "Harmful to minors" is as defined in Section 76-10-1201.

(c) "Obscene" is as defined in 20 U.S.C. Sec. 9101.

(d) "Technology protection measure" means a technology that blocks or filters Internet access to visual depictions.

(2) State funds may not be provided to any public library that provides public access to the Internet unless the library:

(a) (i) has in place a policy of Internet safety for minors, including the operation of a

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technology protection measure:

(A) with respect to any computer or other device while connected to the Internet through a network provided by the library, including a wireless network; and

(B) that protects against access to visual depictions that are~~[:]~~ child pornography, harmful to minors, or obscene; and

~~[(F) child pornography;]~~

~~[(H) harmful to minors; or]~~

~~[(HH) obscene; and]~~

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(a)(i) during any use by a minor of a computer or other device that is connected to the Internet through a network provided by the library, including a wireless network; and

(b) (i) has in place a policy of Internet safety, including the operation of a technology protection measure:

(A) with respect to any computer or other device while connected to the Internet through a network provided by the library, including a wireless network; and

(B) that protects against access to visual depictions that are~~[:]~~ child pornography, harmful to minors, or obscene; and

~~[(F) child pornography; or]~~

~~[(H) obscene; and]~~

(ii) is enforcing the operation of the technology protection measure described in Subsection (2)(b)(i) during any use of a computer or other device that is connected to the Internet through a network provided by the library, including a wireless network.

(3) This section does not prohibit a public library from limiting Internet access or otherwise protecting against materials other than the materials specified in this section.

(4) An administrator, supervisor, or other representative of a public library may disable a technology protection measure described in Subsection (2):

(a) at the request of a library patron who is not a minor; and

(b) to enable access for research or other lawful purposes.

Section 9. Section **9-8-102** is amended to read:

### **9-8-102. Definitions.**

As used in this chapter:

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(1) "Board" means the Board of State History.

(2) "Director" means the director of the ~~[Division of State History]~~ Utah Historical Society.

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

~~[(4)]~~ (3) "Documentary materials" means written or documentary information contained in published materials, manuscript collections, archival materials, photographs, sound recordings, motion pictures, and other written, visual, and aural materials, except government records.

~~[(5)]~~ (4) "Historical artifacts" means objects produced or shaped by human efforts, a natural object deliberately selected and used by a human, an object of aesthetic interest, and any human-made objects produced, used, or valued by the historic peoples of Utah.

(5) "Museum of Utah" means the Museum of Utah created in Section 9-8-209.

(6) "Society" means the Utah ~~[State]~~ Historical Society created in Section ~~[9-8-207]~~ 9-8-201.

Section 10. Section **9-8-201** is amended to read:

### **Part 2. Utah Historical Society**

#### **9-8-201. Utah Historical Society -- Creation -- Purpose.**

(1) There is created within the department the ~~[Division of State History]~~ Utah Historical Society under the administration and general supervision of the executive director or the designee of the executive director.

~~[(2) The division shall be under the policy direction of the board.]~~

~~[(3)]~~ (2) The division, ~~with the advisement of the board,~~ shall be the authority of the state for state history and shall perform those duties set forth in statute.

Section 11. Section **9-8-202** is amended to read:

#### **9-8-202. Appointment of director.**

The executive director, in consultation with the board, shall appoint a director of the ~~[division]~~ society:

(1) to serve as the chief administrative officer of the ~~[division]~~ society; and

(2) who is experienced in administration and is qualified by education or training in the field of state history.

Section 12. Section **9-8-203** is amended to read:

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### 9-8-203. Society duties.

(1) The [~~division~~] society shall:

(a) stimulate research, study, and activity in the field of Utah history and related history;

(b) maintain a specialized history library;

~~[(c) mark and preserve historic sites, areas, and remains;]~~

~~[(d)]~~ (c) collect, preserve, and administer historical records relating to the history of Utah;

~~[(e)]~~ (d) administer, collect, preserve, document, interpret, develop, and exhibit historical artifacts, documentary materials, and other objects relating to the history of Utah for educational and cultural purposes;

~~[(f)]~~ (e) edit and publish historical records;

~~[(g)]~~ (f) cooperate with local, state, and federal agencies and schools and museums to provide coordinated and organized activities for the collection, documentation, preservation, interpretation, and exhibition of historical artifacts related to the state;

~~[(h)]~~ (g) promote, coordinate, and administer:

(i) Utah History Day at the Capitol designated under Section 63G-1-401; and

(ii) the Utah History Day program affiliated with National History Day, which includes a series of regional, state, and national activities and competitions for students from grades 4 through 12;

~~[(i)]~~ (h) subject to legislative appropriations, provide grants and technical assistance as necessary and appropriate; ~~[and]~~

(i) administer educational programs in partnership with public and private entities in the state; and

(j) comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in adjudicative proceedings.

(2) (a) The [~~division~~] society may acquire or produce reproductions of historical artifacts and documentary materials for educational and cultural use.

(b) The society may only deaccession an item described in Subsection (2)(a) in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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(c) An item that is to be deaccessioned in accordance with society rule is not state surplus property as that term is defined in Section 63A-2-101.5, and the society is not subject to the surplus property program described in Section 63A-2-401 for that item.

(3) To promote an appreciation of Utah history and to increase heritage tourism in the state, the [~~division~~] society shall:

(a) (i) create and maintain an inventory of all historic markers and monuments that are accessible to the public throughout the state;

(ii) enter into cooperative agreements with other groups and organizations to collect and maintain the information needed for the inventory;

(iii) encourage the use of volunteers to help collect the information and to maintain the inventory;

(iv) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens and tourists to visit the markers and monuments;

(v) work with public and private landowners, heritage organizations, and volunteer groups to help maintain, repair, and landscape around the markers and monuments; and

(vi) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others;

(b) (i) create and maintain an inventory of all active and inactive cemeteries throughout the state;

(ii) enter into cooperative agreements with local governments and other groups and organizations to collect and maintain the information needed for the inventory;

(iii) encourage the use of volunteers to help collect the information and to maintain the inventory;

(iv) encourage cemetery owners to create and maintain geographic information systems to record burial sites and encourage volunteers to do so for inactive and small historic cemeteries;

(v) publicize the information in the inventory in a variety of forms and media, especially to encourage Utah citizens to participate in the care and upkeep of historic cemeteries;

(vi) work with public and private cemeteries, heritage organizations, genealogical groups, and volunteer groups to help maintain, repair, and landscape cemeteries, grave sites,



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and tombstones; and

(vii) make the inventory available upon request to all other public and private history and heritage organizations, tourism organizations and businesses, and others; and

(c) (i) create and maintain a computerized record of cemeteries and burial locations in a state-coordinated and publicly accessible information system;

(ii) gather information for the information system created and maintained under Subsection (3)(c)(i) and help maintain, repair, and landscape cemeteries, grave sites, and tombstones as described in Subsection (3)(b)(vi) by providing matching grants, upon approval by the board, to:

(A) municipal cemeteries;

(B) cemetery maintenance districts;

(C) endowment care cemeteries;

(D) private nonprofit cemeteries;

(E) genealogical associations; and

(F) other nonprofit groups with an interest in cemeteries; and

(iii) adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for granting matching funds under Subsection (3)(c)(ii) to ensure that:

(A) professional standards are met; and

(B) projects are cost effective.

(4) This chapter may not be construed to authorize the ~~[division]~~ society to acquire by purchase any historical artifacts, documentary materials, or specimens that are restricted from sale by federal law or the laws of any state, territory, or foreign nation.

Section 13. Section **9-8-204** is amended to read:

### **9-8-204. Board of State History.**

(1) There is created within the department the Board of State History.

(2) The board shall consist of 11 members appointed by the governor with the advice and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, who are persons with an interest in the subject matter of the ~~[division's]~~ society's responsibilities.

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

(b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the

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time of appointment or reappointment, adjust the length of terms to ensure that the terms of board members are staggered so that approximately half of the board is appointed every two years.

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

(5) A simple majority of the board constitutes a quorum for conducting board business.

(6) The governor shall select a chair and vice chair from the board members.

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

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

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

(8) A member shall comply with the conflict of interest provisions described in Title 63G, Chapter 24, Part 3, Conflicts of Interest.

Section 14. Section **9-8-205** is amended to read:

### **9-8-205. Board duties and powers.**

(1) The board shall:

~~[(a) with respect to the division:]~~

~~[(i)]~~ (a) make policies to direct the ~~[division]~~ director in carrying out the director's duties;

~~[(ii)]~~ (b) approve the ~~[division's]~~ society's rules; and

~~[(iii)]~~ (c) ~~[assist the division in development]~~ make recommendations to the society for the development of programs consistent with this chapter~~[-and]~~.

~~[(iv)] review and approve, if appropriate, matching grants under Subsection 9-8-203(3)(c)(ii); and]~~

~~[(b) with respect to the State Historic Preservation Office created in Section 9-8-902:]~~

~~[(i) make policies to direct the state historic preservation officer in carrying out the officer's duties; and]~~

~~[(ii) assist the office in programs consistent with Part 9, State Historic Preservation Office.]~~

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(2) The board may establish [~~advisory committees~~] subcommittees to assist the board, the office, and the [~~division~~] society in carrying out the responsibilities under this chapter.

Section 15. Section **9-8-206** is amended to read:

### **9-8-206. Historical magazine, books, documents, and microfilms -- Proceeds.**

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

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

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

(2) Proceeds from sales under this section shall be deposited into the General Fund as a dedicated credit.

Section 16. Section **9-8-207** is amended to read:

### **9-8-207. Donations -- Accounting.**

~~[(1) (a) There is created the Utah State Historical Society.]~~

~~[(b)]~~

~~[(b)(1)]~~ The society may:

~~[(i)]~~ (a) solicit memberships from persons interested in the work of the society and charge dues for memberships commensurate with the advantages of membership and the needs of the society; and

~~[(ii)]~~ (b) receive gifts, donations, bequests, devises, and endowments of money or property, which shall then become the property of the state of Utah.

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

(b) ~~[Otherwise]~~ Except as provided in Subsection (2)(a), all donated money and the proceeds from donated property, together with the charges realized from society memberships, shall be deposited in the General Fund as restricted revenue of the society.

~~[(b)]~~ (c) Funds received from donations ~~[to the society under Section 41-1a-422]~~ shall be deposited into the General Fund as a dedicated credit to achieve the mission and purpose of the society.

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~~[(3) The division shall keep a correct account of funds and property received, held, or disbursed by the society, and shall make reports to the governor as in the case of other state institutions.]~~

Section 17. Section **9-8-209** is enacted to read:

### **9-8-209. Museum of Utah -- Creation -- Duties.**

(1) There is created within the society the Museum of Utah under the administration and supervision of the director or the designee of the director.

(2) The Museum of Utah shall:

(a) function as an educational outlet for the society to educate the public on Utah history and culture;

(b) support the efforts of museums, historical organizations, and other cultural organizations in the state to promote and preserve Utah history and culture;

(c) serve as a repository of historical artifacts acquired by the department;

(d) stimulate research, study, and activity in the field of Utah history, museum studies, and related fields of study;

(e) exhibit collections to the public on a regular schedule;

(f) facilitate strategic partnerships to advance the development of museums, historical organizations, and other cultural organizations in the state; and

(g) establish and coordinate best practices among museum professionals and volunteers in the state.

Section 18. Section **9-8-701** is amended to read:

### **9-8-701. Definitions.**

As used in this part:

~~[(1) "Board" means the Board of State History.]~~

~~[(2) "Division" means the Division of State History.]~~

~~[(3)]~~ (1) "Endowment fund" means any history endowment fund created under this part by a qualifying organization.

~~[(4)]~~ (2) "Qualifying organization" means any Utah nonprofit history organization or local government that qualifies under this chapter to create an endowment fund, receive state money into the endowment fund, match state money deposited into the endowment fund, and expend interest earned on the endowment fund.

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Section 19. Section **9-8-704** is amended to read:

### **9-8-704. Society duties.**

The [~~division~~] society shall, according to policy established by the board:

(1) allocate money from funds made available for that purpose to the endowment fund created by a qualifying organization under Section 9-8-703;

(2) determine the eligibility of each qualifying organization to receive money from funds made available for that purpose into the endowment fund of the qualifying organization;

(3) determine the matching amount each qualifying organization must raise in order to qualify to receive money from funds made available for that purpose;

(4) establish a date by which each qualifying organization must provide the qualifying organization's matching funds;

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

(6) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules establishing criteria for determining the eligibility of qualifying organizations to receive money from funds made available for that purpose.

Section 20. Section **9-8-705** is amended to read:

### **9-8-705. Eligibility requirements of qualifying history organizations -- Allocation limitations -- Matching requirements.**

(1) A qualifying organization may apply to receive money from funds made available for that purpose to be deposited into an endowment fund created under Section 9-8-703 if the qualifying organization has:

(a) received a grant from the [~~division~~] society during one of the three years immediately before making application for money under this Subsection (1); or

(b) not received a grant from the [~~division~~] society within the past three years, the qualifying organization may receive a grant upon approval by the [~~division~~] society according to policy of the board.

(2) (a) The maximum amount that may be allocated to each qualifying organization from funds made available for that purpose shall be determined by the [~~division~~] society in a format to be developed in consultation with the board.

(b) The minimum amount that may be allocated to each qualifying organization from

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funds made available for that purpose is \$2,500.

(3) (a) After the [~~division~~] society determines that a qualifying organization is eligible to receive money from funds made available for that purpose and before any money is allocated to the qualifying organization from available funds, the qualifying organization shall match the amount qualified for by money raised and designated exclusively for that purpose.

(b) State money and in-kind contributions may not be used to match money from funds made available for that purpose.

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

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

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

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

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

(b) (i) Money from funds made available for that purpose shall be released to the qualifying organization upon verification by the [~~division~~] society that the matching money has been received on or before the date determined under Subsection (5)(a).

(ii) Verification of matching funds shall be made by a certified public accountant.

(c) Money from funds made available for that purpose shall be released to qualifying organizations with professional endowment management in increments of at least \$2,500 as audited confirmation of matching funds is received by the board.

(d) Money from funds made available for that purpose shall be granted to each qualifying organization on the basis of the matching funds the qualifying organization has raised by the date determined under Subsection (5)(a).

Section 21. Section **9-8-707** is amended to read:

### **9-8-707. Spending restrictions -- Return of endowment.**

(1) A qualifying organization that has received endowment money from funds made available for that purpose:

(a) may not expend the money or the required matching money in the endowment fund;  
and

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(b) may expend the interest income earned on the money in the endowment fund.

(2) If a qualifying organization expends money in violation of Subsection (1), the qualifying organization shall return the amount of money allocated by the ~~[division]~~ society under this part to the Division of Finance.

Section 22. Section **9-8-708** is amended to read:

### **9-8-708. Federal match.**

Funds allocated by the ~~[division]~~ society under this part to enable qualifying organizations to create their own endowment funds may be construed as a state match for any history funding from the federal government that may be provided.

Section 23. Section **9-8a-101**, which is renumbered from Section 9-8-901 is renumbered and amended to read:

## **CHAPTER 8a. STATE HISTORIC PRESERVATION OFFICE**

### **Part 1. General Provisions**

#### **~~[9-8-901].~~ 9-8a-101. Definitions.**

As used in this ~~[part and in Section 9-8-205]~~ chapter:

(1) "Board" means the Board of State History created in Section 9-8-204.

(2) "Committee" means the National Register Review Committee created in Section ~~[9-8-905]~~ 9-8a-204.

(3) "Office" means the State Historic Preservation Office created in Section ~~[9-8-902]~~ 9-8a-201.

(4) "Officer" means the state historic preservation officer, appointed in accordance with Section ~~[9-8-903]~~ 9-8a-202.

Section 24. Section **9-8a-201**, which is renumbered from Section 9-8-902 is renumbered and amended to read:

### **Part 2. State Historic Preservation Office**

#### **~~[9-8-902].~~ 9-8a-201. State Historic Preservation Office -- Creation -- Purpose.**

(1) There is created within the department the State Historic Preservation Office under the administration and supervision of the executive director or the designee of the executive director.

(2) The office shall be under the policy direction of the board.

(3) The office shall be the authority in the state for state history preservation and shall

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perform those duties set forth in statute.

Section 25. Section **9-8a-202**, which is renumbered from Section 9-8-903 is renumbered and amended to read:

~~[9-8-903].~~     **9-8a-202.** **Appointment of state historic preservation officer.**

(1) In accordance with 36 C.F.R. Sec. 61.4, the governor shall appoint the state historic preservation officer.

(2) The officer shall administer:

- (a) the office; and
- (b) the state historic preservation program.

Section 26. Section **9-8a-203**, which is renumbered from Section 9-8-904 is renumbered and amended to read:

~~[9-8-904].~~     **9-8a-203.** **Office duties.**

The office shall:

- (1) secure, for the present and future benefit of the state, the protection of archaeological resources and sites which are on state lands;
- (2) foster increased cooperation and exchange of information between state authorities, the professional archaeological community, and private individuals;
- (3) in cooperation with federal and state agencies, local governments, private organizations, and private individuals, direct and conduct a comprehensive statewide survey of historic properties;
- (4) maintain an inventory of the properties described in Subsection (3);
- (5) identify and nominate eligible property to the National Register of Historic Places;
- (6) administer applications for listing historic property on the National Register of Historic Places;
- (7) prepare and implement a comprehensive statewide historic preservation plan;
- (8) administer the state program of federal assistance for historic preservation within the state;
- (9) advise and assist, as appropriate, state agencies, federal agencies, and local governments in carrying out their historic preservation responsibilities;
- (10) cooperate with federal agencies, state agencies, local agencies, private organizations, and individuals to ensure that historic property is taken into consideration at all



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levels of planning and development;

(11) provide, with respect to historic preservation:

(a) public information;

(b) education;

(c) training; and

(d) technical assistance;

(12) cooperate with local governments in the development of local historic preservation programs;

(13) consult with appropriate federal agencies with respect to:

(a) federal undertakings that may affect historic properties; and

(b) advising and assisting in the evaluation of proposals for rehabilitation projects that may qualify for federal assistance;

(14) perform other duties as designated under 54 U.S.C. Sec. 302303; and

(15) perform other duties as designated by the department and by statute.

Section 27. Section **9-8a-204**, which is renumbered from Section 9-8-905 is renumbered and amended to read:

**~~9-8-905~~. 9-8a-204. National Register Review Committee.**

(1) There is created the National Register Review Committee.

(2) The committee shall be composed of [~~seven~~] nine members, at least [~~four~~] five of whom have professional experience in:

(a) history;

(b) prehistoric and historic archaeology;

(c) architectural history;

(d) architecture;

(e) folklore;

(f) cultural anthropology;

(g) museology, curation, or conservation;

(h) landscape architecture; or

(i) planning.

(3) To qualify as a member with professional experience in a discipline described in Subsection (2), a member shall meet the professional qualifications standards described in 36

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C.F.R. Sec. 61.4.

(4) The committee shall serve as Utah's State Historic Preservation Review Board described in 36 C.F.R. Sec. 61.4.

(5) The officer and the director shall make the initial appointments to the committee.

(6) (a) Except as described in Subsections (6)(b) and (c), a member shall serve a term of four years.

(b) When making initial appointments to the committee, the director and the officer shall stagger the terms so that approximately half of the committee members serve an initial term of two years.

(c) When the term of a current member expires, a member shall be reappointed or a new member shall be appointed in accordance with Subsection (8).

(7) (a) When a vacancy occurs in the membership for any reason, a replacement shall be appointed in accordance with Subsection (8) for the unexpired term.

(b) A member whose term has expired may continue to serve until a replacement is appointed.

(8) The committee shall nominate a member to fill a vacancy described in Subsection (6)(c) or (7)(a), subject to the approval of the director and the officer.

(9) A member may serve more than one term, but may not serve more than three terms.

(10) A majority of the members of the committee is a quorum.

(11) A member may not receive compensation or benefits for the member's service.

(12) The committee shall meet at least one time per year.

(13) The committee shall elect a chair from the committee's members.

(14) The committee shall:

(a) review, evaluate, and comment on the eligibility of properties nominated to the National Register of Historic Places;

(b) review the documentation of nominated parties and recommended changes to the National Register of Historic Places nomination;

(c) bring to the attention of the office and the officer properties which may meet the National Register of Historic Places criteria for evaluation;

(d) recommend the removal of properties from the National Register of Historic Places;

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(e) assist the officer and the office in statewide efforts to encourage public and private persons to identify, nominate, protect, enhance, and maintain the state's historic resources; and

(f) review the State Historic Preservation Plan prior to submission to the United States Department of the Interior.

Section 28. Section **9-8a-205**, which is renumbered from Section 9-8-208 is renumbered and amended to read:

~~[9-8-208]~~. **9-8a-205. Cultural Site Stewardship Program -- Definitions -- Creation -- Objectives -- Administration -- Activities.**

(1) As used in this section:

(a) (i) "Cultural site" means a significant archaeological or paleontological site in the state as determined by the [~~division~~] office.

(ii) "Cultural site" may include a:

(A) site as defined in Section [~~9-8-302~~] 9-8a-302; and

(B) site as defined in Section 79-3-102.

(b) "Stewardship program" means the Cultural Site Stewardship Program created in this section.

(c) "Vandalism" means to damage, destroy, or commit any other act that defaces or harms a cultural site without the consent of the owner or appropriate governmental agency, including inscribing, marking, etching, scratching, drawing, painting on, or affixing to the cultural resource a mark, figure, or design.

(2) There is created within the [~~division~~] office the Cultural Site Stewardship Program.

(3) The [~~division~~] office shall seek to accomplish the following objectives through administration of the stewardship program:

(a) protect cultural sites located in the state;

(b) increase public awareness of the significance and value of cultural sites and the damage done to cultural sites by vandalism;

(c) discourage vandalism and the unlawful sale and trade of archaeological artifacts and paleontological artifacts;

(d) support and encourage improved standards for investigating and researching cultural sites in the state;

(e) promote cooperation among governmental agencies, private landowners, Native

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American tribes, industry groups, and interested persons to protect cultural sites; and

(f) increase the inventory of cultural sites maintained in accordance with Subsections ~~[9-8-304(2)(b)]~~ 9-8a-304(2)(b) and 79-3-202(1)(m).

(4) The ~~[division]~~ office shall:

(a) maintain a position to oversee the operation of the stewardship program; and

(b) provide administrative services to the stewardship program.

(5) The ~~[division]~~ office shall select, train, and certify volunteers to participate in the stewardship program, based on rules made by the ~~[division]~~ office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(6) To accomplish the stewardship program's objectives, the ~~[division]~~ office shall:

(a) enter into agreements with the entities described in Subsection (3)(e) to promote the protection of cultural sites;

(b) establish a list of cultural sites suitable for monitoring, in cooperation with the entities described in Subsection (3)(e);

(c) schedule periodic monitoring activities by volunteers of each cultural site included on the list described in Subsection (6)(b), after obtaining approval of the landowner or manager;

(d) establish rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for reporting vandalism of a cultural site to the appropriate authority; and

(e) establish programs for educating members of the public about the significance and value of cultural sites and the loss to members of the public resulting from vandalism of cultural sites.

(7) The ~~[division]~~ office shall coordinate the activities of governmental agencies, private landowners, and Native American tribes, as necessary, to carry out the stewardship program.

(8) A volunteer participating in the stewardship program may not receive compensation, benefits, per diem allowance, or travel expenses for the volunteer's service.

(9) The ~~[division]~~ office may accept gifts, grants, donations, or contributions from any source to assist the division in the administration of the stewardship program.

(10) Nothing in this section may be construed to alter or affect the ~~[division's]~~ office's duties under Section ~~[9-8-404]~~ 9-8a-404.

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Section 29. Section ~~9-8a-301~~, which is renumbered from Section 9-8-301 is renumbered and amended to read:

### Part 3. Antiquities

#### ~~[9-8-301]~~. 9-8a-301. Purpose.

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

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

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

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

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

(3) The Legislature declares that the historical preservation purposes of this chapter must be kept in balance with the other uses of land and natural resources which benefit the health and welfare of the state's citizens.

(4) It is the purpose of this part and Part 4, Historic Sites, to provide that the survey, excavation, curation, study, and exhibition of the state's archaeological and anthropological resources be undertaken in a coordinated, professional, and organized manner for the general

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welfare of the public and beneficiaries alike.

Section 30. Section ~~9-8a-302~~, which is renumbered from Section 9-8-302 is renumbered and amended to read:

~~[9-8-302].~~     **9-8a-302. Definitions.**

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

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

(2) "Ancient human remains" means all or part of the following that are historic or prehistoric:

(a) a physical individual; and

(b) any object on or attached to the physical individual that is placed on or attached to the physical individual as part of the death rite or ceremony of a culture.

(3) "Antiquities Section" means the Antiquities Section of the [~~Division of State History~~] office created in Section [~~9-8-304~~] 9-8a-304.

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

(5) "Collection" means a specimen and the associated records documenting the specimen and [~~its~~] the specimen's recovery.

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

(7) "Curation facility" means the same as that term is defined in Section 53B-17-603.

~~[(8) "Division" means the Division of State History created in Section 9-8-201.]~~

~~[(9)]~~ (8) "Excavate" means the recovery of archaeological resources.

~~[(10)]~~ (9) "Historic property" means any prehistoric or historic district, site, building, structure, or specimen included in, or eligible for inclusion in, the National Register of Historic Places or the State Register.

~~[(11)]~~ (10) "Indian tribe" means a tribe, band, nation, or other organized group or

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community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

~~[(12)]~~ (11) "Museum" means the Utah Museum of Natural History.

~~[(13)]~~ (12) (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands.

~~[(14)]~~ (13) "Principal investigator" means the individual with overall administrative responsibility for the survey or excavation project authorized by the permit.

~~[(15)]~~ (14) "Repository" means the same as that term is defined in Section 53B-17-603.

~~[(16)]~~ (15) "School and institutional trust lands" are those properties defined in Section 53C-1-103.

~~[(17)]~~ (16) "Site" means any petroglyphs, pictographs, structural remains, or geographic location that is the source of archaeological resources or specimens.

~~[(18)]~~ (17) "Specimen" means all man-made artifacts and remains of an archaeological or anthropological nature found on or below the surface of the earth, excluding structural remains.

~~[(19)] "State historic preservation officer" means that position mentioned in 54 U.S.C. Sec. 302303, as amended.]~~

~~[(20)]~~ (18) (a) "State land" means land owned by the state including the state's:

(i) legislative and judicial branches;

(ii) departments, divisions, agencies, boards, commissions, councils, and committees;

and

(iii) institutions of higher education as defined under Section 53B-3-102.

(b) "State land" does not include:

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- (i) land owned by a political subdivision of the state;
- (ii) land owned by a school district;
- (iii) private land; or
- (iv) school and institutional trust lands.

~~[(21)]~~ (19) "Survey" means a surface investigation for archaeological resources that may include:

- (a) insubstantial surface collection of archaeological resources; and
- (b) limited subsurface testing that disturbs no more of a site than is necessary to determine the nature and extent of the archaeological resources or whether the site is a historic property.

Section 31. Section **9-8a-304**, which is renumbered from Section 9-8-304 is renumbered and amended to read:

~~**[9-8-304].**~~     **9-8a-304. Antiquities Section created -- Duties.**

- (1) There is created within the ~~[division]~~ office the Antiquities Section.
- (2) The Antiquities Section shall:
  - (a) promote research, study, and activities in the field of antiquities;
  - (b) assist with the marking, protection, and preservation of sites;
  - (c) assist with the collection, preservation, and administration of specimens until the specimens are placed in a repository or curation facility;
  - (d) provide advice on the protection and orderly development of archaeological resources, and in doing so confer with the Public Lands Policy Coordinating Office if requested;
  - (e) assist with the excavation, retrieval, and proper care of ancient human remains discovered on nonfederal lands in accordance with:
    - (i) Section ~~[9-8-309]~~ 9-8a-309;
    - (ii) Section 9-9-403;
    - (iii) Subsection 76-9-704(3); and
    - (iv) federal law;
    - (f) collect and administer site survey and excavation records;
    - (g) edit and publish antiquities records;
    - (h) inform the ~~[state historic preservation]~~ officer in writing about any request for



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advice or consultation from an agency or an agency's agent; and

(i) employ an archaeologist meeting the requirements of 36 C.F.R. 61.4.

(3) The Antiquities Section shall cooperate with local, state, and federal agencies and all interested persons to achieve the purposes of this part and Part 4, Historic Sites.

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

Section 32. Section **9-8a-305**, which is renumbered from Section 9-8-305 is renumbered and amended to read:

**~~9-8-305~~. 9-8a-305. Permit required to survey or excavate on state lands -- Public Lands Policy Coordinating Office to issue permits and make rules -- Ownership of collections and resources -- Revocation or suspension of permits -- Criminal penalties.**

(1) (a) Except as provided by Subsections (1)(d) and (3)(c), each principal investigator who wishes to survey or excavate on any lands owned or controlled by the state, its political subdivisions, or by the School and Institutional Trust Lands Administration shall obtain a survey or excavation permit from the Public Lands Policy Coordinating Office.

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

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

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

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

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

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

(iii) have one year of full-time professional experience or equivalent specialized

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training in archaeological research, administration, or management; and

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

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

(c) Unless the permit is revoked or suspended, a survey permit is valid for the time period specified in the permit by the Public Lands Policy Coordinating Office, which may not exceed three years.

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

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

(A) states the questions to be addressed;

(B) states the reasons for conducting the work;

(C) defines the methods to be used;

(D) describes the analysis to be performed;

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

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

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

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

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

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

(i) requests the delegation; and

(ii) employs or has a long-term contract with a principal investigator with a valid survey permit.

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

(4) The Public Lands Policy Coordinating Office shall:

(a) grant a survey permit to a principal investigator who meets the requirements of this section; and

(b) grant an excavation permit to a principal investigator after approving, in consultation with the Antiquities Section, the research design for the project.

(5) By following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the Public Lands Policy Coordinating Office shall, after consulting with the Antiquities Section, make rules to:

(a) establish survey methodology;

(b) standardize report and data preparation and submission;

(c) require other permit application information that the Public Lands Policy Coordinating Office finds necessary, including proof of consultation with the appropriate Native American tribe;

(d) establish what training and experience is equivalent to a graduate degree;

(e) establish requirements for a person authorized by Subsection (1)(b) to assist the principal investigator;

(f) establish requirements for a principal investigator's employer, if applicable; and

(g) establish criteria that, if met, would allow the Public Lands Policy Coordinating Office to reinstate a suspended permit.

(6) Each principal investigator shall submit a summary report of the work for each project to the Antiquities Section in a form prescribed by a rule established under Subsection (5)(b), which shall include copies of all:

(a) site forms;

(b) data;

(c) maps;

(d) drawings;

(e) photographs; and

(f) descriptions of specimens.

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(7) (a) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from lands owned or controlled by the state or its political subdivisions, other than school and institutional trust lands, without permission from the Antiquities Section, and prior consultation with the landowner and any other agencies managing other interests in the land.

(b) Except as provided in Subsection (7)(c), a person may not remove from Utah any specimen, site, or portion of any site from school and institutional trust lands without permission from the School and Institutional Trust Lands Administration, granted after consultation with the Antiquities Section.

(c) If a specimen, site, or portion of a site is placed in a repository or curation facility, a person may remove it by following the procedures established by the repository or curation facility.

(8) (a) Collections recovered from school and institutional trust lands are owned by the respective trust.

(b) Collections recovered from lands owned or controlled by the state or its subdivisions, other than school and institutional trust lands, are owned by the state.

(c) Within a reasonable time after the completion of fieldwork, each permit holder shall deposit all collections at the museum, a curation facility, or a repository.

(d) The repository or curation facility for collections from lands owned or controlled by the state or its subdivisions shall be designated according to the rules made under the authority of Section 53B-17-603.

(9) (a) Upon complaint by an agency, the Public Lands Policy Coordinating Office shall investigate a principal investigator and the work conducted under a permit.

(b) By following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, the Public Lands Policy Coordinating Office may revoke or suspend a permit if the principal investigator fails to conduct a survey or excavation according to law, the rules enacted by the Public Lands Policy Coordinating Office, or permit provisions.

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

(b) A person convicted of violating this section, or found to have violated the rules authorized by this section, shall, in addition to any other penalties imposed, forfeit all archaeological resources discovered by or through the person's efforts to the state or the

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respective trust.

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

Section 33. Section **9-8a-306**, which is renumbered from Section 9-8-306 is renumbered and amended to read:

~~[9-8-306].~~     **9-8a-306. Archaeological or anthropological landmarks.**

(1) Sites of significance may be recommended to and approved by the board as state archaeological or anthropological landmarks. No privately owned site or site on school or institutional trust lands may be so designated without the written consent of the owner.

(2) A person may not excavate upon a privately owned designated landmark without a permit from the [~~division~~] office.

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

Section 34. Section **9-8a-307**, which is renumbered from Section 9-8-307 is renumbered and amended to read:

~~[9-8-307].~~     **9-8a-307. Report of discovery on state or private lands.**

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

(2) Any person who discovers any archaeological resources on privately owned lands shall promptly report the discovery to the [~~division~~] office.

(3) Field investigations shall be discouraged except in accordance with this part and Part 4, Historic Sites.

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

Section 35. Section **9-8a-308**, which is renumbered from Section 9-8-308 is renumbered and amended to read:

~~[9-8-308].~~     **9-8a-308. Forgery or false labeling of specimens unlawful.**

It is unlawful to reproduce, rework, or forge any specimen or make any object, whether copied or not, or falsely label, describe, identify, or offer for sale or exchange any object, with intent to represent it as an original and genuine specimen. No person may offer for sale or

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other exchange any object with knowledge that it was collected or excavated in violation of this part.

Section 36. Section **9-8a-309**, which is renumbered from Section 9-8-309 is renumbered and amended to read:

~~9-8-309~~. **9-8a-309. Ancient human remains on nonfederal lands that are not state lands.**

(1) ~~[(a) After April 30, 2007, if]~~ If a person knows or has reason to know that the person discovered ancient human remains on nonfederal land that is not state land:

~~[(+)]~~ (a) the person shall:

~~[(A)]~~ (i) cease activity in the area of the discovery until activity may be resumed in accordance with Subsection ~~[(+)(d)]~~ (1)(e);

~~[(B)]~~ (ii) notify a local law enforcement agency in accordance with Section 76-9-704; and

~~[(C)]~~ (iii) notify the person who owns or controls the nonfederal land, if that person is different than the person who discovers the ancient human remains; and

~~[(+)]~~ (b) the person who owns or controls the nonfederal land shall:

~~[(A)]~~ (i) require that activity in the area of the discovery cease until activity may be resumed in accordance with Subsection ~~[(+)(d)]~~ (1)(e); and

~~[(B)]~~ (ii) make a reasonable effort to protect the discovered ancient human remains before activity may be resumed in accordance with Subsection ~~[(+)(d)]~~ (1)(e).

~~[(b)]~~ (c) (i) If the local law enforcement agency believes after being notified under this Subsection (1) that a person may have discovered ancient human remains, the local law enforcement agency shall contact the Antiquities Section.

(ii) The Antiquities Section shall:

(A) within two business days of the day on which the Antiquities Section is notified by local law enforcement, notify the landowner that the Antiquities Section may excavate and retrieve the human remains with the landowner's permission; and

(B) if the landowner gives the landowner's permission, excavate the human remains by no later than:

(I) five business days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1); or

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(II) if extraordinary circumstances exist as provided in Subsection [~~(1)~~]~~(c)~~ (1)(d), within the time period designated by the director not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1).

~~(c)~~ (d) (i) The director may grant the Antiquities Section an extension of time for excavation and retrieval of ancient human remains not to exceed 30 days from the day on which the Antiquities Section obtains the permission of the landowner under this Subsection (1), if the director determines that extraordinary circumstances exist on the basis of objective criteria such as:

(A) the unusual scope of the ancient human remains;

(B) the complexity or difficulty of excavation or retrieval of the ancient human remains; or

(C) the landowner's concerns related to the excavation or retrieval of the ancient human remains.

(ii) If the landowner objects to the time period designated by the director, the landowner may appeal the decision to the executive director of the department in writing.

(iii) If the executive director receives an appeal from the landowner under this Subsection [~~(1)~~]~~(c)~~ (1)(d), the executive director shall:

(A) decide on the appeal within two business days; and

(B) (I) uphold the decision of the director; or

(II) designate a shorter time period than the director designated for the excavation and retrieval of the ancient human remains.

(iv) An appeal under this Subsection [~~(1)~~]~~(c)~~ (1)(d) may not be the cause for the delay of the excavation and retrieval of the ancient human remains.

(v) A decision and appeal under this Subsection [~~(1)~~]~~(c)~~ (1)(d) is exempt from Title 63G, Chapter 4, Administrative Procedures Act.

~~(d)~~ (e) A person that owns or controls nonfederal land that is not state land may engage in or permit others to engage in activities in the area of the discovery without violating this part or Section 76-9-704 if once notified of the discovery of ancient human remains on the nonfederal land, the person:

(i) consents to the Antiquities Section excavating and retrieving the ancient human remains; and

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(ii) engages in or permits others to engage in activities in the area of the discovery only after:

(A) the day on which the Antiquities Section removes the ancient human remains from the nonfederal land; or

(B) the time period described in Subsection [~~(1)(b)(ii)(B)~~] (1)(c)(ii)(B).

(2) A person that owns or controls nonfederal land that is not state land may not be required to pay any costs incurred by the state associated with the ancient human remains, including costs associated with the costs of the:

(a) discovery of ancient human remains;

(b) excavation or retrieval of ancient human remains; or

(c) determination of ownership or disposition of ancient human remains.

(3) For nonfederal land that is not state land, nothing in this section limits or prohibits the Antiquities Section and a person who owns or controls the nonfederal land from entering into an agreement addressing the ancient human remains that allows for different terms than those provided in this section.

(4) The ownership and control of ancient human remains that are the ancient human remains of a Native American shall be determined in accordance with Chapter 9, Part 4, Native American Grave Protection and Repatriation Act:

(a) if the ancient human remains are in possession of the state;

(b) if the ancient human remains are not known to have been discovered on lands owned, controlled, or held in trust by the federal government; and

(c) regardless of when the ancient human remains are discovered.

(5) This section:

(a) does not apply to ancient human remains that are subject to the provisions and procedures of:

(i) federal law; or

(ii) Part 4, Historic Sites; and

(b) does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of the ancient human remains.

(6) The [~~division~~] office, Antiquities Section, or Division of Indian Affairs may not make rules that impose any requirement on a person who discovers ancient human remains or



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who owns or controls nonfederal land that is not state land on which ancient human remains are discovered that is not expressly provided for in this section.

Section 37. Section ~~9-8a-401~~, which is renumbered from Section 9-8-401 is renumbered and amended to read:

### Part 4. Historic Sites

#### ~~[9-8-401]~~. 9-8a-401. Purpose.

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

Section 38. Section ~~9-8a-402~~, which is renumbered from Section 9-8-402 is renumbered and amended to read:

#### ~~[9-8-402]~~. 9-8a-402. Definitions -- Office duties.

(1) In addition to the definitions described in Section ~~[9-8-302]~~ 9-8a-302, as used in this part:

(a) "Effect" means an alteration to one or more characteristics of a historic property that qualify the historic property for inclusion in, or that make the historic property eligible for inclusion in, the National Register of Historic Places.

(b) "Historic property" means any historic or prehistoric district, site, building, structure, or object that is at least 50 years old and that is included in, or that is eligible for inclusion in, the National Register of Historic Places.

(c) "State register" means a register of cultural sites and localities, historic and prehistoric sites, and districts, buildings, and objects significant in Utah history.

(d) "Undertaking" means a project, activity, or program funded in whole or in part under the direct or indirect jurisdiction of a state agency, including a project, activity, or program:

- (i) carried out by or on behalf of a state agency;
- (ii) carried out with financial assistance from the state; or
- (iii) that requires a state permit, license, or approval.

(2) The ~~[division]~~ office shall:

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

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

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

Section 39. Section ~~9-8a-403~~, which is renumbered from Section 9-8-403 is renumbered and amended to read:

~~[9-8-403].~~ **9-8a-403. Placement on State or National Register.**

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

Section 40. Section ~~9-8a-404~~, which is renumbered from Section 9-8-404 is renumbered and amended to read:

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

(1) (a) Before approving any undertaking, an agency shall:

(i) take into account the effect of the undertaking on any historic property; and

(ii) provide the state historic preservation officer with a written evaluation of the undertaking's effect on any historic property.

(b) The state historic preservation officer shall provide to the agency a written comment on the agency's determination of effect within 30 days after the day on which the state historic preservation officer receives a written evaluation described in Subsection (1)(a)(ii).

(c) If the written evaluation described in Subsection (1)(a)(ii) demonstrates that there is an adverse effect to a historic property, the agency shall enter into a formal written agreement with the state historic preservation officer describing how each adverse effect will be mitigated before the agency may expend state funds or provide financial assistance for the undertaking.

(d) The state historic preservation officer shall make available to the Public Lands Policy Coordinating Office a list of undertakings on which an agency or federal agency has requested the state historic preservation officer's or the Antiquities Section's advice or consultation.

(e) The Public Lands Policy Coordinating Office may request the joint analysis described in Subsections (2)(c) and (d) of any proposed undertaking on which the state historic

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preservation officer or Antiquities Section is providing advice or consultation.

(2) (a) If the state historic preservation officer does not concur with the agency's written evaluation required by Subsection (1)(a)(ii), the state historic preservation officer shall inform the Public Lands Policy Coordinating Office of any objections.

(b) The Public Lands Policy Coordinating Office shall review the state historic preservation officer's objections and determine whether or not to initiate the joint analysis established in Subsections (2)(c) and (d) within 30 days after the day on which the state historic preservation officer informs the Public Lands Policy Coordinating Office of the objections.

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

- (i) the cost of the undertaking, excluding costs attributable to the identification, potential recovery, or excavation of historic properties;
- (ii) the ownership of the land involved;
- (iii) the likelihood of the presence and the nature and type of historical properties that may be affected by the expenditure or undertaking; and
- (iv) clear and distinct alternatives for the identification, recovery, or excavation of historic properties, including ways to maximize the amount of information recovered and report that information at current standards of scientific rigor.

(d) The Public Lands Policy Coordinating Office, the agency, and the state historic preservation officer shall also consider as part of the joint analysis:

- (i) the estimated costs of the alternatives in Subsection (2)(c)(iv) in total and as a percentage of the total cost of the undertaking; and
- (ii) at least one plan for the identification, recovery, or excavation of historic properties that does not substantially increase the cost of the proposed undertaking.

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

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

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of the joint analysis.

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

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

Section 41. Section **9-8a-405**, which is renumbered from Section 9-8-405 is renumbered and amended to read:

**~~[9-8-405].~~ 9-8a-405. Federal funds -- Agreements on standards and procedures.**

By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures Act, the [~~division~~] office may accept and administer federal funds provided under the provisions of the National Historic Preservation Act of 1966, the Land and Water Conservation Act as amended, and subsequent legislation directed toward the encouragement of historic preservation, and to enter into those agreements on professional standards and procedures required by participation in the National Historic Preservation Act of 1966 and the National Register Office.

Section 42. Section **9-8a-502**, which is renumbered from Section 9-8-502 is renumbered and amended to read:

### **Part 5. Historical Preservation Act**

**~~[9-8-502].~~ 9-8a-502. Legislative finding.**

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

Section 43. Section **9-8a-503**, which is renumbered from Section 9-8-503 is renumbered and amended to read:

**~~[9-8-503].~~ 9-8a-503. Preservation easement.**

Any owner of a fee simple interest in real property may convey, and any other party

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entitled to own real property interests may accept, a preservation easement pertaining to the real property if the real property possesses historical value that will be enhanced or preserved by the terms of the easement regarding restoration or preservation of the real property.

Section 44. Section **9-8a-504**, which is renumbered from Section 9-8-504 is renumbered and amended to read:

**[9-8-504]. 9-8a-504. Preservation easement -- Subject to other laws.**

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

Section 45. Section **9-8a-505**, which is renumbered from Section 9-8-505 is renumbered and amended to read:

**[9-8-505]. 9-8a-505. Rule Against Perpetuities and Rule Restricting Unreasonable Restraints on Alienation not applicable.**

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

Section 46. Section **9-8a-506**, which is renumbered from Section 9-8-506 is renumbered and amended to read:

**[9-8-506]. 9-8a-506. Charitable contribution for tax purposes.**

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

Section 47. Section **9-9-402** is amended to read:

**9-9-402. Definitions.**

As used in this part:

(1) "Antiquities Section" means the Antiquities Section of the [~~Division of State History~~] State Historic Preservation Office.

(2) "Burial site" means a natural or prepared physical location, whether originally

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below, on, or above the surface of the earth, into which as a part of the death rite or ceremony of a culture individual human remains are deposited.

(3) "Cultural affiliation" means that there is a relationship of shared group identity that can be reasonably traced historically or prehistorically between a present day Indian tribe and an identifiable earlier group.

(4) "Director" means the director of the Division of Indian Affairs.

(5) "Division" means the Division of Indian Affairs.

(6) "Indian tribe" means a tribe, band, nation, or other organized group or community of Indians that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(7) "Lineal descendant" means the genealogical descendant established by oral or written record.

(8) "Native American" means of or relating to a tribe, people, or culture that is indigenous to the United States.

(9) "Native American remains" means remains that are Native American.

(10) (a) "Nonfederal land" means land in the state that is not owned, controlled, or held in trust by the federal government.

(b) "Nonfederal land" includes:

(i) land owned or controlled by:

(A) the state;

(B) a county, city, or town;

(C) an Indian tribe, if the land is not held in trust by the United States for the Indian tribe or the Indian tribe's members; or

(D) a person other than the federal government; or

(ii) school and institutional trust lands as defined in Section 53C-1-103.

(11) "Partner agency" means an agency of the state or a tribal agency that participates in the remains repatriation process.

(12) "Remains" means all or part of a physical individual and objects on or attached to the physical individual that are placed there as part of the death rite or ceremony of a culture.

(13) "Review committee" means the Native American Remains Review Committee created by Section 9-9-405.

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(14) (a) "State land" means land owned by the state including the state's:

- (i) legislative and judicial branches;
- (ii) departments, divisions, agencies, boards, commissions, councils, and committees;

and

(iii) institutions of higher education as defined under Section 53B-3-102.

(b) "State land" does not include:

- (i) land owned by a political subdivision of the state;
- (ii) land owned by a school district;
- (iii) private land; or
- (iv) school and institutional trust lands as defined in Section 53C-1-103.

(15) "Tribal consultation" means the state and the tribes exchanging views and information, in writing or in person, regarding implementing proposed state action under this part that has or may have substantial implications for tribes including impacts on:

- (a) tribal cultural practices;
- (b) tribal lands;
- (c) tribal resources;
- (d) access to traditional areas of tribal cultural or religious importance; or
- (e) the consideration of the state's responsibilities to Indian tribes.

Section 48. Section **9-9-403** is amended to read:

### **9-9-403. Ownership and disposition of Native American remains.**

(1) If Native American remains are discovered on nonfederal lands on or after April 30, 2007, the ownership or control of the Native American remains shall be determined in the following priority:

- (a) first, in the lineal descendants of the Native American;
- (b) second, if the lineal descendants cannot be ascertained, in the Indian tribe that:
  - (i) has the closest cultural affiliation with the Native American remains; and
  - (ii) states a claim for the Native American remains; or
- (c) third:

(i) in the Indian tribe that is recognized as aboriginally occupying the area in which the Native American remains are discovered, if:

- (A) cultural affiliation of the Native American remains cannot be reasonably

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ascertained;

(B) the land is recognized either by a final judgment of the Indian Claims Commission or through other evidence as the exclusive or joint aboriginal land of some Indian tribe; and

(C) that tribe states a claim for the Native American remains; or

(ii) in a different tribe if:

(A) it can be shown by a preponderance of the evidence that that different tribe has a stronger genetic or cultural relationship with the Native American remains; and

(B) that different tribe states a claim for the Native American remains.

(2) Subject to Subsection (7), Native American remains discovered on nonfederal lands that are not claimed under Subsection (1) shall be disposed of in accordance with rules made by the division:

(a) consistent with [~~Chapter 8, Part 3, Antiquities~~] Chapter 8a, Part 3, Antiquities; and

(b) in consultation with Native American groups, representatives of repositories, and the review committee established under Section 9-9-405.

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

(a) the Native American remains are excavated or removed pursuant to a permit issued under Section [~~9-8-305~~] 9-8a-305;

(b) the Native American remains are excavated or removed after consultation with and written consent of the owner of the state land; and

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

(4) (a) A person who knows or has reason to know that the person has discovered Native American remains on state lands after March 17, 1992, shall notify, in writing, the appropriate state agency having primary management authority over the lands as provided in [~~Chapter 8, Part 3, Antiquities~~] Chapter 8a, Part 3, Antiquities.

(b) If the discovery occurs in connection with construction, mining, logging, agriculture, or a related activity, the person shall:

(i) cease the activity in the area of the discovery;

(ii) make a reasonable effort to protect the Native American remains discovered before resuming the activity; and



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(iii) provide notice of discovery to the appropriate state agency under Subsection (4)(a).

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

(5) (a) Scientific study of Native American remains may be carried out only with approval of the owner of the Native American remains as established in Subsections (1) and (2).

(b) (i) If ownership is unknown, study before identifying ownership is restricted to those sufficient to identify ownership.

(ii) Study to identify ownership shall be approved only in accordance with rules made by the division in consultation with the review committee.

(c) The Native American remains may not be retained longer than 90 days after the date of establishing ownership.

(6) (a) Ownership of Native American remains shall be determined in accordance with this Subsection (6) if:

(i) there are multiple claims of ownership under Subsection (1) of Native American remains; and

(ii) the division cannot clearly determine which claimant is the most appropriate claimant.

(b) If the conditions of Subsection (6)(a) are met, the appropriate state agency having primary authority over the lands as provided in [~~Chapter 8, Part 3, Antiquities~~] Chapter 8a, Part 3, Antiquities, may retain the remains until:

(i) the multiple claimants for the Native American remains enter into an agreement concerning the disposition of the Native American remains;

(ii) the dispute is resolved through an administrative process:

(A) established by rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and

(B) that is exempt from Title 63G, Chapter 4, Administrative Procedures Act; or

(iii) after the administrative process described in Subsection (6)(b)(ii) is complete, the dispute is resolved by a court of competent jurisdiction.

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(7) The division may not make rules that impose any requirement on a person who discovers Native American remains or owns or controls nonfederal land that is not state land on which Native American remains are discovered that is not expressly provided for in Section ~~[9-8-309]~~ 9-8a-309.

(8) For purposes of this part, if Native American remains are discovered on nonfederal land that is not state land, the Antiquities Section is considered the state agency having primary authority over the nonfederal land.

(9) This part does not modify any property rights of a person that owns or controls nonfederal land except as to the ownership of Native American remains.

Section 49. Section **9-9-405** is amended to read:

### **9-9-405. Review committee.**

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

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

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

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

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

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

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

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

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

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- (i) Section 63A-3-106;
  - (ii) Section 63A-3-107; and
  - (iii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (f) The review committee shall designate one of its members as chair.
  - (3) The review committee shall:
    - (a) monitor the identification process conducted under Section 9-9-403 to ensure a fair and objective consideration and assessment of all available relevant information and evidence;
    - (b) review a finding relating to the following, subject to the rules made by the division under Subsection 9-9-403(6):
      - (i) the identity or cultural affiliation of Native American remains; or
      - (ii) the return of Native American remains;
      - (c) facilitate the resolution of a dispute among Indian Tribal Nations or lineal descendants and state agencies relating to the return of Native American remains, including convening the parties to the dispute if considered desirable;
      - (d) consult with Indian Tribal Nations on matters within the scope of the work of the review committee affecting these Indian Tribal Nations;
      - (e) consult with the division in the development of rules to carry out this part;
      - (f) perform other related functions as the division may assign to the review committee;
    - and
    - (g) make recommendations, if appropriate, regarding care of Native American remains that are to be repatriated.
  - (4) A record or finding made by the review committee relating to the identity of or cultural affiliation of Native American remains and the return of Native American remains may be admissible in any action brought under this part.
  - (5) The appropriate state agency having primary authority over the lands as provided in [~~Chapter 8, Part 3, Antiquities~~] Chapter 8a, Part 3, Antiquities, shall ensure that the review committee has reasonable access to:
    - (a) Native American remains under review; and
    - (b) associated scientific and historical documents.
  - (6) The division shall provide reasonable administrative and staff support necessary for

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the deliberations of the review committee.

(7) The department shall include in the annual written report described in Section 9-1-208:

(a) a description of the progress made, and any barriers encountered, by the review committee in implementing this section during the previous year; and

(b) a review of the expenditures made from the Native American Repatriation Restricted Account.

Section 50. Section **9-9-407** is amended to read:

### **9-9-407. Native American Repatriation Restricted Account.**

(1) There is created a restricted account within the General Fund known as the "Native American Repatriation Restricted Account."

(2) (a) The Native American Repatriation Restricted Account shall consist of appropriations from the Legislature.

(b) All interest earned on Native American Repatriation Restricted Account money shall be deposited into the Native American Repatriation Restricted Account.

(3) Subject to appropriation from the Legislature, the division may use the money in the Native American Repatriation Restricted Account as follows:

(a) for a grant issued in accordance with Subsection (6) to an Indian Tribe to pay the following costs of reburial of Native American remains:

(i) use of equipment;

(ii) labor for use of the equipment;

(iii) reseeding and vegetation efforts;

(iv) compliance with Section [~~9-8-404~~] 9-8a-404; and

(v) caskets;

(b) for tribal consultation, including:

(i) consultation time, drafting reports, taking detailed notes, communicating to the stakeholders, facilitating discussions, and traveling to individual tribal locations;

(ii) travel costs, including per diem and lodging costs, for:

(A) Utah tribal leaders and tribal cultural resource managers; and

(B) regional partner tribes;

(iii) meeting facilities for the division to host tribal consultations when the division

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determines that a state facility does not meet tribal consultation needs; and

(iv) costs for holding meetings under Subsection (3)(b)(iii); and

(c) for training tribal representatives, councils, and staff of a partner agency with repatriation responsibilities in the processes under Section [~~9-8-404~~] 9-8a-404 and rules made by the [~~Division of State History~~] State Historic Preservation Office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, including costs for:

(i) lodging and transportation of employees of the department or a partner agency; or

(ii) travel grants issued in accordance with Subsection (6) for tribal representatives.

(4) If the balance in the Native American Repatriation Restricted Account exceeds \$100,000 at the close of any fiscal year, the excess shall be transferred into the General Fund.

(5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

(6) To issue a grant under this section, the division shall:

(a) require that an Indian Tribe request the grant in writing and specify how the grant money will be expended; and

(b) enter into an agreement with the Indian Tribe to ensure that the grant money is expended in accordance with Subsection (3).

Section 51. Section **9-9-408** is amended to read:

### **9-9-408. Burial of ancient Native American remains in state parks.**

(1) As used in this section:

(a) "Ancient Native American remains" means ancient human remains, as defined in Section [~~9-8-302~~] 9-8a-302, that are Native American remains, as defined in Section 9-9-402.

(b) "Antiquities Section" means the Antiquities Section of the [~~Division of State History~~] State Historic Preservation Office created in Section [~~9-8-304~~] 9-8a-304.

(2) (a) The division, the Antiquities Section, and the Division of State Parks shall cooperate in a study of the feasibility of burying ancient Native American remains in state parks.

(b) The study shall include:

(i) the process and criteria for determining which state parks would have land sufficient and appropriate to reserve a portion of the land for the burial of ancient Native American remains;

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(ii) the process for burying the ancient Native American remains on the lands within state parks, including the responsibilities of state agencies and the assurance of cultural sensitivity;

(iii) how to keep a record of the locations in which specific ancient Native American remains are buried;

(iv) how to account for the costs of:

(A) burying the ancient Native American remains on lands found within state parks;

and

(B) securing and maintaining burial sites in state parks; and

(v) any issues related to burying ancient Native American remains in state parks.

Section 52. Section **9-21-301** is amended to read:

### **9-21-301. Creation of commission -- Membership -- Rulemaking.**

(1) There is created within the division the Utah Multicultural Commission.

(2) The commission shall consist of the following 13 members, appointed by the governor:

~~[(a) the lieutenant governor, who shall serve as chair of the commission; and]~~

~~[(b) at least 14 additional members appointed by the governor to two-year terms.]~~

(a) one individual who advises the governor on education issues;

(b) one individual who advises the governor on homelessness issues;

(c) one individual who advises the governor on legislative policy;

(d) one individual who advises the governor on criminal and juvenile justice issues;

(e) one individual who advises the governor on issues concerning families and children; and

(f) eight individuals who represent Utah's multicultural communities.

(3) (a) A member of the commission:

(i) shall serve for a term of two years; and

(ii) may not serve more than two terms.

(b) Notwithstanding [the requirements of] Subsection [(2)(b)] (3)(a)(i), the governor shall at the time of appointment adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

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(c) When a vacancy occurs in the membership, the governor shall appoint a replacement for the unexpired term.

~~[(4) The commission shall meet at least six times per year.]~~

~~[(5)]~~ (4) A majority of the members of the commission constitutes a quorum of the commission at any meeting, and the action of the majority of members present is the action of the commission.

~~[(6) A member appointed by the governor may be reappointed for one or more additional terms.]~~

~~[(7) When a vacancy occurs in the membership, the governor shall appoint a replacement for the unexpired term.]~~

~~[(8)]~~ (5) A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(a) Sections 63A-3-106 and 63A-3-107; and

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

~~[(9)]~~ (6) The department shall make rules establishing the membership, duties, and procedures of the commission in accordance with the requirements of:

(a) this chapter; and

(b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

~~[(10)]~~ (7) The department shall provide administrative support to the commission.

Section 53. Section **9-21-302** is amended to read:

### **9-21-302. Commission duties.**

~~{ } (1)~~ (1) The commission shall:

~~[(1)]~~ (a) cooperate with the division and state agencies to ensure [access to culturally competent programs and services that meet the needs of the state's multicultural communities;] the state's resources, services, and programs:

(i) advance the interests of the state's multicultural communities;

(ii) are properly communicated and delivered to the state's multicultural communities;

and

(iii) promote a climate of inclusion in the state;

(b) develop and submit to the lieutenant governor an annual report that includes:

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(i) a description of the needs, goals, and deliverables that will directly impact the most significant and urgent needs of the state's multicultural communities; and

(ii) recommendations on how the state should act to address the needs, goals, and deliverables described in Subsection (1)(b)(i); and

(c) convene an annual meeting to discuss issues affecting the state's multicultural communities in coordination with the governor, lieutenant governor, and relevant stakeholders.

~~[(2) make recommendations to the director regarding policies, practices, and procedures to ensure the proper delivery of state resources, services, and programs to the state's multicultural communities;]~~

~~[(3) cooperate with the division and state agencies to ensure proper outreach to the state's multicultural communities regarding state resources, services, and programs; and]~~

~~[(4) develop a strategic plan to identify needs, goals, and deliverables that will directly impact the most significant and urgent needs of the state's multicultural communities.]~~

(2) In carrying out the duties described in Subsection (1), the commission shall:

(a) consult with the lieutenant governor; and

(b) prioritize programs and efforts related to:

(i) employment;

(ii) education;

(iii) housing;

(iv) criminal and juvenile justice; or

(v) health and mental health, including suicide prevention.

Section 54. Section **9-22-103** is amended to read:

### **9-22-103. STEM Action Center Board creation -- Membership.**

(1) There is created the STEM Action Center Board, composed of the following members:

(a) ~~[six]~~ seven private sector members who represent business, appointed by the governor;

(b) the state superintendent of public instruction or the state superintendent's designee;

(c) the commissioner of higher education or the commissioner's designee;

(d) one member appointed by the governor;

(e) a member of the State Board of Education, chosen by the chair of the State Board of



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Education;

(f) the executive director of the department or the executive director's designee; and

(g) the executive director of the Department of Workforce Services or the executive director's designee[~~;~~ and].

~~[(h) one member who has a degree in engineering and experience working in a government military installation, appointed by the governor.]~~

(2) (a) The private sector members appointed by the governor in Subsection (1)(a) shall represent a business or trade association whose primary focus is science, technology, or engineering.

(b) Except as required by Subsection (2)(c), members appointed by the governor shall be appointed to four-year terms.

(c) The length of terms of the members shall be staggered so that approximately half of the committee is appointed every two years.

(d) The members may not serve more than two full consecutive terms except where the governor determines that an additional term is in the best interest of the state.

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

(3) Attendance of a simple majority of the members constitutes a quorum for the transaction of official committee business.

(4) Formal action by the STEM board requires a majority vote of a quorum.

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

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) The governor shall select the chair of the STEM board to serve a two-year term.

(7) The executive director of the department or the executive director's designee shall serve as the vice chair of the STEM board.

Section 55. Section ~~9-23-203~~, which is renumbered from Section 63N-10-202 is renumbered and amended to read:

~~[63N-10-202].~~      9-23-203. Commission powers and duties.

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(1) The commission shall:

(a) purchase and use a seal;

(b) adopt rules for the administration of this chapter in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act;

(c) prepare all forms of contracts between sponsors, licensees, promoters, and contestants; and

(d) hold hearings relating to matters under its jurisdiction, including violations of this chapter or rules made under this chapter.

(2) The commission may subpoena witnesses, take evidence, and require the production of books, papers, documents, records, contracts, recordings, tapes, correspondence, or other information relevant to an investigation if the commission or its designee considers it necessary.

Section 56. Section **9-23-304** is amended to read:

**9-23-304. Additional fees for promoter -- Dedicated credits -- Promotion of contests -- Annual exemption of showcase event.**

(1) In addition to the payment of any other fees and money due under this chapter, [every] a promoter shall pay a license fee and, if applicable, a broadcast revenue fee determined by the commission and established in rule.

(2) [~~License fees~~] Fees collected by the commission under this [~~Subsection (2) from professional boxing contests or exhibitions~~] section shall be retained by the commission as a dedicated credit to be used by the commission to award grants to organizations that promote amateur boxing in the state and cover commission expenses.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall adopt rules:

(a) governing the manner in which applications for grants under Subsection (2) may be submitted to the commission; and

(b) establishing standards for awarding grants under Subsection (2) to organizations which promote amateur boxing in the state.

(4) (a) For the purpose of creating a greater interest in contests in the state, the commission may exempt from the payment of license fees under this section one contest or exhibition in each calendar year, intended as a showcase event.

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(b) The commission shall select the contest or exhibition to be exempted based on factors which include:

- (i) attraction of the optimum number of spectators;
- (ii) costs of promoting and producing the contest or exhibition;
- (iii) ticket pricing;
- (iv) committed promotions and advertising of the contest or exhibition;
- (v) rankings and quality of the contestants; and
- (vi) committed television and other media coverage of the contest or exhibition.

Section 57. Section **9-24-101** is amended to read:

### **9-24-101. Definitions.**

As used in this chapter:

~~[(1) "Advisory committee" means the Utah Main Street Advisory Committee created in Section 9-24-103.]~~

~~[(2)]~~ (1) "Center" means the National Main Street Center.

~~[(3)]~~ (2) "Program" means the Utah Main Street Program created in Section 9-24-102.

Section 58. Section **9-24-102** is amended to read:

### **9-24-102. Utah Main Street Program.**

(1) The Utah Main Street Program is created within the department to provide resources for the revitalization of downtown or commercial district areas of municipalities in the state.

(2) To implement the program, the department may:

(a) become a member of the National Main Street Center and partner with the center to become the statewide coordinating program for participating municipalities in the state;

(b) establish criteria for the designation of one or more local main street programs administered by a county or municipality in the state;

~~[(c) consider the recommendations of the advisory committee in designating and implementing local main street programs;]~~

~~[(d)]~~ (c) provide training and technical assistance to local governments, businesses, property owners, or other organizations that participate in designated local main street programs;

~~[(e)]~~ (d) subject to appropriations from the Legislature or other funding, provide

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financial assistance to designated local main street programs; and

~~[(f)]~~ (e) under the direction of the executive director, appoint full-time staff.

(3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules establishing the eligibility and reporting criteria for a downtown area to receive a local main street program designation, including requirements for:

(a) local government support of the local main street program; and

(b) collecting data to measure economic development impact.

(4) The department shall include in the annual written report described in Section 9-1-208, a report of the program's operations and details of which municipalities have received:

(a) a local main street program designation; and

(b) financial support from the program.

Section 59. Section **10-9a-534** is amended to read:

### **10-9a-534. Regulation of building design elements prohibited -- Exceptions.**

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a municipality may not impose a requirement for a building design element on a one to two family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

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- (i) the National Register of Historic Places;
  - (ii) the state register as defined in Section [~~9-8-402~~] 9-8a-402; or
  - (iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;
- (b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;
  - (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;
  - (d) building design elements agreed to under a development agreement;
  - (e) a dwelling located within an area that:
    - (i) is zoned primarily for residential use; and
    - (ii) was substantially developed before calendar year 1950;
  - (f) an ordinance enacted to implement water efficient landscaping in a rear yard;
  - (g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:
    - (i) defects in the material of existing cladding; or
    - (ii) consistent defects in the installation of existing cladding; or
  - (h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:
    - (i) the municipality to apply to the owner's property; and
    - (ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 60. Section **15A-2-103** is amended to read:

**15A-2-103. Specific editions adopted of construction code of a nationally recognized code authority.**

(1) Subject to the other provisions of this part, the following construction codes are incorporated by reference, and together with the amendments specified in Chapter 3, Statewide Amendments Incorporated as Part of State Construction Code, and Chapter 4, Local Amendments Incorporated as Part of State Construction Code, are the construction standards to be applied to building construction, alteration, remodeling, and repair, and in the regulation of building construction, alteration, remodeling, and repair in the state:

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(a) the 2018 edition of the International Building Code, including Appendices C and J, issued by the International Code Council;

(b) the 2015 edition of the International Residential Code, issued by the International Code Council;

(c) Appendix Q of the 2018 edition of the International Residential Code, issued by the International Code Council;

(d) the 2018 edition of the International Plumbing Code, issued by the International Code Council;

(e) the 2018 edition of the International Mechanical Code, issued by the International Code Council;

(f) the 2018 edition of the International Fuel Gas Code, issued by the International Code Council;

(g) the 2020 edition of the National Electrical Code, issued by the National Fire Protection Association;

(h) the residential provisions of the 2015 edition of the International Energy Conservation Code, issued by the International Code Council;

(i) the commercial provisions of the 2018 edition of the International Energy Conservation Code, issued by the International Code Council;

(j) the 2018 edition of the International Existing Building Code, issued by the International Code Council;

(k) subject to Subsection 15A-2-104(2), the HUD Code;

(l) subject to Subsection 15A-2-104(1), Appendix E of the 2015 edition of the International Residential Code, issued by the International Code Council;

(m) subject to Subsection 15A-2-104(1), the 2005 edition of the NFPA 225 Model Manufactured Home Installation Standard, issued by the National Fire Protection Association;

(n) subject to Subsection (3), for standards and guidelines pertaining to plaster on a historic property, as defined in Section ~~[9-8-302]~~ 9-8a-302, the U.S. Department of the Interior Secretary's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings; and

(o) the residential provisions of the 2018 edition of the International Swimming Pool and Spa Code, issued by the International Code Council.

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(2) Consistent with Title 65A, Chapter 8, Management of Forest Lands and Fire Control, the Legislature adopts the 2006 edition of the Utah Wildland Urban Interface Code, issued by the International Code Council, with the alternatives or amendments approved by the Utah Division of Forestry, as a construction code that may be adopted by a local compliance agency by local ordinance or other similar action as a local amendment to the codes listed in this section.

(3) The standards and guidelines described in Subsection (1)(n) apply only if:

(a) the owner of the historic property receives a government tax subsidy based on the property's status as a historic property;

(b) the historic property is wholly or partially funded by public money; or

(c) the historic property is owned by a government entity.

Section 61. Section **17-27a-530** is amended to read:

### **17-27a-530. Regulation of building design elements prohibited -- Exceptions.**

(1) As used in this section, "building design element" means:

(a) exterior color;

(b) type or style of exterior cladding material;

(c) style, dimensions, or materials of a roof structure, roof pitch, or porch;

(d) exterior nonstructural architectural ornamentation;

(e) location, design, placement, or architectural styling of a window or door;

(f) location, design, placement, or architectural styling of a garage door, not including a rear-loading garage door;

(g) number or type of rooms;

(h) interior layout of a room;

(i) minimum square footage over 1,000 square feet, not including a garage;

(j) rear yard landscaping requirements;

(k) minimum building dimensions; or

(l) a requirement to install front yard fencing.

(2) Except as provided in Subsection (3), a county may not impose a requirement for a building design element on a one to two family dwelling.

(3) Subsection (2) does not apply to:

(a) a dwelling located within an area designated as a historic district in:

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- (i) the National Register of Historic Places;
  - (ii) the state register as defined in Section [~~9-8-402~~] 9-8a-402; or
  - (iii) a local historic district or area, or a site designated as a local landmark, created by ordinance before January 1, 2021;
- (b) an ordinance enacted as a condition for participation in the National Flood Insurance Program administered by the Federal Emergency Management Agency;
  - (c) an ordinance enacted to implement the requirements of the Utah Wildland Urban Interface Code adopted under Section 15A-2-103;
  - (d) building design elements agreed to under a development agreement;
  - (e) a dwelling located within an area that:
    - (i) is zoned primarily for residential use; and
    - (ii) was substantially developed before calendar year 1950;
  - (f) an ordinance enacted to implement water efficient landscaping in a rear yard;
  - (g) an ordinance enacted to regulate type of cladding, in response to findings or evidence from the construction industry of:
    - (i) defects in the material of existing cladding; or
    - (ii) consistent defects in the installation of existing cladding; or
  - (h) a land use regulation, including a planned unit development or overlay zone, that a property owner requests:
    - (i) the county to apply to the owner's property; and
    - (ii) in exchange for an increase in density or other benefit not otherwise available as a permitted use in the zoning area or district.

Section 62. Section **17C-2-103** is amended to read:

### **17C-2-103. Urban renewal project area plan requirements.**

- (1) An agency shall ensure that each urban renewal project area plan and proposed project area plan:
  - (a) describes the boundaries of the project area, subject to Section 17C-1-414, if applicable;
  - (b) contains a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the project area development;



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(c) states the standards that will guide the project area development;

(d) shows how the purposes of this title will be attained by the project area development;

(e) is consistent with the general plan of the community in which the project area is located and show that the project area development will conform to the community's general plan;

(f) describes how the project area development will reduce or eliminate a development impediment in the project area;

(g) describes any specific project or projects that are the object of the proposed project area development;

(h) identifies how a participant will be selected to undertake the project area development and identify each participant currently involved in the project area development;

(i) states the reasons for the selection of the project area;

(j) describes the physical, social, and economic conditions existing in the project area;

(k) describes any tax incentives offered private entities for facilities located in the project area;

(l) includes the analysis described in Subsection (2);

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

(n) includes other information that the agency determines to be necessary or advisable.

(2) An agency shall ensure that each analysis under Subsection (1)(l) considers:

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

(i) an evaluation of the reasonableness of the costs of the project area development;

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

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

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(iv) an estimate of the total amount of tax increment that will be expended in undertaking project area development and the project area funds collection period; and

(b) the anticipated public benefit to be derived from the project area development, including:

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

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

(iii) whether adoption of the project area plan is necessary and appropriate to reduce or eliminate a development impediment.

Section 63. Section **17C-2-104** is amended to read:

**17C-2-104. Existing and historic buildings and uses in an urban renewal project area.**

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

Section 64. Section **17C-3-103** is amended to read:

**17C-3-103. Economic development project area plan requirements.**

(1) Each economic development project area plan and proposed project area plan shall:

(a) describe the boundaries of the project area, subject to Section 17C-1-414, if applicable;

(b) contain a general statement of the land uses, layout of principal streets, population densities, and building intensities of the project area and how they will be affected by the project area development;

(c) state the standards that will guide the project area development;

(d) show how the purposes of this title will be attained by the project area development;

(e) be consistent with the general plan of the community in which the project area is located and show that the project area development will conform to the community's general plan;

(f) describe how the project area development will create additional jobs;

(g) describe any specific project or projects that are the object of the proposed project area development;

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(h) identify how a participant will be selected to undertake the project area development and identify each participant currently involved in the project area development;

(i) state the reasons for the selection of the project area;

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

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

(l) include an analysis, as provided in Subsection (2), of whether adoption of the project area plan is beneficial under a benefit analysis;

(m) if any of the existing buildings or uses in the project area are included in or eligible for inclusion in the National Register of Historic Places or the State Register, state that the agency shall comply with Subsection [~~9-8-404(1)~~] 9-8a-404(1) as though the agency were a state agency; and

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

(2) Each analysis under Subsection (1)(l) shall consider:

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

(i) an evaluation of the reasonableness of the costs of project area development;

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

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

(iv) an estimate of the total amount of tax increment that will be expended in undertaking project area development and the length of time for which it will be expended; and

(b) the anticipated public benefit to be derived from the project area development, including:

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

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

(iii) the number of jobs or employment anticipated to be generated or preserved.

Section 65. Section **17C-3-104** is amended to read:

**17C-3-104. Existing and historic buildings and uses in an economic development**

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### project area.

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

Section 66. Section **17C-5-105** is amended to read:

#### **17C-5-105. Community reinvestment project area plan requirements.**

An agency shall ensure that each community reinvestment project area plan and proposed community reinvestment project area plan:

(1) subject to Section 17C-1-414, if applicable, includes a boundary description and a map of the community reinvestment project area;

(2) contains a general statement of the existing land uses, layout of principal streets, population densities, and building intensities of the community reinvestment project area and how each will be affected by project area development;

(3) states the standards that will guide project area development;

(4) shows how project area development will further purposes of this title;

(5) is consistent with the general plan of the community in which the community reinvestment project area is located and shows that project area development will conform to the community's general plan;

(6) if applicable, describes how project area development will eliminate or reduce a development impediment in the community reinvestment project area;

(7) describes any specific project area development that is the object of the community reinvestment project area plan;

(8) if applicable, explains how the agency plans to select a participant;

(9) states each reason the agency selected the community reinvestment project area;

(10) describes the physical, social, and economic conditions that exist in the community reinvestment project area;

(11) describes each type of financial assistance that the agency anticipates offering a participant;

(12) includes an analysis or description of the anticipated public benefit resulting from project area development, including benefits to the community's economic activity and tax

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base;

(13) if applicable, states that the agency shall comply with Section [~~9-8-404~~] 9-8a-404 as required under Section 17C-5-106;

(14) for a community reinvestment project area plan that an agency adopted before May 14, 2019, states whether the community reinvestment project area plan or proposed community reinvestment project area plan is subject to a taxing entity committee or an interlocal agreement; and

(15) includes other information that the agency determines to be necessary or advisable.

Section 67. Section **17C-5-106** is amended to read:

**17C-5-106. Existing and historic buildings and uses in a community reinvestment project area.**

An agency shall comply with Section [~~9-8-404~~] 9-8a-404 as though the agency is a state agency if:

(1) any of the existing buildings or uses in a community reinvestment project area are included in, or eligible for inclusion in, the National Register of Historic Places or the State Register; and

(2) the agency spends agency funds on the demolition or rehabilitation of existing buildings described in Subsection (1).

Section 68. 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~~] means the same as that term is defined [~~as provided~~] in Section [~~9-8-302~~] 9-8a-302.

(b) "Curation facility" means:

(i) the museum;

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

(iii) an appropriate state park.

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

(d) "Repository" means:

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

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(ii) a place of reburial.

(e) "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 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.

(4) (a) All collections recovered from lands owned or controlled by the state or its 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~~] 9-8a-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

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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 69. Section **53B-18-1002** is amended to read:

**53B-18-1002. Establishment of the center -- Purpose -- Duties and responsibilities.**

(1) There is established the Mormon Pioneer Heritage Center in connection with Utah State University.

(2) The purpose of the center is to coordinate interdepartmental research and extension efforts in recreation, heritage tourism, and agricultural extension service and to enter into cooperative contracts with the United States Departments of Agriculture and the Interior, state, county, and city officers, public and private organizations, and individuals to enhance Mormon

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pioneer heritage.

(3) The center has the following duties and responsibilities:

(a) to support United States Congressional findings that the landscape, architecture, traditions, products, and events in the counties convey the heritage of pioneer settlements and their role in agricultural development;

(b) to coordinate with extension agents in the counties to assist in the enhancement of heritage businesses and the creation of heritage products;

(c) to foster a close working relationship with all levels of government, the private sector, residents, business interests, and local communities;

(d) to support United States Congressional findings that the historical, cultural, and natural heritage legacies of Mormon colonization and settlement are nationally significant;

(e) to encourage research and studies relative to the variety of heritage resources along the 250-mile Highway 89 corridor from Fairview to Kanab, Utah, and Highways 12 and 24, the All American Road, to the extent those resources demonstrate:

(i) the colonization of the western United States; and

(ii) the expansion of the United States as a major world power;

(f) to demonstrate that the great relocation to the western United States was facilitated by:

(i) the 1,400 mile trek from Illinois to the Great Salt Lake by the Mormon Pioneers; and

(ii) the subsequent colonization effort in Nevada, Utah, the southeast corner of Idaho, the southwest corner of Wyoming, large areas of southeastern Oregon, much of southern California, and areas along the eastern border of California; and

(g) to assist in interpretive efforts that demonstrate how the Boulder Loop, Capitol Reef National Park, Zion National Park, Bryce Canyon National Park, and the Highway 89 area convey the compelling story of how early settlers:

(i) interacted with Native Americans; and

(ii) established towns and cities in a harsh, yet spectacular, natural environment.

(4) The center, in collaboration with the United States Department of the Interior, the National Park Service, the United States Department of Agriculture, the United States Forest Service, the Department of Cultural and Community Engagement, the Utah [~~Division of State~~



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~~History]~~ Historical Society, and the alliance and its intergovernmental local partners, shall:

- (a) assist in empowering communities in the counties to conserve, preserve, and enhance the heritage of the communities while strengthening future economic opportunities;
  - (b) help conserve, interpret, and develop the historical, cultural, natural, and recreational resources within the counties; and
  - (c) expand, foster, and develop heritage businesses and products relating to the cultural heritage of the counties.
- (5) The center, in collaboration with the United States Department of the Interior, the National Park Service, and with funding from the alliance, shall develop a heritage management plan.

Section 70. Section **59-7-609** is amended to read:

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

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

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

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

(d) The commission, in consultation with the [~~Division of State History~~] State Historic Preservation Office, shall promulgate rules to implement this section.

(2) As used in this section:

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

(b) (i) "Qualified rehabilitation expenditures" means any amount properly chargeable

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to the rehabilitation and restoration of the physical elements of the building, including the historic decorative elements, and the upgrading of the structural, mechanical, electrical, and plumbing systems to applicable codes.

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

(A) the taxpayer's personal labor;

(B) cost of acquisition of the property;

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

(D) rehabilitation of a certified historic building without the approval required in

Subsection (1)(b); or

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

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

Section 71. Section **59-10-1006** is amended to read:

### **59-10-1006. Historic preservation tax credit.**

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

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

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

(d) The commission, in consultation with the [~~Division of State History~~] State Historic Preservation Office, shall promulgate rules to implement this section.

(2) As used in this section:

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

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

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

(A) a claimant's, estate's, or trust's personal labor;

(B) cost of acquisition of the property;

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

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

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

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

Section 72. Section **63A-12-112** is amended to read:

### **63A-12-112. Records Management Committee -- Creation -- Membership -- Administration.**

(1) There is created the Records Management Committee composed of the following seven members:

(a) the director of the ~~[Division of State History]~~ Utah Historical Society or the director's designee;

(b) the director of the Division of Archives and Records Services or the director's designee; and

(c) five members appointed by the governor as follows:

(i) a member of the Utah State Bar who understands public records keeping under Title 63G, Chapter 2, Government Records Access and Management Act;

(ii) a member with experience in public finance;

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(iii) an individual from the private sector whose principal professional responsibilities are to create or manage records;

(iv) a member representing political subdivisions, recommended by the Utah League of Cities and Towns; and

(v) a member representing the news media.

(2) (a) Except as provided in Subsection (2)(b), the governor shall appoint each member to a four-year term.

(b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment or reappointment, adjust the length of committee members' terms to ensure that the terms of members appointed by the governor are staggered so that approximately half of the committee members appointed by the governor are appointed every two years.

(c) Each appointed member of the committee is eligible for reappointment for one additional term.

(3) When a vacancy occurs in the membership of the committee for any reason, the applicable appointing authority shall appoint a replacement for the unexpired term.

(4) A member of the Records Management Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

(b) Section 63A-3-107; and

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

Section 73. Section **63C-9-301** is amended to read:

### **63C-9-301. Board powers -- Subcommittees.**

(1) The board shall:

(a) except as provided in Subsection (2), exercise complete jurisdiction and stewardship over capitol hill facilities, capitol hill grounds, and the capitol hill complex;

(b) preserve, maintain, and restore the capitol hill complex, capitol hill facilities, capitol hill grounds, and their contents;

(c) before October 1 of each year, review and approve the executive director's annual budget request for submittal to the governor and Legislature;

(d) by October 1 of each year, prepare and submit a recommended budget request for

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the upcoming fiscal year for the capitol hill complex to:

- (i) the governor, through the Governor's Office of Planning and Budget; and
- (ii) the Legislature's appropriations subcommittee responsible for capitol hill facilities,

through the Office of the Legislative Fiscal Analyst;

- (e) review and approve the executive director's:

- (i) annual work plan;

- (ii) long-range master plan for the capitol hill complex, capitol hill facilities, and

capitol hill grounds; and

- (iii) furnishings plan for placement and care of objects under the care of the board;

- (f) approve all changes to the buildings and their grounds, including:

- (i) restoration, remodeling, and rehabilitation projects;

- (ii) usual maintenance program; and

- (iii) any transfers or loans of objects under the board's care;

- (g) define and identify all significant aspects of the capitol hill complex, capitol hill

facilities, and capitol hill grounds, after consultation with the:

- (i) Division of Facilities Construction and Management;

- (ii) State Library Division;

- (iii) Division of Archives and Records Service;

- (iv) [~~Division of State History~~] Utah Historical Society;

- (v) Office of Museum Services; and

- (vi) Arts Council;

- (h) inventory, define, and identify all significant contents of the buildings and all

state-owned items of historical significance that were at one time in the buildings, after

consultation with the:

- (i) Division of Facilities Construction and Management;

- (ii) State Library Division;

- (iii) Division of Archives and Records Service;

- (iv) [~~Division of State History~~] Utah Historical Society;

- (v) Office of Museum Services; and

- (vi) Arts Council;

- (i) maintain archives relating to the construction and development of the buildings, the

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contents of the buildings and their grounds, including documents such as plans, specifications, photographs, purchase orders, and other related documents, the original copies of which shall be maintained by the Division of Archives and Records Service;

(j) comply with federal and state laws related to program and facility accessibility; and

(k) establish procedures for receiving, hearing, and deciding complaints or other issues raised about the capitol hill complex, capitol hill facilities, and capitol hill grounds, or their use.

(2) (a) Notwithstanding Subsection (1)(a), the supervision and control of the legislative area, as defined in Section 36-5-1, is reserved to the Legislature; and

(b) the supervision and control of the governor's area, as defined in Section 67-1-16, is reserved to the governor.

(3) (a) The board shall make rules to govern, administer, and regulate the capitol hill complex, capitol hill facilities, and capitol hill grounds by following the procedures and requirements of Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

(b) A violation of a rule relating to the use of the capitol hill complex adopted by the board under the authority of this Subsection (3) is an infraction.

(c) If an act violating a rule under Subsection (3)(b) also amounts to an offense subject to a greater penalty under this title, Title 32B, Alcoholic Beverage Control Act, Title 41, Motor Vehicles, Title 76, Utah Criminal Code, or other provision of state law, Subsection (3)(b) does not prohibit prosecution and sentencing for the more serious offense.

(d) In addition to any punishment allowed under Subsections (3)(b) and (c), a person who violates a rule adopted by the board under the authority of this Subsection (3) is subject to a civil penalty not to exceed \$2,500 for each violation, plus the amount of any actual damages, expenses, and costs related to the violation of the rule that are incurred by the state.

(e) The board may take any other legal action allowed by law.

(f) The board may not apply this section or rules adopted under the authority of this section in a manner that violates a person's rights under the Utah Constitution or the First Amendment to the United States Constitution, including the right of persons to peaceably assemble.

(g) The board shall send proposed rules under this section to the legislative general counsel and the governor's general counsel for review and comment before the board adopts the

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rules.

(4) The board is exempt from the requirements of Title 63G, Chapter 6a, Utah Procurement Code, but shall adopt procurement rules substantially similar to the requirements of that chapter.

(5) The board shall name:

(a) the House Building, that is defined in Section 36-5-1, the "Rebecca D. Lockhart House Building"; and

(b) committee room 210 in the Senate Building, that is defined in Section 36-5-1, the "Allyson W. Gamble Committee Room".

(6) (a) The board may:

(i) establish subcommittees made up of board members and members of the public to assist and support the executive director in accomplishing the executive director's duties;

(ii) establish fees for the use of capitol hill facilities and capitol hill grounds;

(iii) assign and allocate specific duties and responsibilities to any other state agency, if the other agency agrees to perform the duty or accept the responsibility;

(iv) contract with another state agency to provide services;

(v) delegate by specific motion of the board any authority granted to it by this section to the executive director;

(vi) in conjunction with Salt Lake City, expend money to improve or maintain public property contiguous to East Capitol Boulevard and capitol hill;

(vii) provide wireless Internet service to the public without a fee in any capitol hill facility; and

(viii) when necessary, consult with the:

(A) Division of Facilities Construction and Management;

(B) State Library Division;

(C) Division of Archives and Records Service;

(D) [~~Division of State History~~] Utah Historical Society;

(E) Office of Museum Services; and

(F) Arts Council.

(b) The board's provision of wireless Internet service under Subsection (6)(a)(vii) shall be discontinued in the legislative area if the president of the Senate and the speaker of the

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House of Representatives each submit a signed letter to the board indicating that the service is disruptive to the legislative process and is to be discontinued.

(c) If a budget subcommittee is established by the board, the following shall serve as ex officio, nonvoting members of the budget subcommittee:

(i) the legislative fiscal analyst, or the analyst's designee, who shall be from the Office of the Legislative Fiscal Analyst; and

(ii) the executive director of the Governor's Office of Planning and Budget, or the executive director's designee, who shall be from the Governor's Office of Planning and Budget.

(d) If a preservation and maintenance subcommittee is established by the board, the board may, by majority vote, appoint one or each of the following to serve on the subcommittee as voting members of the subcommittee:

(i) an architect, who shall be selected from a list of three architects submitted by the American Institute of Architects; or

(ii) an engineer, who shall be selected from a list of three engineers submitted by the American Civil Engineers Council.

(e) If the board establishes any subcommittees, the board may, by majority vote, appoint up to two people who are not members of the board to serve, at the will of the board, as nonvoting members of a subcommittee.

(f) Members of each subcommittee shall, at the first meeting of each calendar year, select one individual to act as chair of the subcommittee for a one-year term.

(7) (a) The board, and the employees of the board, may not move the office of the governor, lieutenant governor, president of the Senate, speaker of the House of Representatives, or a member of the Legislature from the State Capitol unless the removal is approved by:

(i) the governor, in the case of the governor's office;

(ii) the lieutenant governor, in the case of the lieutenant governor's office;

(iii) the president of the Senate, in the case of the president's office or the office of a member of the Senate; or

(iv) the speaker of the House of Representatives, in the case of the speaker's office or the office of a member of the House.

(b) The board and the employees of the board have no control over the furniture,



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furnishings, and decorative objects in the offices of the governor, lieutenant governor, or the members of the Legislature except as necessary to inventory or conserve items of historical significance owned by the state.

(c) The board and the employees of the board have no control over records and documents produced by or in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

(d) Except for items identified by the board as having historical significance, and except as provided in Subsection (7)(b), the board and the employees of the board have no control over moveable furnishings and equipment in the custody of a state agency, official, or employee having an office in a building on the capitol hill complex.

Section 74. Section **63C-9-601** is amended to read:

### **63C-9-601. Responsibility for items.**

Furniture, furnishings, fixtures, works of art, and decorative objects for which the board has responsibility under this chapter are not subject to the custody or control of the State Library Board, the State Library Division, the Division of Archives and Records Service, the [~~Division of State History~~] Utah Historical Society, the Division of Arts and Museums, the arts collection committee of the State of Utah Alice Merrill Horne Art Collection, or any other state agency.

Section 75. Section **63L-11-202** is amended to read:

### **63L-11-202. Powers and duties of the office and executive director.**

(1) The office shall:

(a) make a report to the Constitutional Defense Council created under Section 63C-4a-202 concerning R.S. 2477 rights and other public lands issues under Title 63C, Chapter 4a, Constitutional and Federalism Defense Act;

(b) provide staff assistance to the Constitutional Defense Council created under Section 63C-4a-202 for meetings of the council;

(c) (i) prepare and submit a constitutional defense plan under Section 63C-4a-403; and

(ii) execute any action assigned in a constitutional defense plan;

(d) develop public lands policies by:

(i) developing cooperative contracts and agreements between the state, political subdivisions, and agencies of the federal government for involvement in the development of

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public lands policies;

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

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

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

(A) prepare coordinated public lands policies;

(B) develop consistency reviews and responses to public lands policies;

(C) develop management plans that relate to public lands policies; and

(D) develop and maintain a statewide land use plan that is based on cooperation and in conjunction with political subdivisions;

(e) facilitate and coordinate the exchange of information, comments, and recommendations on public lands policies between and among:

(i) state agencies;

(ii) political subdivisions;

(iii) the Office of Rural Development created under Section 63N-4-102;

(iv) the coordinating committee;

(v) School and Institutional Trust Lands Administration created under Section 53C-1-201;

(vi) the committee created under Section 63A-16-507 to award grants to counties to inventory and map R.S. 2477 rights-of-way, associated structures, and other features; and

(vii) the Constitutional Defense Council created under Section 63C-4a-202;

(f) perform the duties established in [~~Title 9, Chapter 8, Part 3, Antiquities, and Title 9, Chapter 8, Part 4, Historic Sites~~] Title 9, Chapter 8a, Part 3, Antiquities, and Title 9, Chapter 8a, Part 4, Historic Sites;

(g) consistent with other statutory duties, encourage agencies to responsibly preserve archaeological resources;

(h) maintain information concerning grants made under Subsection (1)(j), if available;

(i) report annually, or more often if necessary or requested, concerning the office's activities and expenditures to:

(i) the Constitutional Defense Council; and

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(ii) the Legislature's Natural Resources, Agriculture, and Environment Interim Committee jointly with the Constitutional Defense Council;

(j) make grants of up to 16% of the office's total annual appropriations from the Constitutional Defense Restricted Account to a county or statewide association of counties to be used by the county or association of counties for public lands matters if the executive director, with the advice of the Constitutional Defense Council, determines that the action provides a state benefit;

(k) provide staff services to the Snake Valley Aquifer Advisory Council created in Section 63C-12-103;

(l) coordinate and direct the Snake Valley Aquifer Research Team created in Section 63C-12-107;

(m) conduct the public lands transfer study and economic analysis required by Section 63L-11-304; and

(n) fulfill the duties described in Section 63L-10-103.

(2) The executive director shall comply with Subsection 63C-4a-203(8) before submitting a comment to a federal agency, if the governor would be subject to Subsection 63C-4a-203(8) in submitting the comment.

(3) The office may enter into an agreement with another state agency to provide information and services related to:

(a) the duties authorized by Title 72, Chapter 3, Highway Jurisdiction and Classification Act;

(b) legal actions concerning Title 72, Chapter 3, Highway Jurisdiction and Classification Act, or R.S. 2477 matters; or

(c) any other matter within the office's responsibility.

(4) In fulfilling the duties under this part, the office shall consult, as necessary, with:

(a) the Department of Natural Resources;

(b) the Department of Agriculture and Food;

(c) the Department of Environmental Quality;

(d) other applicable state agencies;

(e) political subdivisions of the state;

(f) federal land management agencies; and

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(g) elected officials.

Section 76. Section **63L-11-402** is amended to read:

### **63L-11-402. Membership -- Terms -- Chair -- Expenses.**

(1) The Resource Development Coordinating Committee consists of the following 26 members:

- (a) the state science advisor;
- (b) a representative from the Department of Agriculture and Food appointed by the commissioner of the Department of Agriculture and Food;
- (c) a representative from the Department of Cultural and Community Engagement appointed by the executive director of the Department of Cultural and Community Engagement;
- (d) a representative from the Department of Environmental Quality appointed by the executive director of the Department of Environmental Quality;
- (e) a representative from the Department of Natural Resources appointed by the executive director of the Department of Natural Resources;
- (f) a representative from the Department of Transportation appointed by the executive director of the Department of Transportation;
- (g) a representative from the Governor's Office of Economic Opportunity appointed by the director of the Governor's Office of Economic Opportunity;
- (h) a representative from the Housing and Community Development Division appointed by the director of the Housing and Community Development Division;
- (i) a representative from the [~~Division of State History~~] Utah Historical Society appointed by the director of the [~~Division of State History~~] Utah Historical Society;
- (j) a representative from the Division of Air Quality appointed by the director of the Division of Air Quality;
- (k) a representative from the Division of Drinking Water appointed by the director of the Division of Drinking Water;
- (l) a representative from the Division of Environmental Response and Remediation appointed by the director of the Division of Environmental Response and Remediation;
- (m) a representative from the Division of Waste Management and Radiation Control appointed by the director of the Division of Waste Management and Radiation Control;

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(n) a representative from the Division of Water Quality appointed by the director of the Division of Water Quality;

(o) a representative from the Division of Oil, Gas, and Mining appointed by the director of the Division of Oil, Gas, and Mining;

(p) a representative from the Division of Parks appointed by the director of the Division of Parks;

(q) a representative from the Division of Outdoor Recreation appointed by the director of the Division of Outdoor Recreation;

(r) a representative from the Division of Forestry, Fire, and State Lands appointed by the director of the Division of Forestry, Fire, and State Lands;

(s) a representative from the Utah Geological Survey appointed by the director of the Utah Geological Survey;

(t) a representative from the Division of Water Resources appointed by the director of the Division of Water Resources;

(u) a representative from the Division of Water Rights appointed by the director of the Division of Water Rights;

(v) a representative from the Division of Wildlife Resources appointed by the director of the Division of Wildlife Resources;

(w) a representative from the School and Institutional Trust Lands Administration appointed by the director of the School and Institutional Trust Lands Administration;

(x) a representative from the Division of Facilities Construction and Management appointed by the director of the Division of Facilities Construction and Management;

(y) a representative from the Division of Emergency Management appointed by the director of the Division of Emergency Management; and

(z) a representative from the Division of Conservation, created under Section 4-46-401, appointed by the director of the Division of Conservation.

(2) (a) As particular issues require, the coordinating committee may, by majority vote of the members present, appoint additional temporary members to serve as ex officio voting members.

(b) Those ex officio members may discuss and vote on the issue or issues for which they were appointed.

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(3) A chair shall be selected by a vote of 14 committee members with the concurrence of the executive director.

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

(a) Sections 63A-3-106 and 63A-3-107; and

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

Section 77. Section **67-1-8.1** is amended to read:

**67-1-8.1. Executive Residence Commission -- Recommendations as to use, maintenance, and operation of executive residence.**

(1) The Legislature finds and declares that:

(a) the state property known as the Thomas Kearns Mansion is a recognized state landmark possessing historical and architectural qualities that should be preserved; and

(b) the Thomas Kearns Mansion was the first building listed on the National Register of Historic Places in the state.

(2) As used in this section:

(a) "Executive residence" includes the:

(i) Thomas Kearns Mansion;

(ii) Carriage House building; and

(iii) grounds and landscaping surrounding the Thomas Kearns Mansion and the Carriage House building.

(b) "Commission" means the Executive Residence Commission established in this section.

(3) (a) An Executive Residence Commission is established to make recommendations to the Division of Facilities Construction and Management for the use, operation, maintenance, repair, rehabilitation, alteration, restoration, placement of art and monuments, or adoptive use of the executive residence.

(b) The commission shall meet at least once a year and make any recommendations to the Division of Facilities Construction and Management prior to August 1 of each year.

(4) The commission shall consist of nine voting members and one ex officio, nonvoting member representing the Governor's Mansion Foundation. The membership shall

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consist of:

(a) three private citizens appointed by the governor, who have demonstrated an interest in historical preservation;

(b) three additional private citizens appointed by the governor with the following background:

(i) an interior design professional with a background in historic spaces;

(ii) an architect with a background in historic preservation and restoration recommended by the Utah chapter of the American Institute of Architects; and

(iii) a landscape architect with a background and knowledge of historic properties recommended by the Utah chapter of the American Society of Landscape Architects;

(c) the director, or director's designee, of the Division of Art and Museums;

(d) the director, or director's designee, of the [~~Division of State History~~] Utah Historical Society; and

(e) the executive director, or executive director's designee, of the Department of Government Operations.

(5) (a) Except as required by Subsection (5)(b), as terms of current commission members expire, the governor shall appoint each new member or reappointed member to a four-year term ending on March 1.

(b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of commission members are staggered so that approximately half of the commission is appointed every two years.

(6) (a) The governor shall appoint a chair from among the membership of the commission.

(b) Six members of the commission shall constitute a quorum, and either the chair or two other members of the commission may call meetings of the commission.

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

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

(a) Section 63A-3-106;

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(b) Section 63A-3-107; and

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

(9) The Division of Facilities Construction and Management shall provide the administrative support to the commission.

Section 78. Section **76-9-704** is amended to read:

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

(1) For purposes of this section, "dead human body" includes any part of a human body in any stage of decomposition, including ancient human remains as defined in Section ~~[9-8-302]~~ 9-8a-302.

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

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

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

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

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

(e) (i) commits or attempts to commit upon any dead human body any act of sexual penetration, regardless of the sex of the actor and of the dead human body; and

(ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however slight, of the genital or anal opening by any object, substance, instrument, or device, including a part of the human body, or penetration involving the genitals of the actor and the mouth of the dead human body.

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

(a) ~~[Title 9, Chapter 8, Part 3, Antiquities]~~ Title 9, Chapter 8a, Part 3, Antiquities;

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

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

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



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

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

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

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

**Section 79. Repealer.**

This bill repeals:

**Section 9-7-209, Depository libraries.**

**Section 9-7-210, Micrographics and other copying and transmission techniques.**

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

**Section 9-24-103, Main Street Program Advisory Committee -- Membership --**

**Duties.**

**Section 80. Effective date.**

This bill takes effect on July 1, 2023, with the exception of Section 63N-10-202 which takes effect on May 3, 2023.