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HERITAGE AND ARTS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mike Winder

Senate Sponsor: _____

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

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

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides revisor instructions.

Utah Code Sections Affected:

AMENDS:

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



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

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

70 **9-1-201. Department of Cultural and Community Engagement -- Creation --**

71 **Powers and duties.**

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

74 (2) The department shall:

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

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

80 (c) coordinate the program plans of the various divisions within the department;

81 (d) administer and coordinate all state or federal grant programs which are, or become,
82 available for [~~heritage, arts, and cultural development~~] cultural and community engagement in
83 the state;

84 (e) administer any other programs over which the department is given administrative
85 supervision by the governor;

86 (f) submit an annual written report to the governor and the Legislature as described in
87 Section **9-1-208**;

88 (g) ensure that any training or certification required of a public official or public
89 employee, as those terms are defined in Section **63G-22-102**, complies with Title 63G, Chapter

90 22, State Training and Certification Requirements, if the training or certification is required:

91 (i) under this title;

92 (ii) by the department; or

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

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

95 (3) The department may:

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

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

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

105 (5) A foundation established by the department under Subsection (3)(b):

106 (a) may receive contributions of money, services, and facilities from legislative
107 appropriations, government grants, and private sources for the development and
108 implementation of the programs and objectives described in this title;

109 (b) shall comply with the requirements described in Section 9-1-209; and

110 (c) shall provide information detailing all transactions and balances associated with the
111 foundation to the department, which shall be summarized by the department and included in
112 the department's annual report described in Section 9-1-208.

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

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

119 (c) The department shall:

120 (i) provide the pass-through funding grant recipient with a progress report form for the

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

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

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

124 **9-1-209. Cultural and Community Engagement Foundation Fund.**

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

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

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

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

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

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

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

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

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

144 **9-9-104.6. Participation of state agencies in meetings with tribal leaders --**
145 **Contact information.**

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

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

150 (a) the chairs of the Native American Legislative Liaison Committee created in Section
151 36-22-1;

- 152 (b) the governor or the governor's designee;
- 153 (c) the American Indian-Alaska Native Health Liaison appointed in accordance with
- 154 Section [26-7-2.5](#);
- 155 (d) the American Indian-Alaska Native Public Education Liaison appointed in
- 156 accordance with Section [53F-5-604](#); and
- 157 (e) a representative appointed by the chief administrative officer of the following:
- 158 (i) the Department of Human Services;
- 159 (ii) the Department of Natural Resources;
- 160 (iii) the Department of Workforce Services;
- 161 (iv) the Governor's Office of Economic Development;
- 162 (v) the State Board of Education; and
- 163 (vi) the Utah Board of Higher Education.
- 164 (3) (a) The chief administrative officer of the agencies listed in Subsection (3)(b) shall:
- 165 (i) designate the name of a contact person for that agency that can assist in coordinating
- 166 the efforts of state and tribal governments in meeting the needs of the Native Americans
- 167 residing in the state; and
- 168 (ii) notify the division:
- 169 (A) who is the designated contact person described in Subsection (3)(a)(i); and
- 170 (B) of any change in who is the designated contact person described in Subsection
- 171 (3)(a)(i).
- 172 (b) This Subsection (3) applies to:
- 173 (i) the Department of Agriculture and Food;
- 174 (ii) the Department of [~~Heritage and Arts~~] Cultural and Community Engagement;
- 175 (iii) the Department of Corrections;
- 176 (iv) the Department of Environmental Quality;
- 177 (v) the Department of Public Safety;
- 178 (vi) the Department of Transportation;
- 179 (vii) the Office of the Attorney General;
- 180 (viii) the State Tax Commission; and
- 181 (ix) any agency described in Subsections (2)(c) through (e).
- 182 (c) At the request of the division, a contact person listed in Subsection (3)(b) may

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

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

187 (i) Section 63A-3-106;

188 (ii) Section 63A-3-107; and

189 (iii) rules made by the Division of Finance according to Sections 63A-3-106 and
190 63A-3-107.

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

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

194 **9-20-201. Creation -- Members -- Appointment -- Terms -- Vacancies -- Per diem**
195 **and expenses.**

196 (1) There is created the Utah Commission on Service and Volunteerism consisting of
197 19 voting members and one nonvoting member.

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

199 (a) the lieutenant governor;

200 (b) the commissioner of higher education or the commissioner's designee;

201 (c) the state superintendent of public instruction or the superintendent's designee;

202 (d) the executive director of the Department of [~~Heritage and Arts~~] Cultural and
203 Community Engagement or the executive director's designee;

204 (e) nine members appointed by the governor as follows:

205 (i) an individual with expertise in the educational, training, and developmental needs of
206 youth, particularly disadvantaged youth;

207 (ii) an individual with experience in promoting the involvement of older adults in
208 volunteer service;

209 (iii) a representative of a community-based agency or organization within the state;

210 (iv) a representative of local government;

211 (v) a representative of a local labor organization in the state;

212 (vi) a representative of business;

213 (vii) an individual between the ages of 16 and 25 who participates in a volunteer or

214 service program;

215 (viii) a representative of a national service program; and

216 (ix) a representative of the volunteer sector; and

217 (f) six members appointed by the governor from among the following groups:

218 (i) local educators;

219 (ii) experts in the delivery of human, educational, cultural, environmental, or public

220 safety services to communities and individuals;

221 (iii) representatives of Native American tribes;

222 (iv) representatives of organizations that assist out-of-school youth or other at-risk

223 youth; or

224 (v) representatives of entities that receive assistance under the Domestic Volunteer

225 Service Act of 1973, 42 U.S.C. 4950 et seq.

226 (3) The nonvoting member of the commission is the state representative of the

227 corporation.

228 (4) (a) In appointing persons to serve on the commission, the governor shall ensure

229 that:

230 (i) no more than 10 voting members of the commission are members of the same

231 political party; and

232 (ii) no more than five voting members of the commission are state government

233 employees.

234 (b) In appointing persons to serve on the commission, the governor shall strive for

235 balance on the commission according to race, ethnicity, age, gender, and disability

236 characteristics.

237 (5) (a) Except as required by Subsection (5)(b), as terms of current commission

238 members expire, the governor shall appoint each new member or reappointed member to a

239 three-year term.

240 (b) Notwithstanding the requirements of Subsection (5)(a), the governor shall, at the

241 time of appointment or reappointment, adjust the length of terms to ensure that the terms of

242 commission members are staggered so that approximately one-third of the commission is

243 appointed every year.

244 (6) When a vacancy occurs in the membership, the replacement shall be appointed for

245 the unexpired term.

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

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

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

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

252 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
253 63A-3-107.

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

255 **9-20-207. Rulemaking.**

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

259 (1) implement this chapter; and

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

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

262 **19-3-301. Restrictions on nuclear waste placement in state.**

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

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

269 (a) (i) the federal Nuclear Regulatory Commission issues a license, pursuant to the
270 Nuclear Waste Policy Act, 42 U.S.C.A. 10101 et seq., or the Atomic Energy Act, 42 U.S.C.A.
271 2011 et seq., for the placement within the exterior boundaries of Utah of high-level nuclear
272 waste or greater than class C radioactive waste; and

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

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

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

- 281 (a) transfer or transportation, by rail, truck, or other mechanisms;
- 282 (b) storage, including any temporary storage at a site away from the generating reactor;
- 283 (c) decay in storage;
- 284 (d) treatment; and
- 285 (e) disposal.

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

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

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

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

- 300 (A) under nuclear industry self-insurance;
- 301 (B) under federal insurance requirements; and
- 302 (C) in federal money.

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

305 (c) The department shall use the information compiled under Subsections (5)(a) and (b)
306 to determine the amount of unfunded potential liability in the event of a release of waste from a

307 storage or transfer facility, or a release during the transportation of waste.

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

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

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

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

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

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

325 (i) a cooperative;

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

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

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

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

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

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

338 Subsection (7)(a).

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

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

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

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

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

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

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

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

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

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

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

365 (9) (a) (i) Any contract or agreement to provide any goods, services, or municipal-type
366 services to any organization engaging in, or attempting to engage in the placement of high-level
367 nuclear waste or greater than class C radioactive waste at a storage facility or transfer facility
368 within the state are declared to be against the greater public interest, health, and welfare of the

369 state, by promoting an activity which has the great potential to cause extreme public harm.

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

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

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

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

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

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

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

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

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

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

398 (d) (i) The department, in consultation with the State Tax Commission, shall establish
399 rules for the valuation of the contracts and assessment and collection of the fees, and other

400 rules as necessary to determine the amount of and collection of the fee under Subsection
401 (10)(a). The department may initiate rulemaking under this Subsection (10)(d)(i) on or after
402 March 15, 2001.

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

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

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

- 413 (i) educational services and facilities;
- 414 (ii) health care services and facilities;
- 415 (iii) programs of economic development;
- 416 (iv) utilities;
- 417 (v) sewer;
- 418 (vi) street lighting;
- 419 (vii) roads and other infrastructure; and
- 420 (viii) oversight and staff support for the program.

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

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

427 **19-3-320. Efforts to prevent siting of any nuclear waste facility to include**
428 **economic development study regarding Native American reservation lands within the**
429 **state.**

430 (1) It is the intent of the Legislature that the department, in its efforts to prevent the

431 siting of a nuclear waste facility within the exterior borders of the state, include in its work the
432 study under Subsection (2) and the report under Subsection (3).

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

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

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

442 (3) It is the intent of the Legislature that this plan, prepared under Subsection (2)(b),
443 shall be distributed to the governor and the members of the Legislature on or before December
444 31, 2001.

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

446 **53-2a-802. Definitions.**

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

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

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

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

452 (2) "Department" means the Department of Administrative Services, the Department of
453 Agriculture and Food, the Alcoholic Beverage Control Commission, the Department of
454 Commerce, the Department of [~~Heritage and Arts~~] Cultural and Community Engagement, the
455 Department of Corrections, the Department of Environmental Quality, the Department of
456 Financial Institutions, the Department of Health, the Department of Human Resource
457 Management, the Department of Workforce Services, the Labor Commission, the National
458 Guard, the Department of Insurance, the Department of Natural Resources, the Department of
459 Public Safety, the Public Service Commission, the Department of Human Services, the State
460 Tax Commission, the Department of Technology Services, the Department of Transportation,
461 any other major administrative subdivisions of state government, the State Board of Education,

462 the Utah Board of Higher Education, the Utah Housing Corporation, the State Retirement
463 Board, and each institution of higher education within the system of higher education.

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

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

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

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

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

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

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

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

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

483 (11) "Unavailable" means:

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

487 (b) as otherwise defined by local ordinance.

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

489 **53B-18-1002. Establishment of the center -- Purpose -- Duties and**
490 **responsibilities.**

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

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

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

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

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

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

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

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

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

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

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

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

516 and

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

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

523 (i) interacted with Native Americans; and

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

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

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

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

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

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

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

540 **63I-5-201. Internal auditing programs -- State agencies.**

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

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

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

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

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

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

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

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

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

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

567 **63J-1-219. Definitions -- Federal receipts reporting requirements.**

568 (1) As used in this section:

569 (a) (i) "Designated state agency" means the Department of Administrative Services, the
570 Department of Agriculture and Food, the Department of Alcoholic Beverage Control, the
571 Department of Commerce, the Department of ~~Heritage and Arts~~ Cultural and Community
572 Engagement, the Department of Corrections, the Department of Environmental Quality, the
573 Department of Financial Institutions, the Department of Health, the Department of Human
574 Resource Management, the Department of Human Services, the Department of Insurance, the
575 Department of Natural Resources, the Department of Public Safety, the Department of
576 Technology Services, the Department of Transportation, the Department of Veterans and
577 Military Affairs, the Department of Workforce Services, the Labor Commission, the Office of
578 Economic Development, the Public Service Commission, the Utah Board of Higher Education,
579 the State Board of Education, the State Tax Commission, or the Utah National Guard.

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

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

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

585 (2) Subject to Subsections (3) and (4), a designated state agency shall each year, on or

586 before October 31, prepare a report that:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

624 (b) take no action; or

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

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

627 **63J-4-502. Membership -- Terms -- Chair -- Expenses.**

628 (1) The Resource Development Coordinating Committee shall consist of the following
629 24 members:

630 (a) the state science advisor;

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

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

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

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

639 (f) a representative from the Department of Transportation appointed by the executive
640 director;

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

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

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

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

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

- 648 (l) a representative from the Division of Environmental Response and Remediation
649 appointed by the director;
- 650 (m) a representative from the Division of Waste Management and Radiation Control
651 appointed by the director;
- 652 (n) a representative from the Division of Water Quality appointed by the director;
- 653 (o) a representative from the Division of Oil, Gas, and Mining appointed by the
654 director;
- 655 (p) a representative from the Division of Parks and Recreation appointed by the
656 director;
- 657 (q) a representative from the Division of Forestry, Fire, and State Lands appointed by
658 the director;
- 659 (r) a representative from the Utah Geological Survey appointed by the director;
- 660 (s) a representative from the Division of Water Resources appointed by the director;
- 661 (t) a representative from the Division of Water Rights appointed by the director;
- 662 (u) a representative from the Division of Wildlife Resources appointed by the director;
- 663 (v) a representative from the School and Institutional Trust Lands Administration
664 appointed by the director;
- 665 (w) a representative from the Division of Facilities Construction and Management
666 appointed by the director; and
- 667 (x) a representative from the Division of Emergency Management appointed by the
668 director.
- 669 (2) (a) As particular issues require, the committee may, by majority vote of the
670 members present, and with the concurrence of the state planning coordinator, appoint
671 additional temporary members to serve as ex officio voting members.
- 672 (b) Those ex officio members may discuss and vote on the issue or issues for which
673 they were appointed.
- 674 (3) A chair shall be selected by a majority vote of committee members with the
675 concurrence of the state planning coordinator.
- 676 (4) A member may not receive compensation or benefits for the member's service, but
677 may receive per diem and travel expenses in accordance with:
- 678 (a) Section [63A-3-106](#);

679 (b) Section 63A-3-107; and
680 (c) rules made by the Division of Finance pursuant to Sections 63A-3-106 and
681 63A-3-107.

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

683 **63N-15-103. Reporting and use of appropriations.**

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

- 687 (a) the number of applications submitted under the grant program;
688 (b) the number of grants awarded under the grant program;
689 (c) the aggregate amount of grant funds awarded under the grant program; and
690 (d) any other information the office considers relevant to evaluating the success of the
691 grant program.

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

- 695 (a) the COVID-19 Commercial Rental and Mortgage Assistance Program described in
696 Chapter 14, COVID-19 Commercial Rental and Mortgage Assistance Program;
697 (b) any of the programs described in this chapter;
698 (c) after consultation with the commissioner of the Department of Agriculture and
699 Food, the COVID-19 Agricultural Operations Grant Program described in Section 4-18-106.1;
700 (d) after consultation with the executive director of the Department of [~~Heritage and~~
701 ~~Arts~~] Cultural and Community Engagement, the COVID-19 Cultural Assistance Grant Program
702 described in Title 9, Chapter 6, Part 9, COVID-19 Cultural Assistance Grant Program; and
703 (e) after consultation with the executive director of the Department of Workforce
704 Services, COVID-19 Residential Housing Assistance described in Title 35A, Chapter 8, Part
705 23, COVID-19 Residential Housing Assistance.

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

707 **67-19-6.7. Overtime policies for state employees.**

708 (1) As used in this section:

- 709 (a) "Accrued overtime hours" means:

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

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

714 (b) "Appointed official" means:

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

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

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

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

721 (c) "Department" means the Department of Administrative Services, the Department of
722 Corrections, the Department of Financial Institutions, the Department of Alcoholic Beverage
723 Control, the Insurance Department, the Public Service Commission, the Labor Commission,
724 the Department of Agriculture and Food, the Department of Human Services, the Department
725 of Natural Resources, the Department of Technology Services, the Department of
726 Transportation, the Department of Commerce, the Department of Workforce Services, the State
727 Tax Commission, the Department of [~~Heritage and Arts~~] Cultural and Community
728 Engagement, the Department of Health, the National Guard, the Department of Environmental
729 Quality, the Department of Public Safety, the Department of Human Resource Management,
730 the Commission on Criminal and Juvenile Justice, all merit employees except attorneys in the
731 Office of the Attorney General, merit employees in the Office of the State Treasurer, merit
732 employees in the Office of the State Auditor, Department of Veterans and Military Affairs, and
733 the Board of Pardons and Parole.

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

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

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

739 (g) "FLSA agreement" means the agreement authorized by the Fair Labor Standards
740 Act of 1978, 29 U.S.C. Sec. 201 et seq., by which a nonexempt employee elects the form of

741 compensation the nonexempt employee will receive for overtime.

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

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

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

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

749 (i) an appointed official;

750 (ii) an elected official; or

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

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

755 (m) "Work period" means:

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

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

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

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

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

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

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

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

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

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

777 (e) Each department shall:

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

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

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

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

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

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

794 (b) (i) Each department shall:

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

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

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

802 (c) (i) Any overtime earned under this Subsection (4) is not an entitlement, is not a

803 benefit, and is not a vested right.

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

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

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

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

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

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

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

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

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

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

827 (i) establishing procedures for recording overtime worked that comply with FLSA
828 requirements;

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

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

833 (iv) establishing requirements governing overtime worked while an employee is being

834 trained and procedures for recording that overtime that comply with FLSA requirements;

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

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

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

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

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

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

848 (a) Notwithstanding the procedures and requirements of Title 63G, Chapter 4,
849 Administrative Procedures Act, Section 67-19-31, and Section 67-19a-301, any employee who
850 is aggrieved by the FLSA designation made by the Department of Human Resource
851 Management as required by this section may appeal that determination to the executive director
852 of the Department of Human Resource Management by following the procedures and
853 requirements established in Department of Human Resource Management rule.

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

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

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

861 **67-19c-101. Department award program.**

862 (1) As used in this section:

863 (a) "Department" means the Department of Administrative Services, the Department of
864 Agriculture and Food, the Department of Alcoholic Beverage Control, the Department of

865 Commerce, the Department of [~~Heritage and Arts~~] Cultural and Community Engagement, the
866 Department of Corrections, the Department of Workforce Services, the Department of
867 Environmental Quality, the Department of Financial Institutions, the Department of Health, the
868 Department of Human Resource Management, the Department of Human Services, the
869 Insurance Department, the National Guard, the Department of Natural Resources, the
870 Department of Public Safety, the Public Service Commission, the Labor Commission, the State
871 Board of Education, the Utah Board of Higher Education, the State Tax Commission, the
872 Department of Technology Services, and the Department of Transportation.

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

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

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

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

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

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

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

884 (i) extraordinary competence in performing his function;

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

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

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

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

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

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

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

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

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

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

903 **67-22-2. Compensation -- Other state officers.**

904 (1) As used in this section:

905 (a) "Appointed executive" means the:

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

907 (ii) commissioner of the Insurance Department;

908 (iii) commissioner of the Labor Commission;

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

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

911 (vi) executive director, Department of Commerce;

912 (vii) executive director, Commission on Criminal and Juvenile Justice;

913 (viii) adjutant general;

914 (ix) executive director, Department of [~~Heritage and Arts~~] Cultural and Community

915 Engagement;

916 (x) executive director, Department of Corrections;

917 (xi) commissioner, Department of Public Safety;

918 (xii) executive director, Department of Natural Resources;

919 (xiii) executive director, Governor's Office of Management and Budget;

920 (xiv) executive director, Department of Administrative Services;

921 (xv) executive director, Department of Human Resource Management;

922 (xvi) executive director, Department of Environmental Quality;

923 (xvii) director, Governor's Office of Economic Development;

924 (xviii) executive director, Utah Science Technology and Research Governing

925 Authority;

926 (xix) executive director, Department of Workforce Services;

- 927 (xx) executive director, Department of Health, Nonphysician;
- 928 (xxi) executive director, Department of Human Services;
- 929 (xxii) executive director, Department of Transportation;
- 930 (xxiii) executive director, Department of Technology Services; and
- 931 (xxiv) executive director, Department of Veterans and Military Affairs.

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

- 933 (i) members, Board of Pardons and Parole;
- 934 (ii) chair, State Tax Commission;
- 935 (iii) commissioners, State Tax Commission;
- 936 (iv) executive director, State Tax Commission;
- 937 (v) chair, Public Service Commission; and
- 938 (vi) commissioners, Public Service Commission.

939 (c) "Deputy" means the person who acts as the appointed executive's second in
940 command as determined by the Department of Human Resource Management.

941 (2) (a) The executive director of the Department of Human Resource Management
942 shall:

- 943 (i) before October 31 of each year, recommend to the governor a compensation plan for
944 the appointed executives and the board or commission executives; and
- 945 (ii) base those recommendations on market salary studies conducted by the Department
946 of Human Resource Management.

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

- 949 (A) identifying the salary range assigned to the appointed executive's deputy;
- 950 (B) designating the lowest minimum salary from those deputies' salary ranges as the
951 minimum salary for the appointed executives' salary range; and
- 952 (C) designating 105% of the highest maximum salary range from those deputies' salary
953 ranges as the maximum salary for the appointed executives' salary range.

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

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

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

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

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

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

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

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

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

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

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

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

986 (ii) health insurance;

987 (iii) dental insurance;

988 (iv) basic life insurance;

- 989 (v) unemployment compensation;
- 990 (vi) workers' compensation;
- 991 (vii) required employer contribution to Social Security;
- 992 (viii) long-term disability income insurance;
- 993 (ix) the same additional state-paid life insurance available to other noncareer service
- 994 employees;
- 995 (x) the same severance pay available to other noncareer service employees;
- 996 (xi) the same leave, holidays, and allowances granted to Schedule B state employees as
- 997 follows:
- 998 (A) sick leave;
- 999 (B) converted sick leave if accrued prior to January 1, 2014;
- 1000 (C) educational allowances;
- 1001 (D) holidays; and
- 1002 (E) annual leave except that annual leave shall be accrued at the maximum rate
- 1003 provided to Schedule B state employees;
- 1004 (xii) the option to convert accumulated sick leave to cash or insurance benefits as
- 1005 provided by law or rule upon resignation or retirement according to the same criteria and
- 1006 procedures applied to Schedule B state employees;
- 1007 (xiii) the option to purchase additional life insurance at group insurance rates according
- 1008 to the same criteria and procedures applied to Schedule B state employees; and
- 1009 (xiv) professional memberships if being a member of the professional organization is a
- 1010 requirement of the position.
- 1011 (b) Each department shall pay the cost of additional state-paid life insurance for its
- 1012 executive director from its existing budget.
- 1013 (6) The Legislature fixes the following additional benefits:
- 1014 (a) for the executive director of the State Tax Commission a vehicle for official and
- 1015 personal use;
- 1016 (b) for the executive director of the Department of Transportation a vehicle for official
- 1017 and personal use;
- 1018 (c) for the executive director of the Department of Natural Resources a vehicle for
- 1019 commute and official use;

- 1020 (d) for the commissioner of Public Safety:
- 1021 (i) an accidental death insurance policy if POST certified; and
- 1022 (ii) a public safety vehicle for official and personal use;
- 1023 (e) for the executive director of the Department of Corrections:
- 1024 (i) an accidental death insurance policy if POST certified; and
- 1025 (ii) a public safety vehicle for official and personal use;
- 1026 (f) for the adjutant general a vehicle for official and personal use; and
- 1027 (g) for each member of the Board of Pardons and Parole a vehicle for commute and
- 1028 official use.

1029 Section 19. Section **72-4-302** is amended to read:

1030 **72-4-302. Utah State Scenic Byway Committee -- Creation -- Membership --**
 1031 **Meetings -- Expenses.**

- 1032 (1) There is created the Utah State Scenic Byway Committee.
- 1033 (2) (a) The committee shall consist of the following 13 members:
- 1034 (i) a representative from each of the following entities appointed by the governor:
- 1035 (A) the Governor's Office of Economic Development;
- 1036 (B) the Utah Department of Transportation;
- 1037 (C) the Department of [~~Heritage and Arts~~] Cultural and Community Engagement;
- 1038 (D) the Division of Parks and Recreation;
- 1039 (E) the Federal Highway Administration;
- 1040 (F) the National Park Service;
- 1041 (G) the National Forest Service; and
- 1042 (H) the Bureau of Land Management;
- 1043 (ii) one local government tourism representative appointed by the governor;
- 1044 (iii) a representative from the private business sector appointed by the governor; and
- 1045 (iv) three local elected officials from a county, city, or town within the state appointed
- 1046 by the governor.
- 1047 (b) Except as provided in Subsection (2)(c), the members appointed in this Subsection
- 1048 (2) shall be appointed for a four-year term of office.
- 1049 (c) The governor shall, at the time of appointment or reappointment for appointments
- 1050 made under Subsection (2)(a)(i), (ii), (iii), or (iv) adjust the length of terms to ensure that the

1051 terms of committee members are staggered so that approximately half of the committee is
1052 appointed every two years.

1053 (3) (a) The representative from the Governor's Office of Economic Development shall
1054 chair the committee.

1055 (b) The members appointed under Subsections (2)(a)(i)(E) through (H) serve as
1056 nonvoting, ex officio members of the committee.

1057 (4) The Governor's Office of Economic Development and the department shall provide
1058 staff support to the committee.

1059 (5) (a) The chair may call a meeting of the committee only with the concurrence of the
1060 department.

1061 (b) A majority of the voting members of the committee constitute a quorum.

1062 (c) Action by a majority vote of a quorum of the committee constitutes action by the
1063 committee.

1064 (6) A member may not receive compensation or benefits for the member's service, but
1065 may receive per diem and travel expenses as allowed in:

1066 (a) Section [63A-3-106](#);

1067 (b) Section [63A-3-107](#); and

1068 (c) rules made by the Division of Finance according to Sections [63A-3-106](#) and
1069 [63A-3-107](#).

1070 Section 20. **Revisor instructions.**

1071 The Legislature intends that the Office of Legislative Research and General Counsel, in
1072 preparing the Utah Code database for publication, on May 5, 2021, replace "Heritage and Arts,"
1073 when referring to the Department of Heritage and Arts, with "Cultural and Community
1074 Engagement" in any new language added to the Utah Code by legislation passed during the
1075 2021 General Session.