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HERITAGE AND ARTS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: Wayne A. Harper

LONG TITLE

General Description:

This bill changes the name of the Department of Heritage and Arts.

Highlighted Provisions:

This bill:

- ▶ changes the name of the Department of Heritage and Arts to the Department of Cultural and Community Engagement (the department);
- ▶ modifies the powers and duties of the department;
- ▶ changes the name of a foundation and a fund within the department to reflect the new name of the department; and
- ▶ makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

- 9-1-101**, as enacted by Laws of Utah 2020, Chapter 419
- 9-1-102**, as last amended by Laws of Utah 2017, Chapter 48
- 9-1-201**, as last amended by Laws of Utah 2020, Chapter 318
- 9-1-209**, as enacted by Laws of Utah 2020, Chapter 318
- 9-9-104.6**, as last amended by Laws of Utah 2020, Chapters 236 and 365

- 29 **9-20-201**, as renumbered and amended by Laws of Utah 2019, Chapter 221
- 30 **9-20-207**, as renumbered and amended by Laws of Utah 2019, Chapter 221
- 31 **19-3-301**, as last amended by Laws of Utah 2018, Chapter 281
- 32 **19-3-320**, as last amended by Laws of Utah 2020, Chapter 365
- 33 **53-2a-802**, as last amended by Laws of Utah 2020, Chapter 365
- 34 **53B-18-1002**, as last amended by Laws of Utah 2012, Chapter 212
- 35 **63I-5-201**, as last amended by Laws of Utah 2020, Chapter 365
- 36 **63J-1-219**, as last amended by Laws of Utah 2020, Chapter 365
- 37 **63J-4-502**, as last amended by Laws of Utah 2015, Chapter 451
- 38 **63N-15-103**, as last amended by Laws of Utah 2020, Sixth Special Session, Chapter 19
- 39 **67-19-6.7**, as last amended by Laws of Utah 2018, Chapter 39
- 40 **67-19c-101**, as last amended by Laws of Utah 2020, Chapter 365
- 41 **67-22-2**, as last amended by Laws of Utah 2018, Chapter 39
- 42 **72-4-302**, as last amended by Laws of Utah 2019, Chapter 246

43

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

45 Section 1. Section **9-1-101** is amended to read:

46 **TITLE 9. CULTURAL AND COMMUNITY ENGAGEMENT**
 47 **CHAPTER 1. GENERAL POLICIES AND ADMINISTRATION OF THE**
 48 **DEPARTMENT OF CULTURAL AND COMMUNITY ENGAGEMENT**

49 **9-1-101. Title.**

50 (1) This title is known as [~~"Heritage, Arts, Libraries, and Cultural Development."~~]
51 "Cultural and Community Engagement."

52 (2) This chapter is known as "General Policies and Administration of the [~~Department~~
53 ~~of Heritage and Arts."~~] Department of Cultural and Community Engagement."

54 Section 2. Section **9-1-102** is amended to read:

55 **9-1-102. Definitions.**

56 As used in this title:

57 (1) "Department" means the Department of [~~Heritage and Arts~~] Cultural and
58 Community Engagement.

59 (2) "Executive director" means the executive director of the Department of [~~Heritage~~
60 ~~and Arts~~] Cultural and Community Engagement.

61 (3) (a) "Pass-through funding" means funding from an appropriation by the Legislature
62 to a state agency that is intended to be passed through the state agency to:

63 (i) a government or local government entity;

64 (ii) a private entity, including a not-for-profit entity; or

65 (iii) a person in the form of a loan or a grant.

66 (b) The funding may come from general funds, federal funds, dedicated credits, or a
67 combination of funding sources.

68 (4) "STEM" means science, technology, engineering, and mathematics.

69 Section 3. Section **9-1-201** is amended to read:

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

71 **9-1-201. Department of Cultural and Community Engagement -- Creation --**

72 **Powers and duties.**

73 (1) There is created the Department of [~~Heritage and Arts~~] Cultural and Community
74 Engagement.

75 [~~(2) The department shall:~~]

76 [~~(a) be responsible for preserving and promoting the heritage of the state, the arts in the~~
77 ~~state, and cultural development within the state;]~~]

78 [~~(b) perform heritage, arts, and cultural development planning for the state;]~~]

79 [~~(c) coordinate the program plans of the various divisions within the department;]~~]

80 [~~(d) administer and coordinate all state or federal grant programs which are, or become,~~
81 ~~available for heritage, arts, and cultural development;]~~]

82 (2) The department is responsible for:

83 (a) planning, promoting, and supporting cultural and community engagement in the
84 state, including programs and activities related to:

85 (i) libraries;

86 (ii) history;

87 (iii) the arts;

88 (iv) STEM engagement;

89 (v) museums;

90 (vi) cultural development;

91 (vii) cultural organizations;

92 (viii) multicultural organizations and communities;

93 (ix) service and volunteerism; and

94 (x) the coordination of relationships with tribal nations;

95 (b) overseeing and coordinating the program plans of the divisions within the
96 department;

97 (c) administering and coordinating state and federal grant programs related to the
98 programs and activities described in Subsection (2)(a);

99 ~~[(e)]~~ (d) ~~[administer]~~ administering any other programs over which the department is
100 given administrative supervision by the governor;

101 ~~[(f)]~~ (e) ~~[submit]~~ submitting an annual written report to the governor and the
102 Legislature as described in Section [9-1-208](#);

103 ~~[(g)]~~ (f) ~~[ensure]~~ ensuring that any training or certification required of a public official
104 or public employee, as those terms are defined in Section [63G-22-102](#), complies with Title
105 63G, Chapter 22, State Training and Certification Requirements, if the training or certification
106 is required:

107 (i) under this title;

108 (ii) by the department; or

109 (iii) by an agency or division within the department; and

- 110 ~~[(h)]~~ (g) ~~[perform]~~ performing any other duties as provided by the Legislature.
- 111 (3) The department may:
- 112 (a) solicit and accept contributions of money, services, and facilities from any other
- 113 sources, public or private, but may not use those contributions for publicizing the exclusive
- 114 interest of the donor; and
- 115 (b) establish a nonprofit foundation called the ~~[Heritage and Arts]~~ Cultural and
- 116 Community Engagement Foundation under the control and direction of the executive director
- 117 to assist in the development and implementation of the programs and objectives described in
- 118 this title.
- 119 (4) Money received under Subsection (3)(a) shall be deposited into the General Fund as
- 120 dedicated credits.
- 121 (5) A foundation established by the department under Subsection (3)(b):
- 122 (a) may receive contributions of money, services, and facilities from legislative
- 123 appropriations, government grants, and private sources for the development and
- 124 implementation of the programs and objectives described in this title;
- 125 (b) shall comply with the requirements described in Section 9-1-209; and
- 126 (c) shall provide information detailing all transactions and balances associated with the
- 127 foundation to the department, which shall be summarized by the department and included in
- 128 the department's annual report described in Section 9-1-208.
- 129 (6) (a) For a pass-through funding grant of \$50,000 or less, the department shall make
- 130 an annual disbursement to the pass-through funding grant recipient.
- 131 (b) For a pass-through funding grant of more than \$50,000, the department shall make
- 132 a semiannual disbursement to the pass-through funding grant recipient, contingent upon the
- 133 department receiving a semiannual progress report from the pass-through funding grant
- 134 recipient.
- 135 (c) The department shall:
- 136 (i) provide the pass-through funding grant recipient with a progress report form for the

137 reporting purposes described in Subsection (6)(b); and

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

139 Section 4. Section **9-1-209** is amended to read:

140 **9-1-209. Cultural and Community Engagement Foundation Fund.**

141 (1) As used in this section, "fund" means the [~~Heritage and Arts~~] Cultural and
142 Community Engagement Foundation Fund created in this section.

143 (2) There is created an expendable special revenue fund known as the "[~~Heritage and~~
144 ~~Arts~~] Cultural and Community Engagement Foundation Fund."

145 (3) The executive director shall administer the fund.

146 (4) Money may be deposited into the fund from a variety of sources, including
147 transfers, grants, private foundations, individual donors, gifts, bequests, legislative
148 appropriations, and money made available from any other source.

149 (5) Money collected by the [~~Heritage and Arts~~] Cultural and Community Engagement
150 Foundation described in Subsections [~~9-22-104~~] 9-1-201(3)(b) and (5) shall be deposited into
151 the fund.

152 (6) Any portion of the fund may be treated as an endowment fund such that the
153 principal of that portion of the fund is held in perpetuity on behalf of the department.

154 (7) The state treasurer shall invest the money in the fund according to the procedures
155 and requirements of Title 51, Chapter 7, State Money Management Act, except that all interest
156 or other earnings derived from those investments shall be deposited into the fund.

157 (8) The executive director may expend money from the fund for any of the purposes
158 described in this title.

159 Section 5. Section **9-9-104.6** is amended to read:

160 **9-9-104.6. Participation of state agencies in meetings with tribal leaders --**
161 **Contact information.**

162 (1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the
163 division shall coordinate with representatives of tribal governments and the entities listed in

164 Subsection (2) to provide for the broadest participation possible in the joint meetings.
165 (2) The following may participate in all meetings described in Subsection (1):
166 (a) the chairs of the Native American Legislative Liaison Committee created in Section
167 36-22-1;
168 (b) the governor or the governor's designee;
169 (c) the American Indian-Alaska Native Health Liaison appointed in accordance with
170 Section 26-7-2.5;
171 (d) the American Indian-Alaska Native Public Education Liaison appointed in
172 accordance with Section 53F-5-604; and
173 (e) a representative appointed by the chief administrative officer of the following:
174 (i) the Department of Human Services;
175 (ii) the Department of Natural Resources;
176 (iii) the Department of Workforce Services;
177 (iv) the Governor's Office of Economic Development;
178 (v) the State Board of Education; and
179 (vi) the Utah Board of Higher Education.
180 (3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:
181 (i) designate the name of a contact person for that agency that can assist in coordinating
182 the efforts of state and tribal governments in meeting the needs of the Native Americans
183 residing in the state; and
184 (ii) notify the division:
185 (A) who is the designated contact person described in Subsection (3)(a)(i); and
186 (B) of any change in who is the designated contact person described in Subsection
187 (3)(a)(i).
188 (b) This Subsection (3) applies to:
189 (i) the Department of Agriculture and Food;
190 (ii) the Department of ~~Heritage and Arts~~ Cultural and Community Engagement;

- 191 (iii) the Department of Corrections;
- 192 (iv) the Department of Environmental Quality;
- 193 (v) the Department of Public Safety;
- 194 (vi) the Department of Transportation;
- 195 (vii) the Office of the Attorney General;
- 196 (viii) the State Tax Commission; and
- 197 (ix) any agency described in Subsections (2)(c) through (e).

198 (c) At the request of the division, a contact person listed in Subsection (3)(b) may
199 participate in a meeting described in Subsection (1).

200 (4) (a) A participant under this section who is not a legislator may not receive
201 compensation or benefits for the participant's service, but may receive per diem and travel
202 expenses as allowed in:

- 203 (i) Section 63A-3-106;
- 204 (ii) Section 63A-3-107; and
- 205 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and
206 63A-3-107.

207 (b) Compensation and expenses of a participant who is a legislator are governed by
208 Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

209 Section 6. Section 9-20-201 is amended to read:

210 **9-20-201. Creation -- Members -- Appointment -- Terms -- Vacancies -- Per diem**
211 **and expenses.**

212 (1) There is created the Utah Commission on Service and Volunteerism consisting of
213 19 voting members and one nonvoting member.

214 (2) The 19 voting members of the commission are:

- 215 (a) the lieutenant governor;
- 216 (b) the commissioner of higher education or the commissioner's designee;
- 217 (c) the state superintendent of public instruction or the superintendent's designee;

- 218 (d) the executive director of the Department of [~~Heritage and Arts~~] Cultural and
219 Community Engagement or the executive director's designee;
- 220 (e) nine members appointed by the governor as follows:
- 221 (i) an individual with expertise in the educational, training, and developmental needs of
222 youth, particularly disadvantaged youth;
- 223 (ii) an individual with experience in promoting the involvement of older adults in
224 volunteer service;
- 225 (iii) a representative of a community-based agency or organization within the state;
- 226 (iv) a representative of local government;
- 227 (v) a representative of a local labor organization in the state;
- 228 (vi) a representative of business;
- 229 (vii) an individual between the ages of 16 and 25 who participates in a volunteer or
230 service program;
- 231 (viii) a representative of a national service program; and
- 232 (ix) a representative of the volunteer sector; and
- 233 (f) six members appointed by the governor from among the following groups:
- 234 (i) local educators;
- 235 (ii) experts in the delivery of human, educational, cultural, environmental, or public
236 safety services to communities and individuals;
- 237 (iii) representatives of Native American tribes;
- 238 (iv) representatives of organizations that assist out-of-school youth or other at-risk
239 youth; or
- 240 (v) representatives of entities that receive assistance under the Domestic Volunteer
241 Service Act of 1973, 42 U.S.C. 4950 et seq.
- 242 (3) The nonvoting member of the commission is the state representative of the
243 corporation.
- 244 (4) (a) In appointing persons to serve on the commission, the governor shall ensure

245 that:

246 (i) no more than 10 voting members of the commission are members of the same
247 political party; and

248 (ii) no more than five voting members of the commission are state government
249 employees.

250 (b) In appointing persons to serve on the commission, the governor shall strive for
251 balance on the commission according to race, ethnicity, age, gender, and disability
252 characteristics.

253 (5) (a) Except as required by Subsection (5)(b), as terms of current commission
254 members expire, the governor shall appoint each new member or reappointed member to a
255 three-year term.

256 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the
257 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
258 commission members are staggered so that approximately one-third of the commission is
259 appointed every year.

260 (6) When a vacancy occurs in the membership, the replacement shall be appointed for
261 the unexpired term.

262 (7) A member appointed by the governor may not serve more than two consecutive
263 terms.

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

266 (a) Section [63A-3-106](#);

267 (b) Section [63A-3-107](#); and

268 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
269 [63A-3-107](#).

270 Section 7. Section **9-20-207** is amended to read:

271 **9-20-207. Rulemaking.**

272 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and the
273 provisions of this chapter, the Department of [~~Heritage and Arts~~] Cultural and Community
274 Engagement may make rules to:

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

277 Section 8. Section **19-3-301** is amended to read:

278 **19-3-301. Restrictions on nuclear waste placement in state.**

279 (1) The placement, including transfer, storage, decay in storage, treatment, or disposal,
280 within the exterior boundaries of Utah of high-level nuclear waste or greater than class C
281 radioactive waste is prohibited.

282 (2) Notwithstanding Subsection (1) the governor, after consultation with the county
283 executive and county legislative body of the affected county and with concurrence of the
284 Legislature, may specifically approve the placement as provided in this part, but only if:

285 (a) (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the
286 Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A.
287 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear
288 waste or greater than class C radioactive waste; and

289 (ii) the authority of the federal Nuclear Regulatory Commission to grant a license
290 under Subsection (2)(a)(i) is clearly upheld by a final judgment of a court of competent
291 jurisdiction; or

292 (b) an agency of the federal government is transporting the waste, and all state and
293 federal requirements to proceed with the transportation have been met.

294 (3) The requirement for the approval of a final court of competent jurisdiction shall be
295 met in all of the following categories, in order for a state license proceeding regarding waste to
296 begin:

- 297 (a) transfer or transportation, by rail, truck, or other mechanisms;
- 298 (b) storage, including any temporary storage at a site away from the generating reactor;

299 (c) decay in storage;

300 (d) treatment; and

301 (e) disposal.

302 (4) (a) Upon satisfaction of the requirements of Subsection (2)(a), for each category
303 listed in Subsection (3), or satisfaction of the requirements under Subsection (2)(b), the
304 governor, with the concurrence of the attorney general, shall certify in writing to the executive
305 director of the Department of Environmental Quality that all of the requirements have been
306 met, and that any necessary state licensing processes may begin.

307 (b) Separate certification under this Subsection (4) shall be given for each category in
308 Subsection (3).

309 (5) (a) The department shall make, by rule, a determination of the dollar amount of the
310 health and economic costs expected to result from a reasonably foreseeable accidental release
311 of waste involving a transfer facility or storage facility, or during transportation of waste,
312 within the exterior boundaries of the state. The department may initiate rulemaking under this
313 Subsection (5)(a) on or after March 15, 2001.

314 (b) (i) The department shall also determine the dollar amount currently available to
315 cover the costs as determined in Subsection (5)(a):

316 (A) under nuclear industry self-insurance;

317 (B) under federal insurance requirements; and

318 (C) in federal money.

319 (ii) The department may not include any calculations of federal money that may be
320 appropriated in the future in determining the amount under Subsection (5)(b)(i).

321 (c) The department shall use the information compiled under Subsections (5)(a) and (b)
322 to determine the amount of unfunded potential liability in the event of a release of waste from a
323 storage or transfer facility, or a release during the transportation of waste.

324 (6) (a) State agencies may not, for the purpose of providing any goods, services, or
325 municipal-type services to a storage facility or transfer facility, or to any organization engaged

326 in the transportation of waste, enter into any contracts or any other agreements prior to:

327 (i) the satisfaction of the conditions in Subsection (4); and

328 (ii) the executive director of the department having certified that the requirements of
329 Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application
330 proceeding for a storage facility or transfer facility.

331 (b) Political subdivisions of the state may not enter into any contracts or any other
332 agreements for the purpose of providing any goods, services, or municipal-type services to a
333 storage facility or transfer facility, or to any organization engaged in the transportation of
334 waste.

335 (c) This Subsection (6) does not prohibit a state agency from exercising the regulatory
336 authority granted to it by law.

337 (7) (a) Notwithstanding any other provision of law, any political subdivision may not
338 be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or
339 municipal-type services to a storage facility or transfer facility prior to the satisfaction of the
340 conditions in Subsection (4). These political subdivisions include:

341 (i) a cooperative;

342 (ii) a local district authorized by Title 17B, Limited Purpose Local Government
343 Entities - Local Districts;

344 (iii) a special service district under Title 17D, Chapter 1, Special Service District Act;

345 (iv) a limited purpose local governmental entity authorized by Title 17, Counties;

346 (v) any joint power agreement authorized by Title 11, Cities, Counties, and Local
347 Taxing Units; and

348 (vi) the formation of a municipality, or any authority of a municipality authorized by
349 Title 10, Utah Municipal Code.

350 (b) (i) Subsection (7)(a) shall be strictly interpreted. Any political subdivision
351 authorized and formed under the laws of the state on or after March 15, 2001, which
352 subsequently contracts to, or in any manner agrees to provide, or does provide goods, services,

353 or municipal-type services to a storage facility or transfer facility is formed in violation of
354 Subsection (7)(a).

355 (ii) If the conditions of Subsection (7)(b)(i) apply, the persons who formed the political
356 subdivision are considered to have knowingly violated a provision of this part, and the
357 penalties of Section 19-3-312 apply.

358 (8) (a) An organization may not be formed for the purpose of providing any goods,
359 services, or municipal-type services to a storage facility or transfer facility prior to:

360 (i) the satisfaction of the conditions in Subsection (4); and

361 (ii) the executive director of the department having certified that the requirements of
362 Sections 19-3-304 through 19-3-308 have been met.

363 (b) A foreign organization may not be registered to do business in the state for the
364 purpose of providing any goods, services, or municipal-type services to a storage facility or
365 transfer facility prior to:

366 (i) the satisfaction of the conditions in Subsection (4); and

367 (ii) the executive director of the department having certified that the requirements of
368 Sections 19-3-304 through 19-3-308 have been met.

369 (c) The prohibitions of Subsections (8)(a) and (b) shall be strictly applied, and:

370 (i) the formation of a new organization or registration of a foreign organization within
371 the state, any of whose purposes are to provide goods, services, or municipal-type services to a
372 storage facility or transfer facility may not be licensed or registered in the state, and the local or
373 foreign organization is void and does not have authority to operate within the state;

374 (ii) any organization which is formed or registered on or after March 15, 2001, and
375 which subsequently contracts to, or in any manner agrees to provide, or does provide goods,
376 services, or municipal-type services to a storage facility or transfer facility has been formed or
377 registered in violation of Subsection (8)(a) or (b) respectively; and

378 (iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the
379 organization or the principals of the foreign organization, are considered to have knowingly

380 violated a provision of this part, and are subject to the penalties in Section 19-3-312.

381 (9) (a) (i) Any contract or agreement to provide any goods, services, or municipal-type
382 services to any organization engaging in, or attempting to engage in the placement of high-level
383 nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility
384 within the state are declared to be against the greater public interest, health, and welfare of the
385 state, by promoting an activity which has the great potential to cause extreme public harm.

386 (ii) These contracts or agreements under Subsection (9)(a)(i), whether formal or
387 informal, are declared to be void from inception, agreement, or execution as against public
388 policy.

389 (b) (i) Any contract or other agreement to provide goods, services, or municipal-type
390 services to storage or transfer facilities may not be executed within the state.

391 (ii) Any contract or other agreement, existing or executed on or after March 15, 2001,
392 is considered void from the time of agreement or execution.

393 (10) (a) All contracts and agreements under Subsection (10)(b) are assessed an annual
394 transaction fee of 75% of the gross value of the contract to the party providing the goods,
395 services, or municipal-type services to the storage facility or transfer facility or transportation
396 entity. The fee shall be assessed per calendar year, and is payable on a prorated basis on or
397 before the last day of each month in accordance with rules established under Subsection
398 (10)(d), and as follows:

399 (i) 25% of the gross value of the contract to the department; and

400 (ii) 50% of the gross value of the contract to the Department of [~~Heritage and Arts~~]
401 Cultural and Community Engagement, to be used by the Utah Division of Indian Affairs as
402 provided in Subsection (11).

403 (b) Contracts and agreements subject to the fee under Subsection (10)(a) are those
404 contracts and agreements to provide goods, services, or municipal-type services to a storage or
405 transfer facility, or to any organization engaged in the transportation of high-level nuclear
406 waste or greater than class C radioactive waste to a transfer facility or storage facility, and

407 which:

408 (i) are in existence on March 15, 2001; or

409 (ii) become effective notwithstanding Subsection (9)(a).

410 (c) Any governmental agency which regulates the charges to consumers for services
411 provided by utilities or other organizations shall require the regulated utility or organization to
412 include the fees under Subsection (10)(a) in the rates charged to the purchaser of the goods,
413 services, or municipal-type services affected by Subsection (10)(b).

414 (d) (i) The department, in consultation with the State Tax Commission, shall establish
415 rules for the valuation of the contracts and assessment and collection of the fees, and other
416 rules as necessary to determine the amount of and collection of the fee under Subsection
417 (10)(a). The department may initiate rulemaking under this Subsection (10)(d)(i) on or after
418 March 15, 2001.

419 (ii) Persons and organizations holding contracts affected by Subsection (10)(b) shall
420 make a good faith estimate of the fee under Subsection (10)(a) for calendar year 2001, and
421 remit that amount to the department on or before July 31, 2001.

422 (11) (a) The portion of the fees imposed under Subsection (10) which is to be paid to
423 the Department of [~~Heritage and Arts~~] Cultural and Community Engagement for use by the
424 Utah Division of Indian Affairs shall be used for establishment of a statewide community and
425 economic development program for the tribes of Native American people within the exterior
426 boundaries of the state who have by tribal procedure established a position rejecting siting of
427 any nuclear waste facility on their reservation lands.

428 (b) The program under Subsection (11)(a) shall include:

429 (i) educational services and facilities;

430 (ii) health care services and facilities;

431 (iii) programs of economic development;

432 (iv) utilities;

433 (v) sewer;

- 434 (vi) street lighting;
- 435 (vii) roads and other infrastructure; and
- 436 (viii) oversight and staff support for the program.

437 (12) It is the intent of the Legislature that this part does not prohibit or interfere with a
438 person's exercise of the rights under the First Amendment to the Constitution of the United
439 States or under Utah Constitution Article I, Sec. 15, by an organization attempting to site a
440 storage facility or transfer facility within the borders of the state for the placement of high-level
441 nuclear waste or greater than class C radioactive waste.

442 Section 9. Section **19-3-320** is amended to read:

443 **19-3-320. Efforts to prevent siting of any nuclear waste facility to include**
444 **economic development study regarding Native American reservation lands within the**
445 **state.**

446 (1) It is the intent of the Legislature that the department, in its efforts to prevent the
447 siting of a nuclear waste facility within the exterior borders of the state, include in its work the
448 study under Subsection (2) and the report under Subsection (3).

449 (2) It is the intent of the Legislature that the Department of Environmental Quality, in
450 coordination with the office of the governor, and in cooperation with the Departments of
451 [~~Heritage and Arts~~] Cultural and Community Engagement, Human Services, Health,
452 Workforce Services, Agriculture and Food, Natural Resources, and Transportation, the State
453 Board of Education, and the Utah Board of Higher Education:

- 454 (a) study the needs and requirements for economic development on the Native
455 American reservations within the state; and
- 456 (b) prepare, on or before November 30, 2001, a long-term strategic plan for economic
457 development on the reservations.

458 (3) It is the intent of the Legislature that this plan, prepared under Subsection (2)(b),
459 shall be distributed to the governor and the members of the Legislature on or before December
460 31, 2001.

461 Section 10. Section **53-2a-802** is amended to read:

462 **53-2a-802. Definitions.**

463 (1) (a) "Absent" means:

464 (i) not physically present or not able to be communicated with for 48 hours; or

465 (ii) for local government officers, as defined by local ordinances.

466 (b) "Absent" does not include a person who can be communicated with via telephone,
467 radio, or telecommunications.

468 (2) "Department" means the Department of Administrative Services, the Department of
469 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of
470 Commerce, the Department of [~~Heritage and Arts~~] Cultural and Community Engagement, the
471 Department of Corrections, the Department of Environmental Quality, the Department of
472 Financial Institutions, the Department of Health, the Department of Human Resource
473 Management, the Department of Workforce Services, the Labor Commission, the National
474 Guard, the Department of Insurance, the Department of Natural Resources, the Department of
475 Public Safety, the Public Service Commission, the Department of Human Services, the State
476 Tax Commission, the Department of Technology Services, the Department of Transportation,
477 any other major administrative subdivisions of state government, the State Board of Education,
478 the Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement
479 Board, and each institution of higher education within the system of higher education.

480 (3) "Division" means the Division of Emergency Management established in Title 53,
481 Chapter 2a, Part 1, Emergency Management Act.

482 (4) "Emergency interim successor" means a person designated by this part to exercise
483 the powers and discharge the duties of an office when the person legally exercising the powers
484 and duties of the office is unavailable.

485 (5) "Executive director" means the person with ultimate responsibility for managing
486 and overseeing the operations of each department, however denominated.

487 (6) (a) "Office" includes all state and local offices, the powers and duties of which are

488 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

489 (b) "Office" does not include the office of governor or the legislative or judicial offices.

490 (7) "Place of governance" means the physical location where the powers of an office
491 are being exercised.

492 (8) "Political subdivision" includes counties, cities, towns, metro townships, districts,
493 authorities, and other public corporations and entities whether organized and existing under
494 charter or general law.

495 (9) "Political subdivision officer" means a person holding an office in a political
496 subdivision.

497 (10) "State officer" means the attorney general, the state treasurer, the state auditor, and
498 the executive director of each department.

499 (11) "Unavailable" means:

500 (a) absent from the place of governance during a disaster that seriously disrupts normal
501 governmental operations, whether or not that absence or inability would give rise to a vacancy
502 under existing constitutional or statutory provisions; or

503 (b) as otherwise defined by local ordinance.

504 Section 11. Section **53B-18-1002** is amended to read:

505 **53B-18-1002. Establishment of the center -- Purpose -- Duties and**
506 **responsibilities.**

507 (1) There is established the Mormon Pioneer Heritage Center in connection with Utah
508 State University.

509 (2) The purpose of the center is to coordinate interdepartmental research and extension
510 efforts in recreation, heritage tourism, and agricultural extension service and to enter into
511 cooperative contracts with the United States Departments of Agriculture and the Interior, state,
512 county, and city officers, public and private organizations, and individuals to enhance Mormon
513 pioneer heritage.

514 (3) The center has the following duties and responsibilities:

515 (a) to support United States Congressional findings that the landscape, architecture,
516 traditions, products, and events in the counties convey the heritage of pioneer settlements and
517 their role in agricultural development;

518 (b) to coordinate with extension agents in the counties to assist in the enhancement of
519 heritage businesses and the creation of heritage products;

520 (c) to foster a close working relationship with all levels of government, the private
521 sector, residents, business interests, and local communities;

522 (d) to support United States Congressional findings that the historical, cultural, and
523 natural heritage legacies of Mormon colonization and settlement are nationally significant;

524 (e) to encourage research and studies relative to the variety of heritage resources along
525 the 250-mile Highway 89 corridor from Fairview to Kanab, Utah, and Highways 12 and 24, the
526 All American Road, to the extent those resources demonstrate:

527 (i) the colonization of the western United States; and

528 (ii) the expansion of the United States as a major world power;

529 (f) to demonstrate that the great relocation to the western United States was facilitated
530 by:

531 (i) the 1,400 mile trek from Illinois to the Great Salt Lake by the Mormon Pioneers;
532 and

533 (ii) the subsequent colonization effort in Nevada, Utah, the southeast corner of Idaho,
534 the southwest corner of Wyoming, large areas of southeastern Oregon, much of southern
535 California, and areas along the eastern border of California; and

536 (g) to assist in interpretive efforts that demonstrate how the Boulder Loop, Capitol
537 Reef National Park, Zion National Park, Bryce Canyon National Park, and the Highway 89 area
538 convey the compelling story of how early settlers:

539 (i) interacted with Native Americans; and

540 (ii) established towns and cities in a harsh, yet spectacular, natural environment.

541 (4) The center, in collaboration with the United States Department of the Interior, the

542 National Park Service, the United States Department of Agriculture, the United States Forest
543 Service, the [~~Utah~~] Department of [~~Heritage and Arts~~] Cultural and Community Engagement,
544 the Utah Division of State History, and the alliance and its intergovernmental local partners,
545 shall:

546 (a) assist in empowering communities in the counties to conserve, preserve, and
547 enhance the heritage of the communities while strengthening future economic opportunities;

548 (b) help conserve, interpret, and develop the historical, cultural, natural, and
549 recreational resources within the counties; and

550 (c) expand, foster, and develop heritage businesses and products relating to the cultural
551 heritage of the counties.

552 (5) The center, in collaboration with the United States Department of the Interior, the
553 National Park Service, and with funding from the alliance, shall develop a heritage
554 management plan.

555 Section 12. Section **63I-5-201** is amended to read:

556 **63I-5-201. Internal auditing programs -- State agencies.**

557 (1) (a) The departments of Administrative Services, Agriculture, Commerce, [~~Heritage~~
558 ~~and Arts~~] Cultural and Community Engagement, Corrections, Workforce Services,
559 Environmental Quality, Health, Human Services, Natural Resources, Public Safety, and
560 Transportation, and the State Tax Commission shall conduct various types of auditing
561 procedures as determined by the agency head or governor.

562 (b) The governor may, by executive order, require a state agency not described in
563 Subsection (1)(a) to establish an internal audit program.

564 (c) The governor shall ensure that each state agency that reports to the governor has
565 adequate internal audit coverage.

566 (2) (a) The Administrative Office of the Courts shall establish an internal audit
567 program under the direction of the Judicial Council, including auditing procedures for courts
568 not of record.

569 (b) The Judicial Council may, by rule, require other judicial agencies to establish an
570 internal audit program.

571 (3) (a) Dixie State University, the University of Utah, Utah State University, Salt Lake
572 Community College, Southern Utah University, Utah Valley University, Weber State
573 University, and Snow College shall establish an internal audit program under the direction of
574 the Utah Board of Higher Education.

575 (b) The Utah Board of Higher Education may issue policies requiring other higher
576 education entities or programs to establish an internal audit program.

577 (4) The State Board of Education shall establish an internal audit program that provides
578 internal audit services for each program administered by the State Board of Education.

579 (5) Subject to Section [32B-2-302.5](#), the internal audit division of the Department of
580 Alcoholic Beverage Control shall establish an internal audit program under the direction of the
581 Alcoholic Beverage Control Commission.

582 Section 13. Section **63J-1-219** is amended to read:

583 **63J-1-219. Definitions -- Federal receipts reporting requirements.**

584 (1) As used in this section:

585 (a) (i) "Designated state agency" means the Department of Administrative Services, the
586 Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the
587 Department of Commerce, the Department of ~~Heritage and Arts~~ Cultural and Community
588 Engagement, the Department of Corrections, the Department of Environmental Quality, the
589 Department of Financial Institutions, the Department of Health, the Department of Human
590 Resource Management, the Department of Human Services, the Department of Insurance, the
591 Department of Natural Resources, the Department of Public Safety, the Department of
592 Technology Services, the Department of Transportation, the Department of Veterans and
593 Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of
594 Economic Development, the Public Service Commission, the Utah Board of Higher Education,
595 the State Board of Education, the State Tax Commission, or the Utah National Guard.

596 (ii) "Designated state agency" does not include the judicial branch, the legislative
597 branch, or an office or other entity within the judicial branch or the legislative branch.

598 (b) "Federal receipts" means the federal financial assistance, as defined in 31 U.S.C.
599 Sec. 7501, that is reported as part of a single audit.

600 (c) "Single audit" is as defined in 31 U.S.C. Sec. 7501.

601 (2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or
602 before October 31, prepare a report that:

603 (a) reports the aggregate value of federal receipts the designated state agency received
604 for the preceding fiscal year;

605 (b) reports the aggregate amount of federal funds appropriated by the Legislature to the
606 designated state agency for the preceding fiscal year;

607 (c) calculates the percentage of the designated state agency's total budget for the
608 preceding fiscal year that constitutes federal receipts that the designated state agency received
609 for that fiscal year; and

610 (d) develops plans for operating the designated state agency if there is a reduction of:

611 (i) 5% or more in the federal receipts that the designated state agency receives; and

612 (ii) 25% or more in the federal receipts that the designated state agency receives.

613 (3) (a) The report required by Subsection (2) that the Utah Board of Higher Education
614 prepares shall include the information required by Subsections (2)(a) through (c) for each state
615 institution of higher education listed in Section [53B-2-101](#).

616 (b) The report required by Subsection (2) that the State Board of Education prepares
617 shall include the information required by Subsections (2)(a) through (c) for each school district
618 and each charter school within the public education system.

619 (4) A designated state agency that prepares a report in accordance with Subsection (2)
620 shall submit the report to the Division of Finance on or before November 1 of each year.

621 (5) (a) The Division of Finance shall, on or before November 30 of each year, prepare a
622 report that:

623 (i) compiles and summarizes the reports the Division of Finance receives in accordance
624 with Subsection (4); and

625 (ii) compares the aggregate value of federal receipts each designated state agency
626 received for the previous fiscal year to the aggregate amount of federal funds appropriated by
627 the Legislature to that designated state agency for that fiscal year.

628 (b) The Division of Finance shall, as part of the report required by Subsection (5)(a),
629 compile a list of designated state agencies that do not submit a report as required by this
630 section.

631 (6) The Division of Finance shall submit the report required by Subsection (5) to the
632 Executive Appropriations Committee on or before December 1 of each year.

633 (7) Upon receipt of the report required by Subsection (5), the chairs of the Executive
634 Appropriations Committee shall place the report on the agenda for review and consideration at
635 the next Executive Appropriations Committee meeting.

636 (8) When considering the report required by Subsection (5), the Executive
637 Appropriations Committee may elect to:

638 (a) recommend that the Legislature reduce or eliminate appropriations for a designated
639 state agency;

640 (b) take no action; or

641 (c) take another action that a majority of the committee approves.

642 Section 14. Section **63J-4-502** is amended to read:

643 **63J-4-502. Membership -- Terms -- Chair -- Expenses.**

644 (1) The Resource Development Coordinating Committee shall consist of the following
645 24 members:

646 (a) the state science advisor;

647 (b) a representative from the Department of Agriculture and Food appointed by the
648 executive director;

649 (c) a representative from the Department of [~~Heritage and Arts~~] Cultural and

- 650 Community Engagement appointed by the executive director;
- 651 (d) a representative from the Department of Environmental Quality appointed by the
652 executive director;
- 653 (e) a representative from the Department of Natural Resources appointed by the
654 executive director;
- 655 (f) a representative from the Department of Transportation appointed by the executive
656 director;
- 657 (g) a representative from the Governor's Office of Economic Development appointed
658 by the director;
- 659 (h) a representative from the Housing and Community Development Division
660 appointed by the director;
- 661 (i) a representative from the Division of State History appointed by the director;
- 662 (j) a representative from the Division of Air Quality appointed by the director;
- 663 (k) a representative from the Division of Drinking Water appointed by the director;
- 664 (l) a representative from the Division of Environmental Response and Remediation
665 appointed by the director;
- 666 (m) a representative from the Division of Waste Management and Radiation Control
667 appointed by the director;
- 668 (n) a representative from the Division of Water Quality appointed by the director;
- 669 (o) a representative from the Division of Oil, Gas, and Mining appointed by the
670 director;
- 671 (p) a representative from the Division of Parks and Recreation appointed by the
672 director;
- 673 (q) a representative from the Division of Forestry, Fire, and State Lands appointed by
674 the director;
- 675 (r) a representative from the Utah Geological Survey appointed by the director;
- 676 (s) a representative from the Division of Water Resources appointed by the director;

- 677 (t) a representative from the Division of Water Rights appointed by the director;
- 678 (u) a representative from the Division of Wildlife Resources appointed by the director;
- 679 (v) a representative from the School and Institutional Trust Lands Administration
- 680 appointed by the director;
- 681 (w) a representative from the Division of Facilities Construction and Management
- 682 appointed by the director; and
- 683 (x) a representative from the Division of Emergency Management appointed by the
- 684 director.

685 (2) (a) As particular issues require, the committee may, by majority vote of the

686 members present, and with the concurrence of the state planning coordinator, appoint

687 additional temporary members to serve as ex officio voting members.

688 (b) Those ex officio members may discuss and vote on the issue or issues for which

689 they were appointed.

690 (3) A chair shall be selected by a majority vote of committee members with the

691 concurrence of the state planning coordinator.

692 (4) A member may not receive compensation or benefits for the member's service, but

693 may receive per diem and travel expenses in accordance with:

694 (a) Section [63A-3-106](#);

695 (b) Section [63A-3-107](#); and

696 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and

697 [63A-3-107](#).

698 Section 15. Section **63N-15-103** is amended to read:

699 **63N-15-103. Reporting and use of appropriations.**

700 (1) The office shall include in the office's 2020 and 2021 annual reports to the governor

701 and the Legislature under Section [63N-1-301](#) the following information about each of the grant

702 programs established under this chapter:

703 (a) the number of applications submitted under the grant program;

704 (b) the number of grants awarded under the grant program;
705 (c) the aggregate amount of grant funds awarded under the grant program; and
706 (d) any other information the office considers relevant to evaluating the success of the
707 grant program.

708 (2) After providing notice to members of the legislative committee, the executive
709 director, in cooperation with the director of the Division of Finance, may move funds among
710 the following programs to make efficient and full use of CARES Act funding:

711 (a) the COVID-19 Commercial Rental and Mortgage Assistance Program described in
712 Chapter 14, COVID-19 Commercial Rental and Mortgage Assistance Program;

713 (b) any of the programs described in this chapter;

714 (c) after consultation with the commissioner of the Department of Agriculture and
715 Food, the COVID-19 Agricultural Operations Grant Program described in Section [4-18-106.1](#);

716 (d) after consultation with the executive director of the Department of ~~Heritage and~~
717 ~~Arts~~ Cultural and Community Engagement, the COVID-19 Cultural Assistance Grant Program
718 described in Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program; and

719 (e) after consultation with the executive director of the Department of Workforce
720 Services, COVID-19 Residential Housing Assistance described in Title 35A, Chapter 8, Part
721 23, COVID-19 Residential Housing Assistance.

722 Section 16. Section **67-19-6.7** is amended to read:

723 **67-19-6.7. Overtime policies for state employees.**

724 (1) As used in this section:

725 (a) "Accrued overtime hours" means:

726 (i) for nonexempt employees, overtime hours earned during a fiscal year that, at the end
727 of the fiscal year, have not been paid and have not been taken as time off by the nonexempt
728 state employee who accrued them; and

729 (ii) for exempt employees, overtime hours earned during an overtime year.

730 (b) "Appointed official" means:

731 (i) each department executive director and deputy director, each division director, and
732 each member of a board or commission; and

733 (ii) any other person employed by a department who is appointed by, or whose
734 appointment is required by law to be approved by, the governor and who:

735 (A) is paid a salary by the state; and

736 (B) who exercises managerial, policy-making, or advisory responsibility.

737 (c) "Department" means the Department of Administrative Services, the Department of
738 Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage
739 Control, the Insurance Department, the Public Service Commission, the Labor Commission,
740 the Department of Agriculture and Food, the Department of Human Services, the Department
741 of Natural Resources, the Department of Technology Services, the Department of
742 Transportation, the Department of Commerce, the Department of Workforce Services, the State
743 Tax Commission, the Department of [~~Heritage and Arts~~] Cultural and Community
744 Engagement, the Department of Health, the National Guard, the Department of Environmental
745 Quality, the Department of Public Safety, the Department of Human Resource Management,
746 the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the
747 Office of the Attorney General, merit employees in the Office of the State Treasurer, merit
748 employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and
749 the Board of Pardons and Parole.

750 (d) "Elected official" means any person who is an employee of the state because the
751 person was elected by the registered voters of Utah to a position in state government.

752 (e) "Exempt employee" means a state employee who is exempt as defined by the Fair
753 Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

754 (f) "FLSA" means the Fair Labor Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

755 (g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards
756 Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of
757 compensation the nonexempt employee will receive for overtime.

758 (h) "Nonexempt employee" means a state employee who is nonexempt as defined by
759 the Department of Human Resource Management applying FLSA requirements.

760 (i) "Overtime" means actual time worked in excess of the employee's defined work
761 period.

762 (j) "Overtime year" means the year determined by a department under Subsection
763 (4)(b) at the end of which an exempt employee's accrued overtime lapses.

764 (k) "State employee" means every person employed by a department who is not:

765 (i) an appointed official;

766 (ii) an elected official; or

767 (iii) a member of a board or commission who is paid only for per diem or travel
768 expenses.

769 (l) "Uniform annual date" means the date when an exempt employee's accrued
770 overtime lapses.

771 (m) "Work period" means:

772 (i) for all nonexempt employees, except law enforcement and hospital employees, a
773 consecutive seven day 24 hour work period of 40 hours;

774 (ii) for all exempt employees, a 14 day, 80 hour payroll cycle; and

775 (iii) for nonexempt law enforcement and hospital employees, the period established by
776 each department by rule for those employees according to the requirements of the Fair Labor
777 Standards Act of 1978, 29 U.S.C. Sec. 201 et seq.

778 (2) Each department shall compensate each state employee who works overtime by
779 complying with the requirements of this section.

780 (3) (a) Each department shall negotiate and obtain a signed FLSA agreement from each
781 nonexempt employee.

782 (b) In the FLSA agreement, the nonexempt employee shall elect either to be
783 compensated for overtime by:

784 (i) taking time off work at the rate of one and one-half hour off for each overtime hour

785 worked; or

786 (ii) being paid for the overtime worked at the rate of one and one-half times the rate per
787 hour that the state employee receives for nonovertime work.

788 (c) Any nonexempt employee who elects to take time off under this Subsection (3)
789 shall be paid for any overtime worked in excess of the cap established by the Department of
790 Human Resource Management.

791 (d) Before working any overtime, each nonexempt employee shall obtain authorization
792 to work overtime from the employee's immediate supervisor.

793 (e) Each department shall:

794 (i) for employees who elect to be compensated with time off for overtime, allow
795 overtime earned during a fiscal year to be accumulated; and

796 (ii) for employees who elect to be paid for overtime worked, pay them for overtime
797 worked in the paycheck for the pay period in which the employee worked the overtime.

798 (f) If the department pays a nonexempt employee for overtime, the department shall
799 charge that payment to the department's budget.

800 (g) At the end of each fiscal year, the Division of Finance shall total all the accrued
801 overtime hours for nonexempt employees and charge that total against the appropriate fund or
802 subfund.

803 (4) (a) (i) Except as provided in Subsection (4)(a)(ii), each department shall
804 compensate exempt employees who work overtime by granting them time off at the rate of one
805 hour off for each hour of overtime worked.

806 (ii) The executive director of the Department of Human Resource Management may
807 grant limited exceptions to this requirement, where work circumstances dictate, by authorizing
808 a department to pay employees for overtime worked at the rate per hour that the employee
809 receives for nonovertime work, if the department has funds available.

810 (b) (i) Each department shall:

811 (A) establish in its written human resource policies a uniform annual date for each

812 division that is at the end of any pay period; and

813 (B) communicate the uniform annual date to its employees.

814 (ii) If any department fails to establish a uniform annual date as required by this
815 Subsection (4), the executive director of the Department of Human Resource Management, in
816 conjunction with the director of the Division of Finance, shall establish the date for that
817 department.

818 (c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a
819 benefit, and is not a vested right.

820 (ii) A court may not construe the overtime for exempt employees authorized by this
821 Subsection (4) as an entitlement, a benefit, or as a vested right.

822 (d) At the end of the overtime year, upon transfer to another department at any time,
823 and upon termination, retirement, or other situations where the employee will not return to
824 work before the end of the overtime year:

825 (i) any of an exempt employee's overtime that is more than the maximum established
826 by the Department of Human Resource Management rule lapses; and

827 (ii) unless authorized by the executive director of the Department of Human Resource
828 Management under Subsection (4)(a)(ii), a department may not compensate the exempt
829 employee for that lapsed overtime by paying the employee for the overtime or by granting the
830 employee time off for the lapsed overtime.

831 (e) Before working any overtime, each exempt employee shall obtain authorization to
832 work overtime from the exempt employee's immediate supervisor.

833 (f) If the department pays an exempt employee for overtime under authorization from
834 the executive director of the Department of Human Resource Management, the department
835 shall charge that payment to the department's budget in the pay period earned.

836 (5) The Department of Human Resource Management shall:

837 (a) ensure that the provisions of the FLSA and this section are implemented throughout
838 state government;

839 (b) determine, for each state employee, whether that employee is exempt, nonexempt,
840 law enforcement, or has some other status under the FLSA;

841 (c) in coordination with modifications to the systems operated by the Division of
842 Finance, make rules:

843 (i) establishing procedures for recording overtime worked that comply with FLSA
844 requirements;

845 (ii) establishing requirements governing overtime worked while traveling and
846 procedures for recording that overtime that comply with FLSA requirements;

847 (iii) establishing requirements governing overtime worked if the employee is "on call"
848 and procedures for recording that overtime that comply with FLSA requirements;

849 (iv) establishing requirements governing overtime worked while an employee is being
850 trained and procedures for recording that overtime that comply with FLSA requirements;

851 (v) subject to the FLSA, establishing the maximum number of hours that a nonexempt
852 employee may accrue before a department is required to pay the employee for the overtime
853 worked;

854 (vi) subject to the FLSA, establishing the maximum number of overtime hours for an
855 exempt employee that do not lapse; and

856 (vii) establishing procedures for adjudicating appeals of any FLSA determinations
857 made by the Department of Human Resource Management as required by this section;

858 (d) monitor departments for compliance with the FLSA; and

859 (e) recommend to the Legislature and the governor any statutory changes necessary
860 because of federal government action.

861 (6) In coordination with the procedures for recording overtime worked established in
862 rule by the Department of Human Resource Management, the Division of Finance shall modify
863 its payroll and human resource systems to accommodate those procedures.

864 (a) Notwithstanding the procedures and requirements of Title 63G, Chapter 4,
865 Administrative Procedures Act, Section [67-19-31](#), and Section [67-19a-301](#), any employee who

866 is aggrieved by the FLSA designation made by the Department of Human Resource
867 Management as required by this section may appeal that determination to the executive director
868 of the Department of Human Resource Management by following the procedures and
869 requirements established in Department of Human Resource Management rule.

870 (b) Upon receipt of an appeal under this section, the executive director shall notify the
871 executive director of the employee's department that the appeal has been filed.

872 (c) If the employee is aggrieved by the decision of the executive director of the
873 Department of Human Resource Management, the employee shall appeal that determination to
874 the Department of Labor, Wage and Hour Division, according to the procedures and
875 requirements of federal law.

876 Section 17. Section **67-19c-101** is amended to read:

877 **67-19c-101. Department award program.**

878 (1) As used in this section:

879 (a) "Department" means the Department of Administrative Services, the Department of
880 Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of
881 Commerce, the Department of [~~Heritage and Arts~~] Cultural and Community Engagement, the
882 Department of Corrections, the Department of Workforce Services, the Department of
883 Environmental Quality, the Department of Financial Institutions, the Department of Health, the
884 Department of Human Resource Management, the Department of Human Services, the
885 Insurance Department, the National Guard, the Department of Natural Resources, the
886 Department of Public Safety, the Public Service Commission, the Labor Commission, the State
887 Board of Education, the Utah Board of Higher Education, the State Tax Commission, the
888 Department of Technology Services, and the Department of Transportation.

889 (b) "Department head" means the individual or body of individuals in whom the
890 ultimate legal authority of the department is vested by law.

891 (2) There is created a department awards program to award an outstanding employee in
892 each department of state government.

893 (3) (a) By April 1 of each year, each department head shall solicit nominations for
894 outstanding employee of the year for his department from the employees in his department.

895 (b) By July 1 of each year, the department head shall:

896 (i) select a person from the department to receive the outstanding employee of the year
897 award using the criteria established in Subsection (3)(c); and

898 (ii) announce the recipient of the award to his employees.

899 (c) Department heads shall make the award to a person who demonstrates:

900 (i) extraordinary competence in performing his function;

901 (ii) creativity in identifying problems and devising workable, cost-effective solutions to
902 them;

903 (iii) excellent relationships with the public and other employees;

904 (iv) a commitment to serving the public as the client; and

905 (v) a commitment to economy and efficiency in government.

906 (4) (a) The Department of Human Resource Management shall divide any
907 appropriation for outstanding department employee awards that it receives from the Legislature
908 equally among the departments.

909 (b) If the department receives money from the Department of Human Resource
910 Management or if the department budget allows, the department head shall provide the
911 employee with a bonus, a plaque, or some other suitable acknowledgement of the award.

912 (5) (a) The department head may name the award after an exemplary present or former
913 employee of the department.

914 (b) A department head may not name the award for himself or for any relative as
915 defined in Section 52-3-1.

916 (c) Any awards or award programs existing in any department as of May 3, 1993, shall
917 be modified to conform to the requirements of this section.

918 Section 18. Section 67-22-2 is amended to read:

919 **67-22-2. Compensation -- Other state officers.**

- 920 (1) As used in this section:
- 921 (a) "Appointed executive" means the:
- 922 (i) commissioner of the Department of Agriculture and Food;
- 923 (ii) commissioner of the Insurance Department;
- 924 (iii) commissioner of the Labor Commission;
- 925 (iv) director, Department of Alcoholic Beverage Control;
- 926 (v) commissioner of the Department of Financial Institutions;
- 927 (vi) executive director, Department of Commerce;
- 928 (vii) executive director, Commission on Criminal and Juvenile Justice;
- 929 (viii) adjutant general;
- 930 (ix) executive director, Department of [~~Heritage and Arts~~] Cultural and Community
- 931 Engagement;
- 932 (x) executive director, Department of Corrections;
- 933 (xi) commissioner, Department of Public Safety;
- 934 (xii) executive director, Department of Natural Resources;
- 935 (xiii) executive director, Governor's Office of Management and Budget;
- 936 (xiv) executive director, Department of Administrative Services;
- 937 (xv) executive director, Department of Human Resource Management;
- 938 (xvi) executive director, Department of Environmental Quality;
- 939 (xvii) director, Governor's Office of Economic Development;
- 940 (xviii) executive director, Utah Science Technology and Research Governing
- 941 Authority;
- 942 (xix) executive director, Department of Workforce Services;
- 943 (xx) executive director, Department of Health, Nonphysician;
- 944 (xxi) executive director, Department of Human Services;
- 945 (xxii) executive director, Department of Transportation;
- 946 (xxiii) executive director, Department of Technology Services; and

947 (xxiv) executive director, Department of Veterans and Military Affairs.

948 (b) "Board or commission executive" means:

949 (i) members, Board of Pardons and Parole;

950 (ii) chair, State Tax Commission;

951 (iii) commissioners, State Tax Commission;

952 (iv) executive director, State Tax Commission;

953 (v) chair, Public Service Commission; and

954 (vi) commissioners, Public Service Commission.

955 (c) "Deputy" means the person who acts as the appointed executive's second in

956 command as determined by the Department of Human Resource Management.

957 (2) (a) The executive director of the Department of Human Resource Management

958 shall:

959 (i) before October 31 of each year, recommend to the governor a compensation plan for
960 the appointed executives and the board or commission executives; and

961 (ii) base those recommendations on market salary studies conducted by the Department
962 of Human Resource Management.

963 (b) (i) The Department of Human Resource Management shall determine the salary
964 range for the appointed executives by:

965 (A) identifying the salary range assigned to the appointed executive's deputy;

966 (B) designating the lowest minimum salary from those deputies' salary ranges as the
967 minimum salary for the appointed executives' salary range; and

968 (C) designating 105% of the highest maximum salary range from those deputies' salary
969 ranges as the maximum salary for the appointed executives' salary range.

970 (ii) If the deputy is a medical doctor, the Department of Human Resource Management
971 may not consider that deputy's salary range in designating the salary range for appointed
972 executives.

973 (c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for

974 board or commission executives, the Department of Human Resource Management shall set
975 the maximum salary in the salary range for each of those positions at 90% of the salary for
976 district judges as established in the annual appropriation act under Section 67-8-2.

977 (ii) In establishing the salary ranges for an individual described in Subsection (1)(b)(i)
978 or (iii), the Department of Human Resource Management shall set the maximum salary in the
979 salary range for each of those positions at 100% of the salary for district judges as established
980 in the annual appropriation act under Section 67-8-2.

981 (3) (a) (i) Except as provided in Subsection (3)(a)(ii), the governor shall establish a
982 specific salary for each appointed executive within the range established under Subsection
983 (2)(b).

984 (ii) If the executive director of the Department of Health is a physician, the governor
985 shall establish a salary within the highest physician salary range established by the Department
986 of Human Resource Management.

987 (iii) The governor may provide salary increases for appointed executives within the
988 range established by Subsection (2)(b) and identified in Subsection (3)(a)(ii).

989 (b) The governor shall apply the same overtime regulations applicable to other FLSA
990 exempt positions.

991 (c) The governor may develop standards and criteria for reviewing the appointed
992 executives.

993 (4) Salaries for other Schedule A employees, as defined in Section 67-19-15, that are
994 not provided for in this chapter, or in Title 67, Chapter 8, Utah Elected Official and Judicial
995 Salary Act, shall be established as provided in Section 67-19-15.

996 (5) (a) The Legislature fixes benefits for the appointed executives and the board or
997 commission executives as follows:

998 (i) the option of participating in a state retirement system established by Title 49, Utah
999 State Retirement and Insurance Benefit Act, or in a deferred compensation plan administered
1000 by the State Retirement Office in accordance with the Internal Revenue Code and its

- 1001 accompanying rules and regulations;
- 1002 (ii) health insurance;
- 1003 (iii) dental insurance;
- 1004 (iv) basic life insurance;
- 1005 (v) unemployment compensation;
- 1006 (vi) workers' compensation;
- 1007 (vii) required employer contribution to Social Security;
- 1008 (viii) long-term disability income insurance;
- 1009 (ix) the same additional state-paid life insurance available to other noncareer service
- 1010 employees;
- 1011 (x) the same severance pay available to other noncareer service employees;
- 1012 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
- 1013 follows:
- 1014 (A) sick leave;
- 1015 (B) converted sick leave if accrued prior to January 1, 2014;
- 1016 (C) educational allowances;
- 1017 (D) holidays; and
- 1018 (E) annual leave except that annual leave shall be accrued at the maximum rate
- 1019 provided to Schedule B state employees;
- 1020 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
- 1021 provided by law or rule upon resignation or retirement according to the same criteria and
- 1022 procedures applied to Schedule B state employees;
- 1023 (xiii) the option to purchase additional life insurance at group insurance rates according
- 1024 to the same criteria and procedures applied to Schedule B state employees; and
- 1025 (xiv) professional memberships if being a member of the professional organization is a
- 1026 requirement of the position.
- 1027 (b) Each department shall pay the cost of additional state-paid life insurance for its

1028 executive director from its existing budget.

1029 (6) The Legislature fixes the following additional benefits:

1030 (a) for the executive director of the State Tax Commission a vehicle for official and
1031 personal use;

1032 (b) for the executive director of the Department of Transportation a vehicle for official
1033 and personal use;

1034 (c) for the executive director of the Department of Natural Resources a vehicle for
1035 commute and official use;

1036 (d) for the commissioner of Public Safety:

1037 (i) an accidental death insurance policy if POST certified; and

1038 (ii) a public safety vehicle for official and personal use;

1039 (e) for the executive director of the Department of Corrections:

1040 (i) an accidental death insurance policy if POST certified; and

1041 (ii) a public safety vehicle for official and personal use;

1042 (f) for the adjutant general a vehicle for official and personal use; and

1043 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
1044 official use.

1045 Section 19. Section **72-4-302** is amended to read:

1046 **72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership --**
1047 **Meetings -- Expenses.**

1048 (1) There is created the Utah State Scenic Byway Committee.

1049 (2) (a) The committee shall consist of the following 13 members:

1050 (i) a representative from each of the following entities appointed by the governor:

1051 (A) the Governor's Office of Economic Development;

1052 (B) the Utah Department of Transportation;

1053 (C) the Department of ~~[Heritage and Arts]~~ Cultural and Community Engagement;

1054 (D) the Division of Parks and Recreation;

1055 (E) the Federal Highway Administration;
1056 (F) the National Park Service;
1057 (G) the National Forest Service; and
1058 (H) the Bureau of Land Management;
1059 (ii) one local government tourism representative appointed by the governor;
1060 (iii) a representative from the private business sector appointed by the governor; and
1061 (iv) three local elected officials from a county, city, or town within the state appointed
1062 by the governor.

1063 (b) Except as provided in Subsection (2)(c), the members appointed in this Subsection
1064 (2) shall be appointed for a four-year term of office.

1065 (c) The governor shall, at the time of appointment or reappointment for appointments
1066 made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the
1067 terms of committee members are staggered so that approximately half of the committee is
1068 appointed every two years.

1069 (3) (a) The representative from the Governor's Office of Economic Development shall
1070 chair the committee.

1071 (b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as
1072 nonvoting, ex officio members of the committee.

1073 (4) The Governor's Office of Economic Development and the department shall provide
1074 staff support to the committee.

1075 (5) (a) The chair may call a meeting of the committee only with the concurrence of the
1076 department.

1077 (b) A majority of the voting members of the committee constitute a quorum.

1078 (c) Action by a majority vote of a quorum of the committee constitutes action by the
1079 committee.

1080 (6) A member may not receive compensation or benefits for the member's service, but
1081 may receive per diem and travel expenses as allowed in:

- 1082 (a) Section 63A-3-106;
- 1083 (b) Section 63A-3-107; and
- 1084 (c) rules made by the Division of Finance according to Sections 63A-3-106 and
- 1085 63A-3-107.

1086 Section 20. **Revisor instructions.**

1087 The Legislature intends that the Office of Legislative Research and General Counsel, in
1088 preparing the Utah Code database for publication, on May 5, 2021, replace "Heritage and Arts,"
1089 when referring to the Department of Heritage and Arts, with "Cultural and Community
1090 Engagement" in any new language added to the Utah Code by legislation passed during the
1091 2021 General Session.