

ARTS AND CULTURE BUSINESS ALLIANCE

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jim Dabakis

House Sponsor: V. Lowry Snow

LONG TITLE

General Description:

This bill enacts the Arts and Culture Business Alliance Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ creates the Arts and Culture Business Alliance;
- ▶ describes the duties of the alliance;
- ▶ provides for the appointment of alliance members;
- ▶ provides for staff support for the alliance;
- ▶ provides for rulemaking;
- ▶ creates the Arts and Culture Business Alliance Account and provides for funding

and uses of account funds;

▶ provides that an amount equal to certain growth in sales and use tax revenues shall be deposited into the account; and

- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:



28 AMENDS:

29 9-6-201, as last amended by Laws of Utah 2010, Chapter 111

30 9-6-202, as last amended by Laws of Utah 2012, Chapter 212

31 63M-1-1406, as last amended by Laws of Utah 2014, Chapter 423

32 ENACTS:

33 9-6-801, Utah Code Annotated 1953

34 9-6-802, Utah Code Annotated 1953

35 9-6-803, Utah Code Annotated 1953

36 9-6-804, Utah Code Annotated 1953

37 9-6-805, Utah Code Annotated 1953

38 9-6-806, Utah Code Annotated 1953



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

41 Section 1. Section 9-6-201 is amended to read:

42 **9-6-201. Division of Arts and Museums -- Creation -- Powers and duties.**

43 (1) There is created within the department the Division of Arts and Museums under the
44 administration and general supervision of the executive director or the designee of the
45 executive director.

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

47 (3) The division shall advance the interests of the arts, in all their phases, within the
48 state, and to that end shall:

49 (a) cooperate with and locally sponsor federal agencies and projects directed to similar
50 undertakings;

51 (b) develop the influence of arts in education;

52 (c) involve the private sector, including businesses, charitable interests, educational
53 interests, manufacturers, agriculturalists, and industrialists in these endeavors;

54 (d) utilize broadcasting facilities and the power of the press in disseminating
55 information; and

56 (e) foster, promote, encourage, and facilitate, not only a more general and lively study
57 of the arts, but take all necessary and useful means to stimulate a more abundant production of
58 an indigenous art in this state.

59 (4) The board shall set policy to guide the division in accomplishing the purposes set
60 forth in Subsection (3).

61 (5) [~~The~~] Except for arts development projects under Section 9-6-804, the division may
62 not grant funds for the support of any arts project under this section unless the project has been
63 first approved by the board.

64 (6) (a) For a pass-through funding grant of at least \$25,000, the division shall make
65 quarterly disbursements to the pass-through funding grant recipient, contingent upon the
66 division receiving a quarterly progress report from the pass-through grant recipient.

67 (b) The division shall:

68 (i) provide the pass-through grant recipient with a progress report form for the
69 reporting purposes of Subsection (6)(a); and

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

71 Section 2. Section 9-6-202 is amended to read:

72 **9-6-202. Division director.**

73 (1) The chief administrative officer of the division shall be a director appointed by the
74 executive director in consultation with the board and the advisory board.

75 (2) The director shall be a person experienced in administration and knowledgeable
76 about the arts and museums.

77 (3) In addition to the division, the director is the chief administrative officer for:

78 (a) the Board of Directors of the Utah Arts Council created in Section 9-6-204;

79 (b) the Utah Arts Council created in Section 9-6-301;

80 (c) the Office of Museum Services created in Section 9-6-602; [~~and~~]

81 (d) the Museum Services Advisory Board created in Section 9-6-604[~~;~~]; and

82 (e) the Arts and Culture Business Alliance created in Section 9-6-803.

83 Section 3. Section 9-6-801 is enacted to read:

84 **Part 8. Arts and Culture Business Alliance Act**

85 **9-6-801. Title.**

86 This part is known as the "Arts and Culture Business Alliance Act."

87 Section 4. Section 9-6-802 is enacted to read:

88 **9-6-802. Definitions.**

89 As used in this part:

90 (1) "Account" means the Arts and Culture Business Alliance Account created in
91 Section 9-6-806.

92 (2) "Alliance" means the Arts and Culture Business Alliance created in Section
93 9-6-803.

94 (3) (a) "Arts" means the various branches of creative human activity.

95 (b) "Arts" includes visual arts, film, performing arts, sculpture, literature, music,
96 theater, dance, digital arts, video-game arts, and cultural vitality.

97 (4) "Arts development" or "development of the arts" means:

98 (a) construction, expansion, or repair of facilities that house arts presentations;

99 (b) providing for public information, preservation, or access to the arts; or

100 (c) supporting the professional development of artists within the state.

101 Section 5. Section **9-6-803** is enacted to read:

102 **9-6-803. Arts and Culture Business Alliance -- Creation -- Members -- Vacancies.**

103 (1) There is created within the division the Arts and Culture Business Alliance.

104 (2) (a) The alliance shall consist of seven members.

105 (b) The six members described in Subsections (2)(d) and (e) shall be appointed by the
106 governor to four-year terms of office with the consent of the Senate.

107 (c) Notwithstanding the requirements of Subsection (2)(b), the governor shall, at the
108 time of appointment or reappointment, adjust the length of terms to ensure that the terms of the
109 members described in Subsections (2)(d) and (e) are staggered so that approximately half of the
110 members are appointed every two years.

111 (d) Five members shall be citizens with an interest in supporting and advancing the arts
112 and arts development in the state.

113 (e) One member shall have expertise in business or finance.

114 (f) One member is the executive director of the Department of Heritage and Arts, or the
115 executive director's designee.

116 (3) When a vacancy occurs in the membership for any reason, the replacement shall be
117 appointed for the unexpired term in the same manner as the original member.

118 (4) Four members of the board constitute a quorum for the transaction of business.

119 (5) The governor shall annually select one of the board members as chair.

120 (6) Except for the executive director, a member may not receive compensation or

121 benefits for the member's service, but may receive per diem and travel expenses in accordance
122 with:

- 123 (a) Section 63A-3-106;
- 124 (b) Section 63A-3-107; and
- 125 (c) rules made by the Division of Finance in accordance with Sections 63A-3-106 and
126 63A-3-107.

127 (7) A member may not receive a gift, prize, or award of money from the division or the
128 account.

129 Section 6. Section **9-6-804** is enacted to read:

130 **9-6-804. Alliance duties.**

131 The alliance shall:

- 132 (1) promote and encourage the development of the arts in the state;
- 133 (2) support the efforts of state and local government and nonprofit arts organizations to
134 encourage the development of the arts in the state;
- 135 (3) recommend policies, priorities, and objectives to the division regarding
136 development of the arts in the state; and
- 137 (4) approve the use of account funds for arts development.

138 Section 7. Section **9-6-805** is enacted to read:

139 **9-6-805. Staff support -- Rulemaking.**

140 The division shall:

- 141 (1) provide staff support for the alliance; and
- 142 (2) in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
143 make rules, in consultation with the alliance, for a process for the alliance to accept and
144 consider applications for arts development projects, and to distribute account money, under this
145 part.

146 Section 8. Section **9-6-806** is enacted to read:

147 **9-6-806. Arts and Culture Business Alliance Account -- Funding -- Formula.**

- 148 (1) There is created within the General Fund a restricted account known as the Arts and
149 Culture Business Alliance Account.
- 150 (2) The account shall be administered by the division for the purposes listed in
151 Subsection (5).

- 152 (3) (a) The account shall earn interest.
- 153 (b) All interest earned on account money shall be deposited into the account.
- 154 (4) The account shall be funded by:
- 155 (a) appropriations made to the account by the Legislature in accordance with this
- 156 section; and
- 157 (b) private donations and grants.
- 158 (5) The director shall use account funds to pay for:
- 159 (a) the statewide advancement and development of the arts in accordance with the
- 160 recommendation of the alliance; and
- 161 (b) actual administrative costs associated with administering this part.
- 162 (6) The division shall submit an annual written report to the department that gives a
- 163 complete accounting of the use of money from the account for inclusion in the annual report
- 164 described in Section 9-1-208.
- 165 (7) Money deposited into the account shall include a legislative appropriation from the
- 166 cumulative sales and use tax revenue increases described in Subsection (8), plus any additional
- 167 appropriation made by the Legislature.
- 168 (8) (a) In fiscal years 2016 through 2019, a portion of the state sales and use tax
- 169 revenues, as defined in Section 63M-1-1406, and as described in this Subsection (8), shall be:
- 170 (i) certified as a set-aside for the account by the State Tax Commission;
- 171 (ii) reported to the division, the Office of Legislative Fiscal Analyst, and the Division
- 172 of Finance; and
- 173 (iii) set-aside by the Division of Finance for appropriation to the account.
- 174 (b) For fiscal years 2016 through 2019, the State Tax Commission shall calculate the
- 175 set-aside under this Subsection (8) in accordance with Subsection 63M-1-1406(8)(c)(ii).
- 176 (c) The total money appropriated to the account in a fiscal year under this Subsection
- 177 (8) may not exceed \$1,000,000.

178 Section 9. Section **63M-1-1406** is amended to read:

179 **63M-1-1406. Tourism Marketing Performance Account.**

180 (1) There is created within the General Fund a restricted account known as the Tourism

181 Marketing Performance Account.

182 (2) The account shall be administered by the office for the purposes listed in

183 Subsection (5).

184 (3) (a) The account shall earn interest.

185 (b) All interest earned on account money shall be deposited into the account.

186 (4) The account shall be funded by appropriations made to the account by the
187 Legislature in accordance with this section.

188 (5) The director shall use account money appropriated to the office to pay for the
189 statewide advertising, marketing, and branding campaign for promotion of the state as
190 conducted by the office.

191 (6) (a) For a fiscal year beginning on or after July 1, 2007, the office shall annually
192 allocate 10% of the account money appropriated to the office to a sports organization for
193 advertising, marketing, branding, and promoting Utah in attracting sporting events into the
194 state.

195 (b) The sports organization shall:

196 (i) provide an annual written report to the office that gives a complete accounting of
197 the use of money the sports organization receives under this Subsection (6); and

198 (ii) partner with the office to promote the state and to encourage economic growth in
199 the state.

200 (c) For purposes of this Subsection (6), "sports organization" means an organization
201 that is:

202 (i) exempt from federal income taxation in accordance with Section 501(c)(3), Internal
203 Revenue Code; and

204 (ii) created to foster national and international sports competitions in the state,
205 including competitions related to Olympic sports, and to promote and encourage sports tourism
206 throughout the state, including advertising, marketing, branding, and promoting Utah for the
207 purpose of attracting sporting events into the state.

208 (7) Money deposited into the account shall consist of a legislative appropriation from
209 the cumulative sales and use tax revenue increases identified in Subsection (8), plus any
210 appropriation made by the Legislature.

211 (8) (a) In fiscal years 2006 through 2019, a portion of the state sales and use tax
212 revenues determined under this Subsection (8) shall be certified as a set-aside for the account
213 by the State Tax Commission and reported to the Office of Legislative Fiscal Analyst.

214 (b) The State Tax Commission shall determine the set-aside under this Subsection (8)
215 in each fiscal year by applying the following formula: if the increase in the state sales and use
216 tax revenues derived from the retail sales of tourist-oriented goods and services, in the fiscal
217 year two years prior to the fiscal year in which the set-aside is to be made for the account, is at
218 least 3% over the state sales and use tax revenues derived from the retail sales of
219 tourist-oriented goods and services generated in the fiscal year three years prior to the fiscal
220 year in which the set-aside is to be made, an amount equal to 1/2 of the state sales and use tax
221 revenues generated above the 3% increase shall be calculated by the commission and set aside
222 by the state treasurer for appropriation to the account.

223 (c) (i) The total money appropriated to the account in any fiscal year under Subsections
224 (8)(a) and (b) may not exceed the amount in the account under this section in the fiscal year
225 immediately preceding the current fiscal year by more than \$3,000,000.

226 (ii) If the amount calculated under Subsections (8)(a) and (b) is greater than
227 \$3,000,000, an amount equal to the amount greater than \$3,000,000 shall be appropriated to the
228 Arts and Culture Business Alliance Account created in Section 9-6-806, in accordance with
229 Subsection 9-6-806(8) in an amount not to exceed \$1,000,000 in a fiscal year.

230 (d) As used in this Subsection (8), "sales of tourist-oriented goods and services" are
231 those sales by businesses registered with the State Tax Commission under the following codes
232 of the 1997 North American Industry Classification System of the federal Executive Office of
233 the President, Office of Management and Budget:

- 234 (i) NAICS Code 453 Miscellaneous Store Retailers;
- 235 (ii) NAICS Code 481 Passenger Air Transportation;
- 236 (iii) NAICS Code 487 Scenic and Sightseeing Transportation;
- 237 (iv) NAICS Code 711 Performing Arts, Spectator Sports and Related Industries;
- 238 (v) NAICS Code 712 Museums, Historical Sites and Similar Institutions;
- 239 (vi) NAICS Code 713 Amusement, Gambling and Recreation Industries;
- 240 (vii) NAICS Code 721 Accommodations;
- 241 (viii) NAICS Code 722 Food Services and Drinking Places;
- 242 (ix) NAICS Code 4483 Jewelry, Luggage, and Leather Goods Stores;
- 243 (x) NAICS Code 4853 Taxi and Limousine Service;
- 244 (xi) NAICS Code 4855 Charter Bus;

- 245 (xii) NAICS Code 5615 Travel Arrangement and Reservation Services;
- 246 (xiii) NAICS Code 44611 Pharmacies and Drug Stores;
- 247 (xiv) NAICS Code 45111 Sporting Goods Stores;
- 248 (xv) NAICS Code 45112 Hobby Toy and Game Stores;
- 249 (xvi) NAICS Code 45121 Book Stores and News Dealers;
- 250 (xvii) NAICS Code 445120 Convenience Stores without Gas Pumps;
- 251 (xviii) NAICS Code 447110 Gasoline Stations with Convenience Stores;
- 252 (xix) NAICS Code 447190 Other Gasoline Stations;
- 253 (xx) NAICS Code 532111 Passenger Car Rental; and
- 254 (xxi) NAICS Code 532292 Recreational Goods Rental.
- 255 (e) The Division of Finance shall for each fiscal year transfer the first \$6,000,000 of
- 256 ongoing money in the account to the General Fund.

257 Section 10. **Effective date.**

258 This bill takes effect on July 1, 2015.

Legislative Review Note
as of 2-11-15 4:03 PM

Office of Legislative Research and General Counsel