

1                   **STATE HISTORIC PRESERVATION OFFICE AMENDMENTS**

2                                   2022 GENERAL SESSION

3                                   STATE OF UTAH

4                           **Chief Sponsor: Timothy D. Hawkes**

5                                   Senate Sponsor: Derrin R. Owens

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7   **LONG TITLE**

8   **General Description:**

9           This bill creates the State Historic Preservation Office.

10 **Highlighted Provisions:**

11       This bill:

- 12       ▶ defines terms;
- 13       ▶ assigns oversight of the State Historic Preservation Office to the State History
- 14 Board;
- 15       ▶ creates the State Historic Preservation Office;
- 16       ▶ describes the process for appointing the state historic preservation officer; and
- 17       ▶ describes the duties of the State Historic Preservation Office.

18 **Money Appropriated in this Bill:**

19       None

20 **Other Special Clauses:**

21       None

22 **Utah Code Sections Affected:**

23 AMENDS:

24       **9-8-204**, as last amended by Laws of Utah 2020, Chapters 352 and 373

25       **9-8-205**, as last amended by Laws of Utah 2017, Chapter 48

26 ENACTS:

27       **9-8-901**, Utah Code Annotated 1953

28       **9-8-902**, Utah Code Annotated 1953

29       **9-8-903**, Utah Code Annotated 1953

30 9-8-904, Utah Code Annotated 1953

31 9-8-905, Utah Code Annotated 1953

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

34 Section 1. Section 9-8-204 is amended to read:

35 **9-8-204. Board of State History.**

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

37 (2) The board shall consist of 11 members appointed by the governor with the advice  
38 and consent of the Senate, in accordance with Title 63G, Chapter 24, Part 2, Vacancies, [as  
39 follows: ~~(a) sufficient representatives to satisfy the federal requirements for an adequately~~  
40 ~~qualified State Historic Preservation Review Board; and (b) other~~] who are persons with an  
41 interest in the subject matter of the division's responsibilities.

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

44 (b) Notwithstanding the requirements of Subsection (3)(a), the governor shall, at the  
45 time of appointment or reappointment, adjust the length of terms to ensure that the terms of  
46 board members are staggered so that approximately half of the board is appointed every two  
47 years.

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

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

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

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

54 (a) Section 63A-3-106;

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

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

58 (8) A member shall comply with the conflict of interest provisions described in Title  
59 63G, Chapter 24, Part 3, Conflicts of Interest.

60 Section 2. Section 9-8-205 is amended to read:

61 **9-8-205. Board duties and powers.**

62 (1) The board shall:

63 (a) with respect to the division:

64 (i) make policies to direct the division director in carrying out the director's duties;

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

66 ~~[(c)]~~ (iii) assist the division in development programs consistent with this chapter; and

67 ~~[(d) function as the State Review Board for purposes of the historic preservation~~

68 ~~program;]~~

69 ~~[(e) recommend districts, sites, buildings, structures, and objects for listing on the State~~  
70 ~~and National Historic Registers to the director; and]~~

71 ~~[(f)]~~ (iv) review and approve, if appropriate, matching grants under Subsection

72 ~~9-8-203(3)(c)(ii);[:]~~ and

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

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

76 (ii) assist the office in programs consistent with Part 9, State Historic Preservation  
77 Office.

78 (2) The board may establish advisory committees to assist the board, the office, and the  
79 division in carrying out the responsibilities under this chapter.

80 Section 3. Section 9-8-901 is enacted to read:

81 **Part 9. State Historic Preservation Office**

82 **9-8-901. Definitions.**

83 As used in this part and in Section 9-8-205:

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

85 (2) "Committee" means the National Register Review Committee created in Section

86 9-8-905.

87 (3) "Office" means the State Historic Preservation Office created in Section 9-8-902.

88 (4) "Officer" means the state historic preservation officer, appointed in accordance  
89 with Section 9-8-903.

90 Section 4. Section **9-8-902** is enacted to read:

91 **9-8-902. State Historic Preservation Office -- Creation -- Purpose.**

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

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

96 (3) The office shall be the authority in the state for state history preservation and shall  
97 perform those duties set forth in statute.

98 Section 5. Section **9-8-903** is enacted to read:

99 **9-8-903. Appointment of state historic preservation officer.**

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

102 (2) The officer shall administer:

103 (a) the office; and

104 (b) the state historic preservation program.

105 Section 6. Section **9-8-904** is enacted to read:

106 **9-8-904. Office duties.**

107 The office shall:

108 (1) secure, for the present and future benefit of the state, the protection of  
109 archaeological resources and sites which are on state lands;

110 (2) foster increased cooperation and exchange of information between state authorities,  
111 the professional archaeological community, and private individuals;

112 (3) in cooperation with federal and state agencies, local governments, private  
113 organizations, and private individuals, direct and conduct a comprehensive statewide survey of

- 114 historic properties;
- 115       (4) maintain an inventory of the properties described in Subsection (3);
- 116       (5) identify and nominate eligible property to the National Register of Historic Places;
- 117       (6) administer applications for listing historic property on the National Register of
- 118 Historic Places;
- 119       (7) prepare and implement a comprehensive statewide historic preservation plan;
- 120       (8) administer the state program of federal assistance for historic preservation within
- 121 the state;
- 122       (9) advise and assist, as appropriate, state agencies, federal agencies, and local
- 123 governments in carrying out their historic preservation responsibilities;
- 124       (10) cooperate with federal agencies, state agencies, local agencies, private
- 125 organizations, and individuals to ensure that historic property is taken into consideration at all
- 126 levels of planning and development;
- 127       (11) provide, with respect to historic preservation:
- 128           (a) public information;
- 129           (b) education;
- 130           (c) training; and
- 131           (d) technical assistance;
- 132       (12) cooperate with local governments in the development of local historic
- 133 preservation programs;
- 134       (13) consult with appropriate federal agencies with respect to:
- 135           (a) federal undertakings that may affect historic properties; and
- 136           (b) advising and assisting in the evaluation of proposals for rehabilitation projects that
- 137 may qualify for federal assistance;
- 138       (14) perform other duties as designated under 54 U.S.C. Sec. 302303; and
- 139       (15) perform other duties as designated by the department and by statute.
- 140 Section 7. Section **9-8-905** is enacted to read:
- 141 **9-8-905. National Register Review Committee.**

- 142           (1) There is created the National Register Review Committee.
- 143           (2) The committee shall be composed of seven members, at least four of whom have  
144 professional experience in:
- 145           (a) history;
- 146           (b) prehistoric and historic archaeology;
- 147           (c) architectural history;
- 148           (d) architecture;
- 149           (e) folklore;
- 150           (f) cultural anthropology;
- 151           (g) museology, curation, or conservation;
- 152           (h) landscape architecture; or
- 153           (i) planning.
- 154           (3) To qualify as a member with professional experience in a discipline described in  
155 Subsection (2), a member shall meet the professional qualifications standards described in 36  
156 C.F.R. Sec. 61.4.
- 157           (4) The committee shall serve as Utah's State Historic Preservation Review Board  
158 described in 36 C.F.R. Sec. 61.4.
- 159           (5) The officer and the director shall make the initial appointments to the committee.
- 160           (6) (a) Except as described in Subsections (6)(b) and (c), a member shall serve a term  
161 of four years.
- 162           (b) When making initial appointments to the committee, the director and the officer  
163 shall stagger the terms so that approximately half of the committee members serve an initial  
164 term of two years.
- 165           (c) When the term of a current member expires, a member shall be reappointed or a  
166 new member shall be appointed in accordance with Subsection (8).
- 167           (7) (a) When a vacancy occurs in the membership for any reason, a replacement shall  
168 be appointed in accordance with Subsection (8) for the unexpired term.
- 169           (b) A member whose term has expired may continue to serve until a replacement is

170 appointed.

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

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

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

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

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

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

178 (14) The committee shall:

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

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

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

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

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

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