

ARTS AND MUSEUMS REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Suzanne Harrison

Senate Sponsor: David P. Hinkins

LONG TITLE

Committee Note:

The Economic Development and Workforce Services Interim Committee recommended this bill.

Legislative Vote: 10 voting for 0 voting against 7 absent

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



28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 **AMENDS:**

- 32 **9-6-102**, as last amended by Laws of Utah 2017, Chapter 48
- 33 **9-6-201**, as last amended by Laws of Utah 2017, Chapter 48
- 34 **9-6-202**, as last amended by Laws of Utah 2015, Chapter 350
- 35 **9-6-203**, as last amended by Laws of Utah 2010, Chapter 378
- 36 **9-6-501**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 37 **9-6-502**, as last amended by Laws of Utah 2013, Chapter 400
- 38 **9-6-503**, as last amended by Laws of Utah 2011, Chapter 342
- 39 **9-6-504**, as last amended by Laws of Utah 2010, Chapter 378
- 40 **9-6-505**, as last amended by Laws of Utah 2010, Chapter 324
- 41 **9-6-506**, as last amended by Laws of Utah 2011, Chapter 342
- 42 **9-6-507**, as last amended by Laws of Utah 2016, Chapter 348
- 43 **9-6-508**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 44 **13-22-6**, as last amended by Laws of Utah 2015, Chapter 120
- 45 **59-12-701**, as last amended by Laws of Utah 2003, Chapter 296
- 46 **59-12-704**, as last amended by Laws of Utah 2016, Chapter 344
- 47 **63C-9-601**, as last amended by Laws of Utah 2018, Chapter 65

48 **ENACTS:**

- 49 **9-1-101**, Utah Code Annotated 1953
- 50 **9-6-101**, Utah Code Annotated 1953

51 **REPEALS AND REENACTS:**

- 52 **9-6-301**, as last amended by Laws of Utah 2006, Chapter 24
- 53 **9-6-302**, as last amended by Laws of Utah 1993, Chapters 4 and 78
- 54 **9-6-303**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 55 **9-6-304**, as renumbered and amended by Laws of Utah 1992, Chapter 241
- 56 **9-6-305**, as last amended by Laws of Utah 2018, Chapter 65
- 57 **9-6-306**, as last amended by Laws of Utah 2018, Chapter 65

58 **REPEALS:**

- 59 [9-6-204](#), as last amended by Laws of Utah 2012, Chapter 212
- 60 [9-6-205](#), as last amended by Laws of Utah 2017, Chapter 48
- 61 [9-6-307](#), as last amended by Laws of Utah 2006, Chapter 24
- 62 [9-6-602](#), as renumbered and amended by Laws of Utah 2006, Chapter 24
- 63 [9-6-603](#), as last amended by Laws of Utah 2017, Chapter 48
- 64 [9-6-604](#), as last amended by Laws of Utah 2012, Chapter 212
- 65 [9-6-605](#), as last amended by Laws of Utah 2017, Chapter 48
- 66 [9-6-606](#), as renumbered and amended by Laws of Utah 2006, Chapter 24
- 67 [9-6-701](#), as enacted by Laws of Utah 2006, Chapter 229
- 68 [9-6-702](#), as enacted by Laws of Utah 2006, Chapter 229
- 69 [9-6-703](#), as enacted by Laws of Utah 2006, Chapter 229
- 70 [9-6-704](#), as last amended by Laws of Utah 2010, Chapter 286
- 71 [9-6-801](#), as enacted by Laws of Utah 2015, Chapter 350
- 72 [9-6-802](#), as enacted by Laws of Utah 2015, Chapter 350
- 73 [9-6-803](#), as enacted by Laws of Utah 2015, Chapter 350
- 74 [9-6-804](#), as enacted by Laws of Utah 2015, Chapter 350
- 75 [9-6-805](#), as enacted by Laws of Utah 2015, Chapter 350
- 76 [9-6-806](#), as enacted by Laws of Utah 2015, Chapter 350



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

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

80 **CHAPTER 1. GENERAL POLICIES AND ADMINISTRATION OF THE**
 81 **DEPARTMENT OF HERITAGE AND ARTS**

82 **9-1-101. Title.**

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

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

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

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

88 **9-6-101. Title.**

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

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

91 **9-6-102. Definitions.**

92 As used in this chapter:

93 [~~(1) "Advisory board" means the Museum Services Advisory Board created in Section~~
94 ~~9-6-604.~~]

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

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

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

101 (3) "Development" includes:

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

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

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

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

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

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

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

113 (b) has an educational or aesthetic purpose;

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

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

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

117 (7) "Museums board" means the Utah Museums Advisory Board created in Section
118 9-6-305.

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

120 **9-6-201. Division of Arts and Museums -- Creation -- Powers and duties.**

121 (1) There is created within the department the Division of Arts and Museums under the
122 administration and general supervision of the executive director or the designee of the
123 executive director.

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

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

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

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

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

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

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

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

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

142 (2) The division shall:

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

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

145 (c) support the efforts of state and local government and nonprofit arts, museums, and
146 cultural organizations to encourage the development of arts, museums, and culture in the state;

147 (d) provide assistance to museums in the state to improve museums' ability to:

148 (i) care for and manage collections;

149 (ii) develop quality educational resources such as exhibitions, collections, and
150 publications;

151 (iii) provide access to collections for research; and

- 152 (iv) provide other services as needed;
- 153 (e) assist arts and museum organizations in the state in cultural development as needed;
- 154 (f) cooperate with federal agencies and locally sponsor federal projects directed to the
- 155 development of arts, museums, and culture in the state;
- 156 (g) develop the influence of arts in education and life-long learning;
- 157 (h) cooperate with the private sector, including businesses, charitable interests,
- 158 educational interests, manufacturers, agriculturalists, and industrialists in arts, museums, and
- 159 cultural endeavors;
- 160 (i) disseminate information related to arts, museums, and culture by utilizing broadcast
- 161 media and print media;
- 162 (j) foster, promote, encourage, and facilitate the study, creation, and appreciation of the
- 163 arts, museums, and culture in the state;
- 164 (k) foster, promote, encourage, and facilitate, the study, creation, and appreciation of
- 165 the works of indigenous artists in the state;
- 166 (l) advise state and local government agencies and employees regarding arts and
- 167 museums related issues, including arts and museums capital development projects;
- 168 (m) provide technical advice and information about sources of technical assistance to
- 169 arts, museums, and cultural organizations in the state;
- 170 (n) develop, coordinate, and support programs, workshops, seminars, and similar
- 171 activities that provide training for staff members of arts, museums, and cultural organizations
- 172 in the state;
- 173 (o) undertake research to understand the training needs of the arts, museums, and
- 174 cultural organizations community and assess how those needs can be met;
- 175 (p) administer grant programs to assist eligible arts, museums, and cultural
- 176 organizations in the state; and
- 177 (q) create strategic partnerships to advance the development of arts, museums, and
- 178 cultural organizations in the state.

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

180 **9-6-202. Division director.**

181 (1) The chief administrative officer of the division shall be a director appointed by the
182 executive director in consultation with the ~~[board and the advisory board]~~ arts board and the

183 museums board.

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

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

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

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

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

191 [~~(d)~~] (b) the [~~Museum Services~~] Utah Museums Advisory Board created in Section
192 [~~9-6-604; and~~] 9-6-305.

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

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

195 **9-6-203. Division powers relating to property.**

196 (1) The division may:

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

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

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

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

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

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

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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

245 vacancy.

246 (5) A simple majority of the voting members of the arts board constitutes a quorum for
 247 the transaction of business.

248 (6) (a) The arts board members shall elect a chair and a vice chair from among the arts
 249 board's members.

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

251 (7) The arts board shall meet at least once each year.

252 (8) A member of the arts board may not receive compensation or benefits for the
 253 member's service, but may receive per diem and travel expenses in accordance with:

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

255 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
 256 [63A-3-107](#).

257 (9) Except as provided in Subsection (8), a member may not receive any gifts, prizes,
 258 or awards of money from division funds during the member's term of office.

259 Section 8. Section [9-6-302](#) is repealed and reenacted to read:

260 **9-6-302. Arts board powers and duties.**

261 (1) The arts board may:

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

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

266 (2) The arts board shall:

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

268 (b) appoint an arts collection committee as described in Section [9-6-303](#) to advise the
 269 division and the arts board regarding the works of art acquired and maintained under this part;
 270 and

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

273 Section 9. Section [9-6-303](#) is repealed and reenacted to read:

274 **9-6-303. Art collection committee.**

275 (1) (a) The arts board with the concurrence of the director shall appoint an arts

276 collection committee composed of any combination of artists, art historians, gallery owners,
277 knowledgeable art collectors, art appraisers, and judges of art.

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

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

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

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

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

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

294 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
295 [63A-3-107](#).

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

297 **9-6-304. State of Utah Alice Merrill Horne Art Collection.**

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

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

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

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

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

306 (4) The division shall:

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

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

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

313 (5) (a) The division may only deaccession works of art in the State of Utah Alice
314 Merrill Horne Art Collection in accordance with rules made by the division in accordance with
315 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

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

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

321 **9-6-305. Utah Museums Advisory Board.**

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

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

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

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

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

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

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

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

337 (5) When a vacancy occurs in the membership for any reason, the governor shall

338 appoint a replacement member for the unexpired term within one month from the time of the
339 vacancy.

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

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

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

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

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

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

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

351 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
352 [63A-3-107](#).

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

355 Section 12. Section **9-6-306** is repealed and reenacted to read:

356 **9-6-306. Museums board power and duties.**

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

359 (a) the museum grants program; and

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

361 (2) The museums board shall:

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

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

366 Section 13. Section **9-6-501** is amended to read:

367 **9-6-501. Definitions.**

368 As used in this part:

369 (1) "Endowment fund" means any ~~[arts]~~ endowment fund created under this chapter by
370 a qualifying organization.

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

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

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

378 **9-6-502. Utah Arts and Museums Endowment Fund.**

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

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

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

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

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

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

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

395 **9-6-503. Arts and museums endowment funds.**

396 (1) Any Utah nonprofit arts or museum organization that meets the requirements
397 described in this part may create an endowment fund into which there may be deposited money
398 from the state fund.

399 (2) The principal of each endowment fund described in this section may not be

400 expended by the qualifying organization and shall be held in perpetuity solely by the qualifying
401 organization [~~or by the council on behalf of the qualifying organization. Only interest~~].

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

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

406 [~~(2)~~] (5) If a qualifying organization that creates an endowment fund as described in
407 this section receives:

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

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

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

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

421 **9-6-504. Duties of the division.**

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

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

425 (2) determine the eligibility of each qualifying organization to receive money from the
426 state fund [~~into the endowment fund of the qualifying organization and be the final arbiter of~~
427 ~~eligibility~~];

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

430 (4) establish a date by which each qualifying organization shall provide its matching

431 funds;

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

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

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

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

441 **9-6-505. Eligibility requirements of qualifying arts organizations -- Allocation**
442 **limitations -- Matching requirements.**

443 (1) Any qualifying organization may apply to receive money from the state fund to be
444 deposited in an endowment fund [it] the organization has created under [~~Subsection~~] Section
445 9-6-503[~~(1)~~]:

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

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

452 (2) (a) The maximum amount that may be allocated to each qualifying organization
453 from the state fund shall be determined by the [~~board~~] division by calculating the average cash
454 income of the qualifying organization during the past three fiscal years as contained in the
455 qualifying organization's final reports on file with the [~~board~~] division.

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

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

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

462 for \$2,500.

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

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

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

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

473 (b) any additional amount requested that makes the aggregate amount requested exceed
474 \$100,000 but not exceed \$500,000 shall be matched two-to-one; and

475 (c) any additional amount requested that makes the aggregate amount requested exceed
476 \$500,000 shall be matched three-to-one.

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

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

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

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

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

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

490 **9-6-506. Unallocated money.**

491 Money in the state fund that is unallocated shall be reallocated by the ~~[board]~~ division
492 on a proportionate basis to qualifying organizations that raise 100% of their required match by

493 the date determined under Subsection 9-6-505(5)(a).

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

495 **9-6-507. Spending restrictions -- Return of endowment.**

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

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

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

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

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

509 **9-6-508. Federal match.**

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

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

514 **13-22-6. Application for registration.**

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

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

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

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

522 (ii) the specific legal nature of the organization, that is, whether the organization is an
 523 individual, joint venture, partnership, limited liability company, corporation, association, or

- 524 other entity;
- 525 (iii) the names and residence addresses of the officers and directors of the organization;
- 526 (iv) the name and address of the registered agent for service of process and a consent to
527 service of process;
- 528 (v) the purpose of the solicitation and use of the contributions to be solicited;
- 529 (vi) the method by which the solicitation will be conducted and the projected length of
530 time the solicitation is to be conducted;
- 531 (vii) the anticipated expenses of the solicitation, including all commissions, costs of
532 collection, salaries, and any other items;
- 533 (viii) a statement of what percentage of the contributions collected as a result of the
534 solicitation are projected to remain available for application to the charitable purposes declared
535 in the application, including a satisfactory statement of the factual basis for the projected
536 percentage;
- 537 (ix) a statement of total contributions collected or received by the organization within
538 the calendar year immediately preceding the date of the application, including a description of
539 the expenditures made from or the use made of the contributions;
- 540 (x) a copy of any written agreements with any professional fund raiser involved with
541 the solicitation;
- 542 (xi) disclosure of any injunction, judgment, or administrative order or conviction of
543 any crime involving moral turpitude with respect to any officer, director, manager, operator, or
544 principal of the organization;
- 545 (xii) a copy of all agreements to which the applicant is, or proposes to be, a party
546 regarding the use of proceeds for the solicitation or fundraising;
- 547 (xiii) a statement of whether the charitable organization, or the charitable
548 organization's parent foundation, will be using the services of a professional fund raiser or of a
549 professional fund raising counsel or consultant;
- 550 (xiv) if either the charitable organization or the charitable organization's parent
551 foundation will be using the services of a professional fund raiser or a professional fund raising
552 counsel or consultant:
- 553 (A) a copy of all agreements related to the services; and
- 554 (B) an acknowledgment that fund raising in the state will not commence until both the

555 charitable organization, its parent foundation, if any, and the professional fund raiser or
556 professional fund raising counsel or consultant are registered and in compliance with this
557 chapter;

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

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

560 (2) If any information contained in the application for registration becomes incorrect or
561 incomplete, the applicant or registrant shall, within 30 days after the information becomes
562 incorrect or incomplete, correct the application or file the complete information required by the
563 division.

564 (3) In addition to the registration fee, an organization failing to file a registration
565 application or renewal by the due date or filing an incomplete registration application or
566 renewal shall pay an additional fee of \$25 for each month or part of a month after the date on
567 which the registration application or renewal were due to be filed.

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

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

572 **59-12-701. Purpose statement.**

573 The Utah Legislature finds and declares that:

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

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

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

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

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

592 (6) In a county of the first class, it is necessary and appropriate to allocate a tax
593 imposed under this part in a manner that provides adequate predictable support to a fixed
594 number of botanical and cultural organizations and that gives the county legislative body
595 discretion to allocate the tax revenues to other botanical and cultural organizations.

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

597 **59-12-704. Distribution of revenues -- Advisory board creation -- Determining**
598 **operating expenses -- Administrative charge.**

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

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

607 (b) (i) subject to Subsection (1)(b)(ii) and except as provided in Subsection (1)(b)(iii),
608 16% of the revenue collected by the county under this section shall be distributed by the county
609 legislative body to support no more than three zoological facilities and zoological organizations
610 located within the county, having average annual operating expenses of \$1,500,000 or more as
611 determined under Subsection (3), with:

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

615 (B) 28.25% of that revenue being distributed to support a zoological organization
616 having as its primary purpose the operation of an aquarium, or a zoological facility that is part

617 of or integrated with an aquarium; and

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

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

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

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

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

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

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

647 (ii) the county legislative body shall determine how the money shall be distributed

648 among the botanical organizations and cultural organizations described in Subsection (1)(d)(i).

649 (2) (a) The county legislative body of each county shall create an advisory board to
650 advise the county legislative body on disbursement of funds to botanical organizations and
651 cultural organizations under Subsection (1)(c)(i).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

695 **63C-9-601. Responsibility for items.**

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

702 **Section 25. Repealer.**

703 This bill repeals:

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

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

706 Section 9-6-307, **Application of funds received by council.**

707 Section 9-6-602, **Office of Museum Services created -- Purpose.**

708 Section 9-6-603, **Duties of office.**

709 Section 9-6-604, **Museum Services Advisory Board -- Membership.**

- 710 Section **9-6-605**, **Advisory board -- Duties.**
- 711 Section **9-6-606**, **Office limitations.**
- 712 Section **9-6-701**, **Title.**
- 713 Section **9-6-702**, **Definitions.**
- 714 Section **9-6-703**, **State-Owned Art Collections Inventory Study Program -- Division**
- 715 **duties -- Funding for the study program.**
- 716 Section **9-6-704**, **State-Owned Art Collections Inventory Program Committee --**
- 717 **Membership -- Chair -- Expenses -- Duties.**
- 718 Section **9-6-801**, **Title.**
- 719 Section **9-6-802**, **Definitions.**
- 720 Section **9-6-803**, **Arts and Culture Business Alliance -- Creation -- Members --**
- 721 **Vacancies.**
- 722 Section **9-6-804**, **Alliance duties.**
- 723 Section **9-6-805**, **Staff support -- Rulemaking.**
- 724 Section **9-6-806**, **Arts and Culture Business Alliance Account -- Funding.**