

Representative Mike Winder proposes the following substitute bill:

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



- 26 [9-1-201](#), as last amended by Laws of Utah 2020, Chapter 318
- 27 [9-1-209](#), as enacted by Laws of Utah 2020, Chapter 318
- 28 [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:

83 (a) is responsible for planning, promoting, and supporting cultural and community
84 engagement in the 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 organizations;

91 (vii) multicultural organizations and communities; and

92 (viii) service and volunteerism, including the federal Americorps program;

93 (b) shall coordinate relationships with tribal nations;

94 (c) shall oversee and coordinate the program plans of the divisions within the
95 department;

96 (d) shall administer and coordinate state and federal grant programs related to the
97 programs and activities described in Subsection (2)(a);

98 (e) shall administer any other programs over which the department is given
99 administrative supervision by the governor;

100 (f) shall submit an annual written report to the governor and the Legislature as
101 described in Section 9-1-208;

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

105 (i) under this title;

106 (ii) by the department; or

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

108 (h) shall perform any other duties as provided by the Legislature.

109 (3) The department may:

110 (a) solicit and accept contributions of money, services, and facilities from any other
111 sources, public or private, but may not use those contributions for publicizing the exclusive
112 interest of the donor; and

113 (b) establish a nonprofit foundation called the [~~Heritage and Arts~~] Cultural and
114 Community Engagement Foundation under the control and direction of the executive director
115 to assist in the development and implementation of the programs and objectives described in
116 this title.

117 (4) Money received under Subsection (3)(a) shall be deposited into the General Fund as
118 dedicated credits.

119 (5) A foundation established by the department under Subsection (3)(b):
120 (a) may receive contributions of money, services, and facilities from legislative
121 appropriations, government grants, and private sources for the development and
122 implementation of the programs and objectives described in this title;
123 (b) shall comply with the requirements described in Section 9-1-209; and
124 (c) shall provide information detailing all transactions and balances associated with the
125 foundation to the department, which shall be summarized by the department and included in
126 the department's annual report described in Section 9-1-208.

127 (6) (a) For a pass-through funding grant of \$50,000 or less, the department shall make
128 an annual disbursement to the pass-through funding grant recipient.

129 (b) For a pass-through funding grant of more than \$50,000, the department shall make
130 a semiannual disbursement to the pass-through funding grant recipient, contingent upon the
131 department receiving a semiannual progress report from the pass-through funding grant
132 recipient.

133 (c) The department shall:

134 (i) provide the pass-through funding grant recipient with a progress report form for the
135 reporting purposes described in Subsection (6)(b); and
136 (ii) include reporting requirement instructions with the form.

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

138 **9-1-209. Cultural and Community Engagement Foundation Fund.**

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

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

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

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

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

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

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

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

157 Section 5. Section 9-9-104.6 is amended to read:

158 **9-9-104.6. Participation of state agencies in meetings with tribal leaders --**
159 **Contact information.**

160 (1) For at least three of the joint meetings described in Subsection 9-9-104.5(2)(a), the
161 division shall coordinate with representatives of tribal governments and the entities listed in
162 Subsection (2) to provide for the broadest participation possible in the joint meetings.

163 (2) The following may participate in all meetings described in Subsection (1):

164 (a) the chairs of the Native American Legislative Liaison Committee created in Section
165 36-22-1;

166 (b) the governor or the governor's designee;

167 (c) the American Indian-Alaska Native Health Liaison appointed in accordance with
168 Section 26-7-2.5;

169 (d) the American Indian-Alaska Native Public Education Liaison appointed in
170 accordance with Section 53F-5-604; and

171 (e) a representative appointed by the chief administrative officer of the following:

172 (i) the Department of Human Services;

173 (ii) the Department of Natural Resources;

174 (iii) the Department of Workforce Services;

175 (iv) the Governor's Office of Economic Development;

176 (v) the State Board of Education; and

177 (vi) the Utah Board of Higher Education.

178 (3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:

179 (i) designate the name of a contact person for that agency that can assist in coordinating
180 the efforts of state and tribal governments in meeting the needs of the Native Americans

181 residing in the state; and

182 (ii) notify the division:

183 (A) who is the designated contact person described in Subsection (3)(a)(i); and

184 (B) of any change in who is the designated contact person described in Subsection

185 (3)(a)(i).

186 (b) This Subsection (3) applies to:

187 (i) the Department of Agriculture and Food;

188 (ii) the Department of [~~Heritage and Arts~~] Cultural and Community Engagement;

189 (iii) the Department of Corrections;

190 (iv) the Department of Environmental Quality;

191 (v) the Department of Public Safety;

192 (vi) the Department of Transportation;

193 (vii) the Office of the Attorney General;

194 (viii) the State Tax Commission; and

195 (ix) any agency described in Subsections (2)(c) through (e).

196 (c) At the request of the division, a contact person listed in Subsection (3)(b) may

197 participate in a meeting described in Subsection (1).

198 (4) (a) A participant under this section who is not a legislator may not receive

199 compensation or benefits for the participant's service, but may receive per diem and travel

200 expenses as allowed in:

201 (i) Section [63A-3-106](#);

202 (ii) Section [63A-3-107](#); and

203 (iii) rules made by the Division of Finance according to Sections [63A-3-106](#) and

204 [63A-3-107](#).

205 (b) Compensation and expenses of a participant who is a legislator are governed by

206 Section [36-2-2](#) and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

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

208 **9-20-201. Creation -- Members -- Appointment -- Terms -- Vacancies -- Per diem**

209 **and expenses.**

210 (1) There is created the Utah Commission on Service and Volunteerism consisting of

211 19 voting members and one nonvoting member.

- 212 (2) The 19 voting members of the commission are:
- 213 (a) the lieutenant governor;
- 214 (b) the commissioner of higher education or the commissioner's designee;
- 215 (c) the state superintendent of public instruction or the superintendent's designee;
- 216 (d) the executive director of the Department of [~~Heritage and Arts~~] Cultural and
- 217 Community Engagement or the executive director's designee;
- 218 (e) nine members appointed by the governor as follows:
- 219 (i) an individual with expertise in the educational, training, and developmental needs of
- 220 youth, particularly disadvantaged youth;
- 221 (ii) an individual with experience in promoting the involvement of older adults in
- 222 volunteer service;
- 223 (iii) a representative of a community-based agency or organization within the state;
- 224 (iv) a representative of local government;
- 225 (v) a representative of a local labor organization in the state;
- 226 (vi) a representative of business;
- 227 (vii) an individual between the ages of 16 and 25 who participates in a volunteer or
- 228 service program;
- 229 (viii) a representative of a national service program; and
- 230 (ix) a representative of the volunteer sector; and
- 231 (f) six members appointed by the governor from among the following groups:
- 232 (i) local educators;
- 233 (ii) experts in the delivery of human, educational, cultural, environmental, or public
- 234 safety services to communities and individuals;
- 235 (iii) representatives of Native American tribes;
- 236 (iv) representatives of organizations that assist out-of-school youth or other at-risk
- 237 youth; or
- 238 (v) representatives of entities that receive assistance under the Domestic Volunteer
- 239 Service Act of 1973, 42 U.S.C. 4950 et seq.
- 240 (3) The nonvoting member of the commission is the state representative of the
- 241 corporation.
- 242 (4) (a) In appointing persons to serve on the commission, the governor shall ensure

243 that:

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

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

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

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

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

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

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

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

264 (a) Section 63A-3-106;

265 (b) Section 63A-3-107; and

266 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
267 63A-3-107.

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

269 **9-20-207. Rulemaking.**

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

273 (1) implement this chapter; and

274 (2) ensure the commission complies with the act and related federal requirements.

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

276 **19-3-301. Restrictions on nuclear waste placement in state.**

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

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

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

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

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

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

295 (a) transfer or transportation, by rail, truck, or other mechanisms;

296 (b) storage, including any temporary storage at a site away from the generating reactor;

297 (c) decay in storage;

298 (d) treatment; and

299 (e) disposal.

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

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

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

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

- 314 (A) under nuclear industry self-insurance;
- 315 (B) under federal insurance requirements; and
- 316 (C) in federal money.

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

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

322 (6) (a) State agencies may not, for the purpose of providing any goods, services, or
323 municipal-type services to a storage facility or transfer facility, or to any organization engaged
324 in the transportation of waste, enter into any contracts or any other agreements prior to:

- 325 (i) the satisfaction of the conditions in Subsection (4); and
- 326 (ii) the executive director of the department having certified that the requirements of
327 Sections 19-3-304 through 19-3-308 have been met for the purposes of a license application
328 proceeding for a storage facility or transfer facility.

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

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

335 (7) (a) Notwithstanding any other provision of law, any political subdivision may not

336 be formed pursuant to the laws of Utah for the purpose of providing any goods, services, or
337 municipal-type services to a storage facility or transfer facility prior to the satisfaction of the
338 conditions in Subsection (4). These political subdivisions include:

- 339 (i) a cooperative;
- 340 (ii) a local district authorized by Title 17B, Limited Purpose Local Government
341 Entities - Local Districts;
- 342 (iii) a special service district under Title 17D, Chapter 1, Special Service District Act;
- 343 (iv) a limited purpose local governmental entity authorized by Title 17, Counties;
- 344 (v) any joint power agreement authorized by Title 11, Cities, Counties, and Local
345 Taxing Units; and
- 346 (vi) the formation of a municipality, or any authority of a municipality authorized by
347 Title 10, Utah Municipal Code.

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

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

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

- 358 (i) the satisfaction of the conditions in Subsection (4); and
- 359 (ii) the executive director of the department having certified that the requirements of
360 Sections 19-3-304 through 19-3-308 have been met.

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

- 364 (i) the satisfaction of the conditions in Subsection (4); and
- 365 (ii) the executive director of the department having certified that the requirements of
366 Sections 19-3-304 through 19-3-308 have been met.

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

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

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

376 (iii) if the conditions of Subsection (8)(c)(ii) apply, the persons who formed the
377 organization or the principals of the foreign organization, are considered to have knowingly
378 violated a provision of this part, and are subject to the penalties in Section 19-3-312.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

427 (i) educational services and facilities;

428 (ii) health care services and facilities;

- 429 (iii) programs of economic development;
430 (iv) utilities;
431 (v) sewer;
432 (vi) street lighting;
433 (vii) roads and other infrastructure; and
434 (viii) oversight and staff support for the program.

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

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

441 **19-3-320. Efforts to prevent siting of any nuclear waste facility to include**
442 **economic development study regarding Native American reservation lands within the**
443 **state.**

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

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

452 (a) study the needs and requirements for economic development on the Native
453 American reservations within the state; and

454 (b) prepare, on or before November 30, 2001, a long-term strategic plan for economic
455 development on the reservations.

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

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

460 **53-2a-802. Definitions.**

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

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

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

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

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

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

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

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

485 (6) (a) "Office" includes all state and local offices, the powers and duties of which are
486 defined by constitution, statutes, charters, optional plans, ordinances, articles, or by-laws.

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

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

490 (8) "Political subdivision" includes counties, cities, towns, metro townships, districts,

491 authorities, and other public corporations and entities whether organized and existing under
492 charter or general law.

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

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

497 (11) "Unavailable" means:

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

501 (b) as otherwise defined by local ordinance.

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

503 **53B-18-1002. Establishment of the center -- Purpose -- Duties and**
504 **responsibilities.**

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

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

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

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

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

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

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

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

- 525 (i) the colonization of the western United States; and
- 526 (ii) the expansion of the United States as a major world power;

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

- 529 (i) the 1,400 mile trek from Illinois to the Great Salt Lake by the Mormon Pioneers;

530 and

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

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

- 537 (i) interacted with Native Americans; and
- 538 (ii) established towns and cities in a harsh, yet spectacular, natural environment.

539 (4) The center, in collaboration with the United States Department of the Interior, the
540 National Park Service, the United States Department of Agriculture, the United States Forest
541 Service, the [Utah] Department of [~~Heritage and Arts~~] Cultural and Community Engagement,
542 the Utah Division of State History, and the alliance and its intergovernmental local partners,
543 shall:

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

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

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

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

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

554 **63I-5-201. Internal auditing programs -- State agencies.**

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

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

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

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

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

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

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

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

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

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

581 **63J-1-219. Definitions -- Federal receipts reporting requirements.**

582 (1) As used in this section:

583 (a) (i) "Designated state agency" means the Department of Administrative Services, the

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

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

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

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

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

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

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

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

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

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

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

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

614 (b) The report required by Subsection (2) that the State Board of Education prepares

615 shall include the information required by Subsections (2)(a) through (c) for each school district
616 and each charter school within the public education system.

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

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

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

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

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

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

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

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

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

638 (b) take no action; or

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

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

641 **63J-4-502. Membership -- Terms -- Chair -- Expenses.**

642 (1) The Resource Development Coordinating Committee shall consist of the following
643 24 members:

644 (a) the state science advisor;

645 (b) a representative from the Department of Agriculture and Food appointed by the

646 executive director;

647 (c) a representative from the Department of [~~Heritage and Arts~~] Cultural and
648 Community Engagement appointed by the executive director;

649 (d) a representative from the Department of Environmental Quality appointed by the
650 executive director;

651 (e) a representative from the Department of Natural Resources appointed by the
652 executive director;

653 (f) a representative from the Department of Transportation appointed by the executive
654 director;

655 (g) a representative from the Governor's Office of Economic Development appointed
656 by the director;

657 (h) a representative from the Housing and Community Development Division
658 appointed by the director;

659 (i) a representative from the Division of State History appointed by the director;

660 (j) a representative from the Division of Air Quality appointed by the director;

661 (k) a representative from the Division of Drinking Water appointed by the director;

662 (l) a representative from the Division of Environmental Response and Remediation
663 appointed by the director;

664 (m) a representative from the Division of Waste Management and Radiation Control
665 appointed by the director;

666 (n) a representative from the Division of Water Quality appointed by the director;

667 (o) a representative from the Division of Oil, Gas, and Mining appointed by the
668 director;

669 (p) a representative from the Division of Parks and Recreation appointed by the
670 director;

671 (q) a representative from the Division of Forestry, Fire, and State Lands appointed by
672 the director;

673 (r) a representative from the Utah Geological Survey appointed by the director;

674 (s) a representative from the Division of Water Resources appointed by the director;

675 (t) a representative from the Division of Water Rights appointed by the director;

676 (u) a representative from the Division of Wildlife Resources appointed by the director;

677 (v) a representative from the School and Institutional Trust Lands Administration
678 appointed by the director;

679 (w) a representative from the Division of Facilities Construction and Management
680 appointed by the director; and

681 (x) a representative from the Division of Emergency Management appointed by the
682 director.

683 (2) (a) As particular issues require, the committee may, by majority vote of the
684 members present, and with the concurrence of the state planning coordinator, appoint
685 additional temporary members to serve as ex officio voting members.

686 (b) Those ex officio members may discuss and vote on the issue or issues for which
687 they were appointed.

688 (3) A chair shall be selected by a majority vote of committee members with the
689 concurrence of the state planning coordinator.

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

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

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

694 (c) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
695 [63A-3-107](#).

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

697 **63N-15-103. Reporting and use of appropriations.**

698 (1) The office shall include in the office's 2020 and 2021 annual reports to the governor
699 and the Legislature under Section [63N-1-301](#) the following information about each of the grant
700 programs established under this chapter:

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

702 (b) the number of grants awarded under the grant program;

703 (c) the aggregate amount of grant funds awarded under the grant program; and

704 (d) any other information the office considers relevant to evaluating the success of the
705 grant program.

706 (2) After providing notice to members of the legislative committee, the executive
707 director, in cooperation with the director of the Division of Finance, may move funds among

708 the following programs to make efficient and full use of CARES Act funding:

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

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

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

714 (d) after consultation with the executive director of the Department of [~~Heritage and~~
715 ~~Arts~~] Cultural and Community Engagement, the COVID-19 Cultural Assistance Grant Program

716 described in Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program; and

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

720 Section 16. Section ~~67-19-6.7~~ is amended to read:

721 **67-19-6.7. Overtime policies for state employees.**

722 (1) As used in this section:

723 (a) "Accrued overtime hours" means:

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

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

728 (b) "Appointed official" means:

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

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

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

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

735 (c) "Department" means the Department of Administrative Services, the Department of
736 Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage
737 Control, the Insurance Department, the Public Service Commission, the Labor Commission,
738 the Department of Agriculture and Food, the Department of Human Services, the Department

739 of Natural Resources, the Department of Technology Services, the Department of
740 Transportation, the Department of Commerce, the Department of Workforce Services, the State
741 Tax Commission, the Department of [~~Heritage and Arts~~] Cultural and Community
742 Engagement, the Department of Health, the National Guard, the Department of Environmental
743 Quality, the Department of Public Safety, the Department of Human Resource Management,
744 the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the
745 Office of the Attorney General, merit employees in the Office of the State Treasurer, merit
746 employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and
747 the Board of Pardons and Parole.

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

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

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

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

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

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

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

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

763 (i) an appointed official;

764 (ii) an elected official; or

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

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

769 (m) "Work period" means:

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

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

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

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

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

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

782 (i) taking time off work at the rate of one and one-half hour off for each overtime hour
783 worked; or

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

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

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

791 (e) Each department shall:

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

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

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

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

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

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

808 (b) (i) Each department shall:

809 (A) establish in its written human resource policies a uniform annual date for each
810 division that is at the end of any pay period; and

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

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

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

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

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

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

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

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

831 (f) If the department pays an exempt employee for overtime under authorization from

832 the executive director of the Department of Human Resource Management, the department
833 shall charge that payment to the department's budget in the pay period earned.

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

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

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

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

841 (i) establishing procedures for recording overtime worked that comply with FLSA
842 requirements;

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

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

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

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

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

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

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

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

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

862 (a) Notwithstanding the procedures and requirements of Title 63G, Chapter 4,

863 Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who
864 is aggrieved by the FLSA designation made by the Department of Human Resource
865 Management as required by this section may appeal that determination to the executive director
866 of the Department of Human Resource Management by following the procedures and
867 requirements established in Department of Human Resource Management rule.

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

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

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

875 **67-19c-101. Department award program.**

876 (1) As used in this section:

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

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

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

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

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

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

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

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

898 (i) extraordinary competence in performing his function;

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

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

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

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

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

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

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

912 (b) A department head may not name the award for himself or for any relative as
913 defined in Section [52-3-1](#).

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

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

917 **67-22-2. Compensation -- Other state officers.**

918 (1) As used in this section:

919 (a) "Appointed executive" means the:

920 (i) commissioner of the Department of Agriculture and Food;

921 (ii) commissioner of the Insurance Department;

922 (iii) commissioner of the Labor Commission;

923 (iv) director, Department of Alcoholic Beverage Control;

924 (v) commissioner of the Department of Financial Institutions;

- 925 (vi) executive director, Department of Commerce;
- 926 (vii) executive director, Commission on Criminal and Juvenile Justice;
- 927 (viii) adjutant general;
- 928 (ix) executive director, Department of [~~Heritage and Arts~~] Cultural and Community
- 929 Engagement;
- 930 (x) executive director, Department of Corrections;
- 931 (xi) commissioner, Department of Public Safety;
- 932 (xii) executive director, Department of Natural Resources;
- 933 (xiii) executive director, Governor's Office of Management and Budget;
- 934 (xiv) executive director, Department of Administrative Services;
- 935 (xv) executive director, Department of Human Resource Management;
- 936 (xvi) executive director, Department of Environmental Quality;
- 937 (xvii) director, Governor's Office of Economic Development;
- 938 (xviii) executive director, Utah Science Technology and Research Governing
- 939 Authority;
- 940 (xix) executive director, Department of Workforce Services;
- 941 (xx) executive director, Department of Health, Nonphysician;
- 942 (xxi) executive director, Department of Human Services;
- 943 (xxii) executive director, Department of Transportation;
- 944 (xxiii) executive director, Department of Technology Services; and
- 945 (xxiv) executive director, Department of Veterans and Military Affairs.
- 946 (b) "Board or commission executive" means:
- 947 (i) members, Board of Pardons and Parole;
- 948 (ii) chair, State Tax Commission;
- 949 (iii) commissioners, State Tax Commission;
- 950 (iv) executive director, State Tax Commission;
- 951 (v) chair, Public Service Commission; and
- 952 (vi) commissioners, Public Service Commission.
- 953 (c) "Deputy" means the person who acts as the appointed executive's second in
- 954 command as determined by the Department of Human Resource Management.
- 955 (2) (a) The executive director of the Department of Human Resource Management

956 shall:

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

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

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

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

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

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

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

971 (c) (i) Except as provided in Subsection (2)(c)(ii), in establishing the salary ranges for
972 board or commission executives, the Department of Human Resource Management shall set
973 the maximum salary in the salary range for each of those positions at 90% of the salary for
974 district judges as established in the annual appropriation act under Section 67-8-2.

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

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

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

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

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

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

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

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

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

1000 (ii) health insurance;

1001 (iii) dental insurance;

1002 (iv) basic life insurance;

1003 (v) unemployment compensation;

1004 (vi) workers' compensation;

1005 (vii) required employer contribution to Social Security;

1006 (viii) long-term disability income insurance;

1007 (ix) the same additional state-paid life insurance available to other noncareer service
1008 employees;

1009 (x) the same severance pay available to other noncareer service employees;

1010 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
1011 follows:

1012 (A) sick leave;

1013 (B) converted sick leave if accrued prior to January 1, 2014;

1014 (C) educational allowances;

1015 (D) holidays; and

1016 (E) annual leave except that annual leave shall be accrued at the maximum rate
1017 provided to Schedule B state employees;

1018 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
1019 provided by law or rule upon resignation or retirement according to the same criteria and
1020 procedures applied to Schedule B state employees;

1021 (xiii) the option to purchase additional life insurance at group insurance rates according
1022 to the same criteria and procedures applied to Schedule B state employees; and

1023 (xiv) professional memberships if being a member of the professional organization is a
1024 requirement of the position.

1025 (b) Each department shall pay the cost of additional state-paid life insurance for its
1026 executive director from its existing budget.

1027 (6) The Legislature fixes the following additional benefits:

1028 (a) for the executive director of the State Tax Commission a vehicle for official and
1029 personal use;

1030 (b) for the executive director of the Department of Transportation a vehicle for official
1031 and personal use;

1032 (c) for the executive director of the Department of Natural Resources a vehicle for
1033 commute and official use;

1034 (d) for the commissioner of Public Safety:

1035 (i) an accidental death insurance policy if POST certified; and

1036 (ii) a public safety vehicle for official and personal use;

1037 (e) for the executive director of the Department of Corrections:

1038 (i) an accidental death insurance policy if POST certified; and

1039 (ii) a public safety vehicle for official and personal use;

1040 (f) for the adjutant general a vehicle for official and personal use; and

1041 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
1042 official use.

1043 Section 19. Section **72-4-302** is amended to read:

1044 **72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership --**
1045 **Meetings -- Expenses.**

1046 (1) There is created the Utah State Scenic Byway Committee.

1047 (2) (a) The committee shall consist of the following 13 members:

1048 (i) a representative from each of the following entities appointed by the governor:

- 1049 (A) the Governor's Office of Economic Development;
- 1050 (B) the Utah Department of Transportation;
- 1051 (C) the Department of [~~Heritage and Arts~~] Cultural and Community Engagement;
- 1052 (D) the Division of Parks and Recreation;
- 1053 (E) the Federal Highway Administration;
- 1054 (F) the National Park Service;
- 1055 (G) the National Forest Service; and
- 1056 (H) the Bureau of Land Management;
- 1057 (ii) one local government tourism representative appointed by the governor;
- 1058 (iii) a representative from the private business sector appointed by the governor; and
- 1059 (iv) three local elected officials from a county, city, or town within the state appointed
- 1060 by the governor.
- 1061 (b) Except as provided in Subsection (2)(c), the members appointed in this Subsection
- 1062 (2) shall be appointed for a four-year term of office.
- 1063 (c) The governor shall, at the time of appointment or reappointment for appointments
- 1064 made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the
- 1065 terms of committee members are staggered so that approximately half of the committee is
- 1066 appointed every two years.
- 1067 (3) (a) The representative from the Governor's Office of Economic Development shall
- 1068 chair the committee.
- 1069 (b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as
- 1070 nonvoting, ex officio members of the committee.
- 1071 (4) The Governor's Office of Economic Development and the department shall provide
- 1072 staff support to the committee.
- 1073 (5) (a) The chair may call a meeting of the committee only with the concurrence of the
- 1074 department.
- 1075 (b) A majority of the voting members of the committee constitute a quorum.
- 1076 (c) Action by a majority vote of a quorum of the committee constitutes action by the
- 1077 committee.
- 1078 (6) A member may not receive compensation or benefits for the member's service, but
- 1079 may receive per diem and travel expenses as allowed in:

- 1080 (a) Section 63A-3-106;
1081 (b) Section 63A-3-107; and
1082 (c) rules made by the Division of Finance according to Sections 63A-3-106 and
1083 63A-3-107.

1084 Section 20. **Revisor instructions.**

1085 The Legislature intends that the Office of Legislative Research and General Counsel, in
1086 preparing the Utah Code database for publication, on May 5, 2021, replace "Heritage and Arts,"
1087 when referring to the Department of Heritage and Arts, with "Cultural and Community
1088 Engagement" in any new language added to the Utah Code by legislation passed during the
1089 2021 General Session.