

Effective 5/5/2021

Title 9. Cultural and Community Engagement

**Chapter 1
General Policies and Administration of the
Department of Cultural and Community Engagement**

**Part 1
General Provisions**

9-1-101 Title.

- (1) This title is known as "Cultural and Community Engagement."
- (2) This chapter is known as "General Policies and Administration of the Department of Cultural and Community Engagement."

Amended by Chapter 184, 2021 General Session

9-1-102 Definitions.

As used in this title:

- (1) "Department" means the Department of Cultural and Community Engagement.
- (2) "Executive director" means the executive director of the Department of Cultural and Community Engagement.
- (3)
 - (a) "Pass-through funding" means funding from an appropriation by the Legislature to a state agency that is intended to be passed through the state agency to:
 - (i) a government or local government entity;
 - (ii) a private entity, including a not-for-profit entity; or
 - (iii) a person in the form of a loan or a grant.
 - (b) The funding may come from general funds, federal funds, dedicated credits, or a combination of funding sources.
- (4) "STEM" means science, technology, engineering, and mathematics.

Amended by Chapter 184, 2021 General Session

**Part 2
Department of Cultural and Community Engagement**

9-1-201 Department of Cultural and Community Engagement -- Creation -- Powers and duties.

- (1) There is created the Department of Cultural and Community Engagement.
- (2) The department is responsible for:
 - (a) planning, promoting, and supporting cultural and community engagement in the state, including programs and activities related to:
 - (i) libraries;
 - (ii) history;
 - (iii) the arts;

- (iv) STEM engagement;
 - (v) museums;
 - (vi) cultural development;
 - (vii) cultural organizations;
 - (viii) multicultural organizations and communities;
 - (ix) service and volunteerism; and
 - (x) the coordination of relationships with tribal nations;
- (b) overseeing and coordinating the program plans of the divisions within the department;
 - (c) administering and coordinating state and federal grant programs related to the programs and activities described in Subsection (2)(a);
 - (d) administering any other programs over which the department is given administrative supervision by the governor;
 - (e) submitting an annual written report to the governor and the Legislature as described in Section 9-1-208;
 - (f) ensuring that any training or certification required of a public official or public employee, as those terms are defined in Section 63G-22-102, complies with Title 63G, Chapter 22, State Training and Certification Requirements, if the training or certification is required:
 - (i) under this title;
 - (ii) by the department; or
 - (iii) by an agency or division within the department; and
 - (g) performing any other duties as provided by the Legislature.
- (3) The department may:
- (a) solicit and accept contributions of money, services, and facilities from any other sources, public or private, but may not use those contributions for publicizing the exclusive interest of the donor; and
 - (b) establish a nonprofit foundation called the Cultural and Community Engagement Foundation under the control and direction of the executive director to assist in the development and implementation of the programs and objectives described in this title.
- (4) Money received under Subsection (3)(a) shall be deposited into the General Fund as dedicated credits.
- (5) A foundation established by the department under Subsection (3)(b):
- (a) may receive contributions of money, services, and facilities from legislative appropriations, government grants, and private sources for the development and implementation of the programs and objectives described in this title;
 - (b) shall comply with the requirements described in Section 9-1-209; and
 - (c) shall provide information detailing all transactions and balances associated with the foundation to the department, which shall be summarized by the department and included in the department's annual report described in Section 9-1-208.
- (6)
- (a) For a pass-through funding grant of \$50,000 or less, the department shall make an annual disbursement to the pass-through funding grant recipient.
 - (b) For a pass-through funding grant of more than \$50,000, the department shall make a semiannual disbursement to the pass-through funding grant recipient, contingent upon the department receiving a semiannual progress report from the pass-through funding grant recipient.
 - (c) The department shall:
 - (i) provide the pass-through funding grant recipient with a progress report form for the reporting purposes described in Subsection (6)(b); and

- (ii) include reporting requirement instructions with the form.

Amended by Chapter 184, 2021 General Session

9-1-201.1 Executive director of department -- Appointment -- Removal -- Compensation.

- (1) The department shall be directed, organized, and managed by an executive director appointed by the governor with the advice and consent of the Senate.
- (2) The executive director serves at the pleasure of the governor.
- (3) The salary of the executive director shall be established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

Amended by Chapter 352, 2020 General Session

9-1-201.2 Organization of department -- Jurisdiction of executive director.

The executive director:

- (1) may organize the department in any fashion considered appropriate, unless otherwise expressly provided by statute; and
- (2) may consolidate personnel and service functions to effectuate efficiency and economy within the department.

Enacted by Chapter 212, 2012 General Session

9-1-202 Cooperation with other agencies and organizations.

In carrying out the provisions and purposes of this title, the department shall cooperate with, and make use of, the facilities and services of existing private or public agencies, corporations, persons, companies, or organizations to the fullest extent possible, and all state agencies, bureaus, or departments within their capabilities shall render full and complete cooperation to the department.

Renumbered and Amended by Chapter 241, 1992 General Session

9-1-203 Compliance with Administrative Procedures Act.

The department and all of its divisions, boards, offices, bureaus, commissions, and other entities shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in their adjudicative proceedings.

Amended by Chapter 382, 2008 General Session

9-1-208 Annual report -- Content -- Format.

- (1) The department shall prepare and submit to the governor and the Legislature, by October 1 of each year, an annual written report of the operations, activities, programs, and services of the department, including its divisions, offices, boards, commissions, councils, and committees, for the preceding fiscal year.
- (2) For each operation, activity, program, or service provided by the department, the annual report shall include:
 - (a) a description of the operation, activity, program, or service;
 - (b) data selected and used by the department to measure progress, performance, and scope of the operation, activity, program, or service, including summary data;

- (c) budget data, including the amount and source of funding, expenses, and allocation of full-time employees for the operation, activity, program, or service;
 - (d) historical data from previous years for comparison with data reported under Subsections (2) (b) and (c);
 - (e) goals, challenges, and achievements related to the operation, activity, program, or service;
 - (f) relevant federal and state statutory references and requirements;
 - (g) contact information of officials knowledgeable and responsible for each operation, activity, program, or service; and
 - (h) other information determined by the department that:
 - (i) may be needed, useful, or of historical significance; or
 - (ii) promotes accountability and transparency for each operation, activity, program, or service with the public and elected officials.
- (3) The annual report shall be designed to provide clear, accurate, and accessible information to the public, the governor, and the Legislature.
- (4) The department shall:
- (a) submit the annual report in accordance with Section 68-3-14; and
 - (b) make the annual report, and previous annual reports, accessible to the public by placing a link to the reports on the department's website.

Enacted by Chapter 371, 2014 General Session

9-1-209 Cultural and Community Engagement Foundation Fund.

- (1) As used in this section, "fund" means the Cultural and Community Engagement Foundation Fund created in this section.
- (2) There is created an expendable special revenue fund known as the "Cultural and Community Engagement Foundation Fund."
- (3) The executive director shall administer the fund.
- (4) Money may be deposited into the fund from a variety of sources, including transfers, grants, private foundations, individual donors, gifts, bequests, legislative appropriations, and money made available from any other source.
- (5) Money collected by the Cultural and Community Engagement Foundation described in Subsections 9-1-201(3)(b) and (5) shall be deposited into the fund.
- (6) Any portion of the fund may be treated as an endowment fund such that the principal of that portion of the fund is held in perpetuity on behalf of the department.
- (7) The state treasurer shall invest the money in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from those investments shall be deposited into the fund.
- (8) The executive director may expend money from the fund for any of the purposes described in this title.

Amended by Chapter 64, 2021 General Session

Amended by Chapter 184, 2021 General Session

9-1-210 Intergenerational poverty mitigation reporting.

- (1) As used in this section:
 - (a) "Cycle of poverty" means the same as that term is defined in Section 35A-9-102.
 - (b) "Intergenerational poverty" means the same as that term is defined in Section 35A-9-102.

- (2) On or before October 1 of each year, the department shall provide an annual report to the Department of Workforce Services for inclusion in the intergenerational poverty report described in Section 35A-9-202.
- (3) The report shall:
 - (a) describe policies, procedures, and programs that the department has implemented or modified to help break the cycle of poverty and end welfare dependency for children in the state affected by intergenerational poverty; and
 - (b) contain recommendations to the Legislature on how to address issues relating to breaking the cycle of poverty and ending welfare dependency for children in the state affected by intergenerational poverty.

Enacted by Chapter 36, 2022 General Session

9-1-211 Nonprofit Capacity Grant Program.

- (1) As used in this section, "nonprofit support organization" means a nonprofit organization that:
 - (a) is organized under the Utah Revised Nonprofit Corporation Act; and
 - (b) provides the following support for nonprofit organizations located in the state:
 - (i) building operational capacity;
 - (ii) improving the delivery of essential services in the state;
 - (iii) providing professional training;
 - (iv) providing technical support; or
 - (v) encouraging collaboration with other nonprofit organizations, industry, and government agencies.
- (2)
 - (a) There is created within the department the Nonprofit Capacity Grant Program.
 - (b) The purpose of the program is to provide grants to nonprofit support organizations.
- (3)
 - (a) A nonprofit support organization that submits a proposal for a grant to the department shall include details in the proposal regarding:
 - (i) the nonprofit support organization's name;
 - (ii) information about the nonprofit support organization's activities and purpose;
 - (iii) the nonprofit support organization's budget;
 - (iv) plans for sustaining the nonprofit support organization beyond the grant period;
 - (v) specific proposals for how the nonprofit support organization would use the grant; and
 - (vi) other information the department determines necessary to evaluate the proposal.
 - (b) When evaluating a proposal for a grant, the department shall consider:
 - (i) the grant amount requested;
 - (ii) the extent to which the proposal advances the goals described in Subsection (1)(b);
 - (iii) the extent to which any additional funding sources or existing or planned partnerships may benefit the proposal; and
 - (iv) the viability of the proposal.
- (4) Subject to Subsection (3), the department may, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to establish:
 - (a) eligibility criteria for a grant;
 - (b) the form and process for submitting a proposal to the department for a grant;
 - (c) the process and criteria for determining the priority of applications received;
 - (d) the formula and method for determining a grant amount; and
 - (e) reporting requirements for a grant recipient.

Enacted by Chapter 513, 2023 General Session

Chapter 6 Arts and Museums Development

Part 1 General Provisions

9-6-101 Title.

This chapter is known as "Arts and Museums Development."

Enacted by Chapter 419, 2020 General Session

9-6-102 Definitions.

As used in this chapter:

- (1) "Arts" means the various branches of creative human activity, including visual arts, film, performing arts, sculpture, literature, music, theater, dance, digital arts, video-game arts, and cultural vitality.
- (2) "Arts board" means the Utah Arts Advisory Board created in Section 9-6-301.
- (3) "Development" includes:
 - (a) constructing, expanding, or repairing a museum or other facility that houses arts or cultural presentations;
 - (b) providing for public information, preservation, and access to museums, the arts, and the cultural heritage of the state; and
 - (c) supporting the professional development of artists, cultural administrators, and cultural leaders within the state.
- (4) "Director" means the director of the Division of Arts and Museums.
- (5) "Division" means the Division of Arts and Museums.
- (6) "Museum" means an organized and permanent institution that:
 - (a) is owned or controlled by the state, a county, or a municipality, or is a nonprofit organization;
 - (b) has an educational or aesthetic purpose;
 - (c) owns or curates a tangible collection; and
 - (d) exhibits the collection to the public on a regular schedule.
- (7) "Museums board" means the Utah Museums Advisory Board created in Section 9-6-305.

Amended by Chapter 419, 2020 General Session

Part 2 Division of Arts and Museums

9-6-201 Division of Arts and Museums -- Creation -- Powers and duties.

- (1) There is created within the department the Division of Arts and Museums under the administration and general supervision of the executive director or the designee of the executive director.
- (2) The division shall:
 - (a) advance the interests of arts and museums in the state in all stages of development;
 - (b) promote and encourage the development of arts and culture in the state;
 - (c) support the efforts of state and local government and nonprofit arts, museums, and cultural organizations to encourage the development of arts, museums, and culture in the state;
 - (d) provide assistance to museums in the state to improve museums' ability to:
 - (i) care for and manage collections;
 - (ii) develop quality educational resources such as exhibitions, collections, and publications;
 - (iii) provide access to collections for research; and
 - (iv) provide other services as needed;
 - (e) assist arts and museum organizations in the state in cultural development as needed;
 - (f) cooperate with federal agencies and locally sponsor federal projects directed to the development of arts, museums, and culture in the state;
 - (g) develop the influence of arts in education and life-long learning;
 - (h) cooperate with the private sector, including businesses, charitable interests, educational interests, manufacturers, agriculturalists, and industrialists in arts, museums, and cultural endeavors;
 - (i) disseminate information related to arts, museums, and culture by utilizing broadcast media and print media;
 - (j) foster, promote, encourage, and facilitate the study, creation, and appreciation of the arts, museums, and culture in the state;
 - (k) foster, promote, encourage, and facilitate, the study, creation, and appreciation of the works of indigenous artists in the state;
 - (l) advise state and local government agencies and employees regarding arts and museums related issues, including arts and museums capital development projects;
 - (m) provide technical advice and information about sources of technical assistance to arts, museums, and cultural organizations in the state;
 - (n) develop, coordinate, and support programs, workshops, seminars, and similar activities that provide training for staff members of arts, museums, and cultural organizations in the state;
 - (o) undertake research to understand the training needs of the arts, museums, and cultural organizations community and assess how those needs can be met;
 - (p) administer grant programs to assist eligible arts, museums, and cultural organizations in the state; and
 - (q) create strategic partnerships to advance the development of arts, museums, and cultural organizations in the state.

Amended by Chapter 154, 2020 General Session

Amended by Chapter 419, 2020 General Session

9-6-202 Division director.

- (1) The chief administrative officer of the division shall be a director appointed by the executive director in consultation with the arts board and the museums board.
- (2) The director shall be a person experienced in administration and knowledgeable about the arts and museums.
- (3) In addition to the division, the director is the chief administrative officer for:

- (a) the Utah Arts Advisory Board created in Section 9-6-301; and
- (b) the Utah Museums Advisory Board created in Section 9-6-305.

Amended by Chapter 154, 2020 General Session

Amended by Chapter 419, 2020 General Session

9-6-203 Division powers relating to property.

- (1) The division may:
 - (a) take by purchase, grant, gift, donation, devise, or bequest, any property, real or personal, for any purpose appropriate to the objectives of the division; and
 - (b) convert property received by gift, grant, donation, devise, or bequest that is not suitable for the objectives of the division, into other available property or into money.
- (2) The property received or converted under Subsection (1) shall be held, invested, and managed and the proceeds used by the division for the purposes and under the conditions prescribed in the grant or donation.
- (3) If by the terms of any grant, gift, donation, devise, or bequest, conditions are imposed that are impracticable under the law, the grant or donation does not fail but the unlawful or impracticable conditions shall be rejected and the intent of the grantor or donor shall be reasonably carried out as determined by the division.
- (4) A grant, gift, donation, devise, or bequest for the benefit of the division may not be defeated or prejudiced by any misnomer, misdescription, or informality if the intention of the grantor or donor can be shown or ascertained with reasonable certainty as determined by the division.

Amended by Chapter 419, 2020 General Session

Part 3
Advisory Boards

9-6-301 Utah Arts Advisory Board.

- (1) There is created within the division the Utah Arts Advisory Board.
- (2)
 - (a) Except as provided in Subsections (2)(b) and (2)(f), the arts board shall consist of 13 members appointed by the governor to four-year terms with the consent of the Senate.
 - (b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of arts board members are staggered so that approximately half of the arts board is appointed every two years.
 - (c) The governor shall appoint eight members who are working artists or administrators, one from each of the following areas:
 - (i) visual arts;
 - (ii) architecture or design;
 - (iii) literature;
 - (iv) music;
 - (v) folk, traditional, or native arts;
 - (vi) theater;
 - (vii) dance; and
 - (viii) media arts.

- (d) The governor shall appoint three members who are knowledgeable in or appreciative of the arts.
- (e) The governor shall appoint two members who have expertise in technology, marketing, business, or finance.
- (f) Before January 1, 2026, the governor may appoint up to three additional members who are knowledgeable in or appreciative of the arts:
 - (i) for terms that shall end before January 1, 2026; and
 - (ii) in which case the arts board may consist of up to 16 members until January 1, 2026.
- (3) The governor shall appoint members from the state at large with due consideration for geographical representation.
- (4) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term within one month from the time of the vacancy.
- (5) A simple majority of the voting members of the arts board constitutes a quorum for the transaction of business.
- (6)
 - (a) The arts board members shall elect a chair and a vice chair from among the arts board's members.
 - (b) The chair and the vice chair shall serve a term of two years.
- (7) The arts board shall meet at least once each year.
- (8) A member of the arts board 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) Except as provided in Subsection (8), a member may not receive any gifts, prizes, or awards of money from division funds during the member's term of office.

Repealed and Re-enacted by Chapter 419, 2020 General Session

9-6-302 Arts board powers and duties.

- (1) The arts board may:
 - (a) with the concurrence of the director, make rules governing the conduct of the arts board's business in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (b) receive gifts, bequests, and property.
- (2) The arts board shall:
 - (a) act in an advisory capacity for the division;
 - (b) appoint an arts collection committee as described in Section 9-6-303 to advise the division and the arts board regarding the works of art acquired and maintained under this part; and
 - (c) with the concurrence of the director, approve the allocation of arts grant money and State of Utah Alice Merrill Horne Art Collection acquisition funding.

Repealed and Re-enacted by Chapter 419, 2020 General Session

9-6-303 Art collection committee.

- (1)
 - (a) The arts board with the concurrence of the director shall appoint an arts collection committee composed of any combination of artists, art historians, gallery owners, knowledgeable art collectors, art appraisers, and judges of art.

- (b) The arts collection committee shall make recommendations to the division and the arts board regarding the works of art acquired and maintained as part of the State of Utah Alice Merrill Horne Art Collection created in Section 9-6-304.
- (2)
 - (a) Except as provided in Subsection (2)(b), the arts board with the concurrence of the director shall appoint each member of the arts collection committee to a four-year term.
 - (b) The arts board shall, at the time of appointment or reappointment, adjust the length of the initial terms of arts collection committee members to ensure that the terms are staggered so that approximately half of the arts collection committee is appointed every two years.
- (3) When a vacancy occurs in the membership of the arts collection committee, the replacement shall be recommended by the remaining members of the art collection committee and then appointed by the arts board with the concurrence of the director for the unexpired term.
- (4) A member of the arts collection committee 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.

Repealed and Re-enacted by Chapter 419, 2020 General Session

9-6-304 State of Utah Alice Merrill Horne Art Collection.

- (1) There is created the State of Utah Alice Merrill Horne Art Collection.
- (2) The State of Utah Alice Merrill Horne Art Collection:
 - (a) consists of all works of art acquired under this part; and
 - (b) shall be held as the property of the state and under the control of the division.
- (3) Works of art in the State of Utah Alice Merrill Horne Art Collection may be loaned for exhibition purposes in accordance with recommendations from the arts board and rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (4) The division shall:
 - (a) take reasonable precautions to avoid damage or destruction to works of art in the State of Utah Alice Merrill Horne Art Collection;
 - (b) procure insurance coverage for the works of art in the State of Utah Alice Merrill Horne Art Collection; and
 - (c) ensure that all works of art shipped to and from any exhibition under this section are packed by an expert packer.
- (5)
 - (a) The division may only deaccession works of art in the State of Utah Alice Merrill Horne Art Collection in accordance with rules made by the division in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (b) A work of art in the State of Utah Alice Merrill Horne Art Collection that is to be deaccessioned in accordance with division rule is not state surplus property as that term is defined in Section 63A-2-101.5, and the division is not subject to the surplus property program described in Section 63A-2-401 for that work of art.

Repealed and Re-enacted by Chapter 419, 2020 General Session

9-6-305 Utah Museums Advisory Board.

- (1) There is created within the division the Utah Museums Advisory Board.
- (2)

- (a) Except as provided in Subsection (2)(b), the museums board shall consist of 11 members appointed by the governor to four-year terms.
- (b) The governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of museums board members are staggered so that approximately half of the museums board is appointed every two years.
- (3) The governor shall ensure that the museums board includes:
 - (a) three members who are qualified, trained, and experienced museum professionals, have a minimum of five years continuous paid work experience at a museum, and are selected from among recommendations proposed by the Utah Museums Association;
 - (b) at least three additional members who are qualified, trained, and experienced museum professionals; and
 - (c) remaining members who have demonstrated an active interest in Utah's museums.
- (4) The governor shall appoint members from the state at large with due consideration for geographical representation.
- (5) When a vacancy occurs in the membership for any reason, the governor shall appoint a replacement member for the unexpired term within one month from the time of the vacancy.
- (6) A member of the museums board may only be reappointed for one additional term unless the governor determines that unusual circumstances warrant an additional term.
- (7)
 - (a) The museums board members shall elect a chair and a vice chair from among the museums board's members.
 - (b) The chair and the vice chair shall serve a term of two years.
- (8) A simple majority of the voting members of the museums board constitutes a quorum for the transaction of business.
- (9) The museums board shall meet at least once each year.
- (10) A member of the museums board 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.
- (11) Except as provided in Subsection (10), a member may not receive a gift, prize, or award of money from division funds during the member's term of office.

Repealed and Re-enacted by Chapter 419, 2020 General Session

9-6-306 Museums board power and duties.

- (1) The museums board may, with the concurrence of the director, make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing:
 - (a) the museum grants program; and
 - (b) the awarding of grant money to assist Utah's eligible museums.
- (2) The museums board shall:
 - (a) act in an advisory capacity for the division, including making recommendations regarding the museum grants program and the awarding of grant money; and
 - (b) with the concurrence of the director, approve the awarding of museum grant money to assist Utah's eligible museums.

Repealed and Re-enacted by Chapter 419, 2020 General Session

Part 4 Utah Percent-for-Art Act

9-6-401 Short title.

This part is known as the "Utah Percent-for-Art Act."

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-402 Purpose.

This part is designed to:

- (1) establish a program which administers that portion of appropriations for capital expenditures which is set aside for the acquisition of works of art used for public buildings;
- (2) enhance the quality of life in the state by placing art of the highest quality in public spaces where it is seen by the general public;
- (3) promote and preserve appreciation for and exposure to the arts; and
- (4) foster cultural development in the state and encourage the creativity and talents of its artists and craftspeople.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-403 Definitions.

As used in this part:

- (1) "Artist" means a practitioner in the visual arts, generally recognized by critics and the artist's peers as a professional who is committed to producing high quality work on a regular basis, and who is not the project architect or a member of the project's architectural firm.
- (2) "Acquired or constructed" means acquired, constructed, reconstructed, restored, enlarged, improved, renovated, repaired, replaced, equipped, or furnished in whole or in part with state funds.
- (3) "Contracting agency" means the state agency which is responsible for supervising the principal user of a state building or facility.
- (4) "Principal user" means the department, board, commission, institution, or agency of the state for the principal use of which a state building or facility is acquired or constructed.
- (5) "Program" means the Percent-for-Art Program created in this part.
- (6) "Project" means the project whereby state buildings or facilities are acquired or constructed.
- (7)
 - (a) "State building or facility" means a state building, permanent structure, facility, park, or appurtenant structure thereof, wholly or partially enclosed, which includes, but is not restricted to a space or facility used or to be used for carrying out the functions of a department, board, commission, institution, or agency of the state, including offices, hearing or meeting rooms, auditoriums, libraries, courtrooms, classrooms, workshops, laboratories, eating or sleeping facilities, or highway rest areas.
 - (b) "State building or facility" does not include motor pools, heating plants, sheds, sewers, parking lots, bridges, highways, or buildings used solely for storage or warehousing.
- (8) "Work of art" or "works of art" means any form of original creation of visual art including, but not restricted to any sculpture, bas relief, high relief, mobile, fountain, painting, graphic, print, lithograph, etching, embossing, drawing, mural, mosaic, supergraphic, fresco, photograph, ceramic, fiber, mixed media, or combination of forms.

Amended by Chapter 4, 1993 General Session

9-6-404 Creation of program -- Use of appropriations.

- (1) A Percent-for-Art Program shall be administered by the division.
- (2) Any appropriation received by the director shall be used to acquire existing works of art or to commission the creation of works of art placed in or at appropriate state buildings or facilities as determined by the division. Any unexpended funds remaining at the end of the fiscal year shall be nonlapsing and not revert to the General Fund.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-405 Procedures, guidelines, and rules.

- (1) The division shall follow these guidelines in administering the program:
 - (a) Works of art shall be acquired under the program for use only with respect to those buildings or facilities that the division determines have significant public use or access, especially where the design and technical construction of the building or facility lend themselves to works of art. All funds set aside and administered by the program from appropriations for any state building or facility of which any part is obtained from the issuance of bonds shall be used only to acquire works of art that will be placed in or at, and remain a part of, that building or facility, to the extent necessary to preserve the federal income tax exemption otherwise allowed for interest paid on the bonds.
 - (b) The goal of the division in administering the program is to fairly distribute works of art throughout the various social, economic, and geographic communities of the state.
 - (c) The division:
 - (i) shall give first preference to Utah artists; and
 - (ii) may consider artists from other states and give preference to artists from other states that have similar percent-for-art programs and demonstrate a reciprocal preference for Utah artists.
 - (d) The division shall involve the director of the Division of Facilities Construction and Management, or the director's designee, and the project architect in the process of screening or selecting works of art or artists to create works of art for each project and shall involve in that process representatives from the project's principal user or contracting agency, the community in which the project is located, and the art profession. The project's principal user or contracting agency shall have representation at least equal to any other entity on the selection committee, as designated by the project's president or director. Any selection and placement of art shall be by a majority decision of the user agency representatives on the committee and a majority decision of the entire committee. The selection and placement shall be approved by the president or director of the principal user.
 - (e) Any relocation of art placed under this program shall be done with the participation from the division and the Division of Facilities Construction and Management and with approval from the president or director of the principal user.
 - (f) The costs of administering the program and conserving and maintaining all works of art placed under the program are limited to 15% of the funds deposited in the Utah Percent-for-Art Account.
- (2) The division shall adopt procedures, guidelines, and rules as necessary to implement this chapter and administer the program.

Amended by Chapter 261, 2020 General Session

9-6-406 Director to enter into contracts.

The director may enter into contracts on behalf of the division to acquire works of art and to commission artists for the creation of works of art as selected by the division or committees established by the division, and may sue and be sued in the name of the division upon these contracts.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-407 Title to work of art vests in the name of the state -- Title subject to restrictions and interests.

- (1) Title to a work of art acquired by or created for the program vests upon its completion, installation, and final acceptance in the division in the name of the state.
- (2) Title to a work of art acquired from appropriations for any state building or facility of which any part is obtained from the issuance of bonds, and placed in or at that building or facility, is subject to the same restrictions and interests as title to that building or facility, to the extent necessary to preserve the federal income tax exemption otherwise allowed for interest paid on those bonds.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-408 Division responsible for maintenance and security.

The division is responsible, in cooperation with the contracting agency, for the conservation, maintenance, and security of all works of art placed in or at each state building or facility under the program.

Renumbered and Amended by Chapter 241, 1992 General Session

9-6-409 Rights of artist commissioned by program.

An artist who is commissioned by the program to create a work of art has the following rights with respect to that work of art:

- (1) all rights secured to the artist under federal copyright laws;
- (2) the right to claim authorship of the work of art;
- (3) the right to photographic reproduction of the work of art;
- (4) the right of first refusal:
 - (a) to conduct all repair and conservation work on the work of art in accordance with accepted principles of professional conservation; and
 - (b) to purchase the work of art if the state decides to sell it; and
- (5) the right to deny further association of the artist's name with or authorship of the work of art if conservation or repair work is done by a person other than the artist, which in the opinion of the artist damages its integrity.

Renumbered and Amended by Chapter 241, 1992 General Session

Part 5

State Arts Endowment

9-6-501 Definitions.

As used in this part:

- (1) "Endowment fund" means any endowment fund created under this chapter by a qualifying organization.
- (2) "Qualifying organization" means any Utah nonprofit arts or museum organization 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.
- (3) "State fund" means the Utah Arts and Museums Endowment Fund created in Section 9-6-502.

Amended by Chapter 419, 2020 General Session

9-6-502 Utah Arts and Museums Endowment Fund.

- (1) There is created an expendable special revenue fund known as the "Utah Arts and Museums Endowment Fund."
- (2) The state fund shall be administered by the division in accordance with applicable law.
- (3) Any administrative costs incurred by the division shall be reviewed by the appropriate appropriations committee of the Legislature.
- (4) The state fund shall contain all money appropriated to the state fund by the Legislature, all federal funds received for purposes of this part, plus interest and other income earned on money in the state fund.
- (5) The division shall distribute money in the state fund to qualifying arts and museum organizations to assist those organizations in creating their own arts endowment funds.
- (6) The division may use money in the state fund for expenses related to administering the state fund.

Amended by Chapter 419, 2020 General Session

9-6-503 Arts and museums endowment funds.

- (1) Any Utah nonprofit arts or museum organization that meets the requirements described in this part may create an endowment fund into which there may be deposited money from the state fund.
- (2) The principal of each endowment fund described in this section may not be expended by the qualifying organization and shall be held in perpetuity solely by the qualifying organization.
- (3) Interest income earned on the amount in each endowment fund described in this section may be expended by the qualifying organization.
- (4) The principal of each endowment fund described in this section shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.
- (5) If a qualifying organization that creates an endowment fund as described in this section receives:
 - (a) \$50,000 or more from the state fund, the money shall be administered by the qualifying organization's professional management in accordance with generally accepted accounting principles; or

- (b) less than \$50,000 from the state fund, the money shall be placed in a state fiduciary fund under the direction of the state treasurer, and the state treasurer shall allocate interest income to the qualifying organization.
- (6) If an endowment fund is under the direction of the state treasurer, the state treasurer shall deduct administrative costs related to the endowment fund before allocating any interest income to the qualifying organization.

Amended by Chapter 451, 2022 General Session

9-6-504 Duties of the division.

The division, in accordance with the provisions of this part, shall:

- (1) allocate money from the state fund to the endowment fund created by a qualifying organization under Section 9-6-503;
- (2) determine the eligibility of each qualifying organization to receive money from the state fund;
- (3) determine the matching amount each qualifying organization shall raise in order to qualify to receive money from the state fund;
- (4) establish a date by which each qualifying organization shall provide its matching funds;
- (5) verify that matching funds have been provided by each qualifying organization by the date determined in Subsection (4); and
- (6)
 - (a) in accordance with the provisions of this part and Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the division may establish criteria by rule for determining the eligibility of qualifying organizations to receive money from the state fund; and
 - (b) in making rules under this Subsection (6), the division may consider the recommendations of the arts board and the museums board.

Amended by Chapter 419, 2020 General Session

9-6-505 Eligibility requirements of qualifying arts organizations -- Allocation limitations -- Matching requirements.

- (1) Any qualifying organization may apply to receive money from the state fund to be deposited in an endowment fund the organization has created under Section 9-6-503:
 - (a) if the qualifying organization has received a grant from the division during one of the three years immediately before making application for state fund money under this Subsection (1); or
 - (b) upon recommendation of the arts board or the museums board if the qualifying organization has not received a grant from the board within the past three years.
- (2)
 - (a) The maximum amount that may be allocated to each qualifying organization from the state fund shall be determined by the division by calculating the average cash income of the qualifying organization during the past three fiscal years as contained in the qualifying organization's final reports on file with the division.
 - (b) The division shall notify each qualifying organization of the maximum amount of money from the state fund for which the qualifying organization qualifies.
 - (c) The minimum amount that may be allocated to each qualifying organization from the state fund is \$2,500.
 - (d) If the maximum amount for which the organization qualifies under the calculation described in Subsection (2)(a) is less than \$2,500, the organization may still apply for \$2,500.

- (3)
 - (a) After the division determines that a qualifying organization is eligible to receive money from the state fund and before any money is allocated to the qualifying organization from the state fund, the qualifying organization shall match the amount qualified for with money raised and designated exclusively for that purpose.
 - (b) State money, in-kind contributions, and preexisting endowment gifts may not be used to match money from the state fund.
- (4) The amount of match money described in Subsection (3) that a qualifying organization is required to provide shall be based on a sliding scale as follows:
 - (a) any amount requested not exceeding \$100,000 shall be matched one-to-one;
 - (b) any additional amount requested that makes the aggregate amount requested exceed \$100,000 but not exceed \$500,000 shall be matched two-to-one; and
 - (c) any additional amount requested that makes the aggregate amount requested exceed \$500,000 shall be matched three-to-one.
- (5)
 - (a) Qualifying organizations shall raise the matching amount within three years after applying for money from the state fund by a date determined by the division.
 - (b) Money from the state fund shall be released to the qualifying organization only upon verification by the board that the matching money has been received on or before the date determined under Subsection (5)(a).
 - (c) Verification of matching funds shall be made by a certified public accountant.
 - (d) Money from the state fund shall be released to qualifying organizations with professional endowment management in increments not less than \$20,000 as audited confirmation of matching funds is received by the division.
 - (e) Money from the state fund shall be granted to each qualifying organization on the basis of the matching funds a qualifying organization has raised by the date determined under Subsection (5)(a).

Amended by Chapter 419, 2020 General Session

9-6-506 Unallocated money.

Money in the state fund that is unallocated shall be reallocated by the division on a proportionate basis to qualifying organizations that raise 100% of their required match by the date determined under Subsection 9-6-505(5)(a).

Amended by Chapter 419, 2020 General Session

9-6-507 Spending restrictions -- Return of endowment.

- (1) If a qualifying organization has received endowment money from the state fund, the qualifying organization may not expend any of that money or the required matching money in the qualifying organization's endowment fund, but may expend only the interest income earned on the money in the endowment fund.
- (2) If the division determines that a qualifying organization has expended any amount of the endowment money received from the state fund or any amount of the required matching money:
 - (a) the qualifying organization shall return the amount of money the qualifying organization received from the state fund; and

- (b) the division shall reallocate any such returned money to qualifying organizations in the manner as provided in Section 9-6-506.

Amended by Chapter 419, 2020 General Session

9-6-508 Federal match.

The creation of the state fund and the use of state fund money to enable qualifying organizations to create endowment funds may be construed as a state match for any arts funding provided by the federal government.

Amended by Chapter 419, 2020 General Session

Chapter 7 Library Development

Part 1 General Provisions

Superseded 7/1/2024

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.
- (3) "Division" means the State Library Division.
- (4) "Legislative staff office" means the Office of Legislative Research and General Counsel.
- (5) "Legislative publication" means:
 - (a) the Utah Code after the legislative staff office prepares an updated Utah Code database incorporating amendments to the Utah Code;
 - (b) the Laws of Utah; and
 - (c) the Utah Constitution after the legislative staff office incorporates into the Utah Constitution amendments to the Utah Constitution that passed during the preceding regular general election.
- (6) "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.
- (7) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.
- (8) "Policy" means the public library online access policy adopted by a library board to meet the requirements of Section 9-7-215.
- (9) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.
- (10)
 - (a) "State agency" means:
 - (i) the state; or

- (ii) an office, department, 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.
- (11) "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.
- (12)
 - (a) "State publication" means any information issued or published by a state agency for distribution.
 - (b) "State publication" includes a book, compilation, directory, map, fact sheet, newsletter, brochure, bulletin, journal, magazine, pamphlet, periodical, report, and electronic publication.
 - (c) "State publication" does not include public information, as that term is defined in Section 63A-16-601.

Amended by Chapter 160, 2023 General Session

Amended by Chapter 291, 2023 General Session

Effective 7/1/2024

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.
- (3) "Division" means the State Library Division.
- (4) "Internet policy" means the public library online access policy required in Section 9-7-215.
- (5) "Legislative staff office" means the Office of Legislative Research and General Counsel.
- (6) "Legislative publication" means:
 - (a) the Utah Code after the legislative staff office prepares an updated Utah Code database incorporating amendments to the Utah Code;
 - (b) the Laws of Utah; and
 - (c) the Utah Constitution after the legislative staff office incorporates into the Utah Constitution amendments to the Utah Constitution that passed during the preceding regular general election.
- (7) "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.
- (8) "Physical format" means a transportable medium in which analog or digital information is published, such as print, microform, magnetic disk, or optical disk.
- (9) "Political subdivision" means a county, city, town, school district, public transit district, redevelopment agency, or special improvement or taxing district.
- (10)
 - (a) "State agency" means:
 - (i) the state; or
 - (ii) an office, department, 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.
- (11) "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.
- (12)
 - (a) "State publication" means any information issued or published by a state agency for distribution.
 - (b) "State publication" includes a book, compilation, directory, map, fact sheet, newsletter, brochure, bulletin, journal, magazine, pamphlet, periodical, report, and electronic publication.
 - (c) "State publication" does not include public information, as that term is defined in Section 63A-16-601.

Amended by Chapter 157, 2023 General Session
Amended by Chapter 160, 2023 General Session
Amended by Chapter 291, 2023 General Session, (Coordination Clause)
Amended by Chapter 291, 2023 General Session

Part 2

State Library Division

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)
 - (a) The division shall function as the library authority for:
 - (i) general library services;
 - (ii) mobile library services;
 - (iii) providing for permanent public access to state publications; and
 - (iv) other services considered proper for a state library.
 - (b) The division is responsible for publishing legislative publications, as provided in this part, that the legislative staff office deposits with the division.

Amended by Chapter 160, 2023 General Session
Amended by Chapter 291, 2023 General Session, (Coordination Clause)
Amended by Chapter 291, 2023 General Session

9-7-202 Appointment of director.

- The executive director, in consultation with the board, shall appoint a director of the division:
- (1) to serve as the chief administrative officer of the division; and
 - (2) who has a degree from an accredited institution in library science and has demonstrated administrative ability.

Amended by Chapter 221, 2019 General Session

9-7-203 Division duties.

Subject to the requirements of this part, the division shall:

- (1) establish, operate, and maintain:
 - (a) a state publications collection;
 - (b) a digital library of state publications and legislative publications; and
 - (c) a bibliographic control system;
- (2) cooperate with:
 - (a) other state agencies to facilitate public access to government information through electronic networks or other means;
 - (b) other state or national libraries or library agencies; and
 - (c) the federal government or agencies in accepting federal aid whether in the form of funds or otherwise;
- (3) 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) 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.

Amended by Chapter 160, 2023 General Session

Amended by Chapter 291, 2023 General Session

9-7-204 State Library Board -- Members -- Meetings -- Expenses.

- (1) There is created within the department the State Library Board.
- (2)
 - (a) The board shall consist of nine members appointed by the governor.
 - (b) One member shall be appointed on recommendation from each of the following:
 - (i) the State Board of Education; and
 - (ii) the Utah System of Higher Education.
 - (c) Of the seven remaining members at least two shall be appointed from rural areas.
- (3)
 - (a) Except as required by Subsection (3)(b), as terms of current board members expire, the governor shall appoint each new member or reappointed member to a four-year term.
 - (b) The governor shall, at the 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) The members may not serve more than two full consecutive terms.
- (5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term in the same manner as originally appointed.
- (6) A simple majority of the members of the board constitutes a quorum for conducting board business.
- (7) The governor shall select one of the board members as chair who shall serve for a period of two years.
- (8) The director of the State Library Division is the executive officer of the board.
- (9) 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.

Amended by Chapter 221, 2019 General Session

9-7-205 Duties of board and director.

- (1) The board shall:
 - (a) promote, develop, and organize a state library and make provisions for 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 state publications and legislative publications library program by collecting state publications and legislative publications, providing access to state publications and legislative publications through the digital library, and providing a bibliographic information system;
 - (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).

Amended by Chapter 160, 2023 General Session

Amended by Chapter 291, 2023 General Session, (Coordination Clause)

Amended by Chapter 291, 2023 General Session

9-7-206 State Library Donation Fund -- Deposits and fees.

- (1) There is created an expendable special revenue fund entitled the "State Library Donation Fund" to receive bequests, gifts, and endowments of money.
- (2) Any interest or proceeds realized from the use or disposition of property received by the division or interest on the fund itself shall be deposited in the State Library Donation Fund and used by the State Library Division for the purposes specified by the donor.
- (3) All fees paid to the library and collections made due to damaged books or through sale or exchange of books and other materials shall be deposited in the General Fund as dedicated credits for use by the State Library Division.

Amended by Chapter 400, 2013 General Session

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

- (1)
 - (a) A state agency shall submit to the division a digital copy of each state publication the state agency makes available to the public regardless of format for 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)
 - (a) Upon the legislative staff office's production of a legislative publication, the legislative staff office shall deposit with the division a digital copy of the legislative publication.
 - (b) The legislative staff office's deposit of a legislative publication with the division for the division to publish online, as provided in this part, is a method for the legislative staff office to comply with Section 46-5-108.
- (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.

Amended by Chapter 160, 2023 General Session

Amended by Chapter 291, 2023 General Session, (Coordination Clause)

Amended by Chapter 291, 2023 General Session

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) and legislative publications.
- (2) The division shall provide for permanent public access to state publications in 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) The division shall make state publications in the digital library available for download.

Amended by Chapter 160, 2023 General Session

Amended by Chapter 291, 2023 General Session

9-7-211 Local libraries -- Annual reports.

All municipal, city, county, and public school libraries shall submit an annual report to the director of the division on the condition and affairs of each library as required by the State Library Board.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-212 Contracts with nonpublic libraries.

The director of the division, subject to the direction and approval of the State Library Board, may contract with nonpublic libraries to receive their library services and to otherwise coordinate the state library program with those libraries.

Renumbered and Amended by Chapter 241, 1992 General Session

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 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.

Amended by Chapter 160, 2023 General Session

9-7-214 Intentionally defacing, injuring, destroying, or refusing to return property -- Misdemeanor.

Whoever intentionally defaces, injures, or refuses to return on demand, or destroys any property belonging to the state library or loaned through its coordinating agencies or facilities, is guilty of a class B misdemeanor.

Amended by Chapter 148, 2018 General Session

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

- (1) As used in this section:

- (a) "Child sexual abuse material" means the same as that term is defined in Section 76-5b-103.
 - (b) "Harmful to minors" means the same as that term is defined in Section 76-10-1201.
 - (c) "Obscene" means the same as that term is 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 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 sexual abuse materials, harmful to minors, or 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 sexual abuse materials, harmful to minors, or 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.

Amended by Chapter 160, 2023 General Session, (Coordination Clause)

Amended by Chapter 160, 2023 General Session

Amended by Chapter 231, 2023 General Session

Superseded 7/1/2024

9-7-216 Process and content standards for policy.

- (1)
 - (a) Each library's policy shall be developed under the direction of the library board, adopted in an open meeting, and have an effective date. The library board shall review the policy at least every three years, and a footnote shall be added to the policy indicating the effective date of the last review.
 - (b) Notice of the availability of the policy shall be posted in a conspicuous place within the library for all patrons to observe. The library board may issue any other public notice it considers appropriate to inform the community about the policy.

(2) The policy shall:

(a) state:

- (i) that it restricts access to Internet or online sites that contain material described in Section 9-7-215; and
 - (ii) how the library board intends to meet the requirements of Section 9-7-215;
- (b) inform patrons that administrative procedures and guidelines for the staff to follow in enforcing the policy have been adopted and are available for review at the library; and
- (c) inform patrons that procedures for use by patrons and staff to handle complaints about the policy, its enforcement, or about observed patron behavior have been adopted and are available for review at the library.

Amended by Chapter 193, 2004 General Session

Effective 7/1/2024

9-7-216 Process and content standards for Internet policy.

- (1)
- (a) Each library's Internet policy shall be developed under the direction of the library board, adopted in an open meeting, and have an effective date.
 - (b) The library board shall review the policy at least every three years.
 - (c)
 - (i) Notice of the availability of the policy shall be posted in a conspicuous place within the library for all patrons to observe.
 - (ii) The library board may issue any other public notice the library board considers appropriate to inform the community about the policy.
- (2) The Internet policy shall include the following information:
- (a) a statement indicating:
 - (i) that the library restricts access to Internet or online sites that contain material described in Section 9-7-215; and
 - (ii) how the library board intends to meet the requirements of Section 9-7-215;
 - (b) a statement informing patrons that administrative procedures and guidelines for the staff to follow in enforcing the policy have been adopted and are available for review at the library;
 - (c) a statement informing patrons that procedures for use by patrons and staff to handle complaints about the policy, the policy's enforcement, or about observed patron behavior have been adopted and are available for review at the library; and
 - (d) a footnote indicating the effective date of the last review of the policy under Subsection (1)(b).

Amended by Chapter 157, 2023 General Session

Superseded 7/1/2024

9-7-217 Reporting.

The division shall submit a report to the department regarding the compliance of library boards with the provisions of Section 9-7-215 for inclusion in the annual written report described in Section 9-1-208.

Amended by Chapter 371, 2014 General Session

Effective 7/1/2024

9-7-217 Reporting.

The division shall submit a report to the department regarding the compliance of library boards with the provisions of Sections 9-7-215 and 9-7-218 for inclusion in the annual written report described in Section 9-1-208.

Amended by Chapter 157, 2023 General Session

Effective 7/1/2024

9-7-218 Criminal background check policy required -- Scope and content -- Dissemination.

- (1) As used in this section:
 - (a) "Minor" means an individual who is under 18 years old.
 - (b) "Public library" means a library established under Section 9-7-402 or 9-7-501.
 - (c) "Qualifying position" means any paid or unpaid employment position with a public library, including a volunteer position, that involves significant contact with minors, as determined by the public library's library board.
 - (d) "Qualifying prospective employee" means an individual who:
 - (i) is 18 years old or older; and
 - (ii) applies for a qualifying position with a public library.
- (2) State funds may not be provided to a public library unless the public library implements a criminal background check policy that:
 - (a) meets the requirements of Subsection (3); and
 - (b) is adopted by:
 - (i) the library board in an open meeting; or
 - (ii) the county or city in which the public library is located.
- (3) The criminal background check policy shall:
 - (a) identify each qualifying position with the public library;
 - (b) require each qualifying prospective employee to submit to a criminal background check as a condition of employment in a qualifying position;
 - (c) establish procedures for:
 - (i) gathering, submitting, and reviewing criminal background checks for qualifying prospective employees before making any offer of employment;
 - (ii) disqualifying a qualifying prospective employee from employment based on information received as a result of a criminal background check; and
 - (iii) allowing a qualifying prospective employee to respond to information received as a result of a criminal background check;
 - (d) ensure that a qualifying prospective employee who is disqualified from employment because of information obtained through a criminal background check receives:
 - (i) written notice of the reasons for the disqualification; and
 - (ii) an opportunity to respond to the reasons following the procedures established under Subsection (3)(c)(iii); and
 - (e) include an effective date that is stated in the criminal background check policy.
- (4)
 - (a) The criminal background check policy shall be distributed to qualifying prospective employees and posted in a prominent location in the public library.
 - (b) A criminal background check policy adopted by a library board shall be reviewed by the library board at least every three years.
- (5) Within appropriations made by the Legislature for this purpose, the State Library Board shall reimburse a county of the fourth, fifth, or sixth class, and a city of the fourth, fifth, or sixth class, for the costs of conducting criminal background checks under this section.

Enacted by Chapter 157, 2023 General Session

Part 3 State Law Library

9-7-302 Public access.

The public shall have access to the State Law Library.

Amended by Chapter 154, 2020 General Session

9-7-303 Withdrawing books.

- (1) Books may be taken from the State Law Library by:
 - (a) the members, officers, and staff of the Legislature;
 - (b) the officers and staff of the executive departments and of the several boards and commissions of the state government; and
 - (c) the justices of the Supreme Court, the judges of other state courts, and their staffs.
- (2) No other person may withdraw any book from the State Law Library.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-304 Book register -- Time limit.

- (1) The state law librarian shall keep a register of all books issued and returned, showing to whom issued, by whom returned, and the time issued and returned.
- (2) No book taken from the law library may be detained more than 10 days, except by permission of the state law librarian.

Amended by Chapter 176, 1998 General Session

9-7-305 Injury to and failure to return books -- Action.

- (1) If any person injures any book owned by the state law library or fails to return any book taken from the State Law Library, that person shall pay the state law librarian all loss or damage sustained because of the injury or failure to return, including costs and reasonable attorneys' fees.
- (2) The state law librarian, in behalf of the state, shall bring action in the name of the state for the collection of all damages sustained and all losses and penalties imposed under this section.

Amended by Chapter 176, 1998 General Session

9-7-307 Catalogue -- Rules.

The state law librarian shall catalogue all books, pamphlets, maps, charts, globes, papers, apparatus, and valuable specimens in the State Law Library and shall post in some conspicuous place a copy of the rules of the State Law Library. The catalogue shall be made available, whether electronically or in writing, to the persons entitled to withdraw books from the State Law Library under Section 9-7-303.

Amended by Chapter 176, 1998 General Session

9-7-308 Books to be stamped and labeled.

The state law librarian shall cause every book in the State Law Library to be labeled with a printed or stamped label containing the words "Utah State Law Library," and shall cause the same words to be written or stamped on one or more pages of each volume.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-309 Sale and exchange of books.

The state law librarian may sell or exchange any surplus or duplicate sets of books in the State Law Library and use the proceeds from the sale to purchase other books for the State Law Library.

Amended by Chapter 176, 1998 General Session

9-7-311 Wrongful withdrawal of books -- Penalty.

If any person not authorized by Section 9-7-303 takes a book from the State Law Library, either with or without the consent of the state law librarian, or violates any of the provisions of this part, that person shall be fined the full cost of replacing the book, plus \$50 for each book so taken.

Amended by Chapter 176, 1998 General Session

9-7-312 Disposition of fines and penalties.

All fines and penalties collected pursuant to the provisions of this part shall be paid into the state treasury for the benefit of the State Law Library.

Renumbered and Amended by Chapter 241, 1992 General Session

9-7-313 Law library self-help center.

- (1) The Utah State Law Library shall establish a statewide self-help center to assist self-represented parties to achieve fair and efficient resolution of their cases.
- (2) The self-help center shall be staffed or directed by persons admitted to the practice of law in this state. Self-help center personnel may not represent parties or give legal advice.
- (3) The self-help center shall provide to the public and all parties:
 - (a) information about:
 - (i) the availability of mediation services, and legal advice and representation through pro bono legal services;
 - (ii) low cost legal services;
 - (iii) legal aid programs; and
 - (iv) lawyer referral services;
 - (b) information about resources provided by law libraries;
 - (c) court forms and instructions, and help completing forms;
 - (d) answers to questions about the law, court process, and options; and
 - (e) educational materials and other services consistent with the purpose of this statute and the direction of the Judicial Council, including programs in other agencies and organizations.

Enacted by Chapter 368, 2012 General Session

Part 4 City Libraries

9-7-402 Establishment and maintenance of public library -- Library board of directors -- Expenses.

- (1) A city's governing body may establish and maintain a public library.
- (2) When the city governing body decides to establish and maintain a city public library under the provisions of this part, it shall appoint a library board of directors of not less than five members and not more than nine members, chosen from the citizens of the city and based upon their fitness for the office.
- (3) Only one member of the city governing body may be, at any one time, a member of the library board.
- (4) Each director shall serve without compensation, but their actual and necessary expenses incurred in the performance of their official duties may be paid from library funds.

Amended by Chapter 221, 2019 General Session

Amended by Chapter 301, 2019 General Session

9-7-403 Library board terms -- Officers -- Removal -- Vacancies.

- (1) Each director of a library board shall be appointed for a three-year term, or until the successor to that director is appointed. Initially, appointments shall be made for one-, two-, and three-year terms. Annually thereafter, the city governing body shall, before the first day of July of each year, appoint for a three-year term directors to take the place of the retiring directors.
- (2) Directors shall serve not more than two consecutive full terms.
- (3) The directors shall annually select a chairman and other officers.
- (4) The city governing body may remove any director for misconduct or neglect of duty.
- (5) Vacancies in a library board of directors shall be filled for the unexpired term in the same manner as original appointments.

Amended by Chapter 221, 2019 General Session

9-7-404 Board powers and duties -- Library fund deposits and disbursements.

- (1) The library board of directors may, with the approval of the city governing body:
 - (a) have control of the expenditure of the library fund, of construction, lease, or sale of library buildings and land, and of the operation and care of the library; and
 - (b) purchase, lease, or sell land, and purchase, lease, erect, or sell buildings for the benefit of the library.
- (2) The library board shall:
 - (a) maintain and care for the library;
 - (b) establish policies for its operation; and
 - (c) in general, carry out the spirit and intent of the provisions of this part.
- (3) All tax money received for the library shall be deposited in the city treasury to the credit of the library fund, and may not be used for any purpose except that of the city library. These funds shall be drawn upon by the authorized officers of the city upon presentation of the properly authenticated vouchers of the library board. All money collected by the library shall be deposited to the credit of the library fund.

Amended by Chapter 221, 2019 General Session

9-7-405 Rules -- Use of library.

- (1) The library board of directors shall make, amend, and repeal rules, not inconsistent with law, for the governing of the library.
- (2) Each library established under this part shall be free to the use of the inhabitants of the city where located, subject to the rules adopted by the library board. The library board may exclude from the use of the library any person who willfully violates these rules. The library board may extend the privileges and use of the library to persons residing outside of the city upon terms and conditions it may prescribe by rule.

Amended by Chapter 221, 2019 General Session

9-7-406 Reports to governing body and director of the division.

The library board of directors shall:

- (1) provide an annual report to the city governing body on the condition and operation of the library, including a financial statement; and
- (2) provide an annual report to the director of the division that contains the information required by the State Library Board.

Amended by Chapter 221, 2019 General Session

9-7-407 Librarian and other personnel.

- (1) The library board of directors shall appoint a competent person as librarian to have immediate charge of the library with those duties and compensation for services that it determines. The librarian shall act as the executive officer for the library board.
- (2) The library board shall appoint, upon the recommendation of the librarian, other personnel as needed.

Amended by Chapter 221, 2019 General Session

9-7-408 Donations of money or property.

Any person desiring to make donations of money, personal property, or real estate for the benefit of any library shall have the right to vest the title to the money, personal property, or real estate in the library board of directors. The donation shall be held and controlled by the library board, when accepted, according to the terms of the deed, gift, devise, or bequest of the property, and the library board shall be held and considered to be trustees of the property.

Amended by Chapter 221, 2019 General Session

9-7-409 Entities may cooperate, merge, or consolidate in providing library services.

Library boards of directors of city libraries, library boards of directors of county libraries, boards of education, governing boards of other educational institutions, library agencies, and local political subdivisions may cooperate, merge, or consolidate in providing library services.

Amended by Chapter 221, 2019 General Session

9-7-410 Consolidation with county library.

- (1) If a city library consolidates with a county library, the city library board of directors shall convey all assets and, except as provided in Subsection (2), trust funds to the county library board of directors, and the city library shall cease operation.
- (2) If a conveyance of trust funds under Subsection (1) would constitute a violation of the trust agreement governing the trust funds, conveyance of those funds is not required, and those funds may continue to be used in accordance with the trust agreement for any library facility specified in the trust agreement, even after the facility becomes a county library facility because of consolidation.

Amended by Chapter 46, 2005 General Session

**Part 5
County Libraries**

9-7-501 Tax for establishment and maintenance of public library -- Library fund.

- (1) A county legislative body may establish and maintain a public library.
- (2) For this purpose, counties may levy annually a tax not to exceed .001 of taxable value of taxable property in the county, outside of cities which maintain their own city libraries as authorized by Part 4, City Libraries. The tax is in addition to all taxes levied by counties and is not limited by the levy limitation imposed on counties by law. However, if bonds are issued for purchasing a site, or constructing or furnishing a building, then taxes sufficient for the payment of the bonds and any interest may be levied.
- (3) The taxes shall be levied and collected in the same manner as other general taxes of the county and shall constitute a fund to be known as the county library fund.

Amended by Chapter 189, 2014 General Session

9-7-502 Library board of directors -- Expenses.

- (1)
 - (a) When the county legislative body decides to establish and maintain a county public library under the provisions of this part, the county executive shall, with the advice and consent of the county legislative body, appoint a library board of not less than five and not more than nine directors chosen from the citizens of the county and based upon their fitness for the office.
 - (b) When increasing membership on an existing library board, the county legislative body:
 - (i) may not add more than two positions in any year; and
 - (ii) when adding members, shall ensure that the terms of library board members are staggered so that approximately 1/4 of the board is selected each year.
- (2) Only one member of the county legislative body may be, at any one time, a member of the library board.
- (3) Each director shall serve without compensation, but the actual and necessary expenses incurred in the performance of the director's official duties may be paid from library funds.

Amended by Chapter 221, 2019 General Session

9-7-503 Library board terms -- Officers -- Removal -- Vacancies.

- (1) Each director of a library board shall be appointed for a four-year term, or until the director's successor is appointed. Initially, appointments shall be made for one-, two-, three-, and four-year terms, and one member of the county legislative body for the term of his elected office. Annually thereafter, the county executive body shall, before the first day of July of each year, appoint, with the advice and consent of the county legislative body, for a four-year term, one director to take the place of the retiring director.
- (2) Directors shall serve not more than two consecutive full terms.
- (3) The directors shall annually select a chairman and other officers.
- (4) The county executive body may remove any director for misconduct or neglect of duty.
- (5) Vacancies in a library board of directors shall be filled for the unexpired terms in the same manner as original appointments.

Amended by Chapter 221, 2019 General Session

9-7-504 Library board duties -- Library fund deposits.

- (1) The library board of directors shall, with the approval of the county executive and in accordance with county ordinances, policies, and procedures:
 - (a) be responsible for:
 - (i) the expenditure of the library fund;
 - (ii) the construction, lease, or sale of library buildings and land; and
 - (iii) the operation and care of the library; and
 - (b) purchase, lease, or sell land, and purchase, lease, construct, or sell buildings, for the benefit of the library.
- (2) The library board has those powers and duties as prescribed by county ordinance, including establishing policies for collections and information resources that are consistent with state and federal law.
- (3)
 - (a) All tax money received for the library shall be deposited in the county treasury to the credit of the library fund, and may not be used for any purpose except that of the county library.
 - (b) All money collected by the library shall be deposited to the credit of the library fund.

Amended by Chapter 221, 2019 General Session

9-7-505 Rules -- Use of library.

- (1) Each library board shall make library rules in a manner consistent with county ordinances, policies, and procedures for the governing of the library.
- (2) Each library established under this part shall be free to the use of the inhabitants of the area taxed for the support of the library, subject to the rules made as prescribed by county ordinance.

Amended by Chapter 221, 2019 General Session

9-7-506 Annual reports.

The library board of directors shall:

- (1) provide an annual report to the county executive and county legislative body on the condition and operation of the library, including a financial statement; and

- (2) provide an annual report to the director of the division that contains the information required by the State Library Board.

Amended by Chapter 221, 2019 General Session

9-7-507 Librarian and other personnel.

- (1)
 - (a) The library board of directors shall recommend to the county executive for appointment a competent person to serve as librarian.
 - (b) The county executive shall, within 30 days of the recommendation, either make the appointment or request that the library board submit another recommendation.
 - (c) The librarian shall be an employee of the county subject to the personnel policies, procedures, and compensation plans approved by the county executive and county legislative body.
 - (d) The librarian shall act as the executive officer for the library board.
- (2)
 - (a) All library personnel are employees of the county.
 - (b) The librarian or the librarian's designee shall hire library personnel in accordance with the county merit system, personnel policies and procedures, and compensation plans approved by the county executive and county legislative body.
- (3) As used in this section "librarian" means the county library director.

Amended by Chapter 221, 2019 General Session

9-7-508 Donations of money or property.

- (1) A person desiring to make a donation of money, personal property, or real estate for the benefit of a library has the right to vest the title to the money, personal property, or real estate in the county, designated for the benefit and purposes of the library.
- (2) The county shall hold donated personal property and real estate as prescribed by county ordinance according to the terms of the deed, gift, devise, or bequest of the property, and the county shall be the trustee of the property.

Amended by Chapter 47, 2003 General Session

9-7-509 Entities may cooperate, merge, or consolidate in providing library services.

Library boards of directors of city libraries, library boards of directors of county libraries, boards of education, governing boards of other educational institutions, library agencies, and local political subdivisions may cooperate in providing library services or merge or consolidate under an interlocal agreement approved and implemented in accordance with Title 11, Chapter 13, Interlocal Cooperation Act.

Amended by Chapter 221, 2019 General Session

9-7-510 Estimate of money.

- (1) The library board of directors shall furnish to the county executive and county legislative body, in writing, and prior to the time required by law to levy county taxes, an estimate of the amount of money necessary to establish, equip, and maintain the library, and to provide library services during the next ensuing fiscal year and shall certify the amount.

- (2) The county legislative body may, at the time and in the manner of levying other taxes, impose the levy, but the levy may not exceed in any one year .001 per dollar of taxable value of taxable property in the county.

Amended by Chapter 305, 1995 General Session

9-7-511 Library bonds -- Issuance of previously voted bonds.

- (1) When an election has been held in any county to authorize bonds of the county for the purpose of acquiring, improving, and extending a public library for the county, including the acquisition of equipment, furnishings, and books, and it was specified in the proposition that the bonds are to be payable from ad valorem taxes to be levied on all taxable property in the county, and when the election has carried, but none of the bonds authorized have been issued, the bonds authorized to be issued at election may be issued and shall be payable from taxes to be levied without limitation as to rate or amount on all taxable property in the county, despite any provision of law to the contrary in effect at the time of the election.
- (2) All county library bonds that have been authorized but not yet issued, all county library bond elections previously held and carried, and all proceedings in connection with them that were adopted for the authorization of the bonds are hereby validated, ratified, approved, and confirmed, and the bonds, when issued in accordance with the election and proceedings, shall be binding, legal, valid, and enforceable obligations of the county issuing them in accordance with their terms.

Renumbered and Amended by Chapter 241, 1992 General Session

Chapter 8 History Development

Part 1 General Provisions

9-8-102 Definitions.

As used in this chapter:

- (1) "Board" means the Board of State History.
- (2) "Director" means the director of the Utah Historical Society.
- (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.
- (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 Historical Society created in Section 9-8-201.

Amended by Chapter 160, 2023 General Session

Part 2 Utah Historical Society

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

- (1) There is created within the department the Utah Historical Society under the administration and general supervision of the executive director or the designee of the executive director.
- (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.

Amended by Chapter 160, 2023 General Session

9-8-202 Appointment of director.

The executive director, in consultation with the board, shall appoint a director of the society:

- (1) to serve as the chief administrative officer of the society; and
- (2) who is experienced in administration and is qualified by education or training in the field of state history.

Amended by Chapter 160, 2023 General Session

9-8-203 Society duties.

- (1) The society shall:
 - (a) stimulate research, study, and activity in the field of Utah history and related history;
 - (b) maintain a specialized history library;
 - (c) collect, preserve, and administer historical records relating to the history of Utah;
 - (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;
 - (e) edit and publish historical records;
 - (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;
 - (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;
 - (h) subject to legislative appropriations, provide grants and technical assistance as necessary and appropriate;
 - (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 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.
 - (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 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, 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 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.

Amended by Chapter 160, 2023 General Session

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 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 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.

Amended by Chapter 160, 2023 General Session

9-8-205 Board duties and powers.

- (1) The board shall:
 - (a) make policies to direct the director in carrying out the director's duties;
 - (b) approve the society's rules; and
 - (c) make recommendations to the society for the development of programs consistent with this chapter.
- (2) The board may establish subcommittees to assist the board, the office, and the society in carrying out the responsibilities under this chapter.

Amended by Chapter 160, 2023 General Session

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

- (1) The 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.

Amended by Chapter 160, 2023 General Session

9-8-207 Donations -- Accounting.

- (1) The society may:
 - (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
 - (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) be used in a specified manner, then the society shall use the money or property in accordance with the specified directions.
 - (b) 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.

Amended by Chapter 33, 2023 General Session

Amended by Chapter 160, 2023 General Session

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.

Enacted by Chapter 160, 2023 General Session

Part 7

Endowment Funds for History Organizations

9-8-701 Definitions.

As used in this part:

- (1) "Endowment fund" means any history endowment fund created under this part by a qualifying organization.
- (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.

Amended by Chapter 160, 2023 General Session

9-8-703 History organization endowment funds.

- (1)
 - (a) A qualifying organization may create an endowment fund into which there may be deposited money from funds made available for that purpose.
 - (b) The principal of each endowment fund may not be expended by the qualifying organization and shall be held in perpetuity solely by the qualifying organization or by the Division of Finance on behalf of the qualifying organization.
 - (c) Only interest income earned on the amount in each endowment fund may be expended by the qualifying organization.
 - (d) The principal of each endowment fund shall be invested in accordance with Title 51, Chapter 7, State Money Management Act.
- (2)
 - (a) An endowment fund shall be administered in accordance with generally accepted accounting principles by professional endowment management personnel.
 - (b) If no professional endowment management personnel is available to the qualifying organization, the qualifying organization shall place the endowment fund in a state fiduciary fund administered by the Division of Finance.
- (3) If an endowment fund is administered by the Division of Finance:
 - (a) the Division of Finance shall allocate interest income to the qualifying organization annually; and
 - (b) the costs for the administration shall be deducted from the interest income before allocations of interest income may be made to the qualifying organization by the Division of Finance.

Amended by Chapter 451, 2022 General Session

9-8-704 Society duties.

The 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.

Amended by Chapter 160, 2023 General Session

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 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 society within the past three years, the qualifying organization may receive a grant upon approval by the 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 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 funds made available for that purpose is \$2,500.
- (3)
 - (a) After the 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 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).

Amended by Chapter 160, 2023 General Session

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
 - (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 society under this part to the Division of Finance.

Amended by Chapter 160, 2023 General Session

9-8-708 Federal match.

Funds allocated by the 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.

Amended by Chapter 160, 2023 General Session

**Part 8
Preserve Our Heritage Act**

9-8-801 Short title.

This part is known as the "Preserve Our Heritage Act."

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-802 Definitions.

As used in this part:

- (1) "Agency" means any administrative unit of Utah's state government or local government.
- (2) "Collecting institutions" means historical societies, museums, archives, and libraries that:
 - (a) are operated by nonprofit corporations in Utah or by any Utah agency; and
 - (b) preserve our heritage and benefit society by acquiring and preserving repositied materials.
- (3) "Repositied materials" means materials of historical, artistic, literary, or scientific value that are deposited in a collecting institution.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-803 Ownership of repositied materials -- Rebuttable presumption.

- (1) There is established a rebuttable presumption that any repositied materials held by a collecting institution are the property of that collecting institution.
- (2) Any person seeking to claim repositied materials from a collecting institution shall comply with the requirements of this part.

Amended by Chapter 4, 1993 General Session

9-8-804 Statute of limitations for claiming repositied materials from a collecting institution.

- (1) Any repositied materials in a collecting institution that are not accompanied by a transfer of title to those materials are considered a gift to the collecting institution when more than 25 years have passed from the date of the last written contact between the depositor or his successors and the collecting institution.
- (2) No depositor or any of his successors may bring an action against the collecting institution to recover the repositied materials from the collecting institution after 25 years have passed from the date of the last written contact between the depositor or his successors and the collecting institution.

Renumbered and Amended by Chapter 241, 1992 General Session

9-8-805 Collecting institutions -- Perfecting title -- Notice.

- (1)
 - (a) A collecting institution wishing to perfect title in any repositied materials held by it shall send, by registered mail, a notice containing the information required by Subsection (2) to the last-known address of the last-known owner of the property.
 - (b) In addition to the requirements of Subsection (1)(a), a collecting institution shall publish a notice containing the information required by Subsection (2) if:
 - (i) the owner or the address of the owner of the repositied materials is unknown;
 - (ii) the mailed notice is returned to the collecting institution without a forwarding address; or
 - (iii) the owner does not claim the repositied materials within 90 days after the day on which the notice was mailed.
 - (c) If required to publish a notice under Subsection (1)(b), the collecting institution shall publish the notice for two weeks:
 - (i) for the county where the collecting institution is located, as a class A notice under Section 63G-30-102; and
 - (ii) as required in Section 45-1-101.
- (2) Each notice required by this section shall include:
 - (a) the name, if known, and the last-known address, if any, of the last-known owner of the repositied materials;
 - (b) a description of the repositied materials;
 - (c) the name of the collecting institution that has possession of the repositied materials and a person within that institution whom the owner may contact; and
 - (d) a statement that if the repositied materials are not claimed within 90 days from the day on which the notice is published in accordance with Subsection (1)(b), the repositied materials are considered abandoned and become the property of the collecting institution.
- (3) If no one claims repositied materials within 90 days after the day on which notice is published in accordance with Subsection (1)(b), the repositied materials are considered abandoned and are the property of the collecting institution.

Amended by Chapter 435, 2023 General Session

9-8-806 Claiming repositied materials held by a collecting institution.

- (1) Any person claiming title to repositied materials held by a collecting institution shall demonstrate that he owns all right, title, and interest in the repositied materials to the reasonable satisfaction of the collecting institution.
- (2)
 - (a) Any person claiming to represent a person claiming title to repositied materials held by a collecting institution shall demonstrate, to the reasonable satisfaction of the collecting institution, that:
 - (i) he represents every person who owns any right, title, or interest in the repositied materials; and
 - (ii) the persons he represents own all right, title, and interest in the repositied materials.
 - (b) Any person claiming he represents persons holding all right, title, and interest in the repositied materials may demonstrate that representation by providing the collecting institution with a notarized authorization from every person having any right, title, or interest in the repositied materials.

Renumbered and Amended by Chapter 241, 1992 General Session

**Part 9
State Historic Preservation Office**

9-8-906 Utah Archaeological and Historic Sites Grant Program.

- (1) The office shall:
 - (a) administer the money contained in the grant program; and
 - (b) select qualified recipients in accordance with Subsection (2).
- (2) The office may distribute the money from the grant program to a private landowner:
 - (a) that applies to the office, in a manner prescribed by the office, to receive all or part of the money contained in the grant program; and
 - (b) for identifying and protecting archaeological resources on the landowner's property, if the private landowner contributes an amount of money equal to or greater than the amount of money the landowner receives from the grant program.

Enacted by Chapter 202, 2023 General Session

**Chapter 8a
State Historic Preservation Office**

**Part 1
General Provisions**

9-8a-101 Definitions.

As used in this 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 9-8a-204.
- (3) "Office" means the State Historic Preservation Office created in Section 9-8a-201.
- (4) "Officer" means the state historic preservation officer, appointed in accordance with Section 9-8a-202.

Renumbered and Amended by Chapter 160, 2023 General Session

Part 2

State Historic Preservation Office

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 perform those duties set forth in statute.

Renumbered and Amended by Chapter 160, 2023 General Session

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.

Renumbered and Amended by Chapter 160, 2023 General Session

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 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.

Renumbered and Amended by Chapter 160, 2023 General Session

9-8a-204 National Register Review Committee.

- (1) There is created the National Register Review Committee.
- (2) The committee shall be composed of nine members, at least 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 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;
 - (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.

Renumbered and Amended by Chapter 160, 2023 General Session

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 office.
 - (ii) "Cultural site" may include a:
 - (A) site as defined in Section 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 office the Cultural Site Stewardship Program.
- (3) The 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 American tribes, industry groups, and interested persons to protect cultural sites; and

- (f) increase the inventory of cultural sites maintained in accordance with Subsections 9-8a-304(2)(b) and 79-3-202(1)(m).
- (4) The 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 office shall select, train, and certify volunteers to participate in the stewardship program, based on rules made by the office in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (6) To accomplish the stewardship program's objectives, the 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 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 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 office's duties under Section 9-8a-404.

Renumbered and Amended by Chapter 160, 2023 General Session

Part 3

Antiquities

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 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 welfare of the public and beneficiaries alike.

Renumbered and Amended by Chapter 160, 2023 General Session

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 office created in Section 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 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) "Excavate" means the recovery of archaeological resources.
- (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.
- (10) "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.

- (11) "Museum" means the Utah Museum of Natural History.
- (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.
- (13) "Principal investigator" means the individual with overall administrative responsibility for the survey or excavation project authorized by the permit.
- (14) "Repository" means the same as that term is defined in Section 53B-17-603.
- (15) "School and institutional trust lands" are those properties defined in Section 53C-1-103.
- (16) "Site" means any petroglyphs, pictographs, structural remains, or geographic location that is the source of archaeological resources or specimens.
- (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.
- (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:
 - (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.
- (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.

Renumbered and Amended by Chapter 160, 2023 General Session

9-8a-304 Antiquities Section created -- Duties.

- (1) There is created within the 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 9-8a-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 officer in writing about any request for 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.

Renumbered and Amended by Chapter 160, 2023 General Session

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 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.
 - (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.
- (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 respective trust.
- (11) The 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.

Renumbered and Amended by Chapter 160, 2023 General Session

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

Renumbered and Amended by Chapter 160, 2023 General Session

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

Renumbered and Amended by Chapter 160, 2023 General Session

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

Renumbered and Amended by Chapter 160, 2023 General Session

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

- (1) 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:
 - (i) cease activity in the area of the discovery until activity may be resumed in accordance with Subsection (1)(e);
 - (ii) notify a local law enforcement agency in accordance with Section 76-9-704; and
 - (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:
 - (i) require that activity in the area of the discovery cease until activity may be resumed in accordance with Subsection (1)(e); and
 - (ii) make a reasonable effort to protect the discovered ancient human remains before activity may be resumed in accordance with Subsection (1)(e).
 - (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
 - (II) if extraordinary circumstances exist as provided in Subsection (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).
- (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)(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)(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)(d) is exempt from Title 63G, Chapter 4, Administrative Procedures Act.
- (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
 - (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)(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 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 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.

Renumbered and Amended by Chapter 160, 2023 General Session

Part 4 Historic Sites

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.

Renumbered and Amended by Chapter 160, 2023 General Session

9-8a-402 Definitions -- Office duties.

- (1) In addition to the definitions described in Section 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 office shall:
- (a) constitute the historic preservation agency for this state;
 - (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.

Renumbered and Amended by Chapter 160, 2023 General Session

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.

Renumbered and Amended by Chapter 160, 2023 General Session

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 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 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.

Renumbered and Amended by Chapter 160, 2023 General Session

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 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.

Renumbered and Amended by Chapter 160, 2023 General Session

Part 5 Historical Preservation Act

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.

Renumbered and Amended by Chapter 160, 2023 General Session

9-8a-503 Preservation easement.

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

Renumbered and Amended by Chapter 160, 2023 General Session

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.

Renumbered and Amended by Chapter 160, 2023 General Session

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.

Renumbered and Amended by Chapter 160, 2023 General Session

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.

Renumbered and Amended by Chapter 160, 2023 General Session

Chapter 9 Utah Division of Indian Affairs Act

Part 1 Division of Indian Affairs

9-9-101 Title -- Definitions.

(1) This chapter is known as the "Utah Division of Indian Affairs Act."

- (2)
- (a) As used in this chapter, "division" means the Utah Division of Indian Affairs created in Section 9-9-102.
 - (b) As used in this part, "Indian tribe" or "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.

Amended by Chapter 50, 1999 General Session

9-9-102 Division of Indian Affairs created -- Supervision by department.

- (1) There is created within the department a Utah Division of Indian Affairs.
- (2) The division shall be under the administration and general supervision of the department.

Amended by Chapter 50, 1999 General Session

9-9-103 Purpose.

The division shall:

- (1) develop programs that will allow Indian citizens residing on or off reservations an opportunity to share in the progress of Utah;
- (2) promote an atmosphere in which Indian citizens are provided alternatives so that individual citizens may choose for themselves the kinds of lives they will live, both socially and economically;
- (3) promote programs to help the tribes and Indian communities find and implement solutions to their community problems; and
- (4) promote government-to-government relations between the state and tribal governments.

Amended by Chapter 50, 1999 General Session

9-9-104 Duties and powers.

- (1) The division shall:

- (a) have all of the functions, powers, duties, rights, and responsibilities granted to it by this chapter;
 - (b) staff those committees or boards as specified in this chapter; and
 - (c) in accordance with policies set by state government, coordinate relations between:
 - (i) the state;
 - (ii) tribal governments;
 - (iii) other Indian groups; and
 - (iv) federal agencies.
- (2) The division may:
- (a) contract with public and private entities to provide services or facilities;
 - (b) acquire and hold funds or other property for the administration of the programs outlined in this chapter;
 - (c) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, that are necessary to carry out the duties of the division;
 - (d) accept gifts, grants, devises, and property, in cash or in kind, for the benefit of Indians; and
 - (e) apply or dispose of those gifts, grants, devises, and property received under Subsection (2)(d) for the use and benefit of Indians within the state.

Amended by Chapter 382, 2008 General Session

9-9-104.5 Meetings with Tribal Leaders and Native American Indian organizations.

- (1) The division shall meet regularly with:
- (a) elected officials of Indian Tribal Nations located in whole or in part in the state; or
 - (b) individuals designated by elected officials of the Indian Tribal Nations described in Subsection (1)(a).
- (2)
- (a) Subject to Section 9-9-104.6, at least six times each year, the division shall coordinate and attend a joint meeting of the representatives of tribal governments listed in Subsection (2) (b) for the purpose of coordinating the efforts of state and tribal governments in meeting the needs of the Native American Indians residing in Utah.
 - (b)
 - (b)
 - (i) The representatives to be included in the meeting described in Subsection (2)(a) shall be elected officials, serve as representatives for their entire elected term, and be selected as follows:
 - (A) an elected Navajo Nation council delegate who resides in Utah or Arizona and represents at least one Utah Navajo Chapter, as defined in Section 35A-8-1702, selected by the President of the Navajo Nation;
 - (B) an elected official of the Ute Indian Tribe of the Uintah and Ouray Reservation selected by the Uintah and Ouray Tribal Business Committee;
 - (C) an elected official of the Paiute Indian Tribe of Utah selected by the Paiute Indian Tribe of Utah Tribal Council;
 - (D) an elected official of the Northwestern Band of the Shoshone Nation that resides in Utah or Idaho selected by the Northwestern Band of the Shoshone Nation Tribal Council;
 - (E) an elected official of the Confederated Tribes of the Goshute selected by the Confederated Tribes of the Goshute Reservation Tribal Council;
 - (F) an elected official of the Skull Valley Band of Goshute Indians selected by the Skull Valley Band of Goshute Indian Tribal Executive Committee;

- (G) an elected official of the Ute Mountain Ute Tribe that resides in Utah or Colorado selected by the Ute Mountain Ute Tribal Council; and
 - (H) an elected official of the San Juan Southern Paiute Tribe, residing in Utah or Arizona, selected by the San Juan Southern Paiute Tribal Council.
- (ii) Notwithstanding Subsection (2)(b)(i), if an elected official of an Indian Tribal Nation provides notice to the division, the Indian Tribal Nation may designate an individual other than the elected official selected under Subsection (2)(b)(i) to represent the Indian Tribal Nation at an individual meeting held under Subsection (2)(a).
 - (iii) A majority of members listed in Subsection (2)(b)(i) constitutes a quorum for purposes of a meeting held under Subsection (2)(a). An action of a majority of members present when a quorum is present constitutes action of the representatives for purposes of a meeting described in Subsection (2)(a).
- (c)
 - (i) A meeting held in accordance with Subsection (2)(a) is subject to Title 52, Chapter 4, Open and Public Meetings Act.
 - (ii) A meeting of representatives listed in Subsection (2)(b) is not subject to the requirements of Title 52, Chapter 4, Open and Public Meetings Act, notwithstanding whether it is held on the same day as a meeting held in accordance with Subsection (2)(a) if:
 - (A) the division does not coordinate the meeting described in this Subsection (2)(c)(ii);
 - (B) no state agency participates in the meeting described in this Subsection (2)(c)(ii);
 - (C) a representative receives no per diem or expenses under this section for attending the meeting described in this Subsection (2)(c)(ii) that is in addition to any per diem or expenses the representative receives under Subsection (2)(d) for attending a meeting described in Subsection (2)(a); and
 - (D) the meeting described in this Subsection (2)(c)(ii) is not held:
 - (I) after a meeting described in Subsection (2)(a) begins; and
 - (II) before the meeting described in Subsection (2)(c)(ii)(D)(I) adjourns.
 - (d) A representative of a tribal government that attends a meeting held in accordance with Subsection (2)(a) may not receive compensation or benefits for the representative's service, but may receive per diem and travel expenses in accordance with:
 - (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.
 - (e) For a meeting described in Subsection (2)(a), only the individuals described in Subsection (2)(b) may receive per diem and expenses, as provided in Subsection (2)(d).
 - (3) The division may meet as necessary with Native American Indian groups other than tribal governments representing the interests of Native American Indians who are citizens of the state residing on or off reservation land.

Amended by Chapter 233, 2020 General Session

9-9-104.6 Participation of state agencies in meetings with tribal leaders -- Contact information.

- (1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the division shall coordinate with representatives of tribal governments and the entities listed in Subsection (2) to provide for the broadest participation possible in the joint meetings.
- (2) The following may participate in all meetings described in Subsection (1):
 - (a) the chairs of the Native American Legislative Liaison Committee created in Section 36-22-1;

- (b) the governor or the governor's designee;
 - (c) the American Indian-Alaska Native Health Liaison appointed in accordance with Section 26B-1-305;
 - (d) the American Indian-Alaska Native Public Education Liaison appointed in accordance with Section 53F-5-604; and
 - (e) a representative appointed by the chief administrative officer of the following:
 - (i) the Department of Human Services;
 - (ii) the Department of Natural Resources;
 - (iii) the Department of Workforce Services;
 - (iv) the Governor's Office of Economic Opportunity;
 - (v) the State Board of Education; and
 - (vi) the Utah Board of Higher Education.
- (3)
- (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:
 - (i) designate the name of a contact person for that agency that can assist in coordinating the efforts of state and tribal governments in meeting the needs of the Native Americans residing in the state; and
 - (ii) notify the division:
 - (A) who is the designated contact person described in Subsection (3)(a)(i); and
 - (B) of any change in who is the designated contact person described in Subsection (3)(a)(i).
 - (b) This Subsection (3) applies to:
 - (i) the Department of Agriculture and Food;
 - (ii) the Department of Cultural and Community Engagement;
 - (iii) the Department of Corrections;
 - (iv) the Department of Environmental Quality;
 - (v) the Department of Public Safety;
 - (vi) the Department of Transportation;
 - (vii) the Office of the Attorney General;
 - (viii) the State Tax Commission; and
 - (ix) any agency described in Subsections (2)(c) through (e).
 - (c) At the request of the division, a contact person listed in Subsection (3)(b) may participate in a meeting described in Subsection (1).
- (4)
- (a) A participant under this section who is not a legislator may not receive compensation or benefits for the participant's service, but may receive per diem and travel expenses as allowed in:
 - (i) Section 63A-3-106;
 - (ii) Section 63A-3-107; and
 - (iii) rules made by the Division of Finance according to Sections 63A-3-106 and 63A-3-107.
 - (b) Compensation and expenses of a participant who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Amended by Chapter 245, 2022 General Session

9-9-105 Division director.

- (1) The executive director of the department shall appoint the director of the division with the approval of the governor.

- (2) The director shall be a person knowledgeable in the field of Indian affairs and experienced in administration.

Amended by Chapter 190, 1992 General Session
Renumbered and Amended by Chapter 241, 1992 General Session

9-9-107 Division report.

The department shall include a report of the division's operations and recommendations, including the division's activities under Section 9-9-113, in the annual written report described in Section 9-1-208.

Amended by Chapter 189, 2021 General Session

9-9-108 Investments.

Funds not allocated for use by the division shall be invested in accordance with Section 51-7-11.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-112 Bears Ears Visitor Center Advisory Committee.

- (1) Utah extends an invitation to the Navajo Nation, the Ute Mountain Ute Tribe, the Hopi Nation, the Zuni Tribe, and the Ute Indian Tribe of the Uintah Ouray to form an advisory committee for the purpose of exploring the feasibility, location, functions, and other important matters surrounding the creation of a visitor center at Bears Ears.
- (2) As used in this section:
 - (a) "Advisory committee" means the Bears Ears Visitor Center Advisory Committee created by this section.
 - (b) "Bears Ears" means the Bears Ears National Monument.
- (3)
 - (a) Subject to Subsection (3)(b), there is created the Bears Ears Visitor Center Advisory Committee consisting of the following eight members:
 - (i) five voting members as follows:
 - (A) a representative of the Navajo Nation, appointed by the Navajo Nation;
 - (B) a representative of the Ute Mountain Ute Tribe, appointed by the Ute Mountain Ute Tribe;
 - (C) a representative of the Hopi Nation, appointed by the Hopi Nation;
 - (D) a representative of the Zuni Tribe, appointed by the Zuni Tribe; and
 - (E) a representative of the Ute Indian Tribe of the Uintah Ouray, appointed by the Ute Indian Tribe of the Uintah Ouray; and
 - (ii) subject to Subsection (4), three nonvoting members as follows:
 - (A) one member of the Senate, appointed by the president of the Senate; and
 - (B) two members of the House of Representatives, appointed by the speaker of the House of Representatives.
 - (b) The advisory committee is formed when all of the tribes described in Subsection (1) have communicated to the other tribes and to the Division of Indian Affairs that the tribe has appointed a member to the advisory committee.
- (4) At least one of the three legislative members appointed under Subsection (3)(a)(ii) shall be from a minority party.

- (5) The advisory committee may select from the advisory committee members the chair or other officers of the advisory committee.
- (6)
 - (a) If a vacancy occurs in the membership of the advisory committee appointed under Subsection (3), the member shall be replaced in the same manner in which the original appointment was made.
 - (b) A member appointed under Subsection (3) serves until the member's successor is appointed and qualified.
- (7)
 - (a) A majority of the voting members of the advisory committee constitutes a quorum.
 - (b) The action of a majority of a quorum constitutes an action of the advisory committee.
- (8)
 - (a) The salary and expenses of an advisory committee member who is a legislator shall be paid in accordance with Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.
 - (b) An advisory committee member who is not a legislator may not receive compensation or benefits for the member's service on the advisory committee, but may receive per diem and reimbursement for travel expenses incurred as an advisory committee member at the rates established by the Division of Finance under:
 - (i) Sections 63A-3-106 and 63A-3-107; and
 - (ii) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.
- (9) The advisory committee may invite the United States Forest Service, the Bureau of Land Management, the Division of State Parks, the Division of Outdoor Recreation, and the Utah Office of Tourism within the Governor's Office of Economic Opportunity, to serve as technical advisors to the advisory committee.
- (10) The Division of Indian Affairs shall staff the advisory committee.
- (11) The advisory committee shall study and make recommendations concerning:
 - (a) the need for a visitor center associated with Bears Ears;
 - (b) the feasibility of a visitor center associated with Bears Ears, including investigating:
 - (i) potential locations for the visitor center;
 - (ii) purposes for the visitor center; and
 - (iii) sources of funding to build and maintain the visitor center;
 - (c) whether a visitor center will increase visitorship to Bears Ears; and
 - (d) whether a visitor center at Bears Ears could function as a repository of traditional knowledge and practices.
- (12) The advisory committee may contract with one or more consultants to conduct work related to the issues raised in Subsection (11) if the Legislature appropriates money expressly for the purpose of the advisory committee contracting with a consultant.
- (13) The advisory committee shall hold at least one public hearing to obtain public comment on the creation of a Bears Ears visitor center.
- (14) The advisory committee shall report the advisory committee's recommendations to one or more of the following:
 - (a) the Economic Development and Workforce Services Interim Committee;
 - (b) the House Economic Development and Workforce Services Committee; or
 - (c) the Senate Economic Development and Workforce Services Committee.

Amended by Chapter 68, 2022 General Session

9-9-113 Geographic place names -- Role of division -- Report.

- (1) As used in this section, "location name referring to American Indians" means the name of a place in the state that uses American Indian related terms.
- (2)
 - (a) To facilitate the United States Board on Geographic Names' application process for changing a location name referring to American Indians, the division may create an application template for the following to use:
 - (i) a county in which a place with a location name referring to American Indians is located;
 - (ii) an Indian tribe that is connected to the geographic location referring to American Indians for which the Indian tribe seeks to change the name;
 - (iii) a local community in and around a place with a location name referring to American Indians;
or
 - (iv) another person identified by the division.
 - (b) The application template described in Subsection (2)(a) shall encourage an applicant to solicit feedback from the one or more tribal governments that are connected to the geographic location for which the applicant is proposing to change the location name referring to American Indians.
 - (c) If the division assists a person applying to change the location name referring to American Indians, the division shall direct the person to consult with any tribal government that is connected to the geographic location for which the location name referring to American Indians is proposed to be changed so that a tribal government has an opportunity to provide an official response.
 - (d) The division may bring proposed name changes to location names referring to American Indians to tribal leaders to solicit input from the Indian tribes.
- (3) The division shall provide on the division's website resources for applicants and information about proposed changes to location names referring to American Indians.
- (4) In accordance with Section 9-9-107, the division shall annually report to the Native American Legislative Liaison Committee on the division's activities under this section.

Amended by Chapter 249, 2023 General Session

Part 2
State and Tribal Jurisdiction

9-9-201 Assumption by state of criminal and civil jurisdiction over Indians and Indian territory.

The state of Utah hereby obligates and binds itself to assume criminal and civil jurisdiction over Indians and Indian territory, country, and lands or any portion thereof within this state in accordance with the consent of the United States given by the Act of Congress of April 11, 1968, 82 Stat. 78-80 (Public Law 284, 90th Congress), to the extent authorized by that act and this chapter.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-202 Special elections on acceptance or retrocession of state jurisdiction.

- (1) State jurisdiction acquired or retroceded pursuant to this chapter with respect to criminal offenses or civil causes of action shall be applicable in Indian country only where the enrolled Indians residing within the affected area of the Indian country accept state jurisdiction or request its retrocession by a majority vote of the adult Indians voting at a special election held for that purpose.
- (2) These special elections shall be called pursuant to federal law.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-203 Acceptance or rejection of cession of state jurisdiction -- Proclamation by governor.

- (1) If the governor receives a resolution signed by the majority of any tribe, tribal council, or other governing body duly recognized by the Bureau of Indian Affairs of any tribe, community, band or group in the state certifying the results of a special election expressly ceding criminal or civil jurisdiction of the Indian tribe, community, band, or group or its lands or any portion thereof to the state of Utah within the limits authorized by federal law, he shall either accept or reject the cession of jurisdiction within 60 days.
- (2) If the governor accepts jurisdiction, he shall issue a proclamation within 60 days to the effect that civil or criminal jurisdiction shall apply, subject to the limitations of this chapter, to all Indians and all Indian territory, country, lands or any portion thereof of the Indian body involved to the extent authorized by the resolution. Failure to issue the proclamation within the time prescribed is considered a rejection of the assumption of jurisdiction.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-204 Criminal jurisdiction.

The state of Utah shall assume jurisdiction over offenses as set forth in this chapter, committed by or against Indians in the lands described in each tribal resolution 60 days after issuance of the governor's proclamation to the same extent it has jurisdiction over offenses committed elsewhere within the state. The criminal laws of the state shall have the same force and effect within these lands as they have elsewhere within the state.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-205 Civil jurisdiction.

The state of Utah shall assume jurisdiction over civil causes of action as set forth in this chapter, between Indians or to which Indians are parties in the lands described in each tribal resolution 60 days after issuance of the governor's proclamation to the same extent it has jurisdiction over civil causes of action as elsewhere within the state. The civil laws of the state shall have the same force and effect within these lands as they have elsewhere within the state, except as otherwise provided by this chapter.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-206 State jurisdiction subject to provisions of federal law and resolution of tribe.

The jurisdiction assumed pursuant to this chapter is subject to the limitations and provisions of the federal Act of Congress of April 11, 1968, 82 Stat. 78-80 (Public Law 284, 90th Congress), and the specific limitations set forth in each resolution ceding jurisdiction to the state, both as to geographical area and subject matter.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-207 Retrocession of state jurisdiction -- Proclamation by governor.

- (1) The state of Utah hereby obligates and binds itself to retrocede all or any measure of the criminal or civil jurisdiction acquired by it pursuant to this chapter whenever the governor receives a resolution from a majority of any tribe, tribal council, or other governing body duly recognized by the Bureau of Indian Affairs of any Indian tribe, community, band or group in this state, certifying the results of a special election and expressly requesting the state to retrocede jurisdiction over its people or lands or any portion thereof within the limits authorized by the Act of Congress of April 11, 1968, 82 Stat., 78-80 (Public Law 284, 90th Congress).
- (2) The governor shall issue within 60 days a proclamation to the effect that jurisdiction has been retroceded for all these Indians and all Indian territory, country, lands or any portion thereof.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-208 Limitations on state authority with respect to property and rights of Indians.

Nothing in this chapter:

- (1) authorizes the alienation, encumbrance, or taxation of any real or personal property, including water rights belonging to any Indian or any Indian tribe, band, or community that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States;
- (2) authorizes the regulation of the use of this property in a manner inconsistent with any federal treaty, agreement, or statute or with any regulation made pursuant to them;
- (3) confers jurisdiction upon the state to adjudicate, in probate proceedings or otherwise, the ownership or right to possession of this property or any interest in it; or
- (4) enlarges, diminishes, or deprives any Indian or any Indian tribe, band, or community of any right, privilege, or immunity afforded under federal treaty, agreement, statute, or executive order with respect to Indian land grants, hunting, trapping, or fishing or the control, licensing, or regulation of these.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-209 Tribal ordinance or custom given full force and effect.

Any tribal ordinance or custom adopted by an Indian tribe, band, or community in the exercise of any authority that it may possess shall, if not inconsistent with any applicable civil law of the state, be given full force and effect in the determination of civil causes of action.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-210 Criminal jurisdiction of state over hunting, trapping, or fishing offenses on reservations -- "Indian reservation" defined.

As used in this part, "Indian reservation" means:

- (1) all land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and including rights of way running through the reservation; and
- (2) all Indian allotments, to which the Indian titles have not been extinguished, including rights of way thereon.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-211 Hunting, trapping, or fishing on reservation a misdemeanor.

Any person who, without lawful authority or permission from constituted tribal authorities, willfully and knowingly goes upon any real property within an Indian reservation belonging to any Indian, or any Indian tribe, band, or community, that is held in trust by the United States or is subject to a restriction against alienation imposed by the United States, for the purpose of hunting, trapping, or fishing thereon, or for the removal of game, peltries, or fish therefrom, is guilty of a class B misdemeanor, and all game, fish, and peltries in the person's possession shall be forfeited to the tribe.

Amended by Chapter 148, 2018 General Session

9-9-212 Jurisdiction of tribe over hunting, trapping, or fishing offenses by member.

This chapter does not extend to offenses committed by an enrolled member of a federally recognized Indian tribe who is subject to the law of the tribe having jurisdiction of the Indian reservation, or in any case where the exclusive jurisdiction over the offense is, or may be, secured to the Indian tribes respectively.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-213 Concurrent state and federal jurisdiction over hunting, trapping, or fishing offenses on reservations.

- (1) With respect to any of the offenses enumerated in this chapter, over which federal courts may have lawful jurisdiction, the jurisdiction of the courts of the state of Utah shall be concurrent and not exclusive.
- (2) It shall be the duty of the courts of the state of Utah to order delivery to the proper authorities of the federal government for prosecution, any offender, there to be dealt with according to law or regulations authorized by law, where such authorities consent to exercise jurisdiction lawfully vested in them over the said offender.

Renumbered and Amended by Chapter 241, 1992 General Session

9-9-214 Law enforcement in presidential townsites.

- (1) As used in this section:
 - (a) "Agents of the Bureau of Indian Affairs" means individuals the Bureau of Indian Affairs has empowered to enforce federal statutes in Indian land under 25 U.S.C. Sec. 2802 or 25 U.S.C. Sec. 2804.
 - (b) "Bureau of Indian Affairs" means the Bureau of Indian Affairs within the United States Department of the Interior.
 - (c) "Indian land" means land that qualifies as "Indian country" under 18 U.S.C. Sec. 1151.
 - (d) "Indian tribe" or "tribe" means an Indian tribe included in the list of federally recognized Indian tribes under 25 U.S.C. Sec. 5131.
 - (e) "Non-Indian land" means land that does not qualify as "Indian country" under 18 U.S.C. Sec. 1151.
 - (f) "Presidential townsite with Indian land" means a municipality incorporated under the laws of the state:

- (i) created by presidential proclamation pursuant to Sections 2380 and 2381 of the Revised Statutes of the United States, Act of Congress of March 3, 1863, 12 Stat. 754; and
 - (ii) encompassing Indian land and non-Indian land within its municipal boundaries.
- (2) A presidential townsite with Indian land may enter into an agreement that grants authority to agents of the Bureau of Indian Affairs to enforce all applicable state and local misdemeanor and felony offenses on all lands within the presidential townsite with Indian land, provided that each of the following shall be party to the agreement:
- (a) the presidential townsite with Indian land;
 - (b) the local county sheriff;
 - (c) the Indian tribe with jurisdiction over Indian lands within the presidential townsite with Indian land; and
 - (d) the Bureau of Indian Affairs.
- (3) An agreement entered into under Subsection (2) may be for any period of time and shall state the period of time that the agreement lasts.
- (4) Agents of the Bureau of Indian Affairs who are granted authority to enforce state and local criminal misdemeanor offenses and felonies under an agreement entered into under Subsection (2) shall successfully complete a course focusing on Utah criminal and constitutional law and process specifically approved by the director of the Peace Officer Standards and Training Division created under Section 53-6-103 to qualify the individual for cross-deputization pursuant to this section.

Enacted by Chapter 237, 2018 General Session

Part 3 Reserved

Part 4 Native American Grave Protection and Repatriation Act

9-9-401 Short title.

This part is known as the "Native American Grave Protection and Repatriation Act."

Enacted by Chapter 286, 1992 General Session

9-9-402 Definitions.

As used in this part:

- (1) "Antiquities Section" means the Antiquities Section of the State Historic Preservation Office.
- (2) "Burial site" means a natural or prepared physical location, whether originally 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.
- (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.

Amended by Chapter 160, 2023 General Session

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 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 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 9-8a-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 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
 - (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 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.
- (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 9-8a-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.

Amended by Chapter 160, 2023 General Session

9-9-404 Illegal trafficking.

- (1) Any person who knowingly sells, purchases, uses for profit, or transports for sale or profit the remains of a Native American without the right of possession to those remains as provided in this part is guilty of a class A misdemeanor. In the case of a second or subsequent violation the person is guilty of a third degree felony.
- (2) Any person who knowingly sells, purchases, exchanges, receives, uses for profit, or transports for sale or profit any Native American remains obtained in violation of this part is guilty of a class A misdemeanor. In the case of a second or subsequent violation the person is guilty of a third degree felony.

Enacted by Chapter 286, 1992 General Session

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:
 - (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 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 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.

Amended by Chapter 160, 2023 General Session

9-9-406 Savings provision.

Nothing in this part may be construed to:

- (1) limit the authority of a state agency to:
 - (a) return or repatriate Native American remains to Indian tribes or individuals; or
 - (b) enter into another agreement with the consent of the lineal descendant or culturally affiliated tribe as to the disposition or control over Native American remains;
- (2) delay actions on repatriation requests that are pending on March 17, 1992;
- (3) deny or otherwise affect access to any court, except as provided in Subsection 9-9-403(6);
- (4) limit any procedural or substantive rights that may otherwise be secured to individuals or Indian tribes; or
- (5) limit the application of any state or federal law pertaining to theft or stolen property.

Amended by Chapter 114, 2008 General Session

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 9-8a-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 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 9-8a-404 and rules made by the 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).

Amended by Chapter 160, 2023 General Session

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 9-8a-302, that are Native American remains, as defined in Section 9-9-402.
 - (b) "Antiquities Section" means the Antiquities Section of the State Historic Preservation Office created in Section 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;
 - (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.

Amended by Chapter 160, 2023 General Session

Chapter 17

Humanitarian Service and Educational and Cultural Exchange Restricted Account Act

9-17-101 Title.

This chapter is known as the "Humanitarian Service and Educational and Cultural Exchange Restricted Account Act."

Enacted by Chapter 166, 2010 General Session

9-17-102 Humanitarian Service and Educational and Cultural Exchange Restricted Account.

- (1) There is created in the General Fund a restricted account known as the "Humanitarian Service and Educational and Cultural Exchange Restricted Account."
- (2) The account shall be funded by:
 - (a) contributions deposited into the account in accordance with Section 41-1a-422;
 - (b) private contributions; and
 - (c) donations or grants from public or private entities.
- (3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:
 - (a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;
 - (b) have a national parent organization which:
 - (i) provides international humanitarian service projects; and
 - (ii) has youth programs including programs to foster leadership in high school students, humanitarian service in high school and college, and conducts and promotes community service projects;
 - (c) have a non-profit youth exchange program that does not compensate those who administer the program within the state;
 - (d) have an annual leadership conference, which does not compensate those who administer the program within the state;
 - (e) have high school service clubs, which promote humanitarian services on a state level, a national level, and an international level; and
 - (f) have college service clubs, which promote humanitarian service on a state level, a national level, and an international level.
- (4)
 - (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).
 - (b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:
 - (i) pay the costs of supporting the following programs within the state:
 - (A) youth programs including programs to foster leadership in high school students and humanitarian service in high school and college;
 - (B) community service projects;
 - (C) a non-profit youth exchange program;
 - (D) an annual leadership conference;
 - (E) high school service clubs, which promote humanitarian service on a state level, a national level, and an international level; and
 - (F) college service clubs, which promote humanitarian service on a state level, a national level, and an international level; and

- (ii) pay the costs of issuing or reordering Humanitarian Service and Educational and Cultural Exchange support special group license plate decals.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under Subsection (3).

Amended by Chapter 303, 2011 General Session

Chapter 18

Martin Luther King, Jr. Civil Rights Support Restricted Account Act

9-18-101 Title.

This chapter is known as the "Martin Luther King, Jr. Civil Rights Support Restricted Account Act."

Enacted by Chapter 332, 2012 General Session

9-18-102 Martin Luther King, Jr. Civil Rights Support Restricted Account.

- (1) There is created in the General Fund a restricted account known as the "Martin Luther King, Jr. Civil Rights Support Restricted Account."
- (2) The account shall be funded by:
 - (a) private contributions; and
 - (b) donations or grants from public or private entities.
- (3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code, are located within the state, are not affiliated with a parent organization, and that:
 - (a) create or support programs that promote awareness and education of constitutional and civil rights;
 - (b) provide education and training in inalienable rights as set forth in the Declaration of Independence;
 - (c) partner with educational institutions to administer underrepresented or underserved scholarships; or
 - (d) partner with government agencies within the state and the private sector to administer and facilitate an underrepresented or underserved internship program.
- (4)
 - (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).
 - (b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:
 - (i) facilitate, coordinate, and encourage appropriate ceremonies and activities that commemorate the federal Martin Luther King, Jr. holiday;
 - (ii) create or support programs that promote awareness and education of constitutional and civil rights;
 - (iii) provide education and training in inalienable rights as set forth in the Declaration of Independence;

- (iv) partner with educational institutions to administer underrepresented or underserved scholarships;
 - (v) partner with government agencies within the state and the private sector to administer and facilitate an underrepresented or underserved internship program; or
 - (vi) pay the costs of issuing or reordering Dr. Martin Luther King, Jr. recognition special group license plate decals.
- (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (3).
- (5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Amended by Chapter 34, 2020 General Session
Amended by Chapter 120, 2020 General Session

Chapter 19

National Professional Men's Soccer Team Support of Building Communities Restricted Account Act

9-19-101 Title.

This chapter is known as the "National Professional Men's Soccer Team Support of Building Communities Restricted Account Act."

Enacted by Chapter 70, 2016 General Session

9-19-102 National Professional Men's Soccer Team Support of Building Communities Restricted Account.

- (1) There is created in the General Fund a restricted account known as the "National Professional Men's Soccer Team Support of Building Communities Restricted Account."
- (2) The account shall be funded by:
 - (a) contributions deposited into the account in accordance with Section 41-1a-422;
 - (b) private contributions; and
 - (c) donations or grants from public or private entities.
- (3) Upon appropriation by the Legislature, the department shall distribute funds in the account to one or more charitable organizations that:
 - (a) qualify as being tax exempt under Section 501(c)(3) of the Internal Revenue Code;
 - (b) have a board that is appointed by the owners that, either on an individual or joint basis, own a controlling interest in a legal entity that is a franchised member of the internationally recognized national governing body for professional men's soccer in the United States;
 - (c) are headquartered within the state;
 - (d) create or support programs that focus on:
 - (i) strengthening communities through youth soccer by:
 - (A) using soccer to teach life skills;
 - (B) combating gang activity through youth involvement; and
 - (C) providing youth in underserved areas with opportunities to play soccer and become certified referees;

- (ii) building communities through professional player initiatives, tournaments, and community gathering areas; and
 - (iii) promoting environmental sustainability; and
 - (e) have a board of directors that disperses all funds of the organization.
- (4)
- (a) An organization described in Subsection (3) may apply to the department to receive a distribution in accordance with Subsection (3).
 - (b) An organization that receives a distribution from the department in accordance with Subsection (3) shall expend the distribution only to:
 - (i) create or support programs that focus on issues described in Subsection (3);
 - (ii) create or sponsor programs that will benefit residents within the state; and
 - (iii) pay the costs of issuing or reordering National Professional Men's Soccer Team Support of Building Communities support special group license plate decals.
 - (c) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the department may make rules providing procedures for an organization to apply to the department to receive a distribution under this Subsection (4).
- (5) In accordance with Section 63J-1-602.1, appropriations from the account are nonlapsing.

Enacted by Chapter 70, 2016 General Session

Chapter 20

Utah Commission on Service and Volunteerism Act

Part 1

General Provisions

9-20-101 Title.

This chapter is known as the "Utah Commission on Service and Volunteerism Act."

Renumbered and Amended by Chapter 221, 2019 General Session

9-20-102 Definitions.

As used in this chapter:

- (1) "Act" means the National Community and Service Trust Act of 1993, 42 U.S.C. 12501 et seq.
- (2) "Commission" means the Utah Commission on Service and Volunteerism created in Section 9-20-201.
- (3) "Corporation" means the Corporation for National and Community Service described in the act.

Renumbered and Amended by Chapter 221, 2019 General Session

Part 2

Utah Commission on Service and Volunteerism

9-20-201 Creation -- Members -- Appointment -- Terms -- Vacancies -- Per diem and expenses.

- (1) There is created the Utah Commission on Service and Volunteerism consisting of 19 voting members and one nonvoting member.
- (2) The 19 voting members of the commission are:
 - (a) the lieutenant governor;
 - (b) the commissioner of higher education or the commissioner's designee;
 - (c) the state superintendent of public instruction or the superintendent's designee;
 - (d) the executive director of the Department of Cultural and Community Engagement or the executive director's designee;
 - (e) nine members appointed by the governor as follows:
 - (i) an individual with expertise in the educational, training, and developmental needs of youth, particularly disadvantaged youth;
 - (ii) an individual with experience in promoting the involvement of older adults in volunteer service;
 - (iii) a representative of a community-based agency or organization within the state;
 - (iv) a representative of local government;
 - (v) a representative of a local labor organization in the state;
 - (vi) a representative of business;
 - (vii) an individual between the ages of 16 and 25 who participates in a volunteer or service program;
 - (viii) a representative of a national service program; and
 - (ix) a representative of the volunteer sector; and
 - (f) six members appointed by the governor from among the following groups:
 - (i) local educators;
 - (ii) experts in the delivery of human, educational, cultural, environmental, or public safety services to communities and individuals;
 - (iii) representatives of Native American tribes;
 - (iv) representatives of organizations that assist out-of-school youth or other at-risk youth; or
 - (v) representatives of entities that receive assistance under the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4950 et seq.
- (3) The nonvoting member of the commission is the state representative of the corporation.
- (4)
 - (a) In appointing persons to serve on the commission, the governor shall ensure that:
 - (i) no more than 10 voting members of the commission are members of the same political party; and
 - (ii) no more than five voting members of the commission are state government employees.
 - (b) In appointing persons to serve on the commission, the governor shall strive for balance on the commission according to race, ethnicity, age, gender, and disability characteristics.
- (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 three-year term.
 - (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 one-third of the commission is appointed every year.
- (6) When a vacancy occurs in the membership, the replacement shall be appointed for the unexpired term.
- (7) A member appointed by the governor may not serve more than two consecutive terms.

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

Amended by Chapter 184, 2021 General Session

9-20-202 Election of commission chair and vice chair.

- (1) Subject to Subsection (2), the voting members of the commission shall elect a chair and a vice chair from among the voting members of the commission.
- (2) The voting members of the commission may not elect the lieutenant governor as chair or vice chair of the commission.
- (3) The chair and vice chair shall serve for a term of one year.

Renumbered and Amended by Chapter 221, 2019 General Session

9-20-203 Commission chair and vice chair duties.

- (1) The chair shall:
 - (a) preside at meetings of the commission; and
 - (b) authorize and execute the actions of the commission.
- (2) The vice chair shall:
 - (a) assist the chair;
 - (b) if the chair is absent, perform the duties of the chair;
 - (c) accept special assignments from the chair; and
 - (d) perform other duties as delegated by the commission.

Renumbered and Amended by Chapter 221, 2019 General Session

9-20-204 Meetings -- Quorum.

- (1) The commission shall meet at least quarterly.
- (2) A voting member of the commission who fails to attend at least 75% of called meetings in a calendar year is automatically removed from the commission.
- (3) A commission quorum is a simple majority of the voting members.

Renumbered and Amended by Chapter 221, 2019 General Session

9-20-205 Commission duties.

- (1) The commission shall:
 - (a) administer the selection, development, and oversight of programs funded and established by the act;
 - (b) pursue opportunities for sustainable and high-impact community service;
 - (c) develop and annually update a three-year community service plan for the state, including the establishment of state priorities; and
 - (d) stimulate increased community awareness of the impact of volunteer service in the state.
- (2)

- (a) The commission may, subject to Title 63J, Chapter 5, Federal Funds Procedures Act, receive and accept federal funds, and may receive and accept private gifts, donations, or funds from any source.
- (b) Money received under this Subsection (2) shall be deposited with the state and shall be available to the commission to carry out the purposes of this part.

Renumbered and Amended by Chapter 221, 2019 General Session

9-20-206 Reporting and administration.

- (1) The executive director, in consultation with the commission, shall appoint a director of the commission who is:
 - (a) experienced in administration; and
 - (b) qualified by education or training in the field of public administration.
- (2) The director of the commission shall report to the executive director.
- (3) The commission shall:
 - (a) report to the office of the lieutenant governor; and
 - (b) by January 1, provide an annual written report to the lieutenant governor on service and volunteerism in the state.
- (4) The department shall provide administrative and staff support services to the commission.

Renumbered and Amended by Chapter 221, 2019 General Session

9-20-207 Rulemaking.

In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the provisions of this chapter, the Department of Cultural and Community Engagement may make rules to:

- (1) implement this chapter; and
- (2) ensure the commission complies with the act and related federal requirements.

Amended by Chapter 184, 2021 General Session

Chapter 21
Division of Multicultural Affairs Act

Part 1
General Provisions

9-21-101 Title.

This chapter is known as the "Division of Multicultural Affairs Act."

Enacted by Chapter 221, 2019 General Session

9-21-102 Definitions.

As used in this chapter:

- (1) "Commission" means the Utah Multicultural Commission created in Section 9-21-301.

- (2) "Director" means the director of the Division of Multicultural Affairs.
- (3) "Division" means the Division of Multicultural Affairs created in Section 9-21-201.
- (4) "Human rights commission" means the Utah Martin Luther King, Jr. Human Rights Commission created in Section 9-21-401.

Enacted by Chapter 221, 2019 General Session

Part 2

Division of Multicultural Affairs

9-21-201 Creation.

- (1) There is created within the department the Division of Multicultural Affairs under the administration and general supervision of the executive director.
- (2) The division shall be under the policy direction of the executive director in consultation with the director and the commission.

Enacted by Chapter 221, 2019 General Session

9-21-202 Responsibilities of the division.

The responsibilities of the division include:

- (1) identifying the needs of the state's multicultural communities;
- (2) promoting inclusiveness and cultivating trust and cooperation between the state, nonprofit entities receiving state funds, and the state's multicultural communities; and
- (3) working with state agencies to ensure the state provides equitable resources, services, and programs to address the needs of the state's multicultural communities.

Enacted by Chapter 221, 2019 General Session

9-21-203 Reporting requirements.

The division shall submit an annual written report to the department for inclusion in the department's annual report described in Section 9-1-208, which shall describe the activities and recommendations of:

- (1) the division in meeting the division's responsibilities as described in this chapter;
- (2) the commission in meeting the commission's responsibilities as described in this chapter, including the strategic plan described in Section 9-21-302; and
- (3) the human rights commission in meeting the human rights commission's responsibilities as described in this chapter.

Enacted by Chapter 221, 2019 General Session

Part 3

Utah Multicultural Commission

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) 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 Subsection (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.
 - (c) When a vacancy occurs in the membership, the governor shall appoint a replacement for the unexpired term.
- (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.
- (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.
- (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.
- (7) The department shall provide administrative support to the commission.

Amended by Chapter 160, 2023 General Session

9-21-302 Commission duties.

- (1) The commission shall:
 - (a) cooperate with the division and state agencies to ensure 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:
 - (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) 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.

Amended by Chapter 160, 2023 General Session

Part 4

Utah Martin Luther King, Jr. Human Rights Commission

9-21-401 Creation of human rights commission -- Membership -- Rulemaking.

- (1) There is created within the division the Utah Martin Luther King, Jr. Human Rights Commission.
- (2)
 - (a) The human rights commission shall consist of 13 members appointed by the governor to two-year terms.
 - (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall at the time of appointment adjust the length of terms to ensure that the terms of human rights commission members are staggered so that approximately half of the human rights commission is appointed every two years.
- (3) The governor shall appoint one of the members as chair of the human rights commission.
- (4) The human rights commission shall meet at least quarterly.
- (5) A majority of the members of the human rights commission constitutes a quorum of the human rights commission at any meeting, and the action of the majority of members present is the action of the human rights commission.
- (6) A member appointed by the governor may not serve more than two consecutive terms.
- (7) When a vacancy occurs in the membership, the governor shall appoint a replacement 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) 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) The department shall make rules establishing the membership, duties, and procedures of the human rights commission in accordance with the requirements of:
 - (a) this chapter; and
 - (b) Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (10) The department shall provide administrative support to the commission.

Enacted by Chapter 221, 2019 General Session

9-21-402 Human rights commission duties.

The human rights commission shall:

- (1) promote Dr. Martin Luther King, Jr. Day by:
 - (a) encouraging appropriate ceremonies and activities commemorating the federal and state holiday, which occurs on the third Monday of January each year;
 - (b) seeking to involve the public and private sectors in promoting diversity, equality, and human rights;

- (c) providing recommendations and assistance to government entities and private organizations regarding the observance of the holiday;
 - (d) coordinating efforts with state residents of diverse backgrounds and with private organizations regarding the observance of the holiday; and
 - (e) partnering with educational institutions to assist schools in promoting appropriate events to honor human rights and the holiday; and
- (2) report annually to the division regarding the activities of the commission.

Enacted by Chapter 221, 2019 General Session

Chapter 22 Stem Action Center

Part 1 Stem Action Center

9-22-101 Title.

This chapter is known as the "STEM Action Center."

Renumbered and Amended by Chapter 487, 2019 General Session

9-22-102 Definitions.

As used in this chapter:

- (1) "Computing partnerships" means a set of skills, knowledge, and aptitudes used in computer science, information technology, or computer engineering courses and career options.
- (2) "Director" means the director appointed by the STEM board to oversee the administration of the STEM Action Center.
- (3) "Educator" means the same as that term is defined in Section 53E-6-102.
- (4) "Foundation" means a foundation established as described in Subsections 9-22-104(3) and (4).
- (5) "Fund" means the STEM Action Center Foundation Fund created in Section 9-22-105.
- (6) "Grant program" means the Computing Partnerships Grants program created in this part.
- (7) "High quality professional development" means professional development that meets high quality standards developed by the State Board of Education.
- (8) "Institution of higher education" means an institution listed in Section 53B-1-102.
- (9) "K-16" means kindergarten through grade 12 and post-secondary education programs.
- (10) "Provider" means a provider selected on behalf of the STEM board by the staff of the STEM board and the staff of the State Board of Education:
 - (a) through a request for proposals process; or
 - (b) through a direct award or sole source procurement process for a pilot described in Section 9-22-107.
- (11) "Review committee" means the committee established under Section 9-22-114.
- (12) "Stacked credentials" means credentials that:
 - (a) an individual can build upon to access an advanced job or higher wage;
 - (b) are part of a career pathway system;
 - (c) provide a pathway culminating in the equivalent of an associate's or bachelor's degree;

- (d) facilitate multiple exit and entry points; and
 - (e) recognize sub-goals or momentum points.
- (13) "STEM" means science, technology, engineering, and mathematics.
- (14) "STEM Action Center" means the center described in Section 9-22-106.
- (15) "STEM board" means the STEM Action Center Board created in Section 9-22-103.
- (16) "Talent Ready Program" means the Talent Ready Utah Program created in Section 53B-34-103.

Amended by Chapter 282, 2021 General Session

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

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

Amended by Chapter 160, 2023 General Session

9-22-104 STEM Action Center Board -- Duties.

- (1) The STEM board shall:

- (a) establish a STEM Action Center to:
 - (i) coordinate STEM activities in the state among the following stakeholders:
 - (A) the State Board of Education;
 - (B) school districts and charter schools;
 - (C) the Utah Board of Higher Education;
 - (D) institutions of higher education;
 - (E) parents of home-schooled students;
 - (F) other state agencies; and
 - (G) business and industry representatives;
 - (ii) align public education STEM activities with higher education STEM activities; and
 - (iii) create and coordinate best practices among public education and higher education;
 - (b) with the advice and consent of the Senate, appoint a director to oversee the administration of the STEM Action Center;
 - (c) select a physical location for the STEM Action Center;
 - (d) strategically engage industry and business entities to cooperate with the STEM board:
 - (i) to support high quality professional development and provide other assistance for educators and students; and
 - (ii) to provide private funding and support for the STEM Action Center;
 - (e) give direction to the STEM Action Center and the providers selected through a request for proposals process pursuant to this part; and
 - (f) work to meet the following expectations:
 - (i) that at least 50 educators are implementing best practice learning tools in classrooms;
 - (ii) performance change in student achievement in each classroom participating in a STEM Action Center project; and
 - (iii) that students from at least 50 schools in the state participate in the STEM competitions, fairs, and camps described in Subsection 9-22-106(2)(d).
- (2) The STEM board may:
- (a) enter into contracts for the purposes of this part;
 - (b) apply for, receive, and disburse funds, contributions, or grants from any source for the purposes set forth in this part;
 - (c) employ, compensate, and prescribe the duties and powers of individuals necessary to execute the duties and powers of the STEM board;
 - (d) prescribe the duties and powers of the STEM Action Center providers; and
 - (e) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, make rules to administer this part.
- (3) The STEM board may establish a foundation to assist in:
- (a) the development and implementation of the programs authorized under this part to promote STEM education; and
 - (b) implementation of other STEM education objectives described in this part.
- (4) A foundation established by the STEM board under Subsection (3):
- (a) may solicit and receive contributions from a private organization for STEM education objectives described in this part;
 - (b) shall comply with the requirements described in Section 9-22-105;
 - (c) does not have power or authority to incur contractual obligations or liabilities that constitute a claim against public funds;
 - (d) may not exercise executive or administrative authority over the programs or other activities described in this part, except to the extent specifically authorized by the STEM board;

- (e) shall provide the STEM board with information detailing transactions and balances associated with the foundation; and
- (f) may not:
 - (i) engage in lobbying activities;
 - (ii) attempt to influence legislation; or
 - (iii) participate in any campaign activity for or against:
 - (A) a political candidate; or
 - (B) an initiative, referendum, proposed constitutional amendment, bond, or any other ballot proposition submitted to the voters.

Amended by Chapter 352, 2020 General Session

Amended by Chapter 365, 2020 General Session

9-22-105 STEM Action Center Foundation Fund.

- (1) There is created an expendable special revenue fund known as the "STEM Action Center Foundation Fund."
- (2) The director shall administer the fund under the direction of the STEM board.
- (3) Money may be deposited into the fund from a variety of sources, including transfers, grants, private foundations, individual donors, gifts, bequests, legislative appropriations, and money made available from any other source.
- (4) Money collected by a foundation described in Subsections 9-22-104(3) and (4) shall be deposited into the fund.
- (5) Any portion of the fund may be treated as an endowment fund such that the principal of that portion of the fund is held in perpetuity on behalf of the STEM Action Center.
- (6) The state treasurer shall invest the money in the fund according to the procedures and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest or other earnings derived from those investments shall be deposited into the fund.
- (7) The director, under the direction of the STEM board, may expend money from the fund for the purposes described in this part.

Renumbered and Amended by Chapter 487, 2019 General Session

9-22-106 STEM Action Center.

- (1) The STEM board shall:
 - (a) establish a STEM Action Center;
 - (b) ensure that the STEM Action Center:
 - (i) is accessible to the public; and
 - (ii) includes the components described in Subsection (2);
 - (c) work cooperatively with the State Board of Education to:
 - (i) further STEM education; and
 - (ii) ensure best practices are implemented as described in Sections 9-22-107 and 9-22-108;
 - (d) engage private entities to provide financial support or employee time for STEM activities in schools in addition to what is currently provided by private entities; and
 - (e) work cooperatively with stakeholders to support and promote activities that align STEM education and training activities with the employment needs of business and industry in the state.
- (2) As funding allows, the director of the STEM Action Center shall:
 - (a) support high quality professional development for educators regarding STEM education;

- (b) ensure that the STEM Action Center acts as a research and development center for STEM education through a request for proposals process described in Section 9-22-107;
- (c) review and acquire STEM education related materials and products for:
 - (i) high quality professional development;
 - (ii) assessment, data collection, analysis, and reporting; and
 - (iii) public school instruction;
- (d) facilitate participation in interscholastic STEM related competitions, fairs, camps, and STEM education activities;
- (e) engage private industry in the development and maintenance of the STEM Action Center and STEM Action Center projects;
- (f) use resources to bring the latest STEM education learning tools into public education classrooms;
- (g) identify at least 10 best practice innovations used in Utah that have resulted in a measurable improvement in student performance or outcomes in STEM areas;
- (h) identify best practices being used outside the state and, as appropriate, develop and implement selected practices through a pilot program;
- (i) identify:
 - (i) learning tools for kindergarten through grade 6 identified as best practices; and
 - (ii) learning tools for grades 7 through 12 identified as best practices;
- (j) collect data on Utah best practices, including best practices from public education, higher education, the Utah Education and Telehealth Network, and other STEM related entities;
- (k) keep track of the following items related to best practices described in Subsection (2)(j):
 - (i) how the best practices data are being used; and
 - (ii) how many individuals are using the data, including the demographics of the users, if available;
- (l) as appropriate, join and participate in a national STEM network;
- (m) work cooperatively with the State Board of Education to designate schools as STEM schools, where the schools have agreed to adopt a plan of STEM implementation in alignment with criteria set by the State Board of Education and the board;
- (n) support best methods of high quality professional development for STEM education in kindergarten through grade 12, including methods of high quality professional development that reduce cost and increase effectiveness, to help educators learn how to most effectively implement best practice learning tools in classrooms;
- (o) recognize achievement in the STEM competitions, fairs, and camps described in Subsection (2)(d);
- (p) send student results from STEM competitions, fairs, and camps described in Subsection (2)(d) to media and ask the media to report on them;
- (q) develop and distribute STEM information to parents of students in the state;
- (r) support targeted high quality professional development for improved instruction in STEM education, including:
 - (i) improved instructional materials that are dynamic and engaging for students;
 - (ii) use of applied instruction; and
 - (iii) introduction of other research-based methods that support student achievement in STEM areas; and
- (s) ensure that an online college readiness assessment tool be accessible by:
 - (i) public education students; and
 - (ii) higher education students.

- (3) The STEM board may prescribe other duties for the STEM Action Center in addition to the responsibilities described in this section.
- (4)
 - (a) The director shall work with an independent evaluator to track and compare the student performance of students participating in a STEM Action Center program to all other similarly situated students in the state, if appropriate, in the following activities:
 - (i) public education high school graduation rates;
 - (ii) the number of students taking a remedial mathematics course at an institution of higher education described in Section 53B-2-101;
 - (iii) the number of students who graduate from a Utah public school and begin a postsecondary education program; and
 - (iv) the number of students, as compared to all similarly situated students, who are performing at grade level in STEM classes.
 - (b) The State Board of Education and the Utah Board of Higher Education shall provide information to the STEM board to assist the STEM board in complying with the requirements of Subsection (4)(a) if allowed under federal law.

Amended by Chapter 365, 2020 General Session

9-22-107 Acquisition of STEM education related instructional technology program -- Research and development of education related instructional technology through a pilot program.

- (1) For purposes of this section:
 - (a) "Pilot" means a pilot of the program.
 - (b) "Program" means the STEM education related instructional technology program created in Subsection (2).
- (2)
 - (a) There is created the STEM education related instructional technology program to provide public schools the STEM education related instructional technology described in Subsection (3).
 - (b) On behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall collaborate and may select one or more providers, through a request for proposals process, to provide STEM education related instructional technology to school districts and charter schools.
 - (c) On behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall consider and may accept an offer from a provider in response to the request for proposals described in Subsection (2)(b) even if the provider did not participate in a pilot described in Subsection (5).
- (3) The STEM education related instructional technology shall:
 - (a) support mathematics instruction for students in:
 - (i) kindergarten through grade 6; or
 - (ii) grades 7 and 8; or
 - (b) support mathematics instruction for secondary students to prepare the secondary students for college mathematics courses.
- (4) In selecting a provider for STEM education related instructional technology to support mathematics instruction for the students described in Subsection (3)(a), the STEM board shall consider the following criteria:

- (a) the technology contains individualized instructional support for skills and understanding of the core standards in mathematics;
 - (b) the technology is self-adapting to respond to the needs and progress of the learner; and
 - (c) the technology provides opportunities for frequent, quick, and informal assessments and includes an embedded progress monitoring tool and mechanisms for regular feedback to students and teachers.
- (5) Before issuing a request for proposals described in Subsection (2), on behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall collaborate and may:
- (a) conduct a pilot of the program to test and select providers for the program;
 - (b) select at least two providers through a direct award or sole source procurement process for the purpose of conducting the pilot; and
 - (c) select schools to participate in the pilot.
- (6)
- (a) A contract with a provider for STEM education related instructional technology may include professional development for full deployment of the STEM education related instructional technology.
 - (b) No more than 10% of the money appropriated for the program may be used to provide professional development related to STEM education related instructional technology in addition to the professional development described in Subsection (6)(a).

Renumbered and Amended by Chapter 487, 2019 General Session

9-22-108 Distribution of STEM education instructional technology to schools.

- (1) Subject to legislative appropriations, on behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall collaborate and shall:
- (a) distribute STEM education related instructional technology described in Section 9-22-107 to school districts and charter schools; and
 - (b) provide related professional development to the school districts and charter schools that receive STEM education related instructional technology.
- (2) A school district or charter school may apply to the STEM board, through a competitive process, to receive STEM education related instructional technology from the STEM board.
- (3) A school district or charter school that receives STEM education related instructional technology as described in this section shall provide the school district's or charter school's own computer hardware.

Renumbered and Amended by Chapter 487, 2019 General Session

9-22-109 Report to Legislature and the State Board of Education.

- (1) The STEM board shall report the progress of the STEM Action Center, including the information described in Subsection (2), to the following groups once each year:
- (a) the Education Interim Committee;
 - (b) the Public Education Appropriations Subcommittee;
 - (c) the State Board of Education; and
 - (d) the department for inclusion in the department's annual written report described in Section 9-1-208.
- (2) The report described in Subsection (1) shall include information that demonstrates the effectiveness of the program, including:

- (a) the number of educators receiving high quality professional development;
- (b) the number of students receiving services from the STEM Action Center;
- (c) a list of the providers selected pursuant to this part;
- (d) a report on the STEM Action Center's fulfillment of its duties described in Section 9-22-106; and
- (e) student performance of students participating in a STEM Action Center program as collected in Subsection 9-22-106(4).

Renumbered and Amended by Chapter 487, 2019 General Session

9-22-110 Acquisition of STEM education high quality professional development.

- (1) The STEM Action Center may, through a request for proposals process, select technology providers for the purpose of providing a STEM education high quality professional development application.
- (2) The high quality professional development application described in Subsection (1) shall:
 - (a) allow the State Board of Education, a school district, or a school to define the application's input and track results of the high quality professional development;
 - (b) allow educators to access automatic tools, resources, and strategies , including instructional materials with integrated STEM content;
 - (c) allow educators to work in online learning communities, including giving and receiving feedback via uploaded video;
 - (d) track and report data on the usage of the components of the application's system and the relationship to improvement in classroom instruction;
 - (e) include video examples of highly effective STEM education teaching that:
 - (i) cover a cross section of grade levels and subjects;
 - (ii) under the direction of the State Board of Education, include videos of highly effective Utah STEM educators; and
 - (iii) contain tools to help educators implement what they have learned; and
 - (f) allow for additional STEM education video content to be added.
- (3) In addition to the high quality professional development application described in Subsections (1) and (2), the STEM Action Center may create STEM education hybrid or blended high quality professional development that allows for face-to-face applied learning.

Renumbered and Amended by Chapter 487, 2019 General Session

9-22-111 STEM education middle school applied science initiative.

- (1) The STEM Action Center shall develop an applied science initiative for students in grades 7 and 8 that includes:
 - (a) a STEM applied science curriculum with instructional materials;
 - (b) STEM hybrid or blended high quality professional development that allows for face-to-face applied learning; and
 - (c) hands-on tools for STEM applied science learning.
- (2) The STEM Action Center may, through a request for proposals process, select a consultant to assist in developing the initiative described in Subsection (1).

Renumbered and Amended by Chapter 487, 2019 General Session

9-22-112 High school STEM education initiative.

- (1) Subject to legislative appropriations, after consulting with State Board of Education staff, the STEM Action Center shall award grants to school districts and charter schools to fund STEM related certification for high school students.
- (2)
 - (a) A school district or charter school may apply for a grant from the STEM Action Center, through a competitive process, to fund the school district's or charter school's STEM related certification training program.
 - (b) A school district's or charter school's STEM related certification training program shall:
 - (i) prepare high school students to be job ready for available STEM related positions of employment; and
 - (ii) when a student completes the program, result in the student gaining an industry-recognized employer STEM related certification.
- (3) A school district or charter school may partner with one or more of the following to provide a STEM related certification program:
 - (a) a technical college described in Section 53B-2a-105;
 - (b) Salt Lake Community College;
 - (c) Snow College;
 - (d) Utah State University Eastern;
 - (e) Utah State University Blanding; or
 - (f) a private sector employer.

Amended by Chapter 357, 2019 General Session

Renumbered and Amended by Chapter 487, 2019 General Session

9-22-113 Computer science initiative for public schools.

- (1) As used in this section:
 - (a) "Computational thinking" means the set of problem-solving skills and techniques that software engineers use to write programs that underlie computer applications, including decomposition, pattern recognition, pattern generalization, and algorithm design.
 - (b) "Computer coding" means the process of writing script for a computer program or mobile device.
 - (c) "Educator" means the same as that term is defined in Section 53E-6-102.
 - (d) "Endorsement" means a stipulation, authorized by the State Board of Education and appended to a license, that specifies the areas of practice to which the license applies.
 - (e)
 - (i) "Institution of higher education" means the same as that term is defined in Section 53B-3-102.
 - (ii) "Institution of higher education" includes a technical college described in Section 53B-2a-105.
 - (f) "Employer" means a private employer, public employer, industry association, union, or the military.
 - (g) "License" means the same as that term is defined in Section 53E-6-102.
- (2) Subject to legislative appropriations, on behalf of the STEM board, the staff of the STEM board and the staff of the State Board of Education shall collaborate to develop and implement a computer science initiative for public schools by:
 - (a) creating an online repository that:
 - (i) is available for school districts and charter schools to use as a resource; and

- (ii) includes high quality computer science instructional resources that are designed to teach students in all grade levels:
 - (A) computational thinking skills; and
 - (B) computer coding skills;
- (b) providing for professional development on teaching computer science by:
 - (i) including resources for educators related to teaching computational thinking and computer coding in the STEM education high quality professional development application described in Section 9-22-110; and
 - (ii) providing statewide or regional professional development institutes; and
- (c) awarding grants to a school district or charter school, on a competitive basis, that may be used to provide incentives for an educator to earn a computer science endorsement.
- (3) A school district or charter school may enter into an agreement with one or more of the following entities to jointly apply for a grant under Subsection (2)(c):
 - (a) a school district;
 - (b) a charter school;
 - (c) an employer;
 - (d) an institution of higher education; or
 - (e) a non-profit organization.
- (4) To apply for a grant described in Subsection (2)(c), a school district or charter school shall submit a plan to the State Board of Education for the use of the grant, including a statement of purpose that describes the methods the school district or charter school proposes to use to incentivize an educator to earn a computer science endorsement.
- (5) The State Board of Education and the STEM board shall encourage schools to independently pursue computer science and coding initiatives, subject to local school board or charter school governing board approval, based on the unique needs of the school's students.
- (6) The STEM board shall include information on the status of the computer science initiative in the annual report described in Section 9-22-109.

Renumbered and Amended by Chapter 487, 2019 General Session

9-22-114 Computing Partnerships Grants program.

- (1) There is created the Computing Partnerships Grants program consisting of the grants created in this part to provide for the design and implementation of a comprehensive K-16 computing partnerships program, based upon the following common elements:
 - (a) outreach and student engagement;
 - (b) courses and content;
 - (c) instruction and instructional support;
 - (d) work-based learning opportunities;
 - (e) student retention;
 - (f) industry engagement;
 - (g) stacked credentials that allow for multiple exit and entry points;
 - (h) competency-based learning strategies; and
 - (i) secondary and post-secondary collaborations.
- (2) The grant program shall incentivize public schools and school districts to work with the STEM Action Center, staff of the State Board of Education, Talent Ready Utah, industry representatives, and secondary partners on the design and implementation of comprehensive K-16 computing partnerships through:

- (a) leveraging existing resources for content, professional learning, and instruction, including existing career and technical education funds, programs, and initiatives;
 - (b) allowing for the support of professional learning for pre- and in-service educators;
 - (c) supporting activities that promote and enhance access, diversity, and equity;
 - (d) supporting collaborations and partnerships between K-12, institutions of higher education, cultural and community partners, and industry representatives;
 - (e) identifying the appropriate credentials that align with industry needs and providing the credentials in a stacked credentials pathway;
 - (f) implementing a collaborative network that enables sharing and identification of best practices; and
 - (g) providing infrastructure assistance that allows for the support of new courses and the expansion of capacity for existing courses.
- (3) The grant program shall include the following:
- (a) rigorous and relevant metrics that are shared by all grant participants; and
 - (b) an evaluation by the STEM Action Center of the grant program that identifies best practices.
- (4) The STEM Action Center, in consultation with the State Board of Education, shall:
- (a) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, adopt rules:
 - (i) for the administration of the grant program and awarding of grants; and
 - (ii) that define outcome-based measures appropriate to the type of grant awarded under this part;
 - (b) establish a grant application process;
 - (c) in accordance with Subsection (5), establish a review committee to make recommendations for:
 - (i) metrics to analyze the quality of a grant application;
 - (ii) approval of a grant application; and
 - (iii) criteria to establish a requirement for an applicant to demonstrate financial need; and
 - (d) with input from the review committee, adopt metrics to analyze the quality of a grant application.
- (5)
- (a) The review committee shall consist of K-16 educators, staff of the State Board of Education, representatives of Talent Ready Utah, post-secondary partners, and industry representatives.
 - (b) The review committee shall:
 - (i) review a grant application submitted;
 - (ii) make recommendations to a grant applicant to modify the grant application, if necessary; and
 - (iii) make recommendations regarding the final disposition of an application.
- (6) The STEM Action Center shall report annually on the grant program to the State Board of Education and any findings and recommendations on the grant program shall be included in the STEM Action Center annual report to the Education Interim Committee.

Renumbered and Amended by Chapter 487, 2019 General Session

Chapter 23
Pete Suazo Utah Athletic Commission Act

Part 1 General Provisions

9-23-101 Definitions.

As used in this chapter:

- (1) "Bodily injury" has the same meaning as defined in Section 76-1-101.5.
- (2) "Boxing" means the sport of attack and defense using the fist, which is covered by an approved boxing glove.
- (3)
 - (a) "Club fighting" means any contest of unarmed combat, whether admission is charged or not, where:
 - (i) the rules of the contest are not approved by the commission;
 - (ii) a licensed physician, osteopath, or physician assistant approved by the commission is not in attendance;
 - (iii) a correct HIV negative test regarding each contestant has not been provided to the commission;
 - (iv) the contest is not conducted in accordance with commission rules; or
 - (v) the contestants are not matched by the weight standards established in accordance with Section 9-23-316.
 - (b) "Club fighting" does not include sparring if:
 - (i) it is conducted for training purposes;
 - (ii) no tickets are sold to spectators;
 - (iii) no concessions are available for spectators;
 - (iv) protective clothing, including protective headgear, a mouthguard, and a protective cup, is worn; and
 - (v) for boxing, 16 ounce boxing gloves are worn.
- (4) "Commission" means the Pete Suazo Utah Athletic Commission created by this chapter.
- (5) "Contest" means a live match, performance, or exhibition involving two or more persons engaged in unarmed combat.
- (6) "Contestant" means an individual who participates in a contest.
- (7) "Designated commission member" means a member of the commission designated to:
 - (a) attend and supervise a particular contest; and
 - (b) act on the behalf of the commission at a contest venue.
- (8) "Director" means the director appointed by the commission.
- (9) "Elimination unarmed combat contest" means a contest where:
 - (a) a number of contestants participate in a tournament;
 - (b) the duration is not more than 48 hours; and
 - (c) the loser of each contest is eliminated from further competition.
- (10) "Exhibition" means an engagement in which the participants show or display their skills without necessarily striving to win.
- (11) "Judge" means an individual qualified by training or experience to:
 - (a) rate the performance of contestants;
 - (b) score a contest; and
 - (c) determine with other judges whether there is a winner of the contest or whether the contestants performed equally, resulting in a draw.
- (12) "Licensee" means an individual licensed by the commission to act as a:
 - (a) contestant;

- (b) judge;
 - (c) manager;
 - (d) promoter;
 - (e) referee;
 - (f) second; or
 - (g) other official established by the commission by rule.
- (13) "Manager" means an individual who represents a contestant for the purpose of:
- (a) obtaining a contest for a contestant;
 - (b) negotiating terms and conditions of the contract under which the contestant will engage in a contest; or
 - (c) arranging for a second for the contestant at a contest.
- (14) "Promoter" means a person who engages in producing or staging contests and promotions.
- (15) "Promotion" means a single contest or a combination of contests that:
- (a) occur during the same time and at the same location; and
 - (b) is produced or staged by a promoter.
- (16) "Purse" means any money, prize, remuneration, or any other valuable consideration a contestant receives or may receive for participation in a contest.
- (17) "Referee" means an individual qualified by training or experience to act as the official attending a contest at the point of contact between contestants for the purpose of:
- (a) enforcing the rules relating to the contest;
 - (b) stopping the contest in the event the health, safety, and welfare of a contestant or any other person in attendance at the contest is in jeopardy; and
 - (c) acting as a judge if so designated by the commission.
- (18) "Round" means one of a number of individual time periods that, taken together, constitute a contest during which contestants are engaged in a form of unarmed combat.
- (19) "Second" means an individual who attends a contestant at the site of the contest before, during, and after the contest in accordance with contest rules.
- (20) "Serious bodily injury" has the same meaning as defined in Section 76-1-101.5.
- (21) "Total gross receipts" means the amount of the face value of all tickets sold to a particular contest plus any sums received as consideration for holding the contest at a particular location.
- (22) "Ultimate fighting" means a live contest, whether or not an admission fee is charged, in which:
- (a) contest rules permit contestants to use a combination of boxing, kicking, wrestling, hitting, punching, or other combative contact techniques;
 - (b) contest rules incorporate a formalized system of combative techniques against which a contestant's performance is judged to determine the prevailing contestant;
 - (c) contest rules divide nonchampionship contests into three equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round;
 - (d) contest rules divide championship contests into five equal and specified rounds of no more than five minutes per round with a rest period of one minute between each round; and
 - (e) contest rules prohibit contestants from:
 - (i) using anything that is not part of the human body, except for boxing gloves, to intentionally inflict serious bodily injury upon an opponent through direct contact or the expulsion of a projectile;
 - (ii) striking a person who demonstrates an inability to protect himself from the advances of an opponent;
 - (iii) biting; or
 - (iv) direct, intentional, and forceful strikes to the eyes, groin area, Adam's apple area of the neck, and the rear area of the head and neck.

- (23)
- (a) "Unarmed combat" means boxing or any other form of competition in which a blow is usually struck which may reasonably be expected to inflict bodily injury.
 - (b) "Unarmed combat" does not include a competition or exhibition between participants in which the participants engage in simulated combat for entertainment purposes.
- (24) "Unlawful conduct" means organizing, promoting, or participating in a contest which involves contestants that are not licensed under this chapter.
- (25) "Unprofessional conduct" means:
- (a) entering into a contract for a contest in bad faith;
 - (b) participating in any sham or fake contest;
 - (c) participating in a contest pursuant to a collusive understanding or agreement in which the contestant competes in or terminates the contest in a manner that is not based upon honest competition or the honest exhibition of the skill of the contestant;
 - (d) engaging in an act or conduct that is detrimental to a contest, including any foul or unsportsmanlike conduct in connection with a contest;
 - (e) failing to comply with any limitation, restriction, or condition placed on a license;
 - (f) striking of a downed opponent by a contestant while the contestant remains on the contestant's feet, unless the designated commission member or director has exempted the contest and each contestant from the prohibition on striking a downed opponent before the start of the contest;
 - (g) after entering the ring or contest area, penetrating an area within four feet of an opponent by a contestant, manager, or second before the commencement of the contest; or
 - (h) as further defined by rules made by the commission under Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
- (26) "White-collar contest" means a contest conducted at a training facility where no alcohol is served in which:
- (a) for boxing:
 - (i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;
 - (ii) no cash prize, or other prize valued at greater than \$35, is awarded;
 - (iii) protective clothing, including protective headgear, a mouthguard, a protective cup, and for a female contestant a chestguard, is worn;
 - (iv) 16 ounce boxing gloves are worn;
 - (v) the contest is no longer than three rounds of no longer than three minutes each;
 - (vi) no winner or loser is declared or recorded; and
 - (vii) the contestants do not compete in a cage; and
 - (b) for ultimate fighting:
 - (i) neither contestant is or has been a licensed contestant in any state or an amateur registered with USA Boxing, Inc.;
 - (ii) no cash prize, or other prize valued at greater than \$35, is awarded;
 - (iii) protective clothing, including a protective mouthguard and a protective cup, is worn;
 - (iv) downward elbow strikes are not allowed;
 - (v) a contestant is not allowed to stand and strike a downed opponent;
 - (vi) a closed-hand blow to the head is not allowed while either contestant is on the ground;
 - (vii) the contest is no longer than three rounds of no longer than three minutes each; and
 - (viii) no winner or loser is declared or recorded.

Amended by Chapter 430, 2022 General Session

Part 2
Pete Suazo Utah Athletic Commission

9-23-201 Commission -- Creation -- Appointments -- Terms -- Expenses -- Quorum.

- (1) There is created within the department the Pete Suazo Utah Athletic Commission consisting of five members.
- (2)
 - (a) The governor shall appoint three commission members.
 - (b) The president of the Senate and the speaker of the House of Representatives shall each appoint one commission member.
 - (c) The commission members may not be licensees under this chapter.
- (3)
 - (a) Except as required by Subsection (3)(b), as terms of current members expire, the governor, president, or speaker, respectively, shall appoint each new member or reappointed member to a four-year term.
 - (b) The governor shall, at the time of appointment or reappointment, adjust the length of the governor's appointees' terms to ensure that the terms of members are staggered so that approximately half of the commission is appointed every two years.
 - (c) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.
 - (d) A commission member may be removed for any reason and replaced in accordance with this section by:
 - (i) the governor, for a commission member appointed by the governor;
 - (ii) the president of the Senate, for a commission member appointed by the president of the Senate; or
 - (iii) the speaker of the House of Representatives, for a commission member appointed by the speaker of the House of Representatives.
- (4)
 - (a) A majority of the commission members constitutes a quorum.
 - (b) A majority of a quorum is sufficient authority for the commission to act.
- (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 commission shall annually designate one of its members to serve as chair for a one-year period.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-202 Commission director.

- (1) The commission shall employ a director, who may not be a member of the commission, to conduct the commission's business.
- (2) The director serves at the pleasure of the commission.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-203 Commission powers and duties.

- (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.

Renumbered and Amended by Chapter 139, 2023 General Session

Renumbered and Amended by Chapter 160, 2023 General Session

9-23-204 Inspectors.

- (1) The commission may appoint one or more official representatives to be designated as inspectors, who shall serve at the pleasure of the commission.
- (2) Each inspector must receive from the commission a card authorizing that inspector to act as an inspector for the commission.
- (3) An inspector may not promote or sponsor any contest.
- (4) Each inspector may receive a fee approved by the commission for the performance of duties under this chapter.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-205 Affiliation with other commissions.

The commission may affiliate with any other state, tribal, or national boxing commission or athletic authority.

Renumbered and Amended by Chapter 362, 2022 General Session

**Part 3
Licensing**

9-23-301 Licensing.

- (1) A license is required for a person to act as or to represent that the person is:
 - (a) a promoter;
 - (b) a manager;
 - (c) a contestant;
 - (d) a second;
 - (e) a referee;
 - (f) a judge; or

- (g) another official established by the commission by rule.
- (2) The commission shall issue to a person who qualifies under this chapter a license in the classifications of:
 - (a) promoter;
 - (b) manager;
 - (c) contestant;
 - (d) second;
 - (e) referee;
 - (f) judge; or
 - (g) another official who meets the requirements established by rule under Subsection (1)(g).
- (3) All money collected under this section and Sections 9-23-304, 9-23-307, 9-23-310, and 9-23-313 shall be retained as dedicated credits to pay for commission expenses.
- (4) Each applicant for licensure as a promoter shall:
 - (a) submit an application in a form prescribed by the commission;
 - (b) pay the fee determined by the commission under Section 63J-1-504;
 - (c) provide to the commission evidence of financial responsibility, which shall include financial statements and other information that the commission may reasonably require to determine that the applicant or licensee is able to competently perform as and meet the obligations of a promoter in this state;
 - (d) make assurances that the applicant:
 - (i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to the promotions the applicant is promoting;
 - (ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to engage in any fraud or misrepresentation in connection with a contest or any other sporting event; and
 - (iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;
 - (e) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and
 - (f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.
- (5) Each applicant for licensure as a contestant shall:
 - (a) be not less than 18 years of age at the time the application is submitted to the commission;
 - (b) submit an application in a form prescribed by the commission;
 - (c) pay the fee established by the commission under Section 63J-1-504;
 - (d) provide a certificate of physical examination, dated not more than 60 days prior to the date of application for licensure, in a form provided by the commission, completed by a licensed physician and surgeon or physician assistant certifying that the applicant is free from any physical or mental condition that indicates the applicant should not engage in activity as a contestant;
 - (e) make assurances that the applicant:
 - (i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant will participate;
 - (ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and

- (iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;
 - (f) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and
 - (g) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.
- (6) Each applicant for licensure as a manager or second shall:
- (a) submit an application in a form prescribed by the commission;
 - (b) pay a fee determined by the commission under Section 63J-1-504;
 - (c) make assurances that the applicant:
 - (i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;
 - (ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and
 - (iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to a contest in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;
 - (d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter; and
 - (e) if requested by the commission or director, meet with the commission or the director to examine the applicant's qualifications for licensure.
- (7) Each applicant for licensure as a referee or judge shall:
- (a) submit an application in a form prescribed by the commission;
 - (b) pay a fee determined by the commission under Section 63J-1-504;
 - (c) make assurances that the applicant:
 - (i) is not engaging in illegal gambling with respect to sporting events or gambling with respect to a contest in which the applicant is participating;
 - (ii) has not been found in a criminal or civil proceeding to have engaged in or attempted to have engaged in any fraud or misrepresentation in connection with a contest or any other sporting event; and
 - (iii) has not been found in a criminal or civil proceeding to have violated or attempted to violate any law with respect to contests in any jurisdiction or any law, rule, or order relating to the regulation of contests in this state or any other jurisdiction;
 - (d) acknowledge in writing to the commission receipt, understanding, and intent to comply with this chapter and the rules made under this chapter;
 - (e) provide evidence satisfactory to the commission that the applicant is qualified by training and experience to competently act as a referee or judge in a contest; and
 - (f) if requested by the commission or the director, meet with the commission or the director to examine the applicant's qualifications for licensure.
- (8) The commission may make rules concerning the requirements for a license under this chapter, that deny a license to an applicant for the violation of a crime that, in the commission's determination, would have a material affect on the integrity of a contest held under this chapter.
- (9)
- (a) A licensee serves at the pleasure, and under the direction, of the commission while participating in any way at a contest.

- (b) A licensee's license may be suspended, or a fine imposed, if the licensee does not follow the commission's direction at an event or contest.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-301.5 License by endorsement.

- (1) As used in this section, "license" means an authorization that permits the holder to engage in the practice of a profession regulated under this chapter.
- (2) Subject to Subsections (4) through (6), the commission shall issue a license to an applicant who has been licensed in another state, district, or territory of the United States if:
 - (a) the commission determines that the license issued by the other state, district, or territory encompasses a similar scope of practice as the license sought in this state;
 - (b) the applicant has at least one year of experience practicing under the license issued in the other state, district, or territory; and
 - (c) the applicant's license is in good standing in the other state, district, or territory.
- (3) Subject to Subsections (4) through (6), the commission may issue a license to an applicant who:
 - (a) has been licensed in another state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:
 - (i)
 - (A) the commission determines that the applicant's education, experience, and skills demonstrate competency in the profession for which licensure is sought in this state; and
 - (B) the applicant has at least one year of experience practicing under the license issued in the other state, district, territory, or jurisdiction; or
 - (ii) the commission determines that the licensure requirements of the other state, district, territory, or jurisdiction at the time the license was issued were substantially similar to the requirements for the license sought in this state; or
 - (b) has never been licensed in a state, district, or territory of the United States, or in a jurisdiction outside of the United States, if:
 - (i) the applicant was educated in or obtained relevant experience in a state, district, or territory of the United States, or a jurisdiction outside of the United States; and
 - (ii) the commission determines that the education or experience was substantially similar to the education or experience requirements for the license sought in this state.
- (4) The commission may refuse to issue a license to an applicant under this section if:
 - (a) the commission determines that there is reasonable cause to believe that the applicant is not qualified to receive the license in this state; or
 - (b) the applicant has a previous or pending disciplinary action related to the applicant's other license.
- (5) Before the commission issues a license to an applicant under this section, the applicant shall:
 - (a) pay a fee determined by the commission under Section 63J-1-504; and
 - (b) produce satisfactory evidence of the applicant's identity, qualifications, and good standing in the profession for which licensure is sought in this state.
- (6) The commission may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, prescribing the administration and requirements of this section.

Enacted by Chapter 222, 2023 General Session

9-23-302 Term of license -- Expiration -- Renewal.

- (1) The commission shall issue each license under this chapter in accordance with a renewal cycle established by rule.
- (2) At the time of renewal, the licensee shall show satisfactory evidence of compliance with renewal requirements established by rule by the commission.
- (3) Each license automatically expires on the expiration date shown on the license unless the licensee renews it in accordance with the rules established by the commission.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-303 Grounds for denial of license -- Disciplinary proceedings -- Reinstatement.

- (1) The commission shall refuse to issue a license to an applicant and shall refuse to renew or shall revoke, suspend, restrict, place on probation, or otherwise act upon the license of a licensee who does not meet the qualifications for licensure under this chapter.
- (2) The commission may refuse to issue a license to an applicant and may refuse to renew or may revoke, suspend, restrict, place on probation, issue a public or private reprimand to, or otherwise act upon the license of any licensee if:
 - (a) the applicant or licensee has engaged in unlawful or unprofessional conduct, as defined by statute or rule under this chapter;
 - (b) the applicant or licensee has been determined to be mentally incompetent for any reason by a court of competent jurisdiction; or
 - (c) the applicant or licensee is unable to practice the occupation or profession with reasonable skill and safety because of illness, drunkenness, excessive use of drugs, narcotics, chemicals, or any other type of material, or as a result of any other mental or physical condition, when the licensee's condition demonstrates a threat or potential threat to the public health, safety, or welfare, as determined by a ringside physician or the commission.
- (3) Any licensee whose license under this chapter has been suspended, revoked, or restricted may apply for reinstatement of the license at reasonable intervals and upon compliance with any conditions imposed upon the licensee by statute, rule, or terms of the license suspension, revocation, or restriction.
- (4) The commission may issue cease and desist orders:
 - (a) to a licensee or applicant who may be disciplined under Subsection (1) or (2); and
 - (b) to any person who otherwise violates this chapter or any rules adopted under this chapter.
- (5)
 - (a) The commission may impose an administrative fine for acts of unprofessional or unlawful conduct under this chapter.
 - (b) An administrative fine under this Subsection (5) may not exceed \$2,500 for each separate act of unprofessional or unlawful conduct.
 - (c) The commission shall comply with Title 63G, Chapter 4, Administrative Procedures Act, in any action to impose an administrative fine under this chapter.
 - (d) The imposition of a fine under this Subsection (5) does not affect any other action the commission or department may take concerning a license issued under this chapter.
- (6)
 - (a) The commission may not take disciplinary action against any person for unlawful or unprofessional conduct under this chapter, unless the commission initiates an adjudicative proceeding regarding the conduct within four years after the conduct is reported to the commission, except under Subsection (6)(b).
 - (b) The commission may not take disciplinary action against any person for unlawful or unprofessional conduct more than 10 years after the occurrence of the conduct, unless the

proceeding is in response to a civil or criminal judgment or settlement and the proceeding is initiated within one year following the judgment or settlement.

- (7)
- (a) Notwithstanding Title 63G, Chapter 4, Administrative Procedures Act, the following may immediately suspend the license of a licensee at such time and for such period that the following believes is necessary to protect the health, safety, and welfare of the licensee, another licensee, or the public:
 - (i) the commission;
 - (ii) a designated commission member; or
 - (iii) if a designated commission member is not present, the director.
 - (b) The commission shall establish by rule appropriate procedures to invoke the suspension and to provide a suspended licensee a right to a hearing before the commission with respect to the suspension within a reasonable time after the suspension.

Renumbered and Amended by Chapter 362, 2022 General Session

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, a promoter shall pay a license fee and, if applicable, a broadcast revenue fee determined by the commission and established in rule.
- (2) Fees collected by the commission under this 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.
 - (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.

Amended by Chapter 160, 2023 General Session

9-23-305 Jurisdiction of commission.

- (1)

- (a) The commission has the sole authority concerning direction, management, control, and jurisdiction over all contests or exhibitions of unarmed combat to be conducted, held, or given within this state.
- (b) A contest or exhibition may not be conducted, held, or given within this state except in accordance with this chapter.
- (2) Any contest involving a form of unarmed self-defense must be conducted pursuant to rules for that form which are approved by the commission before the contest is conducted, held, or given.
- (3)
 - (a) An area not less than six feet from the perimeter of the ring shall be reserved for the use of:
 - (i) the designated commission member;
 - (ii) other commission members in attendance;
 - (iii) the director;
 - (iv) commission employees;
 - (v) officials;
 - (vi) licensees participating or assisting in the contest; and
 - (vii) others granted credentials by the commission.
 - (b) The promoter shall provide security at the direction of the commission or designated commission member to secure the area described in Subsection (3)(a).
- (4) The area described in Subsection (3), the area in the dressing rooms, and other areas considered necessary by the designated commission member for the safety and welfare of a licensee and the public shall be reserved for the use of:
 - (a) the designated commission member;
 - (b) other commission members in attendance;
 - (c) the director;
 - (d) commission employees;
 - (e) officials;
 - (f) licensees participating or assisting in the contest; and
 - (g) others granted credentials by the commission.
- (5) The promoter shall provide security at the direction of the commission or designated commission member to secure the areas described in Subsections (3) and (4).
- (6)
 - (a) The designated commission member may direct the removal from the contest venue and premises, of any individual whose actions:
 - (i) are disruptive to the safe conduct of the contest; or
 - (ii) pose a danger to the safety and welfare of the licensees, the commission, or the public, as determined by the designated commission member.
 - (b) The promoter shall provide security at the direction of the commission or designated commission member to effectuate a removal under Subsection (6)(a).

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-306 Club fighting prohibited.

- (1) Club fighting is prohibited.
- (2) Any person who publicizes, promotes, conducts, or engages in a club fighting match is:
 - (a) guilty of a class A misdemeanor as provided in Section 76-9-705; and
 - (b) subject to license revocation under this chapter.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-307 Approval to hold contest or promotion -- Bond required.

- (1) An application to hold a contest or multiple contests as part of a single promotion shall be made by a licensed promoter to the commission on forms provided by the commission.
- (2) The application shall be accompanied by a contest fee determined by the commission under Section 63J-1-505.
- (3)
 - (a) The commission may approve or deny approval to hold a contest or promotion permitted under this chapter.
 - (b) Provisional approval under Subsection (3)(a) shall be granted upon a determination by the commission that:
 - (i) the promoter of the contest or promotion is properly licensed;
 - (ii) a bond meeting the requirements of Subsection (6) has been posted by the promoter of the contest or promotion; and
 - (iii) the contest or promotion will be held in accordance with this chapter and rules made under this chapter.
- (4)
 - (a) Final approval to hold a contest or promotion may not be granted unless the commission receives, not less than seven days before the day of the contest with 10 or more rounds:
 - (i) proof of a negative HIV test performed not more than 180 days before the day of the contest for each contestant;
 - (ii) a copy of each contestant's federal identification card;
 - (iii) a copy of a signed contract between each contestant and the promoter for the contest;
 - (iv) a statement specifying the maximum number of rounds of the contest;
 - (v) a statement specifying the site, date, and time of weigh-in; and
 - (vi) the name of the physician selected from among a list of registered and commission-approved ringside physicians who shall act as ringside physician for the contest.
 - (b) Notwithstanding Subsection (4)(a), the commission may approve a contest or promotion if the requirements under Subsection (4)(a) are not met because of unforeseen circumstances beyond the promoter's control.
- (5) Final approval for a contest under 10 rounds in duration may be granted as determined by the commission after receiving the materials identified in Subsection (4) at a time determined by the commission.
- (6) An applicant shall post a surety bond or cashier's check with the commission in the greater of \$10,000 or the amount of the purse, providing for forfeiture and disbursement of the proceeds if the applicant fails to comply with:
 - (a) the requirements of this chapter; or
 - (b) rules made under this chapter relating to the promotion or conduct of the contest or promotion.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-308 Rules for the conduct of contests.

- (1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for the conduct of contests in the state.
- (2) The rules shall include:
 - (a) authority for:

- (i) stopping contests; and
 - (ii) impounding purses with respect to contests when there is a question with respect to the contest, contestants, or any other licensee associated with the contest; and
 - (b) reasonable and necessary provisions to ensure that all obligations of a promoter with respect to any promotion or contest are paid in accordance with agreements made by the promoter.
- (3)
- (a) The commission may, in its discretion, exempt a contest and each contestant from the definition of unprofessional conduct found in Subsection 9-23-101(25)(f) after:
 - (i) a promoter requests the exemption; and
 - (ii) the commission considers relevant factors, including:
 - (A) the experience of the contestants;
 - (B) the win and loss records of each contestant;
 - (C) each contestant's level of training; and
 - (D) any other evidence relevant to the contestants' professionalism and the ability to safely conduct the contest.
 - (b) The commission's hearing of a request for an exemption under this Subsection (3) is an informal adjudicative proceeding under Section 63G-4-202.
 - (c) The commission's decision to grant or deny a request for an exemption under this Subsection (3) is not subject to agency review under Section 63G-4-301.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-309 Medical examinations and drug tests.

- (1) The commission shall adopt rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, for medical examinations and drug testing of contestants, including provisions under which contestants shall:
- (a) produce evidence based upon competent laboratory examination that they are HIV negative as a condition of participating as a contestant in any contest;
 - (b) be subject to random drug testing before or after participation in a contest, and sanctions, including barring participation in a contest or withholding a percentage of any purse, that shall be placed against a contestant testing positive for alcohol or any other drug that in the opinion of the commission is inconsistent with the safe and competent participation of that contestant in a contest;
 - (c) be subject to a medical examination by the ringside physician not more than 30 hours before the contest to identify any physical ailment or communicable disease that, in the opinion of the commission or designated commission member, are inconsistent with the safe and competent participation of that contestant in the contest; and
 - (d) be subject to medical testing for communicable diseases as considered necessary by the commission to protect the health, safety, and welfare of the licensees and the public.
- (2)
- (a) Medical information concerning a contestant shall be provided by the contestant or medical professional or laboratory.
 - (b) A promoter or manager may not provide to or receive from the commission medical information concerning a contestant.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-310 Contests.

- (1) Except as provided in Section 9-23-317, a licensee may not participate in an unarmed combat contest within a predetermined time after another unarmed combat contest, as prescribed in rules made by the commission.
- (2) During the period of time beginning 60 minutes before the beginning of a contest, the promoter shall demonstrate the promoter's compliance with the commission's security requirements to all commission members present at the contest.
- (3) The commission shall establish fees in accordance with Section 63J-1-504 to be paid by a promoter for the conduct of each contest or event composed of multiple contests conducted under this chapter.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-311 Ringside physician.

- (1) The commission shall maintain a list of ringside physicians who hold a Doctor of Medicine (MD) degree and are registered with the commission as approved to act as a ringside physician and meet the requirements of Subsection (2).
- (2)
 - (a) The commission shall appoint a registered ringside physician to perform the duties of a ringside physician at each contest held under this chapter.
 - (b) The promoter of a contest shall pay a fee determined by the commission by rule to the commission for a ringside physician.
- (3) An applicant for registration as a ringside physician shall:
 - (a) submit an application for registration;
 - (b) provide the commission with evidence of the applicant's licensure to practice medicine in the state; and
 - (c) satisfy minimum qualifications established by the department by rule.
- (4) A ringside physician at attendance at a contest:
 - (a) may stop the contest at any point if the ringside physician determines that a contestant's physical condition renders the contestant unable to safely continue the contest; and
 - (b) works under the direction of the commission.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-312 Contracts.

- (1) Before a contest is held, a copy of the signed contract or agreement between the promoter of the contest and each contestant shall be filed with the commission.
- (2) Approval of the contract's terms and conditions shall be obtained from the commission as a condition precedent to the contest.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-313 Withholding of purse.

- (1) The commission, the director, or any other agent authorized by the commission may order a promoter to withhold any part of a purse or other money belonging or payable to any contestant, manager, or second if, in the judgment of the commission, director, or other agent:
 - (a) the contestant is not competing honestly or to the best of the contestant's skill and ability or the contestant otherwise violates any rules adopted by the commission or any of the provisions of this chapter; or

- (b) the manager or second violates any rules adopted by the commission or any of the provisions of this chapter.
- (2) This section does not apply to any contestant in a wrestling exhibition who appears not to be competing honestly or to the best of the contestant's skill and ability.
- (3) Upon the withholding of any part of a purse or other money pursuant to this section, the commission shall immediately schedule a hearing on the matter, provide adequate notice to all interested parties, and dispose of the matter as promptly as possible.
- (4) If it is determined that a contestant, manager, or second is not entitled to any part of that person's share of the purse or other money, the promoter shall pay the money over to the commission.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-314 Penalty for unlawful conduct.

A person who engages in any act of unlawful conduct, as defined in Section 9-23-101, is guilty of a class A misdemeanor.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-315 Exemptions.

This chapter does not apply to:

- (1) any amateur contest or exhibition of unarmed combat conducted by or participated in exclusively by:
 - (a) a school accredited by the Board of Education;
 - (b) a college or university accredited by the United States Department of Education; or
 - (c) any association or organization of a school, college, or university described in Subsections (1) (a) and (b), when each participant in the contests or exhibitions is a bona fide student in the school, college, or university;
- (2) any contest or exhibition of unarmed combat conducted in accordance with the standards and regulations of USA Boxing, Inc.; or
- (3) a white-collar contest.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-316 Contest weights and classes -- Matching contestants.

- (1) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing boxing contest weights and classes consistent with those adopted by the Association of Boxing Commissions.
- (2) The commission shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, establishing contest weights and classes for unarmed combat that is not boxing.
- (3)
 - (a) As to any unarmed combat contest, a contestant may not fight another contestant who is outside of the contestant's weight classification.
 - (b) Notwithstanding Subsection (3)(a), the commission may permit a contestant to fight another contestant who is outside of the contestant's weight classification.
- (4) Except as provided in Subsection (3)(b), as to any unarmed combat contest:

- (a) a contestant who has contracted to participate in a given weight class may not be permitted to compete if the contestant is not within that weight class at the weigh-in; and
 - (b) a contestant may have two hours to attempt to gain or lose not more than three pounds in order to be reweighed.
- (5)
- (a) As to any unarmed combat contest, the commission may not allow a contest in which the contestants are not fairly matched.
 - (b) Factors in determining if contestants are fairly matched include:
 - (i) the win-loss record of the contestants;
 - (ii) the weight differential between the contestants;
 - (iii) the caliber of opponents for each contestant;
 - (iv) each contestant's number of fights; and
 - (v) previous suspensions or disciplinary actions of the contestants.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-317 Elimination contests -- Conduct of contests -- Applicability of provisions -- Limitations on license -- Duration of contests -- Equipment -- Limitations on contests.

- (1) An elimination unarmed combat contest shall be conducted under the supervision and authority of the commission.
- (2) Except as otherwise provided in this section and except as otherwise provided by specific statute, the provisions of this chapter pertaining to boxing apply to an elimination unarmed combat contest.
- (3)
 - (a) All contests in an elimination unarmed combat contest shall be no more than three rounds in duration.
 - (b) A round of unarmed combat in an elimination unarmed combat contest shall:
 - (i) be no more than one minute in duration; or
 - (ii) be up to three minutes in duration if there is only a single round.
 - (c) A period of rest following a round shall be no more than one minute in duration.
- (4) A contestant:
 - (a) shall wear gloves approved by the commission; and
 - (b) shall wear headgear approved by the commission, the designated commission member, or the director if a designated commission member is not present.
- (5) A contestant may participate in more than one contest, but may not participate in more than a total of seven rounds in the entire tournament.

Renumbered and Amended by Chapter 362, 2022 General Session

9-23-318 Commission rulemaking.

The commission may make rules governing the conduct of a contest held under this chapter to protect the health and safety of licensees and members of the public.

Renumbered and Amended by Chapter 362, 2022 General Session

Chapter 24

Utah Main Street Program Act

9-24-101 Definitions.

As used in this chapter:

- (1) "Center" means the National Main Street Center.
- (2) "Program" means the Utah Main Street Program created in Section 9-24-102.

Amended by Chapter 160, 2023 General Session

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) provide training and technical assistance to local governments, businesses, property owners, or other organizations that participate in designated local main street programs;
 - (d) subject to appropriations from the Legislature or other funding, provide financial assistance to designated local main street programs; and
 - (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.

Amended by Chapter 160, 2023 General Session