

ARTS AND MUSEUMS REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Suzanne Harrison

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

This bill modifies provisions related to the Department of Heritage and Arts.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ modifies and describes the powers and duties of the Division of Arts and Museums within the Department of Heritage and Arts;
- ▶ describes the creation, membership, and duties of the Utah Arts Advisory Board and the Utah Museums Advisory Board;
- ▶ describes the requirements and purposes of the Utah Arts and Museums Endowment Fund, formerly known as the Utah Arts Endowment Fund;
- ▶ repeals provisions related to the State-Owned Collections Inventory Study Program Act and the Arts and Culture Business Alliance Act; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

9-6-102, as last amended by Laws of Utah 2017, Chapter 48

9-6-201, as last amended by Laws of Utah 2017, Chapter 48

- 30 **9-6-202**, as last amended by Laws of Utah 2015, Chapter 350
- 31 **9-6-203**, as last amended by Laws of Utah 2010, Chapter 378
- 32 **9-6-501**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 33 **9-6-502**, as last amended by Laws of Utah 2013, Chapter 400
- 34 **9-6-503**, as last amended by Laws of Utah 2011, Chapter 342
- 35 **9-6-504**, as last amended by Laws of Utah 2010, Chapter 378
- 36 **9-6-505**, as last amended by Laws of Utah 2010, Chapter 324
- 37 **9-6-506**, as last amended by Laws of Utah 2011, Chapter 342
- 38 **9-6-507**, as last amended by Laws of Utah 2016, Chapter 348
- 39 **9-6-508**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 40 **13-22-6**, as last amended by Laws of Utah 2015, Chapter 120
- 41 **59-12-701**, as last amended by Laws of Utah 2003, Chapter 296
- 42 **59-12-704**, as last amended by Laws of Utah 2016, Chapter 344
- 43 **63C-9-601**, as last amended by Laws of Utah 2018, Chapter 65

44 ENACTS:

- 45 **9-1-101**, Utah Code Annotated 1953
- 46 **9-6-101**, Utah Code Annotated 1953

47 REPEALS AND REENACTS:

- 48 **9-6-301**, as last amended by Laws of Utah 2006, Chapter 24
- 49 **9-6-302**, as last amended by Laws of Utah 1993, Chapters 4 and 78
- 50 **9-6-303**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 51 **9-6-304**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 52 **9-6-305**, as last amended by Laws of Utah 2018, Chapter 65
- 53 **9-6-306**, as last amended by Laws of Utah 2018, Chapter 65

54 REPEALS:

- 55 **9-6-204**, as last amended by Laws of Utah 2012, Chapter 212
- 56 **9-6-205**, as last amended by Laws of Utah 2017, Chapter 48
- 57 **9-6-307**, as last amended by Laws of Utah 2006, Chapter 24

- 58 **9-6-602**, as renumbered and amended by Laws of Utah 2006, Chapter 24
- 59 **9-6-603**, as last amended by Laws of Utah 2017, Chapter 48
- 60 **9-6-604**, as last amended by Laws of Utah 2012, Chapter 212
- 61 **9-6-605**, as last amended by Laws of Utah 2017, Chapter 48
- 62 **9-6-606**, as renumbered and amended by Laws of Utah 2006, Chapter 24
- 63 **9-6-701**, as enacted by Laws of Utah 2006, Chapter 229
- 64 **9-6-702**, as enacted by Laws of Utah 2006, Chapter 229
- 65 **9-6-703**, as enacted by Laws of Utah 2006, Chapter 229
- 66 **9-6-704**, as last amended by Laws of Utah 2010, Chapter 286
- 67 **9-6-801**, as enacted by Laws of Utah 2015, Chapter 350
- 68 **9-6-802**, as enacted by Laws of Utah 2015, Chapter 350
- 69 **9-6-803**, as enacted by Laws of Utah 2015, Chapter 350
- 70 **9-6-804**, as enacted by Laws of Utah 2015, Chapter 350
- 71 **9-6-805**, as enacted by Laws of Utah 2015, Chapter 350
- 72 **9-6-806**, as enacted by Laws of Utah 2015, Chapter 350

73

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

75 Section 1. Section **9-1-101** is enacted to read:

76 **CHAPTER 1. GENERAL POLICIES AND ADMINISTRATION OF THE**
77 **DEPARTMENT OF HERITAGE AND ARTS**

78 **9-1-101. Title.**

79 (1) This title is known as "Heritage, Arts, Libraries, and Cultural Development."

80 (2) This chapter is known as "General Policies and Administration of the Department
81 of Heritage and Arts."

82 Section 2. Section **9-6-101** is enacted to read:

83 **CHAPTER 6. ARTS AND MUSEUMS DEVELOPMENT**

84 **9-6-101. Title.**

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

86 Section 3. Section **9-6-102** is amended to read:

87 **9-6-102. Definitions.**

88 As used in this chapter:

89 [~~(1) "Advisory board" means the Museum Services Advisory Board created in Section~~
90 ~~9-6-604.~~]

91 (1) "Arts" means the various branches of creative human activity, including visual arts,
92 film, performing arts, sculpture, literature, music, theater, dance, digital arts, video-game arts,
93 and cultural vitality.

94 (2) [~~"Board"~~] "Arts board" means the [Board of Directors of the] Utah Arts [Council]
95 Advisory Board created in Section [9-6-204] 9-6-301.

96 [~~(3) "Council" means the Utah Arts Council created in Section 9-6-301.~~]

97 (3) "Development" includes:

98 (a) constructing, expanding, or repairing a museum or other facility that houses arts or
99 cultural presentations;

100 (b) providing for public information, preservation, and access to museums, the arts,
101 and the cultural heritage of the state; and

102 (c) supporting the professional development of artists, cultural administrators, and
103 cultural leaders within the state.

104 (4) "Director" means the director of the Division of Arts and Museums.

105 (5) "Division" means the Division of Arts and Museums.

106 (6) "Museum" means an organized and permanent institution that:

107 (a) is owned or controlled by the state, a county, or a municipality, or is a nonprofit
108 organization;

109 (b) has an educational or aesthetic purpose;

110 (c) owns or curates a tangible collection; and

111 (d) exhibits the collection to the public on a regular schedule.

112 [~~(7) "Office" means the Office of Museum Services created in Section 9-6-602.~~]

113 (7) "Museums board" means the Utah Museums Advisory Board created in Section

114 [9-6-305.](#)

115 Section 4. Section **9-6-201** is amended to read:

116 **9-6-201. Division of Arts and Museums -- Creation -- Powers and duties.**

117 (1) There is created within the department the Division of Arts and Museums under the
118 administration and general supervision of the executive director or the designee of the
119 executive director.

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

121 [~~(3) The division shall advance the interests of the arts, in all their phases, within the
122 state, and to that end shall:]~~

123 [~~(a) cooperate with and locally sponsor federal agencies and projects directed to similar
124 undertakings;~~]

125 [~~(b) develop the influence of arts in education;~~]

126 [~~(c) involve the private sector, including businesses, charitable interests, educational
127 interests, manufacturers, agriculturalists, and industrialists in these endeavors;~~]

128 [~~(d) utilize broadcasting facilities and the power of the press in disseminating
129 information; and]~~

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

133 [~~(4) The board shall set policy to guide the division in accomplishing the purposes set
134 forth in Subsection (3).]~~

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

138 (2) The division shall:

139 (a) advance the interests of arts and museums in the state in all stages of development;

140 (b) promote and encourage the development of arts and culture in the state;

141 (c) support the efforts of state and local government and nonprofit arts, museums, and

- 142 cultural organizations to encourage the development of arts, museums, and culture in the state;
143 (d) provide assistance to museums in the state to improve museums' ability to:
144 (i) care for and manage collections;
145 (ii) develop quality educational resources such as exhibitions, collections, and
146 publications;
147 (iii) provide access to collections for research; and
148 (iv) provide other services as needed;
149 (e) assist arts and museum organizations in the state in cultural development as needed;
150 (f) cooperate with federal agencies and locally sponsor federal projects directed to the
151 development of arts, museums, and culture in the state;
152 (g) develop the influence of arts in education and life-long learning;
153 (h) cooperate with the private sector, including businesses, charitable interests,
154 educational interests, manufacturers, agriculturalists, and industrialists in arts, museums, and
155 cultural endeavors;
156 (i) disseminate information related to arts, museums, and culture by utilizing broadcast
157 media and print media;
158 (j) foster, promote, encourage, and facilitate the study, creation, and appreciation of the
159 arts, museums, and culture in the state;
160 (k) foster, promote, encourage, and facilitate, the study, creation, and appreciation of
161 the works of indigenous artists in the state;
162 (l) advise state and local government agencies and employees regarding arts and
163 museums related issues, including arts and museums capital development projects;
164 (m) provide technical advice and information about sources of technical assistance to
165 arts, museums, and cultural organizations in the state;
166 (n) develop, coordinate, and support programs, workshops, seminars, and similar
167 activities that provide training for staff members of arts, museums, and cultural organizations
168 in the state;
169 (o) undertake research to understand the training needs of the arts, museums, and

170 cultural organizations community and assess how those needs can be met;

171 (p) administer grant programs to assist eligible arts, museums, and cultural
 172 organizations in the state; and

173 (q) create strategic partnerships to advance the development of arts, museums, and
 174 cultural organizations in the state.

175 Section 5. Section **9-6-202** is amended to read:

176 **9-6-202. Division director.**

177 (1) The chief administrative officer of the division shall be a director appointed by the
 178 executive director in consultation with the ~~[board and the advisory board]~~ arts board and the
 179 museums board.

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

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

183 (a) ~~[the Board of Directors of]~~ the Utah Arts ~~[Council]~~ Advisory Board created in
 184 Section ~~[9-6-204;]~~ 9-6-301; and

185 ~~[(b) the Utah Arts Council created in Section 9-6-301;]~~

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

187 ~~[(d)]~~ (b) the ~~[Museum Services]~~ Utah Museums Advisory Board created in Section
 188 ~~[9-6-604; and]~~ 9-6-305.

189 ~~[(e) the Arts and Culture Business Alliance created in Section 9-6-803.]~~

190 Section 6. Section **9-6-203** is amended to read:

191 **9-6-203. Division powers relating to property.**

192 (1) The division may:

193 (a) take by purchase, grant, gift, donation, devise, or bequest, any property, real or
 194 personal, for any purpose appropriate to ~~[its objects]~~ the objectives of the division; and

195 (b) convert property received by gift, grant, donation, devise, or bequest ~~[and not~~
 196 ~~suitable for its uses]~~ that is not suitable for the objectives of the division, into other [property
 197 so] available property or into money.

198 (2) The property received or converted under Subsection (1) shall be held, invested,
199 and managed and [its] the proceeds used by the division for the purposes and under the
200 conditions prescribed in the grant or donation.

201 (3) If by the terms of any grant, gift, donation, devise, or bequest, conditions are
202 imposed that are impracticable under the law, the grant or donation does not fail but the
203 unlawful or impracticable conditions shall be rejected and the intent of the grantor or donor
204 shall be reasonably carried out as [~~nearly as may be~~] determined by the division.

205 (4) A grant, gift, donation, devise, or bequest for the benefit of the division may not be
206 defeated or prejudiced by any misnomer, misdescription, or informality if the intention of the
207 grantor or donor can be shown or ascertained with reasonable certainty as determined by the
208 division.

209 Section 7. Section **9-6-301** is repealed and reenacted to read:

210 **Part 3. Advisory Boards**

211 **9-6-301. Utah Arts Advisory Board.**

212 (1) There is created within the division the Utah Arts Advisory Board.

213 (2) (a) Except as provided in Subsections (2)(b) and (2)(f), the arts board shall consist
214 of 13 members appointed by the governor to four-year terms with the consent of the Senate.

215 (b) The governor shall, at the time of appointment or reappointment, adjust the length
216 of terms to ensure that the terms of arts board members are staggered so that approximately
217 half of the arts board is appointed every two years.

218 (c) The governor shall appoint eight members who are working artists or
219 administrators, one from each of the following areas:

220 (i) visual arts;

221 (ii) architecture or design;

222 (iii) literature;

223 (iv) music;

224 (v) folk, traditional, or native arts;

225 (vi) theater;

- 226 (vii) dance; and
- 227 (viii) media arts.
- 228 (d) The governor shall appoint three members who are knowledgeable in or
229 appreciative of the arts.
- 230 (e) The governor shall appoint two members who have expertise in technology,
231 marketing, business, or finance.
- 232 (f) Before January 1, 2026, the governor may appoint up to three additional members
233 who are knowledgeable in or appreciative of the arts:
- 234 (i) for terms that shall end before January 1, 2026; and
- 235 (ii) in which case the arts board may consist of up to 16 members until January 1,
236 2026.
- 237 (3) The governor shall appoint members from the state at large with due consideration
238 for geographical representation.
- 239 (4) When a vacancy occurs in the membership for any reason, the governor shall
240 appoint a replacement member for the unexpired term within one month from the time of the
241 vacancy.
- 242 (5) A simple majority of the voting members of the arts board constitutes a quorum for
243 the transaction of business.
- 244 (6) (a) The arts board members shall elect a chair and a vice chair from among the arts
245 board's members.
- 246 (b) The chair and the vice chair shall serve a term of two years.
- 247 (7) The arts board shall meet at least once each year.
- 248 (8) A member of the arts board may not receive compensation or benefits for the
249 member's service, but may receive per diem and travel expenses in accordance with:
- 250 (a) Sections [63A-3-106](#) and [63A-3-107](#); and
- 251 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
252 [63A-3-107](#).
- 253 (9) Except as provided in Subsection (8), a member may not receive any gifts, prizes,

254 or awards of money from division funds during the member's term of office.

255 Section 8. Section 9-6-302 is repealed and reenacted to read:

256 **9-6-302. Arts board powers and duties.**

257 (1) The arts board may:

258 (a) with the concurrence of the director, make rules governing the conduct of the arts
259 board's business in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking
260 Act; and

261 (b) receive gifts, bequests, and property.

262 (2) The arts board shall:

263 (a) act in an advisory capacity for the division;

264 (b) appoint an arts collection committee as described in Section 9-6-303 to advise the
265 division and the arts board regarding the works of art acquired and maintained under this part;
266 and

267 (c) with the concurrence of the director, approve the allocation of arts grant money and
268 State of Utah Alice Merrill Horne Art Collection acquisition funding.

269 Section 9. Section 9-6-303 is repealed and reenacted to read:

270 **9-6-303. Art collection committee.**

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

274 (b) The arts collection committee shall make recommendations to the division and the
275 arts board regarding the works of art acquired and maintained as part of the State of Utah Alice
276 Merrill Horne Art Collection created in Section 9-6-304.

277 (2) (a) Except as provided in Subsection (2)(b), the arts board with the concurrence of
278 the director shall appoint each member of the arts collection committee to a four-year term.

279 (b) The arts board shall, at the time of appointment or reappointment, adjust the length
280 of the initial terms of arts collection committee members to ensure that the terms are staggered
281 so that approximately half of the arts collection committee is appointed every two years.

282 (3) When a vacancy occurs in the membership of the arts collection committee, the
283 replacement shall be recommended by the remaining members of the art collection committee
284 and then appointed by the arts board with the concurrence of the director for the unexpired
285 term.

286 (4) A member of the arts collection committee may not receive compensation or
287 benefits for the member's service, but may receive per diem and travel expenses in accordance
288 with:

289 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

290 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
291 [63A-3-107](#).

292 Section 10. Section [9-6-304](#) is repealed and reenacted to read:

293 **9-6-304. State of Utah Alice Merrill Horne Art Collection.**

294 (1) There is created the State of Utah Alice Merrill Horne Art Collection.

295 (2) The State of Utah Alice Merrill Horne Art Collection:

296 (a) consists of all works of art acquired under this part; and

297 (b) shall be held as the property of the state and under the control of the division.

298 (3) Works of art in the State of Utah Alice Merrill Horne Art Collection may be loaned
299 for exhibition purposes in accordance with recommendations from the arts board and rules
300 made by the division in accordance with Title 63G, Chapter 3, Utah Administrative
301 Rulemaking Act.

302 (4) The division shall:

303 (a) take reasonable precautions to avoid damage or destruction to works of art in the
304 State of Utah Alice Merrill Horne Art Collection;

305 (b) procure insurance coverage for the works of art in the State of Utah Alice Merrill
306 Horne Art Collection; and

307 (c) ensure that all works of art shipped to and from any exhibition under this section
308 are packed by an expert packer.

309 (5) (a) The division may only deaccession works of art in the State of Utah Alice

310 Merrill Horne Art Collection in accordance with rules made by the division in accordance with
311 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

312 (b) A work of art in the State of Utah Alice Merrill Horne Art Collection that is to be
313 deaccessioned in accordance with division rule is not state surplus property as that term is
314 defined in Section 63A-2-101.5, and the division is not subject to the surplus property program
315 described in Section 63A-2-401 for that work of art.

316 Section 11. Section 9-6-305 is repealed and reenacted to read:

317 **9-6-305. Utah Museums Advisory Board.**

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

319 (2) (a) Except as provided in Subsection (2)(b), the museums board shall consist of 11
320 members appointed by the governor to four-year terms.

321 (b) The governor shall, at the time of appointment or reappointment, adjust the length
322 of terms to ensure that the terms of museums board members are staggered so that
323 approximately half of the museums board is appointed every two years.

324 (3) The governor shall ensure that the museums board includes:

325 (a) three members who are qualified, trained, and experienced museum professionals,
326 have a minimum of five years continuous paid work experience at a museum, and are selected
327 from among recommendations proposed by the Utah Museums Association;

328 (b) at least three additional members who are qualified, trained, and experienced
329 museum professionals; and

330 (c) remaining members who have demonstrated an active interest in Utah's museums.

331 (4) The governor shall appoint members from the state at large with due consideration
332 for geographical representation.

333 (5) When a vacancy occurs in the membership for any reason, the governor shall
334 appoint a replacement member for the unexpired term within one month from the time of the
335 vacancy.

336 (6) A member of the museums board may only be reappointed for one additional term
337 unless the governor determines that unusual circumstances warrant an additional term.

338 (7) (a) The museums board members shall elect a chair and a vice chair from among
339 the museums board's members.

340 (b) The chair and the vice chair shall serve a term of two years.

341 (8) A simple majority of the voting members of the museums board constitutes a
342 quorum for the transaction of business.

343 (9) The museums board shall meet at least once each year.

344 (10) A member of the museums board may not receive compensation or benefits for
345 the member's service, but may receive per diem and travel expenses in accordance with:

346 (a) Sections [63A-3-106](#) and [63A-3-107](#); and

347 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
348 [63A-3-107](#).

349 (11) Except as provided in Subsection (10), a member may not receive a gift, prize, or
350 award of money from division funds during the member's term of office.

351 Section 12. Section [9-6-306](#) is repealed and reenacted to read:

352 **9-6-306. Museums board power and duties.**

353 (1) The museums board may, with the concurrence of the director, make rules in
354 accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, governing:

355 (a) the museum grants program; and

356 (b) the awarding of grant money to assist Utah's eligible museums.

357 (2) The museums board shall:

358 (a) act in an advisory capacity for the division, including making recommendations
359 regarding the museum grants program and the awarding of grant money; and

360 (b) with the concurrence of the director, approve the awarding of museum grant money
361 to assist Utah's eligible museums.

362 Section 13. Section [9-6-501](#) is amended to read:

363 **9-6-501. Definitions.**

364 As used in this part:

365 (1) "Endowment fund" means any [~~arts~~] endowment fund created under this chapter by

366 a qualifying organization.

367 (2) "Qualifying organization" means any Utah nonprofit arts or museum organization
368 that qualifies under this chapter to create an endowment fund, receive state money into the
369 endowment fund, match state money deposited into the endowment fund, and expend interest
370 earned on the endowment fund.

371 (3) "State fund" means the Utah Arts and Museums Endowment Fund created [~~under~~]
372 in Section 9-6-502.

373 Section 14. Section 9-6-502 is amended to read:

374 **9-6-502. Utah Arts and Museums Endowment Fund.**

375 (1) There is created an expendable special revenue fund known as the "Utah Arts and
376 Museums Endowment Fund."

377 (2) The state fund shall be administered by the [~~board~~] division in accordance with
378 applicable law.

379 (3) Any administrative costs incurred by the [~~board~~] division shall be reviewed by the
380 appropriate appropriations committee of the Legislature.

381 (4) The state fund shall contain all money appropriated to [~~it~~] the state fund by the
382 Legislature, all federal funds received for purposes of this part, plus interest and other income
383 earned on [~~them~~] money in the state fund.

384 (5) [~~The purpose of the state fund is to provide money~~] The division shall distribute
385 money in the state fund to qualifying arts and museum organizations to [~~enable them to create~~]
386 assist those organizations in creating their own arts endowment funds [~~and to the board to~~
387 administer the state fund].

388 (6) The division may use money in the state fund for expenses related to administering
389 the state fund.

390 Section 15. Section 9-6-503 is amended to read:

391 **9-6-503. Arts and museums endowment funds.**

392 (1) Any Utah nonprofit arts or museum organization that meets the requirements
393 described in this part may create an endowment fund into which there may be deposited money

394 from the state fund.

395 (2) The principal of each endowment fund described in this section may not be
396 expended by the qualifying organization and shall be held in perpetuity solely by the qualifying
397 organization [~~or by the council on behalf of the qualifying organization. Only interest~~].

398 (3) Interest income earned on the amount in each endowment fund described in this
399 section may be expended by the qualifying organization.

400 (4) The principal of each endowment fund described in this section shall be invested in
401 accordance with Title 51, Chapter 7, State Money Management Act.

402 [~~(2)~~] (5) If a qualifying organization that creates an endowment fund as described in
403 this section receives:

404 (a) \$50,000 or more from the state fund, the money shall be administered by the
405 qualifying organization's professional management in accordance with generally accepted
406 accounting principles [~~by the qualifying organization's professional management. Amounts~~];
407 or

408 (b) less than \$50,000 from the state fund, the money shall be placed in a state trust and
409 agency fund [invested by the state treasurer, who] under the direction of the state treasurer, and
410 the state treasurer shall allocate interest income to the qualifying organization.

411 [~~(3)~~] (6) If an endowment fund is [~~invested by~~] under the direction of the state
412 treasurer, the state treasurer [the costs for this administration shall be deducted from the
413 interest income before allocations of interest income may be made] shall deduct administrative
414 costs related to the endowment fund before allocating any interest income to the qualifying
415 organization.

416 Section 16. Section **9-6-504** is amended to read:

417 **9-6-504. Duties of the division.**

418 The [~~board~~] division, in accordance with the provisions of this part, shall:

419 (1) allocate money from the state fund to the endowment fund created by a qualifying
420 organization under Section **9-6-503**;

421 (2) determine the eligibility of each qualifying organization to receive money from the

422 state fund [~~into the endowment fund of the qualifying organization and be the final arbiter of~~
423 ~~eligibility~~];

424 (3) determine the matching amount each qualifying organization shall raise in order to
425 qualify to receive money from the state fund;

426 (4) establish a date by which each qualifying organization shall provide its matching
427 funds;

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

430 (6) (a) in accordance with the provisions of this part and Title 63G, Chapter 3, Utah
431 Administrative Rulemaking Act, the division may establish criteria by rule [~~not otherwise~~
432 ~~prescribed in this chapter~~] for determining the eligibility of qualifying organizations to receive
433 money from the state fund[-]; and

434 (b) in making rules under this Subsection (6), the division may consider the
435 recommendations of the arts board and the museums board.

436 Section 17. Section **9-6-505** is amended to read:

437 **9-6-505. Eligibility requirements of qualifying arts organizations -- Allocation**
438 **limitations -- Matching requirements.**

439 (1) Any qualifying organization may apply to receive money from the state fund to be
440 deposited in an endowment fund [it] the organization has created under [~~Subsection~~] Section
441 9-6-503[(+)]:

442 (a) if [it] the qualifying organization has received a grant from the [~~board~~] division
443 during one of the three years immediately before making application for state fund money
444 under this Subsection (1); or

445 (b) upon [~~approval by the board if it~~] recommendation of the arts board or the
446 museums board if the qualifying organization has not received a grant from the board within
447 the past three years.

448 (2) (a) The maximum amount that may be allocated to each qualifying organization
449 from the state fund shall be determined by the [~~board~~] division by calculating the average cash

450 income of the qualifying organization during the past three fiscal years as contained in the
451 qualifying organization's final reports on file with the ~~[board]~~ division.

452 (b) The ~~[board]~~ division shall notify each qualifying organization of the maximum
453 amount of money from the state fund for which ~~[it]~~ the qualifying organization qualifies.

454 ~~[(b)]~~ (c) The minimum amount that may be allocated to each qualifying organization
455 from the state fund is \$2,500.

456 ~~[(c)]~~ (d) If the maximum amount for which the organization qualifies under the
457 calculation described in Subsection (2)(a) is less than \$2,500, the organization may still apply
458 for \$2,500.

459 (3) (a) After the ~~[board]~~ division determines that a qualifying organization is eligible to
460 receive money from the state fund and before any money is allocated to the qualifying
461 organization from the state fund, the qualifying organization shall match the amount qualified
462 for ~~[by]~~ with money raised and designated exclusively for that purpose.

463 (b) State money, in-kind contributions, and preexisting endowment gifts may not be
464 used to match money from the state fund.

465 (4) ~~[Endowment match money]~~ The amount of match money described in Subsection
466 (3) that a qualifying organization is required to provide shall be based on a sliding scale as
467 follows:

468 (a) any amount requested not exceeding \$100,000 shall be matched one-to-one;

469 (b) any additional amount requested that makes the aggregate amount requested exceed
470 \$100,000 but not exceed \$500,000 shall be matched two-to-one; and

471 (c) any additional amount requested that makes the aggregate amount requested exceed
472 \$500,000 shall be matched three-to-one.

473 (5) (a) Qualifying organizations shall raise the matching amount within three years
474 after applying for money from the state fund by a date determined by the ~~[board]~~ division.

475 (b) Money from the state fund shall be released to the qualifying organization only
476 upon verification by the board that the matching money has been received on or before the date
477 determined under Subsection (5)(a).

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

479 ~~[(c)]~~ (d) Money from the state fund shall be released to qualifying organizations with
480 professional endowment management in increments not less than \$20,000 as audited
481 confirmation of matching funds is received by the ~~[board]~~ division.

482 ~~[(d)]~~ (e) Money from the state fund shall be granted to each qualifying organization on
483 the basis of the matching funds ~~[it]~~ a qualifying organization has raised by the date determined
484 under Subsection (5)(a).

485 Section 18. Section **9-6-506** is amended to read:

486 **9-6-506. Unallocated money.**

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

490 Section 19. Section **9-6-507** is amended to read:

491 **9-6-507. Spending restrictions -- Return of endowment.**

492 (1) ~~[A qualifying organization, once it has received its endowment money from the~~
493 ~~state fund, may]~~ If a qualifying organization has received endowment money from the state
494 fund, the qualifying organization may not expend any of that money or the required matching
495 money in ~~[its]~~ the qualifying organization's endowment fund, but may expend only the interest
496 income earned on the money in ~~[its]~~ the endowment fund.

497 (2) If the ~~[board]~~ division determines that a qualifying organization has expended any
498 amount of the endowment money received from the state fund or any amount of the required
499 matching money~~[-, the qualifying organization shall]:~~

500 (a) the qualifying organization shall return the amount ~~[it]~~ of money the qualifying
501 organization received from the state fund~~[- The board]; and~~

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

504 Section 20. Section **9-6-508** is amended to read:

505 **9-6-508. Federal match.**

506 The creation of the state fund and the use of ~~[its]~~ state fund money to enable qualifying
507 organizations to create ~~[their own]~~ endowment funds may be construed as a state match for any
508 arts funding ~~[from]~~ provided by the federal government ~~[that may be provided]~~.

509 Section 21. Section ~~13-22-6~~ is amended to read:

510 **13-22-6. Application for registration.**

511 (1) An applicant for registration or renewal of registration as a charitable organization
512 shall:

513 (a) pay an application fee as determined under Section ~~63J-1-504~~; and

514 (b) submit an application on a form approved by the division which shall include:

515 (i) the organization's name, address, telephone number, facsimile number, if any, and
516 the names and addresses of any organizations or persons controlled by, controlling, or affiliated
517 with the applicant;

518 (ii) the specific legal nature of the organization, that is, whether the organization is an
519 individual, joint venture, partnership, limited liability company, corporation, association, or
520 other entity;

521 (iii) the names and residence addresses of the officers and directors of the organization;

522 (iv) the name and address of the registered agent for service of process and a consent to
523 service of process;

524 (v) the purpose of the solicitation and use of the contributions to be solicited;

525 (vi) the method by which the solicitation will be conducted and the projected length of
526 time the solicitation is to be conducted;

527 (vii) the anticipated expenses of the solicitation, including all commissions, costs of
528 collection, salaries, and any other items;

529 (viii) a statement of what percentage of the contributions collected as a result of the
530 solicitation are projected to remain available for application to the charitable purposes declared
531 in the application, including a satisfactory statement of the factual basis for the projected
532 percentage;

533 (ix) a statement of total contributions collected or received by the organization within

534 the calendar year immediately preceding the date of the application, including a description of
535 the expenditures made from or the use made of the contributions;

536 (x) a copy of any written agreements with any professional fund raiser involved with
537 the solicitation;

538 (xi) disclosure of any injunction, judgment, or administrative order or conviction of
539 any crime involving moral turpitude with respect to any officer, director, manager, operator, or
540 principal of the organization;

541 (xii) a copy of all agreements to which the applicant is, or proposes to be, a party
542 regarding the use of proceeds for the solicitation or fundraising;

543 (xiii) a statement of whether the charitable organization, or the charitable
544 organization's parent foundation, will be using the services of a professional fund raiser or of a
545 professional fund raising counsel or consultant;

546 (xiv) if either the charitable organization or the charitable organization's parent
547 foundation will be using the services of a professional fund raiser or a professional fund raising
548 counsel or consultant:

549 (A) a copy of all agreements related to the services; and

550 (B) an acknowledgment that fund raising in the state will not commence until both the
551 charitable organization, its parent foundation, if any, and the professional fund raiser or
552 professional fund raising counsel or consultant are registered and in compliance with this
553 chapter;

554 (xv) any documents required under Section 13-22-15; and

555 (xvi) any additional information the division may require by rule.

556 (2) If any information contained in the application for registration becomes incorrect or
557 incomplete, the applicant or registrant shall, within 30 days after the information becomes
558 incorrect or incomplete, correct the application or file the complete information required by the
559 division.

560 (3) In addition to the registration fee, an organization failing to file a registration
561 application or renewal by the due date or filing an incomplete registration application or

562 renewal shall pay an additional fee of \$25 for each month or part of a month after the date on
563 which the registration application or renewal were due to be filed.

564 ~~[(4) Notwithstanding Subsection (1)(a), the registration fee for a certified local~~
565 ~~museum under Section 9-6-603 is \$25 less than the registration fee established under~~
566 ~~Subsection (1).]~~

567 Section 22. Section **59-12-701** is amended to read:

568 **59-12-701. Purpose statement.**

569 The Utah Legislature finds and declares that:

570 (1) Recreational and zoological facilities and the botanical, cultural, and zoological
571 organizations of the state of Utah enhance the quality of life of Utah's citizens, as well as the
572 continuing growth of Utah's tourist, convention, and recreational industries.

573 (2) Utah was the first state in this nation to create and financially support a state arts
574 agency~~[, now the Utah Arts Council, which is]~~ and remains committed to the nurturing and
575 growth of cultural pursuits.

576 (3) Utah has provided, and intends to continue, the financial support of recreational and
577 zoological facilities and the botanical, cultural, and zoological organizations of this state.

578 (4) The state's support of its recreational and zoological facilities and its botanical,
579 cultural, and zoological organizations has not been sufficient to assure the continuing existence
580 and growth of these facilities and organizations, and the Legislature believes that local
581 government may wish to play a greater role in the support of these organizations.

582 (5) Without jeopardizing the state's ongoing support of its recreational and zoological
583 facilities and its botanical, cultural, and zoological organizations, the Legislature intends to
584 permit the counties of the state of Utah to enhance public financial support of Utah's publicly
585 owned or operated recreational and zoological facilities, and botanical, cultural, and zoological
586 organizations owned or operated by institutions or private nonprofit organizations, through the
587 imposition of a county sales and use tax.

588 (6) In a county of the first class, it is necessary and appropriate to allocate a tax
589 imposed under this part in a manner that provides adequate predictable support to a fixed

590 number of botanical and cultural organizations and that gives the county legislative body
591 discretion to allocate the tax revenues to other botanical and cultural organizations.

592 Section 23. Section **59-12-704** is amended to read:

593 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**
594 **operating expenses -- Administrative charge.**

595 (1) Except as provided in Subsections (3)(b) and (5), and subject to the requirements of
596 this section, any revenues collected by a county of the first class under this part shall be
597 distributed annually by the county legislative body to support cultural facilities, recreational
598 facilities, and zoological facilities and botanical organizations, cultural organizations, and
599 zoological organizations within that first class county as follows:

600 (a) 30% of the revenue collected by the county under this section shall be distributed
601 by the county legislative body to support cultural facilities and recreational facilities located
602 within the county;

603 (b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii),
604 16% of the revenue collected by the county under this section shall be distributed by the county
605 legislative body to support no more than three zoological facilities and zoological organizations
606 located within the county, having average annual operating expenses of \$1,500,000 or more as
607 determined under Subsection (3), with:

608 (A) 63.5% of that revenue being distributed to support a zoological organization
609 having as its primary purpose the operation of a zoological park, or a zoological facility that is
610 part of or integrated with a zoological park;

611 (B) 28.25% of that revenue being distributed to support a zoological organization
612 having as its primary purpose the operation of an aquarium, or a zoological facility that is part
613 of or integrated with an aquarium; and

614 (C) 8.25% of that revenue being distributed to support a zoological organization having
615 as its primary purpose the operation of an aviary, or a zoological facility that is part of or
616 integrated with an aviary;

617 (ii) if more than one zoological organization or zoological facility qualifies to receive

618 the money described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall
619 distribute the money described in the subsection for which more than one zoological
620 organization or zoological facility qualifies to whichever zoological organization or zoological
621 facility the county legislative body determines is most appropriate, except that a zoological
622 organization or zoological facility may not receive money under more than one subsection
623 under Subsection (1)(b)(i); and

624 (iii) if no zoological organization or zoological facility qualifies to receive money
625 described in Subsection (1)(b)(i)(A), (B), or (C), the county legislative body shall distribute the
626 money described in the subsection for which no zoological organization or zoological facility
627 qualifies among the zoological organizations or zoological facilities qualifying for and
628 receiving money under the other subsections in proportion to the zoological organizations' or
629 zoological facilities' average annual operating expenses as determined under Subsection (3);

630 (c) (i) 45% of the revenue collected by the county under this section shall be distributed
631 to no more than 22 botanical organizations and cultural organizations with average annual
632 operating expenses of more than \$250,000 as determined under Subsection (3);

633 (ii) subject to Subsection (1)(c)(iii), the county legislative body shall distribute the
634 money described in Subsection (1)(c)(i) among the botanical organizations and cultural
635 organizations in proportion to their average annual operating expenses as determined under
636 Subsection (3); and

637 (iii) the amount distributed to any botanical organization or cultural organization
638 described in Subsection (1)(c)(i) may not exceed 35% of the botanical organization's or cultural
639 organization's operating budget; and

640 (d) (i) 9% of the revenue collected by the county under this section shall be distributed
641 to botanical organizations and cultural organizations that do not receive revenue under
642 Subsection (1)(c)(i); and

643 (ii) the county legislative body shall determine how the money shall be distributed
644 among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).

645 (2) (a) The county legislative body of each county shall create an advisory board to

646 advise the county legislative body on disbursement of funds to botanical organizations and
647 cultural organizations under Subsection (1)(c)(i).

648 (b) (i) The advisory board under Subsection (2)(a) shall consist of seven members
649 appointed by the county legislative body.

650 (ii) In a county of the first class, two of the seven members of the advisory board under
651 Subsection (2)(a) shall be appointed [~~from the Utah Arts Council~~] by the Division of Arts and
652 Museums created in Section 9-6-201.

653 (3) (a) Except as provided in Subsection (3)(b), to be eligible to receive money
654 collected by the county under this part, a botanical organization, cultural organization,
655 zoological organization, and zoological facility located within a county of the first class shall,
656 every year:

657 (i) calculate its average annual operating expenses based upon audited operating
658 expenses for three preceding fiscal years; and

659 (ii) submit to the appropriate county legislative body:

660 (A) a verified audit of annual operating expenses for each of those three preceding
661 fiscal years; and

662 (B) the average annual operating expenses as calculated under Subsection (3)(a)(i).

663 (b) The county legislative body may waive the operating expenses reporting
664 requirements under Subsection (3)(a) for organizations described in Subsection (1)(d)(i).

665 (4) When calculating average annual operating expenses as described in Subsection
666 (3), each botanical organization, cultural organization, and zoological organization shall use the
667 same three-year fiscal period as determined by the county legislative body.

668 (5) (a) By July 1 of each year, the county legislative body of a first class county may
669 index the threshold amount in Subsections (1)(c) and (d).

670 (b) Any change under Subsection (5)(a) shall be rounded off to the nearest \$100.

671 (6) (a) In a county except for a county of the first class, the county legislative body
672 shall by ordinance provide for the distribution of the entire amount of the revenues generated
673 by the tax imposed by this section:

674 (i) as provided in this Subsection (6); and

675 (ii) as stated in the opinion question described in Subsection 59-12-703(1).

676 (b) Pursuant to an interlocal agreement established in accordance with Title 11,
677 Chapter 13, Interlocal Cooperation Act, a county described in Subsection (6)(a) may distribute
678 to a city, town, or political subdivision within the county revenues generated by a tax under this
679 part.

680 (c) The revenues distributed under Subsection (6)(a) or (b) shall be used for one or
681 more organizations or facilities defined in Section 59-12-702 regardless of whether the
682 revenues are distributed:

683 (i) directly by the county described in Subsection (6)(a) to be used for an organization
684 or facility defined in Section 59-12-702; or

685 (ii) in accordance with an interlocal agreement described in Subsection (6)(b).

686 (7) A county legislative body may retain up to 1.5% of the proceeds from a tax under
687 this part for the cost of administering this part.

688 (8) The commission shall retain and deposit an administrative charge in accordance
689 with Section 59-1-306 from the revenues the commission collects from a tax under this part.

690 Section 24. Section 63C-9-601 is amended to read:

691 **63C-9-601. Responsibility for items.**

692 Furniture, furnishings, fixtures, works of art, and decorative objects for which the board
693 has responsibility under this chapter are not subject to the custody or control of the State
694 Library Board, the State Library Division, the Division of Archives and Records Service, the
695 Division of State History, [~~the Office of Museum Services, the Utah Arts Council;~~] the
696 Division of Arts and Museums, the arts collection committee of the State of Utah Alice Merrill
697 Horne Art Collection [~~Committee~~], or any other state agency.

698 **Section 25. Repealer.**

699 This bill repeals:

700 Section 9-6-204, **Utah Arts Council Board of Directors.**

701 Section 9-6-205, **Board powers and duties.**

- 702 Section **9-6-307**, **Application of funds received by council.**
- 703 Section **9-6-602**, **Office of Museum Services created -- Purpose.**
- 704 Section **9-6-603**, **Duties of office.**
- 705 Section **9-6-604**, **Museum Services Advisory Board -- Membership.**
- 706 Section **9-6-605**, **Advisory board -- Duties.**
- 707 Section **9-6-606**, **Office limitations.**
- 708 Section **9-6-701**, **Title.**
- 709 Section **9-6-702**, **Definitions.**
- 710 Section **9-6-703**, **State-Owned Art Collections Inventory Study Program -- Division**
- 711 **duties -- Funding for the study program.**
- 712 Section **9-6-704**, **State-Owned Art Collections Inventory Program Committee --**
- 713 **Membership -- Chair -- Expenses -- Duties.**
- 714 Section **9-6-801**, **Title.**
- 715 Section **9-6-802**, **Definitions.**
- 716 Section **9-6-803**, **Arts and Culture Business Alliance -- Creation -- Members --**
- 717 **Vacancies.**
- 718 Section **9-6-804**, **Alliance duties.**
- 719 Section **9-6-805**, **Staff support -- Rulemaking.**
- 720 Section **9-6-806**, **Arts and Culture Business Alliance Account -- Funding.**