

ARTS AND MUSEUMS REVISIONS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Suzanne Harrison

Senate Sponsor: David P. Hinkins

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

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

44 ENACTS:

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

47 REPEALS AND REENACTS:

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

54 REPEALS:

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

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

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

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

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

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

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

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

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

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

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

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

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

9-6-102. Definitions.

As used in this chapter:

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

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

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

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

(3) "Development" includes:

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

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

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

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

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

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

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

(b) has an educational or aesthetic purpose;

(c) owns or curates a tangible collection; and

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

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

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

9-6-305.

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

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

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

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

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

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

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

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

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

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

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

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

(2) The division shall:

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

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

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

142 cultural organizations to encourage the development of arts, museums, and culture in the state;

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

144 (i) care for and manage collections;

145 (ii) develop quality educational resources such as exhibitions, collections, and
146 publications;

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

148 (iv) provide other services as needed;

149 (e) assist arts and museum organizations in the state in cultural development as needed;

150 (f) cooperate with federal agencies and locally sponsor federal projects directed to the
151 development of arts, museums, and culture in the state;

152 (g) develop the influence of arts in education and life-long learning;

153 (h) cooperate with the private sector, including businesses, charitable interests,
154 educational interests, manufacturers, agriculturalists, and industrialists in arts, museums, and
155 cultural endeavors;

156 (i) disseminate information related to arts, museums, and culture by utilizing broadcast
157 media and print media;

158 (j) foster, promote, encourage, and facilitate the study, creation, and appreciation of the
159 arts, museums, and culture in the state;

160 (k) foster, promote, encourage, and facilitate, the study, creation, and appreciation of
161 the works of indigenous artists in the state;

162 (l) advise state and local government agencies and employees regarding arts and
163 museums related issues, including arts and museums capital development projects;

164 (m) provide technical advice and information about sources of technical assistance to
165 arts, museums, and cultural organizations in the state;

166 (n) develop, coordinate, and support programs, workshops, seminars, and similar
167 activities that provide training for staff members of arts, museums, and cultural organizations
168 in the state;

169 (o) undertake research to understand the training needs of the arts, museums, and

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

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

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

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

9-6-202. Division director.

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

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

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

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

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

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

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

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

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

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

(1) The division may:

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

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

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

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

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

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

Part 3. Advisory Boards

9-6-301. Utah Arts Advisory Board.

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

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

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

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

(i) visual arts;

(ii) architecture or design;

(iii) literature;

(iv) music;

(v) folk, traditional, or native arts;

(vi) theater;

226 (vii) dance; and

227 (viii) media arts.

228 (d) The governor shall appoint three members who are knowledgeable in or
229 appreciative of the arts.

230 (e) The governor shall appoint two members who have expertise in technology,
231 marketing, business, or finance.

232 (f) Before January 1, 2026, the governor may appoint up to three additional members
233 who are knowledgeable in or appreciative of the arts:

234 (i) for terms that shall end before January 1, 2026; and

235 (ii) in which case the arts board may consist of up to 16 members until January 1,
236 2026.

237 (3) The governor shall appoint members from the state at large with due consideration
238 for geographical representation.

239 (4) When a vacancy occurs in the membership for any reason, the governor shall
240 appoint a replacement member for the unexpired term within one month from the time of the
241 vacancy.

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

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

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

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

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

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

251 (b) rules made by the Division of Finance pursuant to Sections [63A-3-106](#) and
252 [63A-3-107](#).

253 (9) Except as provided in Subsection (8), a member may not receive any gifts, prizes,

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

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

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

(1) The arts board may:

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

(b) receive gifts, bequests, and property.

(2) The arts board shall:

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

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

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

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

9-6-303. Art collection committee.

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

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

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

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

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

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

(a) Sections 63A-3-106 and 63A-3-107; and

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

Section 10. Section 9-6-304 is repealed and reenacted to read:

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

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

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

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

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

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

(4) The division shall:

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

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

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

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

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

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

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

9-6-305. Utah Museums Advisory Board.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) the museum grants program; and

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

(2) The museums board shall:

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

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

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

9-6-501. Definitions.

As used in this part:

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

a qualifying organization.

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

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

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

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

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

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

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

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

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

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

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

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

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

from the state fund.

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

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

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

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

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

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

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

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

9-6-504. Duties of the division.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

9-6-506. Unallocated money.

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

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

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

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

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

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

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

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

9-6-508. Federal match.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

59-12-701. Purpose statement.

The Utah Legislature finds and declares that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(ii) submit to the appropriate county legislative body:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

63C-9-601. Responsibility for items.

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

Section 25. Repealer.

This bill repeals:

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

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

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