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GOVERNMENT RECORDS AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

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Senate Sponsor: Lyle W. Hillyard

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LONG TITLE

General Description:

This bill modifies provisions of the Government Records Access and Management Act and other provisions relating to government records.

Highlighted Provisions:

This bill:

- ▶ modifies cross references;
- ▶ eliminates codified intent language;
- ▶ provides a cross reference in the Public Records Management Act to identify

37 legislative exemptions to the act;

38 ▶ makes technical and organizational modifications to modernize and clarify

39 language;

40 ▶ modifies definitions;

41 ▶ provides that voice mails, instant messages, video chats, and text messages are not

42 records subject to the act, with some exceptions;

43 ▶ modifies provisions defining records that are subject to regulation by the act;

44 ▶ clarifies that fee provisions may be subject to approval procedures under the

45 Budgetary Procedures Act;

46 ▶ modifies provisions governing fees and costs related to records requests;

47 ▶ modifies language identifying "extraordinary circumstances" related to records

48 requests;

49 ▶ modifies provisions governing shared records procedures and application;

50 ▶ modifies provisions and requirements regulating records that must be disclosed;

51 ▶ provides that personal and financial information submitted to or received by a

52 Senate confirmation committee is a private record;

53 ▶ provides that personal emails or similar electronic addresses of current or former

54 government employees or applicants are private records;

55 ▶ provides protected status for certain records of the Office of the Utah State Auditor

56 and Office of Legislative Auditor General;

57 ▶ provides that records may be classified as protected if they are prepared in

58 anticipation of litigation;

59 ▶ provides that work product records may be classified as protected if the record

60 involves anticipated or pending litigation;

61 ▶ modifies the protected record status of documents prepared, received, or maintained

62 by a legislator;

63 ▶ modifies the protected record status of communications between legislators and

64 staff in relation to performance of their official duties;

65 ▶ provides that records concerning a governmental entity's strategy may be classified
66 as protected if the record is prepared for anticipated litigation, rather than only for
67 pending litigation;

68 ▶ provides protected status for internal communications and working papers of the
69 governor's office and modifies provisions limiting the length of protected status
70 coverage for certain records of the governor;

71 ▶ provides that data and working papers associated with a fiscal note for legislation
72 are protected until the legislation has passed;

73 ▶ provides protected status for personal email addresses and similar electronic
74 addresses in some situations;

75 ▶ prohibits a governmental entity's chief administrative officer, the records
76 committee, and a court from releasing certain protected records via means of a
77 balancing test unless it is determined, by a preponderance of the evidence, that the
78 public interest favoring access to the record outweighs the interest favoring
79 restriction of access to the record;

80 ▶ provides that the Legislature may adopt policies regarding the receipt, processing,
81 and response to record requests;

82 ▶ rewrites and reorganizes the section addressing the act's application to the
83 Legislature;

84 ▶ addresses legislative compliance requirements with Title 63G, Chapter 2, Part 9,
85 Public Associations; and

86 ▶ makes technical changes.

87 **Money Appropriated in this Bill:**

88 None

89 **Other Special Clauses:**

90 This bill provides an immediate effective date.

91 **Utah Code Sections Affected:**

92 AMENDS:

- 93 **20A-2-104**, as last amended by Laws of Utah 2010, Chapter 197
- 94 **58-1-301**, as last amended by Laws of Utah 2008, Chapter 382
- 95 **61-1-4**, as last amended by Laws of Utah 2009, Chapter 351
- 96 **61-2f-203**, as renumbered and amended by Laws of Utah 2010, Chapter 379
- 97 **63G-2-103**, as last amended by Laws of Utah 2010, Chapter 366
- 98 **63G-2-203**, as last amended by Laws of Utah 2009, Chapter 183
- 99 **63G-2-204**, as last amended by Laws of Utah 2010, Chapter 380
- 100 **63G-2-206**, as last amended by Laws of Utah 2009, Chapter 344
- 101 **63G-2-301**, as last amended by Laws of Utah 2009, Chapter 344
- 102 **63G-2-302**, as last amended by Laws of Utah 2010, Chapters 36 and 379
- 103 **63G-2-303**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 104 **63G-2-305**, as last amended by Laws of Utah 2010, Chapters 6, 113, and 247
- 105 **63G-2-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 106 **63G-2-403**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 107 **63G-2-404**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 108 **63G-2-703**, as renumbered and amended by Laws of Utah 2008, Chapter 382
- 109 **63G-2-803**, as last amended by Laws of Utah 2009, Chapter 44

110 ENACTS:

111 **63A-12-109**, Utah Code Annotated 1953

112 REPEALS:

113 **63G-2-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382



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

116 Section 1. Section **20A-2-104** is amended to read:

117 **20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.**

118 (1) Every person applying to be registered shall complete a registration form printed in
119 substantially the following form:

120 -----

121 UTAH ELECTION REGISTRATION FORM

122 Are you a citizen of the United States of America? Yes No

123 Will you be 18 years old on or before election day? Yes No

124 If you checked "no" to either of the above two questions, do not complete this form.

125 Name of Voter

126 _____

127 First Middle Last

128 Utah Driver License or Utah Identification Card Number _____

129 Date of Birth _____

130 Street Address of Principal Place of Residence

131 _____

132 City County State Zip Code

133 Telephone Number (optional) _____

134 Last four digits of Social Security Number _____

135 Last former address at which I was registered to vote (if

136 known) _____

137 _____

138 City County State Zip Code

139 Political Party

140 (a listing of each registered political party, as defined in Section 20A-8-101 and maintained by

141 the lieutenant governor under Section 67-1a-2, with each party's name preceded by a checkbox)

142 Unaffiliated (no political party preference) Other (Please specify) _____

143 I do swear (or affirm), subject to penalty of law for false statements, that the

144 information contained in this form is true, and that I am a citizen of the United States and a

145 resident of the state of Utah, residing at the above address. I will be at least 18 years old and

146 will have resided in Utah for 30 days immediately before the next election. I am not a

147 convicted felon currently incarcerated for commission of a felony.

148 Signed and sworn

149 _____

150 Voter's Signature

151 _____(month/day/year).

152 CITIZENSHIP AFFIDAVIT

153 Name:

154 Name at birth, if different:

155 Place of birth:

156 Date of birth:

157 Date and place of naturalization (if applicable):

158 I hereby swear and affirm, under penalties for voting fraud set forth below, that I am a
159 citizen and that to the best of my knowledge and belief the information above is true and
160 correct.

161 _____

162 Signature of Applicant

163 In accordance with Section 20A-2-401, the penalty for willfully causing, procuring, or
164 allowing yourself to be registered to vote if you know you are not entitled to register to vote is
165 up to one year in jail and a fine of up to \$2,500.

166 NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID
167 VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST
168 BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND
169 PHOTOGRAPH; OR
170 TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND
171 CURRENT ADDRESS.

172 FOR OFFICIAL USE ONLY

173 Type of I.D. _____

174 Voting Precinct _____

175 Voting I.D. Number _____

176 -----

177 (2) (a) Except as provided under Subsection (2)(b), the county clerk shall retain a copy
178 of each voter registration form in a permanent countywide alphabetical file, which may be
179 electronic or some other recognized system.

180 (b) The county clerk may transfer a superceded voter registration form to the Division
181 of Archives and Records Service created under Section 63A-12-101.

182 (3) (a) Each county clerk shall retain lists of currently registered voters.

183 (b) The lieutenant governor shall maintain a list of registered voters in electronic form.

184 (c) If there are any discrepancies between the two lists, the county clerk's list is the
185 official list.

186 (d) The lieutenant governor and the county clerks may charge the fees established
187 under the authority of [~~Subsection~~] Section 63G-2-203~~[(10)]~~ to individuals who wish to obtain
188 a copy of the list of registered voters.

189 (4) When political parties not listed on the voter registration form qualify as registered
190 political parties under Title 20A, Chapter 8, Political Party Formation and Procedures, the
191 lieutenant governor shall inform the county clerks about the name of the new political party
192 and direct the county clerks to ensure that the voter registration form is modified to include that
193 political party.

194 (5) Upon receipt of a voter registration form from an applicant, the county clerk or the
195 clerk's designee shall:

196 (a) review each voter registration form for completeness and accuracy; and

197 (b) if the county clerk believes, based upon a review of the form, that a person may be
198 seeking to register to vote who is not legally entitled to register to vote, refer the form to the
199 county attorney for investigation and possible prosecution.

200 Section 2. Section **58-1-301** is amended to read:

201 **58-1-301. License application -- Licensing procedure.**

202 (1) (a) Each license applicant shall apply to the division in writing upon forms
203 available from the division. Each completed application shall contain documentation of the

204 particular qualifications required of the applicant, shall include the applicant's Social Security
205 number, shall be verified by the applicant, and shall be accompanied by the appropriate fees.

206 (b) An applicant's Social Security number is a private record under [~~Subsection~~
207 ~~63G-2-302(1)(h)] Section 63G-2-302.~~

208 (2) (a) A license shall be issued to an applicant who submits a complete application if
209 the division determines that the applicant meets the qualifications of licensure.

210 (b) A written notice of additional proceedings shall be provided to an applicant who
211 submits a complete application, but who has been, is, or will be placed under investigation by
212 the division for conduct directly bearing upon the applicant's qualifications for licensure, if the
213 outcome of additional proceedings is required to determine the division's response to the
214 application.

215 (c) A written notice of denial of licensure shall be provided to an applicant who
216 submits a complete application if the division determines that the applicant does not meet the
217 qualifications of licensure.

218 (d) A written notice of incomplete application and conditional denial of licensure shall
219 be provided to an applicant who submits an incomplete application. This notice shall advise
220 the applicant that the application is incomplete and that the application is denied, unless the
221 applicant corrects the deficiencies within the time period specified in the notice and otherwise
222 meets all qualifications for licensure.

223 (3) Before any person is issued a license under this title, all requirements for that
224 license as established under this title and by rule shall be met.

225 (4) If all requirements are met for the specific license, the division shall issue the
226 license.

227 Section 3. Section **61-1-4** is amended to read:

228 **61-1-4. Licensing and notice filing procedure.**

229 (1) (a) A broker-dealer, agent, investment adviser, or investment adviser representative
230 shall obtain an initial or renewal license by filing with the division or its designee an
231 application together with a consent to service of process under Section 61-1-26.

232 (b) (i) The application shall contain the applicant's Social Security number and
233 whatever information the division by rule requires concerning such matters as:
234 (A) the applicant's form and place of organization;
235 (B) the applicant's proposed method of doing business;
236 (C) (I) the qualifications and business history of the applicant; and
237 (II) in the case of a broker-dealer or investment adviser, the qualifications and business
238 history of any partner, officer, or director, any person occupying a similar status or performing
239 similar functions, or any person directly or indirectly controlling the broker-dealer or
240 investment adviser;
241 (D) whether the applicant has been subject to:
242 (I) an injunction, administrative order, or misdemeanor conviction involving a security
243 or any aspect of the securities business; or
244 (II) a felony conviction; and
245 (E) the applicant's financial condition and history.
246 (ii) An applicant's Social Security number is a private record under [~~Subsection~~
247 ~~63G-2-302(1)(h)] Section 63G-2-302.
248 (c) The division may, by rule or order, require an applicant for an initial license to
249 publish an announcement of the application in one or more specified newspapers published in
250 this state.
251 (d) A license or notice filing of a broker-dealer, agent, investment adviser, or
252 investment adviser representative expires on December 31 of each year.
253 (e) (i) If no denial order is in effect and no proceeding is pending under Section 61-1-6,
254 a license becomes effective at noon of the 30th day after an application is filed.
255 (ii) The division may by rule or order specify an earlier effective date and may by order
256 defer the effective date until noon of the 30th day after the filing of any amendment.
257 (iii) Licensing of a broker-dealer automatically constitutes licensing of only one
258 partner, officer, director, or a person occupying a similar status or performing similar functions
259 as a licensed agent of the broker-dealer.~~

260 (iv) Licensing of an investment adviser automatically constitutes licensing of only one
261 partner, officer, director, or a person occupying a similar status or performing similar functions.

262 (v) (A) For purposes of the activities of a licensee in this state, during the time period
263 that a broker-dealer or investment adviser is licensed in this state:

- 264 (I) the broker-dealer shall maintain a principal; and
- 265 (II) the investment adviser shall maintain a designated official.

266 (B) The division may by rule made in accordance with Title 63G, Chapter 3, Utah
267 Administrative Rulemaking Act, provide a process for a person to identify for the division:

- 268 (I) a principal or designated official at the time a license is issued; and
- 269 (II) a different principal or designated official if:
 - 270 (Aa) a broker-dealer changes its principal; or
 - 271 (Bb) an investment adviser changes its designated official.

272 (C) A principal or designated official identified in Subsection (1)(e)(v)(A) is not
273 required to be separately licensed with the division.

274 (2) Except with respect to a federal covered adviser whose only clients are those
275 described in Subsection 61-1-3(3)(b) or (c), a federal covered adviser shall file with the
276 division, before acting as a federal covered adviser in this state, a notice filing consisting of the
277 documents filed with the Securities and Exchange Commission as the division by rule or order
278 may require.

279 (3) (a) An applicant for an initial or renewal license as a broker-dealer or agent shall
280 pay a reasonable filing fee as determined under Section 61-1-18.4.

281 (b) An applicant for an initial or renewal license as an investment adviser or
282 investment adviser representative who is subject to licensing under this chapter shall pay a
283 reasonable filing fee as determined under Section 61-1-18.4.

284 (c) A person acting as a federal covered adviser in this state shall pay an initial and
285 renewal notice filing fee as determined under Section 61-1-18.4.

286 (d) If the license or renewal is not granted or the application is withdrawn, the division
287 shall retain the fee.

288 (4) A licensed broker-dealer or investment adviser may file an application for licensing
289 of a successor for the unexpired portion of the year. There shall be no filing fee.

290 (5) The division may by rule or order:

291 (a) require a minimum capital for a licensed broker-dealer, subject to the limitations of
292 Section 15 of the Securities Exchange Act of 1934; and

293 (b) establish minimum financial requirements for an investment adviser:

294 (i) subject to the limitations of Section 222 of the Investment Advisers Act of 1940;
295 and

296 (ii) which may include different requirements for an investment adviser who maintains
297 custody of or has discretionary authority over client funds or securities and an investment
298 adviser who does not.

299 (6) (a) The division may by rule or order require a licensed broker-dealer or investment
300 adviser who has custody of or discretionary authority over client funds or securities to post one
301 or more bonds in amounts and under conditions as the division may prescribe, subject to the
302 limitations of Section 15 of the Securities Exchange Act of 1934 for a broker-dealer, and
303 Section 222 of the Investment Advisers Act of 1940 for an investment adviser.

304 (b) An appropriate deposit of cash or securities may be accepted in lieu of a required
305 bond.

306 (c) A bond may not be required of a licensee whose net capital, or in the case of an
307 investment adviser whose minimum financial requirements, which may be defined by rule,
308 exceeds the amounts required by the division.

309 (d) A bond shall provide for suit on the bond by a person who has a cause of action
310 under Section 61-1-22 and, if the division by rule or order requires, by any person who has a
311 cause of action not arising under this chapter.

312 (e) A bond shall provide that a suit may not be maintained to enforce liability on the
313 bond unless brought before the earlier of:

314 (i) the expiration of five years after the act or transaction constituting the violation; or

315 (ii) the expiration of two years after the discovery by the plaintiff of the facts

316 constituting the violation.

317 Section 4. Section **61-2f-203** is amended to read:

318 **61-2f-203. Licensing requirements.**

319 (1) (a) Except as provided in Subsection (5), the commission shall determine the
320 qualifications and requirements of an applicant for:

- 321 (i) a principal broker license;
- 322 (ii) an associate broker license; or
- 323 (iii) a sales agent license.

324 (b) The division, with the concurrence of the commission, shall require and pass upon
325 proof necessary to determine the honesty, integrity, truthfulness, reputation, and competency of
326 each applicant for an initial license or for renewal of an existing license.

327 (c) (i) The division, with the concurrence of the commission, shall require an applicant
328 for:

329 (A) a sales agent license to complete an approved educational program consisting of
330 the number of hours designated by rule made by the commission with the concurrence of the
331 division, except that the rule may not require less than 120 hours; and

332 (B) an associate broker or a principal broker license to complete an approved
333 educational program consisting of the number of hours designated by rule made by the
334 commission with the concurrence of the division, except that the rule may not require less than
335 120 hours.

336 (ii) An hour required by this section means 50 minutes of instruction in each 60
337 minutes.

338 (iii) The maximum number of program hours available to an individual is eight hours
339 per day.

340 (d) The division, with the concurrence of the commission, shall require the applicant to
341 pass an examination approved by the commission covering:

- 342 (i) the fundamentals of:
 - 343 (A) the English language;

- 344 (B) arithmetic;
- 345 (C) bookkeeping; and
- 346 (D) real estate principles and practices;
- 347 (ii) the provisions of this chapter;
- 348 (iii) the rules established by the commission; and
- 349 (iv) any other aspect of Utah real estate license law considered appropriate.

350 (e) (i) Three years' full-time experience as a sales agent or its equivalent is required
351 before an applicant may apply for, and secure a principal broker or associate broker license in
352 this state.

353 (ii) The commission shall establish by rule, made in accordance with Title 63G,
354 Chapter 3, Utah Administrative Rulemaking Act, the criteria by which the commission will
355 accept experience or special education in similar fields of business in lieu of the three years'
356 experience.

357 (2) (a) The division, with the concurrence of the commission, may require an applicant
358 to furnish a sworn statement setting forth evidence satisfactory to the division of the applicant's
359 reputation and competency as set forth by rule.

360 (b) The division shall require an applicant to provide the applicant's Social Security
361 number, which is a private record under [~~Subsection 63G-2-302(1)(h)~~] Section 63G-2-302.

362 (3) (a) An individual who is not a resident of this state may be licensed in this state if
363 the person complies with all the provisions of this chapter.

364 (b) An individual who is not a resident of this state may be licensed as an associate
365 broker or sales agent in this state by:

- 366 (i) complying with all the provisions of this chapter; and
- 367 (ii) being employed or engaged as an independent contractor by or on behalf of a
368 principal broker who is licensed in this state, regardless of whether the principal broker is a
369 resident of this state.

370 (4) (a) Except as provided in Subsection 61-2f-204(1)(e)(vi), the division and
371 commission shall treat an application to be relicensed of an applicant whose real estate license

372 is revoked as an original application.

373 (b) In the case of an applicant for a new license as a principal broker or associate
374 broker, the applicant is not entitled to credit for experience gained before the revocation of a
375 real estate license.

376 (5) (a) Notwithstanding Subsection (1), the commission may delegate to the division
377 the authority to:

- 378 (i) review a class or category of applications for initial or renewed licenses;
- 379 (ii) determine whether an applicant meets the licensing criteria in Subsection (1); and
- 380 (iii) approve or deny a license application without concurrence by the commission.

381 (b) (i) If the commission delegates to the division the authority to approve or deny an
382 application without concurrence by the commission and the division denies an application for
383 licensure, the applicant who is denied licensure may petition the commission for review of the
384 denial of licensure.

385 (ii) An applicant who is denied licensure pursuant to this Subsection (5) may seek
386 agency review by the executive director only after the commission has reviewed the division's
387 denial of the applicant's application.

388 Section 5. Section **63A-12-109** is enacted to read:

389 **63A-12-109. Applicability of chapter.**

390 This chapter, with the exception of Sections 63A-12-102 and 63A-12-106, does not
391 apply to the legislative branch of state government.

392 Section 6. Section **63G-2-103** is amended to read:

393 **63G-2-103. Definitions.**

394 As used in this chapter:

395 (1) "Audit" means:

396 (a) a systematic examination of financial, management, program, and related records
397 for the purpose of determining the fair presentation of financial statements, adequacy of
398 internal controls, or compliance with laws and regulations; or

399 (b) a systematic examination of program procedures and operations for the purpose of

400 determining their effectiveness, economy, efficiency, and compliance with statutes and
401 regulations.

402 (2) "Chronological logs" mean the regular and customary summary records of law
403 enforcement agencies and other public safety agencies that show:

404 (a) the time and general nature of police, fire, and paramedic calls made to the agency;
405 and

406 (b) any arrests or jail bookings made by the agency.

407 (3) "Classification," "classify," and their derivative forms mean determining whether a
408 record series, record, or information within a record is public, private, controlled, protected, or
409 exempt from disclosure under Subsection 63G-2-201(3)(b).

410 (4) (a) "Computer program" means:

411 (i) a series of instructions or statements that permit the functioning of a computer
412 system in a manner designed to provide storage, retrieval, and manipulation of data from the
413 computer system; and

414 (ii) any associated documentation and source material that explain how to operate the
415 computer program.

416 (b) "Computer program" does not mean:

417 (i) the original data, including numbers, text, voice, graphics, and images;

418 (ii) analysis, compilation, and other manipulated forms of the original data produced by
419 use of the program; or

420 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
421 algorithms contained in the program, that would be used if the manipulated forms of the
422 original data were to be produced manually.

423 (5) (a) "Contractor" means:

424 (i) any person who contracts with a governmental entity to provide goods or services
425 directly to a governmental entity; or

426 (ii) any private, nonprofit organization that receives funds from a governmental entity.

427 (b) "Contractor" does not mean a private provider.

428 (6) "Controlled record" means a record containing data on individuals that is
429 ~~[controlled as provided by]~~ classified as "controlled" under Section 63G-2-304.

430 (7) "Designation," "designate," and their derivative forms mean indicating, based on a
431 governmental entity's familiarity with a record series or based on a governmental entity's
432 review of a reasonable sample of a record series, the primary classification that a majority of
433 records in a record series would be given if classified and the classification that other records
434 typically present in the record series would be given if classified.

435 (8) "Elected official" means each person elected to a state office, county office,
436 municipal office, school board or school district office, local district office, or special service
437 district office, but does not include judges.

438 (9) "Explosive" means a chemical compound, device, or mixture:

- 439 (a) commonly used or intended for the purpose of producing an explosion; and
440 (b) that contains oxidizing or combustive units or other ingredients in proportions,
441 quantities, or packing so that:

442 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the
443 compound or mixture may cause a sudden generation of highly heated gases; and

444 (ii) the resultant gaseous pressures are capable of:

- 445 (A) producing destructive effects on contiguous objects; or
446 (B) causing death or serious bodily injury.

447 (10) "Government audit agency" means any governmental entity that conducts an audit.

448 (11) (a) "Governmental entity" means:

449 (i) executive department agencies of the state, the offices of the governor, lieutenant
450 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
451 the Board of Examiners, the National Guard, the Career Service Review Board, the State Board
452 of Education, the State Board of Regents, and the State Archives;

453 (ii) the Senate, House of Representatives, Legislative Printing Office, Office of the
454 Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative
455 Research and General Counsel, [the Legislature, and legislative committees, except any

456 ~~political party, group, caucus, or rules or sifting committee of the Legislature]~~ a legislative
457 committee, a legislative task force, or a legislative commission;

458 (iii) courts, the Judicial Council, the Office of the Court Administrator, and similar
459 administrative units in the judicial branch;

460 (iv) any state-funded institution of higher education or public education; or

461 (v) any political subdivision of the state, ~~[but, if a political subdivision has adopted an~~
462 ~~ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this~~
463 ~~chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or~~
464 ~~as specified in any other section of this chapter that specifically refers to political subdivisions]~~
465 except for the exclusions specifically provided in Section 63G-2-701.

466 (b) "Governmental entity" also means ~~[every]~~ each office, agency, board, bureau,
467 committee, department, advisory board, or commission of an entity listed in Subsection (11)(a)
468 that is funded or established by the government to carry out the public's business.

469 (c) "Governmental entity" does not mean:

470 (i) a political party, group, or caucus; or

471 (ii) a rules or sifting committee of the Legislature.

472 (12) "Gross compensation" means every form of remuneration payable for a given
473 period to an individual for services provided including salaries, commissions, vacation pay,
474 severance pay, bonuses, and any board, rent, housing, lodging, payments in kind, and any
475 similar benefit received from the individual's employer.

476 (13) "Individual" means a human being.

477 (14) (a) "Initial contact report" means an initial written or recorded report, however
478 titled, prepared by peace officers engaged in public patrol or response duties describing official
479 actions initially taken in response to either a public complaint about or the discovery of an
480 apparent violation of law, which ~~[report]~~ may ~~[describe]~~ include:

481 (i) the date, time, location, and nature of the complaint, the incident, or offense;

482 (ii) names of victims;

483 (iii) the nature or general scope of the agency's initial actions taken in response to the

484 incident;

485 (iv) the general nature of any injuries or estimate of damages sustained in the incident;

486 (v) the name, address, and other identifying information about any person arrested or
487 charged in connection with the incident; or

488 (vi) the identity of the public safety personnel, except undercover personnel, or
489 prosecuting attorney involved in responding to the initial incident.

490 (b) ~~[Initial]~~ Subject to Subsection (14)(c), "initial contact [reports do not include]
491 report" does not include follow-up or investigative reports prepared after the initial contact
492 report. ~~[However, if the information specified in Subsection (14)(a) appears in follow-up or~~
493 ~~investigative reports, it may only be treated confidentially if it is private, controlled, protected,~~
494 ~~or exempt from disclosure under Subsection 63G-2-201(3)(b).]~~

495 (c) "Initial contact report" includes information specified in Subsections (14)(a)(i)
496 through (vi) if the information appears in a follow-up or investigative report unless the
497 information is private, controlled, protected, or exempt from disclosure under Subsection
498 63G-2-201(3)(b).

499 (15) ~~["Legislative body" means the Legislature.]~~ "Legislative staff employee" means an
500 employee of the Senate, House of Representatives, Legislative Printing Office, Office of
501 Legislative Auditor General, Office of Legislative Fiscal Analyst, or Office of Legislative
502 Research and General Counsel.

503 (16) (a) "Legislature" means the Senate, House of Representatives, Legislative Printing
504 Office, Office of Legislative Auditor General, Office of Legislative Fiscal Analyst, Office of
505 Legislative Research and General Counsel, a legislative committee, a legislative task force, a
506 legislative commission, or any other office or subdivision of the legislative branch of state
507 government.

508 (b) For purposes of regulation by this chapter, "Legislature" does not include:

509 (i) a political party, group, or caucus; or

510 (ii) a rules or sifting committee of the Legislature.

511 ~~[(16)]~~ (17) "Notice of compliance" means a statement confirming that a governmental

512 entity has complied with a records committee order.

513 ~~[(17)]~~ (18) "Person" means:

514 (a) an individual;

515 (b) a nonprofit or profit corporation;

516 (c) a partnership;

517 (d) a sole proprietorship;

518 (e) any other type of business organization; or

519 (f) any combination of Subsections (18)(a) through (e) acting in concert with one
520 another.

521 ~~[(18)]~~ (19) "Private provider" means any person who contracts with a governmental
522 entity to provide services directly to the public.

523 ~~[(19)]~~ (20) "Private record" means a record containing data on individuals that is
524 classified as "private" ~~[as provided by]~~ under Section 63G-2-302.

525 ~~[(20)]~~ (21) "Protected record" means a record that is classified as "protected" ~~[as~~
526 ~~provided by]~~ under Section 63G-2-305.

527 ~~[(21)]~~ (22) "Public record" means a record that is not private, controlled, or protected
528 and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

529 ~~[(22)]~~ (23) (a) "Record" means a book, letter, document, paper, map, plan, photograph,
530 film, card, tape, recording, electronic data, or other documentary material regardless of physical
531 form or characteristics:

532 (i) that is prepared, owned, received, or retained by a governmental entity or political
533 subdivision; and

534 (ii) where all of the information in the original is readily reproducible by photocopy or
535 other mechanical or electronic means.

536 (b) "Record" does not mean:

537 ~~[(i) a personal note or personal communication]~~

538 (i) material in the following format:

539 (A) a voice mail message, or an electronic reproduction or textual representation of a

540 voice mail message;

541 (B) an instant message, or a similar document, other than an email, that is
542 electronically exchanged in the manner of a contemporaneous conversation, unless the
543 exchange is an electronic meeting as governed by Section 52-4-207;

544 (C) a video chat, or similar transmission, whether or not the chat or transmission is
545 saved in a retrievable form, that is electronically transmitted and has the form or content of a
546 contemporaneous conversation, unless the video chat or transmission is an electronic meeting
547 as governed by Section 52-4-207; or

548 (D) a text message, or similar text-based document, other than an email, that is
549 electronically exchanged by means of a phone number;

550 (ii) a note prepared by an employee or officer of a governmental entity for the
551 employee's or officer's own use or reference;

552 (iii) an oral, written, or video communication prepared or received by an employee or
553 officer of a governmental entity [~~in the~~] in a capacity other than the employee's or officer's
554 [~~private capacity~~] official governmental capacity;

555 [(~~ii~~)] (iv) a [~~temporary~~] draft or similar material prepared for the originator's [~~personal~~]
556 use or prepared by the originator for the [~~personal~~] use of an individual for whom the originator
557 is working;

558 [(~~iii~~)] (v) material that is legally owned by an individual [~~in the individual's private~~
559 capacity] and unrelated to the individual's official governmental duties;

560 [(~~iv~~)] (vi) material to which access is limited by the laws of copyright or patent unless
561 the copyright or patent is owned by a governmental entity or political subdivision;

562 [(~~v~~)] (vii) proprietary software;

563 [(~~vi~~)] (viii) junk mail or a commercial publication received by a governmental entity or
564 an official or employee of a governmental entity;

565 [(~~vii~~)] (ix) a book that is cataloged, indexed, or inventoried and contained in the
566 collections of a library open to the public;

567 [(~~viii~~)] (x) material that is cataloged, indexed, or inventoried and contained in the

568 collections of a library open to the public, regardless of physical form or characteristics of the
569 material;

570 ~~[(ix)]~~ (xi) a daily calendar ~~[or other personal note]~~ prepared by the originator for the
571 originator's ~~[personal]~~ use or for the ~~[personal]~~ use of an individual for whom the originator is
572 working;

573 ~~[(x)]~~ (xii) a computer program that is developed or purchased by or for any
574 governmental entity for its own use;

575 ~~[(xi)]~~ (xiii) a note or internal memorandum prepared as part of the deliberative process
576 by:

577 (A) a member of the judiciary;

578 (B) an administrative law judge;

579 (C) a member of the Board of Pardons and Parole; or

580 (D) a member of ~~[any other body]~~ a governmental entity charged by law with
581 performing a quasi-judicial function;

582 ~~[(xii)]~~ (xiv) a telephone number or similar code used to access a mobile
583 communication device that is used by an employee or officer of a governmental entity,
584 provided that the employee or officer of the governmental entity has designated at least one
585 business telephone number that is a public record as provided in Section 63G-2-301;

586 ~~[(xiii)]~~ (xv) information provided by the Public Employees' Benefit and Insurance
587 Program, created in Section 49-20-103, to a county to enable the county to calculate the
588 amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii); or

589 ~~[(xiv)]~~ (xvi) information that an owner of unimproved property provides to a local
590 entity as provided in Section 11-42-205.

591 ~~[(23)]~~ (24) "Record series" means a group of records that may be treated as a unit for
592 purposes of designation, description, management, or disposition.

593 ~~[(24)]~~ (25) "Records committee" means the State Records Committee created in
594 Section 63G-2-501.

595 ~~[(25)]~~ (26) "Records officer" means the individual appointed by the chief

596 administrative officer of each governmental entity[;] or [~~the~~] political subdivision to work with
 597 State Archives in the care, maintenance, scheduling, designation, classification, disposal, and
 598 preservation of records.

599 [~~(26)~~] (27) "Schedule," "scheduling," and their derivative forms mean the process of
 600 specifying the length of time each record series should be retained by a governmental entity for
 601 administrative, legal, fiscal, or historical purposes and when each record series should be
 602 transferred to the state archives or destroyed.

603 [~~(27)~~] (28) "Sponsored research" means research, training, and other sponsored
 604 activities as defined by the federal Executive Office of the President, Office of Management
 605 and Budget that is:

606 (a) conducted[~~-(i)~~] by an institution within the state system of higher education defined
 607 in Section 53B-1-102[~~-(i)~~ and (ii)] through an office responsible for sponsored projects or
 608 programs; and

609 (b) funded or otherwise supported by [~~an external~~]:

610 (i) an external person that is not created or controlled by the institution within the state
 611 system of higher education; or

612 (ii) an external federal, state, or local governmental entity.

613 [~~(28)~~] (29) "State archives" means the Division of Archives and Records Service
 614 created in Section 63A-12-101.

615 [~~(29)~~] (30) "State archivist" means the director of the state archives.

616 [~~(30)~~] (31) "Summary data" means statistical records and compilations that contain
 617 data derived from private, controlled, or protected information but that do not disclose private,
 618 controlled, or protected information.

619 (32) "Technical assistance" means the assistance of information technology experts,
 620 computer technicians, computer programmers, information technology staff members, or
 621 similarly qualified individuals.

622 Section 7. Section **63G-2-203** is amended to read:

623 **63G-2-203. Fees -- Standard fee -- Establishment of fees -- Additional costs.**

624 (1) (a) A governmental entity may charge a reasonable fee for processing requests for a
625 record under this chapter in an amount sufficient to cover the governmental entity's actual cost
626 of providing a record~~[- This fee shall be approved by]~~, including costs of overhead and
627 administration.

628 (b) (i) For a governmental entity with fees approved by the Legislature, the
629 governmental entity's executive officer~~[-]~~shall approve each fee and the governmental entity
630 shall establish each fee according to the requirements of Section 63J-1-504.

631 (ii) For a political subdivision of the state, the legislative body of the political
632 subdivision shall establish each fee by ordinance or a written formal policy.

633 (iii) For the judiciary, the Judicial Council shall establish each fee by rule.

634 (iv) Notwithstanding Subsections (1)(b)(i) and (ii), the lieutenant governor shall, after
635 consulting with the county clerks, establish uniform fees for requests for voter registration and
636 voter history records according to the procedures and requirements of Section 63J-1-504.

637 (2) (a) ~~[When a governmental entity compiles]~~ In addition to the fees established under
638 Subsection (1), a governmental entity may charge the cost of each of the following services
639 performed in relation to a record request:

640 (i) the reasonable cost for copies, duplication, or transmission of records in response to
641 the record request;

642 (ii) for a record request that requests or requires a record in a form other than that
643 normally maintained by the governmental entity, ~~[the actual costs under this section may~~
644 include the following: (i) the actual cost of ~~[staff time]~~ labor for compiling, formatting,
645 manipulating, packaging, summarizing, or tailoring the record either into an organization or
646 media to meet the person's request;

647 ~~[(ii)]~~ (iii) for a record request that necessitates the review of a large number of records,
648 the actual cost of ~~[staff time]~~ labor for search, retrieval, and ~~[other direct administrative costs~~
649 for complying with a request] organization or classification of the records;

650 (iv) for a record request that requires production of records, or a record series
651 containing a substantial number of records, the actual cost of labor for review, organization,

652 and classification of the records;

653 (v) for a record request that necessitates segregation of information or extensive editing
654 or redacting, the actual cost of labor for review, segregation, editing, and redacting of the
655 records;

656 (vi) for a record request that requires legal review in order to process or respond to the
657 request, or to classify records, the actual cost of labor for legal review and recommendations
658 required in relation to the request; and

659 ~~[(iii) in the case of fees for a record that is the result of computer output other than~~
660 ~~word processing, the actual incremental cost of providing the electronic services and products~~
661 ~~together with a reasonable portion of the costs associated with formatting or interfacing the~~
662 ~~information for particular users, and the administrative costs as set forth in Subsections~~
663 ~~(2)(a)(i) and (ii).]~~

664 (vii) for a record request that necessitates technical assistance or other professional
665 services in order to locate, search, retrieve, organize, review, reproduce, or classify records in
666 response to the request, the actual cost of labor to perform the technical assistance or other
667 professional services.

668 (b) ~~[An hourly charge]~~ In calculating the actual cost of labor charged under Subsection
669 (2)(a) ~~[may not exceed the salary of the lowest paid employee who, in the discretion of the~~
670 ~~custodian of records, has the necessary skill and training to perform the request.], a~~
671 governmental entity:

672 (i) shall, for a service performed by an employee of the governmental entity, charge the
673 actual hourly pay rate of each employee performing a service in response to the request, or the
674 actual hourly pay rate of the lowest paid employee available to perform the service who, in the
675 discretion of the custodian of records, has the job classification and training necessary to
676 perform the service, whichever is lower;

677 (ii) shall, for a service performed by a person who is not an employee of the
678 governmental entity, charge the actual rate charged to the governmental entity for each service
679 performed in response to the request, provided that the service provider certifies that the rates

680 charged are not higher than the actual hourly pay rate of the lowest paid person having the job
 681 classification and training necessary to perform the service; and

682 (iii) may not include the first quarter hour of time required to perform the service.

683 (c) When assessing an additional cost under Subsection (2)(a), a governmental entity
 684 shall:

685 (i) document the actual cost of labor in a manner that clearly identifies the hours and
 686 rate applied to each service and the actual cost of third party services charged to the
 687 governmental entity; and

688 (ii) provide the documentation to each requestor that is being assessed an additional
 689 cost for services in support of the additional cost assessed.

690 ~~[(c) Notwithstanding Subsections (2)(a) and (b), no charge may be made for the first~~
 691 ~~quarter hour of staff time.]~~

692 ~~[(3) (a) Fees shall be established as provided in this Subsection (3).]~~

693 ~~[(b) A governmental entity with fees established by the Legislature:]~~

694 ~~[(i) shall establish the fees defined in Subsection (2), or other actual costs associated~~
 695 ~~with this section through the budget process; and]~~

696 ~~[(ii) may use the procedures of Section 63J-1-504 to set fees until the Legislature~~
 697 ~~establishes fees through the budget process.]~~

698 ~~[(c) Political subdivisions shall establish fees by ordinance or written formal policy~~
 699 ~~adopted by the governing body.]~~

700 ~~[(d) The judiciary shall establish fees by rules of the judicial council.]~~

701 ~~[(4)]~~ (3) A governmental entity may choose to fulfill a record request without [charge
 702 and is encouraged to do so when] a fee or cost assessment, or for a reduced fee or cost
 703 assessment if it determines [that]:

704 (a) that waiving or reducing the fee or cost assessment is an appropriate use of taxpayer
 705 funds and resources; and

706 (b) that:

707 ~~[(a)]~~ (i) releasing the record primarily benefits the public rather than a person;

708 ~~[(b)]~~ (ii) the individual requesting the record is the subject of the record, or an
 709 individual specified in Subsection 63G-2-202(1) or (2); or

710 ~~[(c)]~~ (iii) the requester's legal rights are directly implicated by the information in the
 711 record, and the requester is impecunious.

712 ~~[(5)]~~ (4) A governmental entity may not charge a fee or assess a cost for:

713 (a) reviewing a ~~[record]~~ request for a governmental entity to determine whether ~~[it]~~ a
 714 single, specifically identified record is subject to disclosure~~[, except as permitted by Subsection~~
 715 ~~(2)(a)(ii)]~~ unless searching for, retrieving, reproducing, or classifying the record requires efforts
 716 as described in Subsection (2)(a); or

717 (b) inspecting a readily accessible public record.

718 ~~[(6)]~~ (5) (a) A person who believes that there has been an ~~[unreasonable]~~ abuse of
 719 discretion in the denial of a fee or cost waiver under ~~[Subsection (4)]~~ this section may appeal
 720 the denial in the same manner as a person appeals when inspection of a public record is denied
 721 under Section 63G-2-205.

722 (b) The adjudicative body hearing the appeal has the same authority when a fee or cost
 723 waiver or reduction is denied as it has when the inspection of a public record is denied.

724 ~~[(7)(a) All]~~ (6) The governmental entity that receives fees ~~[received]~~ or costs under
 725 this section ~~[by a governmental entity subject to Subsection (3)(b) shall be retained by the~~
 726 ~~governmental entity]~~ shall retain the fees as a dedicated credit~~[. (b) Those funds shall be used~~
 727 ~~to recover the actual]~~ in order to reimburse the governmental entity for the cost and expenses
 728 incurred by the governmental entity in providing the requested record or record series.

729 ~~[(8)]~~ (7) (a) A governmental entity may require payment of past fees or costs and future
 730 estimated fees or costs before beginning to process a request if:

731 (i) fees or costs are expected to exceed \$50; or

732 (ii) the requester has not paid fees or costs from previous requests.

733 (b) ~~[Any]~~ The governmental entity shall return any prepaid amount [in excess of fees
 734 ~~due shall be returned]~~ that exceeds the actual fees and costs due to the requester.

735 ~~[(9)]~~ (8) This section does not alter, repeal, or reduce fees established by other statutes

736 or legislative acts.

737 ~~[(10)(a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be~~
738 ~~set as provided in this Subsection (10).]~~

739 ~~[(b) The lieutenant governor shall:]~~

740 ~~[(i) after consultation with county clerks, establish uniform fees for voter registration~~
741 ~~and voter history records that meet the requirements of this section; and]~~

742 ~~[(ii) obtain legislative approval of those fees by following the procedures and~~
743 ~~requirements of Section 63J-1-504.]~~

744 Section 8. Section **63G-2-204** is amended to read:

745 **63G-2-204. Requests -- Time limit for response and extraordinary circumstances.**

746 (1) A person making a request for a record shall furnish the governmental entity with a
747 written request containing:

748 (a) the person's name, mailing address, and daytime telephone number, if available;

749 and

750 (b) a description of the record requested that identifies the record with reasonable
751 specificity.

752 (2) (a) Subject to Subsection (2)(b), a person making a request for a record shall submit
753 the request to the governmental entity that prepares, owns, or retains the record.

754 (b) In response to a request for a record, a governmental entity may not provide a
755 record that it has received under Section 63G-2-206 as a shared record if the record was shared
756 for the purpose of auditing, if the governmental entity is authorized by state statute to conduct
757 an audit.

758 (c) If a governmental entity is prohibited from providing a record under Subsection
759 (2)(b), it shall:

760 (i) deny the records request; and

761 (ii) inform the person making the request that records requests must be submitted to the
762 governmental entity that prepares, owns, or retains the record.

763 (d) A governmental entity may make rules in accordance with Title 63G, Chapter 3,

764 Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall
765 be directed.

766 (3) After receiving a request for a record, a governmental entity shall:

767 (a) review each request that seeks an expedited response and notify, within five
768 business days after receiving the request, each requester that has not demonstrated that their
769 record request benefits the public rather than the person that their response will not be
770 expedited; and

771 (b) as soon as reasonably possible, but no later than 10 business days after receiving a
772 written request, or five business days after receiving a written request if the requester
773 demonstrates that expedited response to the record request benefits the public rather than the
774 person:

775 (i) approve the request and provide a copy of the record;

776 (ii) deny the request in accordance with the procedures and requirements of Section
777 63G-2-205;

778 (iii) notify the requester that it does not maintain the record requested and provide, if
779 known, the name and address of the governmental entity that does maintain the record; or

780 (iv) notify the requester that because of one of the extraordinary circumstances listed in
781 Subsection (5), it cannot immediately approve or deny the request, and include with the notice:

782 (A) a description of the circumstances that constitute the extraordinary circumstances;
783 and

784 (B) the date when the records will be available, consistent with the requirements of
785 Subsection (6).

786 (4) Any person who requests a record to obtain information for a story or report for
787 publication or broadcast to the general public is presumed to be acting to benefit the public
788 rather than a person.

789 (5) The following circumstances constitute "extraordinary circumstances" that allow a
790 governmental entity to delay approval or denial by an additional period of time as specified in
791 Subsection (6) if the governmental entity determines that due to the extraordinary

792 circumstances it cannot respond within the time limits provided in Subsection (3):

793 (a) another governmental entity is using the record, in which case the originating
794 governmental entity shall promptly request that the governmental entity currently in possession
795 return the record;

796 (b) another governmental entity is using the record as part of an audit, and returning the
797 record before the completion of the audit would impair the conduct of the audit;

798 (c) (i) the request is for a [~~voluminous~~] substantial quantity of records or for a record
799 series containing a substantial number of records;

800 (ii) the request requires the review or classification of a substantial number of records;

801 or

802 [~~(ii)~~] (iii) the requester seeks a substantial number of records or records series in
803 requests filed within five working days of each other;

804 (d) the governmental entity is currently processing a large number of records requests;

805 (e) the request requires the governmental entity to review a large number of documents
806 or records in order to locate the records requested;

807 (f) the decision to release a record involves legal issues that require the governmental
808 entity to seek legal counsel for the analysis of statutes, rules, ordinances, regulations, or case
809 law;

810 (g) segregating information that the requester is entitled to inspect from information
811 that the requester is not entitled to inspect requires extensive editing; or

812 (h) segregating information that the requester is entitled to inspect from information
813 that the requester is not entitled to inspect requires computer programming.

814 (6) If one of the extraordinary circumstances [~~listed~~] as described in Subsection (5)
815 precludes approval or denial within the time specified in Subsection (3), the following time
816 limits apply [~~to the extraordinary circumstances~~]:

817 (a) for claims under Subsection (5)(a), the governmental entity currently in possession
818 of the record shall return the record to the originating entity within five business days of the
819 request for the return unless returning the record would impair the holder's work;

820 (b) for claims under Subsection (5)(b), the originating governmental entity shall notify
821 the requester when the record is available for inspection and copying;

822 (c) for claims under Subsections (5)(c), (d), and (e), the governmental entity shall:

823 (i) disclose the records that it has located which the requester is entitled to inspect;

824 (ii) provide the requester with an estimate of the amount of time it will take to finish
825 the work required to respond to the request;

826 (iii) complete the work and disclose those records that the requester is entitled to
827 inspect as soon as reasonably possible; and

828 (iv) for any person that does not establish a right to an expedited response as
829 authorized by Subsection (3)(a), a governmental entity may choose to:

830 (A) require the person to provide for copying of the records as provided in Subsection
831 63G-2-201(9); or

832 (B) treat a request for multiple records as separate record requests, and respond
833 sequentially to each request;

834 (d) for claims under Subsection (5)(f), the governmental entity shall either approve or
835 deny the request within five business days after the response time specified for the original
836 request has expired;

837 (e) for claims under Subsection (5)(g), the governmental entity shall fulfill the request
838 within 15 business days from the date of the original request; or

839 (f) for claims under Subsection (5)(h), the governmental entity shall complete its
840 programming and disclose the requested records as soon as reasonably possible.

841 (7) (a) If a request for access is submitted to an office of a governmental entity other
842 than that specified by rule in accordance with Subsection (2), the office shall promptly forward
843 the request to the appropriate office.

844 (b) If the request is forwarded promptly, the time limit for response begins when the
845 record is received by the office specified by rule.

846 (8) If the governmental entity fails to provide the requested records or issue a denial
847 within the specified time period, that failure is considered the equivalent of a determination

848 denying access to the record.

849 Section 9. Section **63G-2-206** is amended to read:

850 **63G-2-206. Sharing records.**

851 (1) As used in this section, "legislative entity" means:

852 (a) the Senate or House of Representatives;

853 (b) a legislative committee, legislative task force, or legislative commission;

854 (c) a member of the Senate or House of Representatives; or

855 (d) a legislative staff employee acting at the request of the Senate, House of

856 Representatives, a legislative committee, a legislative task force, a legislative commission, or a

857 member of the Senate or House of Representatives.

858 ~~[(1)]~~ (2) A governmental entity may provide a record ~~[that is]~~ that is classified as
859 private, controlled, or protected to another governmental entity, a government-managed
860 corporation, a political subdivision, the federal government, or another state if the requesting
861 entity:

862 (a) serves as a repository or archives for purposes of historical preservation,
863 administrative maintenance, or destruction;

864 (b) enforces, litigates, or investigates civil, criminal, or administrative law, and the
865 record is necessary to a proceeding or investigation;

866 (c) is authorized by ~~[state statute]~~ the Utah Constitution or state law to conduct an audit
867 and the auditor determines that the record is needed for that purpose; or

868 (d) ~~[is one that]~~ collects information for presentence, probationary, or parole purposes[;
869 ~~or]~~.

870 ~~[(e) (i) is:]~~

871 ~~[(A) the Legislature;]~~

872 ~~[(B) a legislative committee;]~~

873 ~~[(C) a member of the Legislature; or]~~

874 ~~[(D) a legislative staff member acting at the request of the Legislature, a legislative~~
875 ~~committee, or a member of the Legislature; and]~~

876 ~~[(H)]~~ (3) A governmental entity may provide a record that is classified as private,
877 controlled, or protected to a legislative entity when the legislative entity requests the record in
878 relation to the Legislature's duties including:

879 ~~[(A)]~~ (a) the preparation or review of a legislative proposal or legislation;

880 ~~[(B)]~~ (b) appropriations; or

881 ~~[(C)]~~ (c) an investigation or review conducted by the Legislature or a legislative
882 committee, legislative task force, or legislative commission.

883 ~~[(2)]~~ (4) (a) A governmental entity may provide a private, controlled, or protected
884 record or record series to another governmental entity, a legislative entity, a political
885 subdivision, a government-managed corporation, the federal government, or another state if the
886 requesting entity provides written assurance:

887 (i) that the record or record series is necessary to the performance of the duties and
888 functions of the governmental ~~[entity's duties and functions]~~ entity, legislative entity, political
889 subdivision, government-managed corporation, the federal government, or the other state;

890 (ii) that the record or record series will be used for a purpose similar to the purpose for
891 which the information in the record or record series was collected or obtained; and

892 (iii) that the use of the record or record series produces a public benefit that outweighs
893 the individual privacy right that protects the record or record series.

894 (b) A governmental entity may provide a private, controlled, or protected record or
895 record series to a contractor or a private provider according to the requirements of Subsection
896 ~~[(6)]~~ (8)(b).

897 ~~[(3)]~~ (5) (a) A governmental entity shall provide a private, controlled, or protected
898 record to another governmental entity, a legislative entity, a political subdivision, a
899 government-managed corporation, the federal government, or another state if the requesting
900 entity:

901 (i) is entitled by law to inspect the record;

902 (ii) is required to inspect the record as a condition of participating in a state or federal
903 program or for receiving state or federal funds; or

904 (iii) is an entity described in Subsection ~~[(1)]~~ (2)(a), (b), (c), (d), (3), or ~~[(e)]~~ (4).

905 (b) Subsection ~~[(3)]~~ (5)(a)(iii) applies only if the record is a record described in
906 Subsection 63G-2-305(4).

907 ~~[(4)]~~ (6) Before disclosing a record or record series under this section to another
908 governmental entity, a legislative entity, another state, the United States, a foreign government,
909 or to a contractor or private provider, the originating governmental entity shall:

910 (a) inform the recipient of the record's classification and the accompanying restrictions
911 on access; and

912 (b) if the recipient is not a governmental entity to which this chapter applies, obtain the
913 recipient's written agreement ~~[which may be]~~, either by mechanical or electronic transmission,
914 that ~~[it]~~ the recipient will abide by those restrictions on access unless a statute, federal
915 regulation, or interstate agreement otherwise governs the sharing of the record or record series.

916 ~~[(5)]~~ (7) A governmental entity may disclose a record to another state, the United
917 States, or a foreign government for the reasons listed in Subsections ~~[(1)]~~ (2) and ~~[(2)]~~ (4)
918 without complying with the procedures of Subsection ~~[(2)]~~ (4) or ~~[(4)]~~ (6) if disclosure is
919 authorized by executive agreement, treaty, federal statute, compact, federal regulation, or state
920 statute.

921 ~~[(6)]~~ (8) (a) Subject to Subsections ~~[(6)]~~ (8)(b) and (c), an entity receiving a record
922 under this section is ~~[subject to]~~ governed by the same restrictions on disclosure of the private,
923 protected, or controlled record as the originating entity.

924 (b) A contractor or a private provider may ~~[receive information]~~ obtain a record or
925 record series under this section only if the originating governmental entity determines and the
926 contractor or private provider gives written assurance to the originating governmental entity
927 that:

928 (i) the contractor or private provider's use of the record or record series produces a
929 public benefit that outweighs the individual privacy right that protects the record or record
930 series; and

931 (ii) the record or record series ~~[it requests]~~ requested by the contractor or private

932 provider:

- 933 (A) is necessary for the performance of a contract with a governmental entity;
- 934 (B) will only be used for the performance of the contract with the governmental entity;
- 935 (C) will not be disclosed to any other person; and
- 936 (D) will not be used for advertising or solicitation purposes[; and].

937 [~~(iii) the contractor or private provider gives written assurance to the governmental~~
 938 ~~entity that is providing the record or record series that it will adhere to the restrictions of this~~
 939 ~~Subsection (6)(b):]~~

940 (c) The classification of a record already held by a governmental entity and the
 941 applicable restrictions on disclosure of that record are not affected by the governmental entity's
 942 receipt under this section of a record with a different classification that contains information
 943 that is also included in the previously held record.

944 [~~(7)~~ (9) Notwithstanding any other provision of this section, if a more specific court
 945 rule or order, state statute, federal statute, or federal regulation prohibits or requires sharing
 946 information, that rule, order, statute, or federal regulation controls.

947 [~~(8)~~ (10) The following records may not be shared under this section:

948 (a) records held by the Division of Oil, Gas, and Mining that pertain to any person and
 949 that are gathered under authority of Title 40, Chapter 6, Board and Division of Oil, Gas, and
 950 Mining; and

951 (b) records of publicly funded libraries as described in [~~Subsection~~] Section
 952 63G-2-302[~~(1)(c)~~].

953 [~~(9)~~ (11) Records that may evidence or relate to a violation of law may be disclosed to
 954 a government prosecutor, peace officer, or auditor.

955 Section 10. Section **63G-2-301** is amended to read:

956 **63G-2-301. Records that must be disclosed.**

957 (1) As used in this section:

958 (a) "Business address" means a single address of a governmental agency designated for
 959 the public to contact an employee or officer of the governmental agency.

960 (b) "Business email address" means a single email address of a governmental agency
961 designated for the public to contact an employee or officer of the governmental agency.

962 (c) "Business telephone number" means a single telephone number of a governmental
963 agency designated for the public to contact an employee or officer of the governmental agency.

964 (2) The following records are public except to the extent they contain information
965 expressly permitted to be treated confidentially under the provisions of Subsections
966 63G-2-201(3)(b) and (6)(a):

967 (a) laws;

968 (b) the name, gender, gross compensation, job title, job description, business address,
969 business email address, business telephone number, number of hours worked per pay period,
970 dates of employment, and relevant education, previous employment, and similar job
971 qualifications of a current or former employee or officer of the governmental entity, excluding:

972 (i) undercover law enforcement personnel; and

973 (ii) investigative personnel if disclosure could reasonably be expected to impair the
974 effectiveness of investigations or endanger any individual's safety;

975 (c) final opinions, including concurring and dissenting opinions, and orders that are
976 made by a governmental entity in an administrative, adjudicative, or judicial proceeding except
977 that if the proceedings were properly closed to the public, the opinion and order may be
978 withheld to the extent that they contain information that is private, controlled, or protected;

979 (d) final interpretations of statutes or rules by a governmental entity unless classified as
980 protected as provided in Subsections 63G-2-305(16), (17), and (18);

981 (e) information contained in or compiled from a transcript, minutes, or report of the
982 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open
983 and Public Meetings Act, including the records of all votes of each member of the
984 governmental entity;

985 (f) judicial records unless a court orders the records to be restricted under the rules of
986 civil or criminal procedure or unless the records are private under this chapter;

987 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of

988 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning
989 commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust
990 Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or
991 other governmental entities that give public notice of:

- 992 (i) titles or encumbrances to real property;
- 993 (ii) restrictions on the use of real property;
- 994 (iii) the capacity of persons to take or convey title to real property; or
- 995 (iv) tax status for real and personal property;
- 996 (h) records of the Department of Commerce that evidence incorporations, mergers,
997 name changes, and uniform commercial code filings;

998 (i) data on individuals that would otherwise be private under this chapter if the
999 individual who is the subject of the record has given the governmental entity written
1000 permission to make the records available to the public;

1001 (j) documentation of the compensation that a governmental entity pays to a contractor
1002 or private provider;

1003 (k) summary data; and

1004 (l) voter registration records, including an individual's voting history, except for those
1005 parts of the record that are classified as private in [~~Subsection 63G-2-302(1)(i)~~] Section
1006 63G-2-302.

1007 (3) The following records are normally public, but to the extent that a record is
1008 expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),
1009 Section 63G-2-302, 63G-2-304, or 63G-2-305:

1010 (a) administrative staff manuals, official instructions to staff, and formal statements of
1011 policy;

1012 (b) records documenting a contractor's or private provider's compliance with the terms
1013 of a contract with a governmental entity;

1014 (c) records documenting the services provided by a contractor or a private provider to
1015 the extent the records would be public if prepared by the governmental entity;

- 1016 (d) contracts entered into by a governmental entity;
- 1017 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
1018 by a governmental entity;
- 1019 (f) records relating to government assistance or incentives publicly disclosed,
1020 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
1021 business in Utah, except as provided in Subsection 63G-2-305(35);
- 1022 (g) chronological logs and initial contact reports;
- 1023 (h) correspondence by and with a governmental entity in which the governmental entity
1024 determines or states an official opinion ~~[upon]~~ about the rights of the state, a political
1025 subdivision, the public, or any person;
- 1026 ~~[(i) empirical data contained in drafts if:]~~
- 1027 ~~[(i) the empirical data is not reasonably available to the requester elsewhere in similar
1028 form; and]~~
- 1029 ~~[(ii) the governmental entity is given a reasonable opportunity to correct any errors or
1030 make nonsubstantive changes before release;]~~
- 1031 ~~[(j)]~~ (i) drafts that are circulated to anyone other than:
- 1032 (i) a governmental entity;
- 1033 (ii) a political subdivision;
- 1034 (iii) a federal agency if the governmental entity and the federal agency are jointly
1035 responsible for implementation of a program or project that has been legislatively approved;
- 1036 (iv) a government-managed corporation; or
- 1037 (v) a contractor or private provider;
- 1038 ~~[(k)]~~ (j) drafts that have never been finalized but were directly relied upon by the
1039 governmental entity in carrying out action or policy;
- 1040 ~~[(l) original data in a computer program if the governmental entity chooses not to
1041 disclose the program;]~~
- 1042 ~~[(m)]~~ (k) arrest warrants after issuance, except that, for good cause, a court may order
1043 restricted access to an arrest ~~[warrants prior to service]~~ warrant before the warrant is served;

1044 ~~[(n)]~~ (l) search warrants after execution and filing of the return, except that a court, for
1045 good cause, may order restricted access to search warrants ~~[prior to]~~ before trial;

1046 ~~[(o)]~~ (m) records that would disclose information relating to formal charges or formal
1047 disciplinary ~~[actions]~~ action against a past or present governmental entity employee if:

1048 (i) the disciplinary action has been completed and all time periods for administrative
1049 appeal have expired; and

1050 (ii) the charges on which the disciplinary action was based were sustained;

1051 ~~[(p)]~~ (n) records maintained by the Division of Forestry, Fire, and State Lands, the
1052 School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining
1053 that evidence mineral production on government lands;

1054 ~~[(q)]~~ (o) final audit reports;

1055 ~~[(r)]~~ (p) occupational and professional licenses;

1056 ~~[(s)]~~ (q) business licenses; and

1057 ~~[(t)]~~ (r) a notice of violation, a notice of agency action under Section 63G-4-201, or
1058 similar records used to initiate proceedings for discipline or sanctions against persons regulated
1059 by a governmental entity, but not including records that initiate employee discipline.

1060 (4) The list of public records in this section is not exhaustive and should not be used to
1061 limit access to records.

1062 Section 11. Section **63G-2-302** is amended to read:

1063 **63G-2-302. Private records.**

1064 (1) The following records are private:

1065 (a) records concerning an individual's eligibility for unemployment insurance benefits,
1066 social services, welfare benefits, or the determination of benefit levels;

1067 (b) records containing data on individuals describing medical history, diagnosis,
1068 condition, treatment, evaluation, or similar medical data;

1069 (c) records of publicly funded libraries that when examined alone or with other records
1070 identify a patron;

1071 (d) records received by or generated by or for:

- 1072 (i) the Independent Legislative Ethics Commission, except for:
- 1073 (A) the commission's summary data report that is required under legislative rule; and
- 1074 (B) any other document that is classified as public under legislative rule; or
- 1075 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,
- 1076 unless the record is classified as public under legislative rule;
- 1077 (e) the Social Security number, home address, personal email address or other personal
- 1078 electronic or online address, personal telephone number, or personal financial information of
- 1079 an applicant or nominee for a position that is received by a Senate confirmation committee;
- 1080 ~~(e)~~ (f) records received or generated for a Senate confirmation committee concerning
- 1081 character, professional competence, or physical or mental health of an individual if:
- 1082 (i) ~~[if prior to]~~ before the meeting, the chair of the committee determines that release of
- 1083 the records~~[:-(A) reasonably]~~ could be reasonably expected to interfere with the investigation
- 1084 undertaken by the committee~~[:]~~ or ~~(B)~~ would create a danger of depriving a person of a right
- 1085 to a fair proceeding or impartial hearing; and
- 1086 (ii) after the meeting, if the meeting was closed to the public;
- 1087 ~~(f)~~ (g) employment records concerning a current or former employee of, or applicant
- 1088 for employment with, a governmental entity that would disclose that individual's home address,
- 1089 home telephone number, personal email address or other personal electronic or online address,
- 1090 Social Security number, insurance coverage, marital status, or payroll deductions;
- 1091 ~~(g)~~ (h) records or parts of records under Section 63G-2-303 that a current or former
- 1092 employee identifies as private according to the requirements of that section;
- 1093 ~~(h)~~ (i) that part of a record indicating a person's Social Security number or federal
- 1094 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
- 1095 31A-26-202, 58-1-301, 61-1-4, or 61-2f-203;
- 1096 ~~(i)~~ (j) that part of a voter registration record identifying a voter's driver license or
- 1097 identification card number, Social Security number, or last four digits of the Social Security
- 1098 number;
- 1099 ~~(j)~~ (k) a record that~~[:-(i)]~~ contains information about an individual~~[:-(ii)]~~, is

1100 voluntarily provided by the individual[;], and [~~(iii) goes into~~] is placed in an electronic
1101 database that:

1102 [~~(A)~~] (i) is designated by and administered under the authority of the Chief Information
1103 Officer; and

1104 [~~(B)~~] (ii) acts as a repository of information about the individual that can be
1105 electronically retrieved and used to facilitate the individual's online interaction with a state
1106 agency;

1107 [~~(C)~~] (l) information provided to the Commissioner of Insurance under:

1108 (i) Subsection 31A-23a-115(2)(a);

1109 (ii) Subsection 31A-23a-302(3); or

1110 (iii) Subsection 31A-26-210(3);

1111 [~~(D)~~] (m) information obtained through a criminal background check under Title 11,
1112 Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

1113 [~~(E)~~] (n) information provided by an offender that is:

1114 (i) required by the registration requirements of Section 77-27-21.5; and

1115 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);

1116 and

1117 [~~(F)~~] (o) a statement and any supporting documentation filed with the attorney general
1118 in accordance with Section 34-45-107, if the federal law or action supporting the filing
1119 involves homeland security.

1120 (2) The following records are private if properly classified by a governmental entity:

1121 (a) records concerning a current or former employee of, or applicant for employment
1122 with, a governmental entity, including performance evaluations and personal status information
1123 such as race, religion, or disabilities, but not including records that are public under Subsection
1124 63G-2-301(2)(b) or [~~63G-2-301(3)(c)~~] (3)(m), or private under Subsection (1)(b);

1125 (b) records describing an individual's finances, except that the following are public:

1126 (i) records described in Subsection 63G-2-301(2);

1127 (ii) information provided to the governmental entity for the purpose of complying with

1128 a financial assurance requirement; or
1129 (iii) records that must be disclosed in accordance with another statute;
1130 (c) records of independent state agencies if the disclosure of those records would
1131 conflict with the fiduciary obligations of the agency;
1132 (d) other records containing data on individuals the disclosure of which constitutes a
1133 clearly unwarranted invasion of personal privacy;
1134 (e) records provided by the United States or by a government entity outside the state
1135 that are given with the requirement that the records be managed as private records, if the
1136 providing entity states in writing that the record would not be subject to public disclosure if
1137 retained by it; and
1138 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
1139 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
1140 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.
1141 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
1142 records, statements, history, diagnosis, condition, treatment, and evaluation.
1143 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
1144 doctors, or affiliated entities are not private records or controlled records under Section
1145 63G-2-304 when the records are sought:
1146 (i) in connection with any legal or administrative proceeding in which the patient's
1147 physical, mental, or emotional condition is an element of any claim or defense; or
1148 (ii) after a patient's death, in any legal or administrative proceeding in which any party
1149 relies upon the condition as an element of the claim or defense.
1150 (c) Medical records are subject to production in a legal or administrative proceeding
1151 according to state or federal statutes or rules of procedure and evidence as if the medical
1152 records were in the possession of a nongovernmental medical care provider.
1153 Section 12. Section **63G-2-303** is amended to read:
1154 **63G-2-303. Private information concerning certain government employees.**
1155 (1) As used in this section:

- 1156 (a) "At-risk government employee" means a current or former:
- 1157 (i) peace officer as specified in Section 53-13-102;
- 1158 (ii) supreme court justice;
- 1159 (iii) judge of an appellate, district, or juvenile court;
- 1160 (iv) justice court judge;
- 1161 (v) judge authorized by Title 39, Chapter 6, Utah Code of Military Justice;
- 1162 (vi) federal judge;
- 1163 (vii) federal magistrate judge;
- 1164 (viii) judge authorized by Armed Forces, Title 10, United States Code;
- 1165 (ix) United States Attorney;
- 1166 (x) Assistant United States Attorney;
- 1167 (xi) a prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;
- 1168 (xii) a law enforcement official as defined in Section 53-5-711; or
- 1169 (xiii) a prosecutor authorized by Title 39, Chapter 6, Utah Code of Military Justice.

1170 (b) "Family member" means the spouse, child, sibling, parent, or grandparent of an
1171 at-risk government employee who is living with the employee.

1172 (2) (a) Pursuant to [~~Subsection 63G-2-302(1)(g)~~] Section 63G-2-302, an at-risk
1173 government employee may file a written application that:

1174 (i) gives notice of the employee's status to each agency of a government entity holding
1175 a record or a part of a record that would disclose the employee's or the employee's family
1176 member's home address, home telephone number, Social Security number, insurance coverage,
1177 marital status, or payroll deductions; and

1178 (ii) requests that the government agency classify those records or parts of records
1179 private.

1180 (b) An at-risk government employee desiring to file an application under this section
1181 may request assistance from the government agency to identify the individual records
1182 containing the private information specified in Subsection (2)(a)(i).

1183 (c) Each government agency shall develop a form that:

1184 (i) requires the at-risk government employee to provide evidence of qualifying
1185 employment;

1186 (ii) requires the at-risk government employee to designate each specific record or part
1187 of a record containing the employee's home address, home telephone number, Social Security
1188 number, insurance coverage, marital status, or payroll deductions that the applicant desires to
1189 be classified as private; and

1190 (iii) affirmatively requests that the government entity holding those records classify
1191 them as private.

1192 (3) A county recorder, county treasurer, county auditor, or a county tax assessor may
1193 fully satisfy the requirements of this section by:

1194 (a) providing a method for the assessment roll and index and the tax roll and index that
1195 will block public access to the home address, home telephone number, situs address, and Social
1196 Security number; and

1197 (b) providing the at-risk government employee requesting the classification with a
1198 disclaimer informing the employee that the employee may not receive official announcements
1199 affecting the employee's property, including notices about proposed annexations,
1200 incorporations, or zoning modifications.

1201 (4) A government agency holding records of an at-risk government employee classified
1202 as private under this section may release the record or part of the record if:

1203 (a) the employee or former employee gives written consent;

1204 (b) a court orders release of the records; or

1205 (c) the government agency receives a certified death certificate for the employee or
1206 former employee.

1207 (5) (a) If the government agency holding the private record receives a subpoena for the
1208 records, the government agency shall attempt to notify the at-risk government employee or
1209 former employee by mailing a copy of the subpoena to the employee's last-known mailing
1210 address together with a request that the employee either:

1211 (i) authorize release of the record; or

1212 (ii) within 10 days of the date that the copy and request are mailed, deliver to the
1213 government agency holding the private record a copy of a motion to quash filed with the court
1214 who issued the subpoena.

1215 (b) The government agency shall comply with the subpoena if the government agency
1216 has:

1217 (i) received permission from the at-risk government employee or former employee to
1218 comply with the subpoena;

1219 (ii) has not received a copy of a motion to quash within 10 days of the date that the
1220 copy of the subpoena was mailed; or

1221 (iii) receives a court order requiring release of the records.

1222 Section 13. Section **63G-2-305** is amended to read:

1223 **63G-2-305. Protected records.**

1224 The following records are protected if properly classified by a governmental entity:

1225 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
1226 has provided the governmental entity with the information specified in Section 63G-2-309;

1227 (2) commercial information or nonindividual financial information obtained from a
1228 person if:

1229 (a) disclosure of the information could reasonably be expected to result in unfair
1230 competitive injury to the person submitting the information or would impair the ability of the
1231 governmental entity to obtain necessary information in the future;

1232 (b) the person submitting the information has a greater interest in prohibiting access
1233 than the public in obtaining access; and

1234 (c) the person submitting the information has provided the governmental entity with
1235 the information specified in Section 63G-2-309;

1236 (3) commercial or financial information acquired or prepared by a governmental entity
1237 to the extent that disclosure would lead to financial speculations in currencies, securities, or
1238 commodities that will interfere with a planned transaction by the governmental entity or cause
1239 substantial financial injury to the governmental entity or state economy;

1240 (4) records the disclosure of which could cause commercial injury to, or confer a
1241 competitive advantage upon, a potential or actual competitor of, a commercial project entity as
1242 defined in Subsection 11-13-103(4);

1243 (5) test questions and answers to be used in future license, certification, registration,
1244 employment, or academic examinations;

1245 (6) records the disclosure of which would impair governmental procurement
1246 proceedings or give an unfair advantage to any person proposing to enter into a contract or
1247 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
1248 Subsection (6) does not restrict the right of a person to have access to, once the contract or
1249 grant has been awarded, a bid, proposal, or application submitted to or by a governmental
1250 entity in response to:

1251 (a) a request for bids;

1252 (b) a request for proposals;

1253 (c) a grant; or

1254 (d) other similar document;

1255 (7) records that would identify real property or the appraisal or estimated value of real
1256 or personal property, including intellectual property, under consideration for public acquisition
1257 before any rights to the property are acquired unless:

1258 (a) public interest in obtaining access to the information outweighs the governmental
1259 entity's need to acquire the property on the best terms possible;

1260 (b) the information has already been disclosed to persons not employed by or under a
1261 duty of confidentiality to the entity;

1262 (c) in the case of records that would identify property, potential sellers of the described
1263 property have already learned of the governmental entity's plans to acquire the property;

1264 (d) in the case of records that would identify the appraisal or estimated value of
1265 property, the potential sellers have already learned of the governmental entity's estimated value
1266 of the property; or

1267 (e) the property under consideration for public acquisition is a single family residence

1268 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
1269 the property as required under Section 78B-6-505;

1270 (8) records prepared in contemplation of sale, exchange, lease, rental, or other
1271 compensated transaction of real or personal property including intellectual property, which, if
1272 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
1273 of the subject property, unless:

1274 (a) the public interest in access outweighs the interests in restricting access, including
1275 the governmental entity's interest in maximizing the financial benefit of the transaction; or

1276 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
1277 the value of the subject property have already been disclosed to persons not employed by or
1278 under a duty of confidentiality to the entity;

1279 (9) records created or maintained for civil, criminal, or administrative enforcement
1280 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
1281 release of the records:

1282 (a) reasonably could be expected to interfere with investigations undertaken for
1283 enforcement, discipline, licensing, certification, or registration purposes;

1284 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
1285 proceedings;

1286 (c) would create a danger of depriving a person of a right to a fair trial or impartial
1287 hearing;

1288 (d) reasonably could be expected to disclose the identity of a source who is not
1289 generally known outside of government and, in the case of a record compiled in the course of
1290 an investigation, disclose information furnished by a source not generally known outside of
1291 government if disclosure would compromise the source; or

1292 (e) reasonably could be expected to disclose investigative or audit techniques,
1293 procedures, policies, or orders not generally known outside of government if disclosure would
1294 interfere with enforcement or audit efforts;

1295 (10) records the disclosure of which would jeopardize the life or safety of an

1296 individual;

1297 (11) records the disclosure of which would jeopardize the security of governmental
1298 property, governmental programs, or governmental recordkeeping systems from damage, theft,
1299 or other appropriation or use contrary to law or public policy;

1300 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
1301 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
1302 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

1303 (13) records that, if disclosed, would reveal recommendations made to the Board of
1304 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
1305 Board of Pardons and Parole, or the Department of Human Services that are based on the
1306 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
1307 jurisdiction;

1308 (14) records and audit workpapers that identify audit, collection, and operational
1309 procedures and methods used by the State Tax Commission, Office of the Utah State Auditor,
1310 or Office of Legislative Auditor General, if disclosure would interfere with audits or
1311 collections;

1312 (15) records of a governmental audit agency relating to an ongoing or planned audit
1313 until the final audit is released;

1314 (16) records prepared by or on behalf of a governmental entity [~~solely~~] in reasonable
1315 anticipation of litigation that are not available under the rules of discovery;

1316 (17) records disclosing an attorney's work product, including the mental impressions or
1317 legal theories of an attorney or other representative of a governmental entity [~~concerning~~]
1318 involving pending litigation or reasonably anticipated litigation;

1319 (18) records of communications between a governmental entity and an attorney
1320 representing, retained, or employed by the governmental entity if the communications would be
1321 privileged as provided in Section 78B-1-137;

1322 (19) (a) [~~(i) personal files of~~] a record related to the performance of a legislator's
1323 official governmental duties that is prepared, received, or retained by a [state] legislator,

1324 including ~~[personal]~~ correspondence to or from a ~~[member of the Legislature; and (ii)-~~
1325 ~~notwithstanding Subsection (19)(a)(i), correspondence that gives notice of]~~ legislator, except
1326 that a record that provides notice of an official legislative action or policy may not be classified
1327 as protected under this ~~[section]~~ Subsection (19)(a); and

1328 (b) (i) ~~[an internal]~~ a record disclosing a communication that is ~~[part of the deliberative~~
1329 ~~process in connection with the preparation of legislation]~~ related to the performance of official
1330 governmental duties and that is between:

1331 (A) ~~[members of a legislative body]~~ one or more legislators;

1332 (B) ~~[a member of a legislative body and a member of the legislative body's staff]~~ one or
1333 more legislators and one or more legislative staff employees; or

1334 (C) ~~[members of a legislative body's staff]~~ one or more legislative staff employees; and

1335 (ii) notwithstanding Subsection (19)(b)(i), a ~~[communication that gives notice of~~
1336 ~~legislative action or policy]~~ record that provides notice of official legislative action or policy
1337 may not be classified as protected under this ~~[section]~~ Subsection (19);

1338 (20) (a) records in the custody or control of the Office of Legislative Research and
1339 General Counsel, that, if disclosed, would reveal a ~~[particular]~~ legislator's contemplated
1340 legislation or contemplated course of action ~~[before the legislator has elected to support]~~ until
1341 the legislation [or course of action] has been introduced, or the legislator made the legislation
1342 or course of action public; and

1343 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
1344 Office of Legislative Research and General Counsel is a public document unless a legislator
1345 asks that the records requesting the legislation be maintained as protected records until such
1346 time as the legislator introduces the legislation or elects to make the legislation or course of
1347 action public;

1348 (21) ~~[research]~~ legislator requests [from legislators to] for staff services from the Office
1349 of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and
1350 ~~[research]~~ findings prepared in response to these requests;

1351 (22) drafts, unless otherwise classified as public;

1352 (23) records concerning a governmental entity's strategy about;

1353 (a) collective bargaining; or

1354 (b) reasonably anticipated or pending litigation;

1355 (24) records of investigations of loss occurrences and analyses of loss occurrences that
1356 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
1357 Uninsured Employers' Fund, or similar divisions in other governmental entities;

1358 (25) records, other than personnel evaluations, that contain a personal recommendation
1359 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
1360 personal privacy, or disclosure is not in the public interest;

1361 (26) records that reveal the location of historic, prehistoric, paleontological, or
1362 biological resources that, if known, would jeopardize the security of those resources or of
1363 valuable historic, scientific, educational, or cultural information;

1364 (27) records of independent state agencies if the disclosure of the records would
1365 conflict with the fiduciary obligations of the agency;

1366 (28) records of an institution within the state system of higher education as defined in
1367 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
1368 retention decisions, and promotions, which could be properly discussed in a meeting closed in
1369 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
1370 the final decisions about tenure, appointments, retention, promotions, or those students
1371 admitted, may not be classified as protected under this section;

1372 (29) records ~~[of]~~ prepared, received, or retained by the governor's office, including
1373 budget recommendations, legislative proposals, internal communications, working papers, and
1374 policy statements, that if disclosed would reveal the governor's contemplated policies or
1375 contemplated courses of action ~~[before the governor has implemented or rejected those policies~~
1376 ~~or courses of action or made them public];~~

1377 (30) records of the Office of the Legislative Fiscal Analyst relating to;

1378 (a) budget analysis~~[-];~~

1379 (b) revenue estimates~~[-, and fiscal notes of proposed legislation before issuance of the~~

1380 ~~final recommendations in these areas]; and~~

1381 (c) data and working papers associated with a fiscal note for legislation until the
1382 legislation has passed;

1383 (31) records provided by the United States or by a government entity outside the state
1384 that are given to the governmental entity with a requirement that they be managed as protected
1385 records if the providing entity certifies that the record would not be subject to public disclosure
1386 if retained by it;

1387 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
1388 except as provided in Section 52-4-206;

1389 (33) records that would reveal the contents of settlement negotiations but not including
1390 final settlements or empirical data to the extent that they are not otherwise exempt from
1391 disclosure;

1392 (34) memoranda prepared by staff and used in the decision-making process by an
1393 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
1394 other body charged by law with performing a quasi-judicial function;

1395 (35) records that would reveal negotiations regarding assistance or incentives offered
1396 by or requested from a governmental entity for the purpose of encouraging a person to expand
1397 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
1398 person or place the governmental entity at a competitive disadvantage, but this section may not
1399 be used to restrict access to a record evidencing a final contract;

1400 (36) materials to which access must be limited for purposes of securing or maintaining
1401 the governmental entity's proprietary protection of intellectual property rights including patents,
1402 copyrights, and trade secrets;

1403 (37) the name of a donor or a prospective donor to a governmental entity, including an
1404 institution within the state system of higher education as defined in Section 53B-1-102, and
1405 other information concerning the donation that could reasonably be expected to reveal the
1406 identity of the donor, provided that:

1407 (a) the donor requests anonymity in writing;

1408 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
1409 classified protected by the governmental entity under this Subsection (37); and

1410 (c) except for an institution within the state system of higher education defined in
1411 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
1412 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
1413 over the donor, a member of the donor's immediate family, or any entity owned or controlled
1414 by the donor or the donor's immediate family;

1415 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
1416 73-18-13;

1417 (39) a notification of workers' compensation insurance coverage described in Section
1418 34A-2-205;

1419 (40) (a) the following records of an institution within the state system of higher
1420 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
1421 or received by or on behalf of faculty, staff, employees, or students of the institution:

1422 (i) unpublished lecture notes;

1423 (ii) unpublished notes, data, and information[~~-(A)~~] relating to research[~~;- and (B) of: (F)~~
1424 ~~the~~] conducted by:

1425 (A) an institution within the state system of higher education defined in Section
1426 53B-1-102; or

1427 [~~(H)~~] (B) a sponsor of sponsored research;

1428 (iii) unpublished manuscripts;

1429 (iv) creative works in process;

1430 (v) scholarly correspondence; and

1431 (vi) confidential information contained in research proposals;

1432 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
1433 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and

1434 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;

1435 (41) (a) records in the custody or control of the Office of Legislative Auditor General

1436 that would reveal the name of a particular legislator who requests a legislative audit [~~prior to~~
1437 before the date that audit is completed and made public; and

1438 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
1439 Office of the Legislative Auditor General is a public document unless the legislator asks that
1440 the records in the custody or control of the Office of Legislative Auditor General that would
1441 reveal the name of a particular legislator who requests a legislative audit be maintained as
1442 protected records until the audit is completed and made public;

1443 (42) records that provide detail as to the location of an explosive, including a map or
1444 other document that indicates the location of:

1445 (a) a production facility; or

1446 (b) a magazine;

1447 (43) information:

1448 (a) contained in the statewide database of the Division of Aging and Adult Services
1449 created by Section 62A-3-311.1; or

1450 (b) received or maintained in relation to the Identity Theft Reporting Information
1451 System (IRIS) established under Section 67-5-22;

1452 (44) information contained in the Management Information System and Licensing
1453 Information System described in Title 62A, Chapter 4a, Child and Family Services;

1454 (45) information regarding National Guard operations or activities in support of the
1455 National Guard's federal mission;

1456 (46) records provided by any pawn or secondhand business to a law enforcement
1457 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and
1458 Secondhand Merchandise Transaction Information Act;

1459 (47) information regarding food security, risk, and vulnerability assessments performed
1460 by the Department of Agriculture and Food;

1461 (48) except to the extent that the record is exempt from this chapter [~~pursuant to~~] under
1462 Section 63G-2-106, records related to an emergency plan or program prepared or maintained by
1463 the Division of Homeland Security the disclosure of which would jeopardize:

1464 (a) the safety of the general public; or
1465 (b) the security of~~[(i)]~~ governmental property~~[(ii)]~~, governmental programs~~[(i)]~~, or
1466 ~~[(iii)]~~ the property of a private person who provides information to the Division of Homeland
1467 Security ~~[information]~~;

1468 (49) records of the Department of Agriculture and Food relating to the National
1469 Animal Identification System or any other program that provides for the identification, tracing,
1470 or control of livestock diseases, including any program established under Title 4, Chapter 24,
1471 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and
1472 Quarantine;

1473 (50) as provided in Section 26-39-501:

1474 (a) information or records held by the Department of Health related to a complaint
1475 regarding a child care program or residential child care which the department is unable to
1476 substantiate; and

1477 (b) information or records related to a complaint received by the Department of Health
1478 from an anonymous complainant regarding a child care program or residential child care;

1479 (51) unless otherwise classified as public under Section 63G-2-301 and except as
1480 provided under Section 41-1a-116, an individual's home address, home telephone number,
1481 personal email address or other personal electronic or online address, or personal mobile phone
1482 number, if:

1483 (a) the individual is required to provide the information in order to comply with a law,
1484 ordinance, rule, or order of a government entity; and

1485 (b) the subject of the record has a reasonable expectation that this information will be
1486 kept confidential due to:

1487 (i) the nature of the law, ordinance, rule, or order; and

1488 (ii) the individual complying with the law, ordinance, rule, or order;

1489 (52) the name, home address, work ~~[addresses, and]~~ address, telephone ~~[numbers]~~
1490 number, and email address or other personal electronic or online address of an individual that is
1491 engaged in, or that provides goods or services for, medical or scientific research that is:

1492 (a) conducted within the state system of higher education, as defined in Section
1493 53B-1-102; and

1494 (b) conducted using animals;

1495 (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement
1496 Private Proposal Program, to the extent not made public by rules made under that chapter;

1497 (54) information collected and a report prepared by the Judicial Performance
1498 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter
1499 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,
1500 the information or report;

1501 (55) (a) records of the Utah Educational Savings Plan created under Section
1502 53B-8a-103 if the disclosure of the records would conflict with its fiduciary obligations;

1503 (b) proposals submitted to the Utah Educational Savings Plan; and

1504 (c) contracts entered into by the Utah Educational Savings Plan and the related
1505 payments;

1506 (56) records contained in the Management Information System created in Section
1507 62A-4a-1003;

1508 (57) records provided or received by the Public Lands Policy Coordinating Office in
1509 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

1510 (58) information requested by and provided to the Utah State 911 Committee under
1511 Section 53-10-602;

1512 (59) recorded Children's Justice Center investigative interviews, both video and audio,
1513 the release of which are governed by Section 77-37-4; and

1514 (60) in accordance with Section 73-10-33:

1515 (a) a management plan for a water conveyance facility in the possession of the Division
1516 of Water Resources or the Board of Water Resources; or

1517 (b) an outline of an emergency response plan in possession of the state or a county or
1518 municipality.

1519 Section 14. Section **63G-2-401** is amended to read:

1520 **63G-2-401. Appeal to head of governmental entity.**

1521 (1) (a) Any person aggrieved by a governmental entity's access determination under
1522 this chapter, including a person not a party to the governmental entity's proceeding, may appeal
1523 the determination within 30 days to the chief administrative officer of the governmental entity
1524 by filing a notice of appeal.

1525 (b) If a governmental entity claims extraordinary circumstances and specifies the date
1526 when the records will be available under Subsection 63G-2-204(3), and, if the requester
1527 believes the extraordinary circumstances do not exist or that the time specified is unreasonable,
1528 the requester may appeal the governmental entity's claim of extraordinary circumstances or date
1529 for compliance within 30 days after notification of a claim of extraordinary circumstances by
1530 the governmental entity, despite the lack of a "determination" or its equivalent under
1531 Subsection 63G-2-204[~~(7)~~](8).

1532 (2) The notice of appeal shall contain the following information:

1533 (a) the petitioner's name, mailing address, and daytime telephone number; and

1534 (b) the relief sought.

1535 (3) The petitioner may file a short statement of facts, reasons, and legal authority in
1536 support of the appeal.

1537 (4) (a) If the appeal involves a record that is the subject of a business confidentiality
1538 claim under Section 63G-2-309, the chief administrative officer shall:

1539 (i) send notice of the requester's appeal to the business confidentiality claimant within
1540 three business days after receiving notice, except that if notice under this section must be given
1541 to more than 35 persons, it shall be given as soon as reasonably possible; and

1542 (ii) send notice of the business confidentiality claim and the schedule for the chief
1543 administrative officer's determination to the requester within three business days after receiving
1544 notice of the requester's appeal.

1545 (b) The claimant shall have seven business days after notice is sent by the
1546 administrative officer to submit further support for the claim of business confidentiality.

1547 (5) (a) The chief administrative officer shall make a determination on the appeal within

1548 ~~[the following period of time]:~~

1549 (i) ~~[within]~~ five business days after the chief administrative officer's receipt of the
1550 notice of appeal; or

1551 (ii) ~~[within]~~ 12 business days after the governmental entity sends the requester's notice
1552 of appeal to a person who submitted a claim of business confidentiality.

1553 (b) If the chief administrative officer fails to make a determination within the time
1554 specified in Subsection (5)(a), the failure shall be considered the equivalent of an order denying
1555 the appeal.

1556 (c) The provisions of this section notwithstanding, the parties participating in the
1557 proceeding may, by written agreement, extend the time periods specified in this section.

1558 (6) The chief administrative officer may, upon consideration and weighing of the
1559 various interests and public policies pertinent to the classification and disclosure or
1560 nondisclosure, order the disclosure of information properly classified as private under
1561 Subsection 63G-2-302(2) or protected under Section 63G-2-305 ~~[if]~~ only if the person or party
1562 seeking disclosure of the record has established that, by a preponderance of the evidence, the
1563 ~~[interests]~~ public interest favoring access ~~[outweigh the interests]~~ outweighs the interest
1564 favoring restriction of access.

1565 (7) (a) The governmental entity shall send written notice of the determination of the
1566 chief administrative officer to all participants.

1567 (b) If the chief administrative officer affirms the denial in whole or in part, the denial
1568 shall include a statement that the requester has the right to appeal the denial to either the
1569 records committee or district court, the time limits for filing an appeal, and the name and
1570 business address of the executive secretary of the records committee.

1571 (8) (a) A person aggrieved by a governmental entity's classification or designation
1572 determination under this chapter, but who is not requesting access to the records, may appeal
1573 that determination using the procedures provided in this section.

1574 (b) If a nonrequester is the only appellant, the procedures provided in this section shall
1575 apply, except that the determination on the appeal shall be made within 30 days after receiving

1576 the notice of appeal.

1577 (9) The ~~[duties of the]~~ chief administrative officer may delegate the officer's duties
1578 established under this section ~~[may be delegated]~~.

1579 Section 15. Section **63G-2-403** is amended to read:

1580 **63G-2-403. Appeals to the records committee.**

1581 (1) ~~[A]~~ Except as exempted under Part 7, Applicability to Political Subdivisions, the
1582 Judiciary, and the Legislature, a petitioner, including an aggrieved person who did not
1583 participate in the appeal to the governmental entity's chief administrative officer, may appeal to
1584 the records committee by filing a notice of appeal with the executive secretary no later than:

1585 (a) 30 days after the chief administrative officer of the governmental entity has granted
1586 or denied the record request in whole or in part, including a denial under Subsection
1587 63G-2-204~~(7)~~(8);

1588 (b) 45 days after the original request for a record if:

1589 (i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

1590 (ii) the chief administrative officer failed to make a determination under Section
1591 63G-2-401.

1592 (2) The notice of appeal shall contain the following information:

1593 (a) the petitioner's name, mailing address, and daytime telephone number;

1594 (b) a copy of any denial of the record request; and

1595 (c) the relief sought.

1596 (3) The petitioner may file a short statement of facts, reasons, and legal authority in
1597 support of the appeal.

1598 (4) (a) Except as provided in Subsection (4)(b), no later than five business days after
1599 receiving a notice of appeal, the executive secretary of the records committee shall:

1600 (i) schedule a hearing for the records committee to discuss the appeal at the next
1601 regularly scheduled committee meeting falling at least 14 days after the date the notice of
1602 appeal is filed but no longer than 52 calendar days after the date the notice of appeal was filed,
1603 except that the records committee may schedule an expedited hearing upon application of the

1604 petitioner and good cause shown;

1605 (ii) send a copy of the notice of hearing to the petitioner; and

1606 (iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing

1607 to:

1608 (A) each member of the records committee;

1609 (B) the records officer and the chief administrative officer of the governmental entity

1610 from which the appeal originated;

1611 (C) any person who made a business confidentiality claim under Section 63G-2-309 for

1612 a record that is the subject of the appeal; and

1613 (D) all persons who participated in the proceedings before the governmental entity's

1614 chief administrative officer.

1615 (b) (i) The executive secretary of the records committee may decline to schedule a

1616 hearing if the record series that is the subject of the appeal has been found by the committee in

1617 a previous hearing involving the same government entity to be appropriately classified as

1618 private, controlled, or protected.

1619 (ii) ~~[(A)]~~ If the executive secretary of the records committee declines to schedule a

1620 hearing, the executive secretary of the records committee shall send a notice to the petitioner

1621 indicating that the request for hearing has been denied and the reason for the denial.

1622 ~~[(B) The committee shall make rules to implement this section as provided by Title~~

1623 ~~63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

1624 (5) (a) A written statement of facts, reasons, and legal authority in support of the

1625 governmental entity's position must be submitted to the executive secretary of the records

1626 committee not later than five business days before the hearing.

1627 (b) The governmental entity shall send a copy of the written statement to the petitioner

1628 by first class mail, postage prepaid.

1629 (c) The executive secretary shall forward a copy of the written statement to each

1630 member of the records committee.

1631 (6) (a) No later than 10 business days after the notice of appeal is sent by the executive

1632 secretary, a person whose legal interests may be substantially affected by the proceeding may
1633 file a request for intervention before the records committee.

1634 (b) Any written statement of facts, reasons, and legal authority in support of the
1635 intervener's position shall be filed with the request for intervention.

1636 (c) The person seeking intervention shall provide copies of the statement described in
1637 Subsection (6)(b) to all parties to the proceedings before the records committee.

1638 (7) The records committee shall hold a hearing within the period of time described in
1639 Subsection (4).

1640 (8) (a) At the hearing, the records committee shall allow the parties to testify, present
1641 evidence, and comment on the issues.

1642 (b) The records committee may allow other interested persons to comment on the
1643 issues.

1644 (9) (a) ~~[The]~~ Subject to Subsection (9)(b), the records committee may review the
1645 disputed records. ~~[However, if]~~

1646 (b) If the records committee is weighing the various interests under Subsection (11),
1647 the committee must review the disputed records~~[- The review shall be]~~ in camera.

1648 ~~[(b)]~~ (c) Members of the records committee may not disclose any information or record
1649 reviewed by the committee in camera unless the disclosure is otherwise authorized by this
1650 chapter.

1651 (10) (a) Discovery is prohibited, but the records committee may issue subpoenas or
1652 other orders to compel production of necessary evidence.

1653 (b) When the subject of a records committee subpoena disobeys or fails to comply with
1654 the subpoena, the records committee may file a motion for an order to compel obedience to the
1655 subpoena with the district court.

1656 (c) The records committee's review shall be de novo.

1657 (11) (a) No later than five business days after the hearing, the records committee shall
1658 issue a signed order either granting the petition in whole or in part or upholding the
1659 determination of the governmental entity in whole or in part.

1660 (b) The records committee may, upon consideration and weighing of the various
1661 interests and public policies pertinent to the classification and disclosure or nondisclosure,
1662 order the disclosure of information properly classified as private, controlled, or protected [if]
1663 only if the person or party seeking disclosure of the record has established that, by a
1664 preponderance of the evidence, the public interest favoring access outweighs the interest
1665 favoring restriction of access.

1666 (c) In making a determination under Subsection (11)(b), the records committee shall
1667 consider and, where appropriate, limit the requester's use and further disclosure of the record in
1668 order to protect:

- 1669 (i) privacy interests in the case of a private or controlled record;
- 1670 (ii) business confidentiality interests in the case of a record protected under Subsection
1671 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
- 1672 (iii) privacy interests or the public interest in the case of other protected records.

1673 (12) The order of the records committee shall include:

1674 (a) a statement of reasons for the decision, including citations to this chapter, court rule
1675 or order, another state statute, federal statute, or federal regulation that governs disclosure of
1676 the record, provided that the citations do not disclose private, controlled, or protected
1677 information;

1678 (b) a description of the record or portions of the record to which access was ordered or
1679 denied, provided that the description does not disclose private, controlled, or protected
1680 information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

1681 (c) a statement that any party to the proceeding before the records committee may
1682 appeal the records committee's decision to district court; and

1683 (d) a brief summary of the appeals process, the time limits for filing an appeal, and a
1684 notice that in order to protect its rights on appeal, the party may wish to seek advice from an
1685 attorney.

1686 (13) (a) If the records committee fails to issue a decision within 57 calendar days of the
1687 filing of the notice of appeal, that failure shall be considered the equivalent of an order denying

1688 the appeal.

1689 (b) The petitioner shall notify the records committee in writing if the petitioner
1690 considers the appeal denied.

1691 (14) (a) Unless a notice of intent to appeal is filed under Subsection (14)(b), each party
1692 to the proceeding shall comply with the order of the records committee.

1693 (b) If a party disagrees with the order of the records committee, that party may file a
1694 notice of intent to appeal the order of the records committee.

1695 (c) If the records committee orders the governmental entity to produce a record and no
1696 appeal is filed, or if, as a result of the appeal, the governmental entity is required to produce a
1697 record, the governmental entity shall:

1698 (i) produce the record; and

1699 (ii) file a notice of compliance with the records committee.

1700 (d) (i) If the governmental entity that is ordered to produce a record fails to file a notice
1701 of compliance or a notice of intent to appeal, the records committee may do either or both of
1702 the following:

1703 (A) impose a civil penalty of up to \$500 for each day of continuing noncompliance; or

1704 (B) send written notice of the governmental entity's noncompliance to~~[:(H)]~~ the
1705 governor, for executive branch entities; ~~(H)~~ the Legislative Management Committee for
1706 legislative branch entities; ~~and (H)~~ or the Judicial Council, for judicial branch ~~[agencies]~~
1707 entities.

1708 (ii) In imposing a civil penalty, the records committee shall consider the gravity and
1709 circumstances of the violation, including whether the failure to comply was due to neglect or
1710 was willful or intentional.

1711 (15) The records committee shall make rules to implement this section as provided by
1712 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1713 Section 16. Section **63G-2-404** is amended to read:

1714 **63G-2-404. Judicial review.**

1715 (1) (a) Any party to a proceeding before the records committee may petition for judicial

1716 review by the district court of the records committee's order.

1717 (b) The petition shall be filed no later than 30 days after the date of the records
1718 committee's order.

1719 (c) The records committee is a necessary party to the petition for judicial review.

1720 (d) The executive secretary of the records committee shall be served with notice of the
1721 petition in accordance with the Utah Rules of Civil Procedure.

1722 (2) (a) A requester may petition for judicial review by the district court of a
1723 governmental entity's determination as specified in Subsection 63G-2-402(1)(b).

1724 (b) The requester shall file a petition no later than:

1725 (i) 30 days after the governmental entity has responded to the records request by either
1726 providing the requested records or denying the request in whole or in part;

1727 (ii) 35 days after the original request if the governmental entity failed to respond to the
1728 request; or

1729 (iii) 45 days after the original request for records if:

1730 (A) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

1731 (B) the chief administrative officer failed to make a determination under Section
1732 63G-2-401.

1733 (3) The petition for judicial review shall be a complaint governed by the Utah Rules of
1734 Civil Procedure and shall contain:

1735 (a) the petitioner's name and mailing address;

1736 (b) a copy of the records committee order from which the appeal is taken, if the
1737 petitioner brought a prior appeal to the records committee;

1738 (c) the name and mailing address of the governmental entity that issued the initial
1739 determination with a copy of that determination;

1740 (d) a request for relief specifying the type and extent of relief requested; and

1741 (e) a statement of the reasons why the petitioner is entitled to relief.

1742 (4) If the appeal is based on the denial of access to a protected record, the court shall
1743 allow the claimant of business confidentiality to provide to the court the reasons for the claim

1744 of business confidentiality.

1745 (5) All additional pleadings and proceedings in the district court are governed by the
1746 Utah Rules of Civil Procedure.

1747 (6) (a) The district court may review the disputed records. [~~The review shall be~~]

1748 (b) If the district court chooses to review the records, the court shall review the records
1749 in camera.

1750 (7) The court shall:

1751 (a) make its decision de novo, but allow introduction of evidence presented to the
1752 records committee;

1753 (b) determine all questions of fact and law without a jury; and

1754 (c) decide the issue at the earliest practical opportunity.

1755 (8) (a) The court may, upon consideration and weighing of the various interests and
1756 public policies pertinent to the classification and disclosure or nondisclosure, order the
1757 disclosure of information properly classified as private, controlled, or protected [if] only if the
1758 person or party seeking disclosure of the record has established that, by a preponderance of the
1759 evidence, the public interest favoring access outweighs the interest favoring restriction of
1760 access.

1761 (b) The court shall consider and, where appropriate, limit the requester's use and
1762 further disclosure of the record in order to protect privacy interests in the case of private or
1763 controlled records, business confidentiality interests in the case of records protected under
1764 Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of
1765 other protected records.

1766 Section 17. Section **63G-2-703** is amended to read:

1767 **63G-2-703. Applicability to the Legislature and legislative staff offices.**

1768 (1) [~~The~~] This chapter applies to the Legislature [~~and its staff offices shall designate~~
1769 ~~and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public,~~
1770 ~~private, controlled, or protected.~~] as follows:

1771 (a) The Legislature is subject to:

- 1772 (i) Part 1, General Provisions, except the Legislative Management Committee may
1773 define terms as is necessary to establish a policy described in Subsection (2);
- 1774 (ii) Part 2, Access to Records, except Sections 63G-2-203 and 63G-2-204;
1775 (iii) Part 3, Classification, except Subsection 63G-2-307(1);
1776 (iv) this section; and
1777 (v) Part 8, Remedies.
- 1778 ~~[(2)-(a)]~~ (b) The Legislature [and its staff offices are not subject to Section 63G-2-203
1779 or to] is exempt from:
- 1780 (i) Part 4, Appeals[;], but shall establish a policy to provide for an appeal process;
1781 (ii) Part 5, State Records Committee[; or], but shall establish a policy to provide for an
1782 appellate body to hear an appeal from a denial of access to a record or a dispute related to a fee
1783 and cost assessment;
- 1784 (iii) Part 6, Collection of Information and Accuracy of Records[-], but shall establish a
1785 policy relating to the retention and disposition of records;
- 1786 ~~[(b) The Legislature is subject to only the following sections in Part 9, Archives and~~
1787 ~~Records Service: Sections 63A-12-102, 63A-12-106, and 63G-2-310.]~~
- 1788 (iv) Part 7, Applicability to Political Subdivisions, the Judiciary, and the Legislature,
1789 except for this section; and
- 1790 (v) Part 9, Public Associations, except to the extent that the part may apply to
1791 legislators or legislative staff employees acting in a private capacity.
- 1792 ~~[(3)]~~ (2) The Legislature, through the Legislative Management Committee[-(a)], shall
1793 establish policies [to handle requests for classification, designation,] relating to:
- 1794 (a) receiving, processing, and responding to a record request, including time periods
1795 and procedures for the record request process;
- 1796 (b) classifying or designating a record;
1797 (c) fees[;] and costs;
1798 (d) access[-, denials,] to a record;
1799 (e) denial of access to a record;

1800 (f) segregation[;] of a record;
 1801 (g) appeals[;], including time periods and procedures for the appeals process;
 1802 (h) ownership, management, and retention[;] of a record; and
 1803 (i) amendment of [~~records; and~~] a record.
 1804 [~~(b) may establish an appellate board to hear appeals from denials of access.]~~
 1805 [~~(4) Policies shall include reasonable times for responding to access requests consistent~~
 1806 ~~with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.]~~

1807 [(5)] (3) Upon request, the state archivist shall:
 1808 (a) assist with and advise concerning the establishment of a records management
 1809 program in the Legislature; and

1810 (b) as required by the Legislature, provide program services similar to those available
 1811 to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12,
 1812 [~~Part 1, Archives and Records Service~~] Public Records Management Act.

1813 (4) The Legislature is not subject to Title 63A, Chapter 12, Public Records
 1814 Management Act, except for compliance with Sections 63A-12-102 and 63A-12-106.

1815 Section 18. Section **63G-2-803** is amended to read:

1816 **63G-2-803. No individual liability for certain decisions of a governmental entity.**

1817 (1) Neither the governmental entity, nor any officer or employee of the governmental
 1818 entity, is liable for damages resulting from the release of a record where the person or
 1819 [~~government~~] governmental entity requesting the record presented evidence of authority to
 1820 obtain the record, even if it is subsequently determined that the requester had no authority.

1821 (2) Neither the governmental entity, nor any officer or employee of the governmental
 1822 entity, is liable for damages arising from the negligent disclosure of records classified as
 1823 private under [~~Subsection 63G-2-302(1)(f)~~] Section 63G-2-302 unless:

1824 (a) the disclosure was of employment records maintained by the governmental entity;
 1825 or

1826 (b) the current or former government employee had previously filed the notice required
 1827 by Section 63G-2-303 and[;-(f)] the government entity did not take reasonable steps to preclude

1828 access or distribution of the record[; or (ii)] or the release of the record was otherwise willfully
1829 or grossly negligent.

1830 (3) A mailing from a government agency to an individual who has filed an application
1831 under Section 63G-2-303 is not a wrongful disclosure under this chapter or under Title 63A,
1832 Chapter 12, [~~Archives and Records Service~~] Public Records Management Act.

1833 Section 19. **Repealer.**

1834 This bill repeals:

1835 Section **63G-2-102, Legislative intent.**

1836 Section 20. **Effective date.**

1837 If approved by two-thirds of all the members elected to each house, this bill takes effect
1838 upon approval by the governor, or the day following the constitutional time limit of Utah
1839 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,
1840 the date of veto override.

