

GOVERNMENT RECORDS AMENDMENTS

2011 GENERAL SESSION

STATE OF UTAH

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LONG TITLE

General Description:

This bill modifies provisions of the Government Records Access and Management Act

29 and other provisions relating to government records.

30 **Highlighted Provisions:**

31 This bill:

- 32 ▶ modifies cross references;
- 33 ▶ eliminates codified intent language;
- 34 ▶ provides a cross reference in the Public Records Management Act to identify
35 legislative exemptions to the act;
- 36 ▶ makes technical and organizational modifications to modernize and clarify
37 language;
- 38 ▶ modifies definitions;
- 39 ▶ provides that voice mails, instant messages, video chats, and text messages are not
40 records subject to the act, with some exceptions;
- 41 ▶ modifies provisions defining records that are subject to regulation by the act;
- 42 ▶ clarifies that fee provisions may be subject to approval procedures under the
43 Budgetary Procedures Act;
- 44 ▶ modifies provisions governing fees and costs related to records requests;
- 45 ▶ modifies language identifying "extraordinary circumstances" related to records
46 requests;
- 47 ▶ modifies provisions governing shared records procedures and application;
- 48 ▶ modifies provisions and requirements regulating records that must be disclosed;
- 49 ▶ provides that personal and financial information submitted to or received by a
50 Senate confirmation committee is a private record;
- 51 ▶ provides that personal emails or similar electronic addresses of current or former
52 government employees or applicants are private records;
- 53 ▶ provides protected status for certain records of the Office of the Utah State Auditor
54 and Office of Legislative Auditor General;
- 55 ▶ provides that records may be classified as protected if they are prepared in
56 anticipation of litigation;

- 57 ▶ provides that work product records may be classified as protected if the record
- 58 involves anticipated or pending litigation;
- 59 ▶ modifies the protected record status of documents prepared, received, or maintained
- 60 by a legislator;
- 61 ▶ modifies the protected record status of communications between legislators and
- 62 staff in relation to performance of their official duties;
- 63 ▶ provides that records concerning a governmental entity's strategy may be classified
- 64 as protected if the record is prepared for anticipated litigation, rather than only for
- 65 pending litigation;
- 66 ▶ provides protected status for internal communications and working papers of the
- 67 governor's office and modifies provisions limiting the length of protected status
- 68 coverage for certain records of the governor;
- 69 ▶ provides that data and working papers associated with a fiscal note for legislation
- 70 are protected until the legislation has passed;
- 71 ▶ provides protected status for personal email addresses and similar electronic
- 72 addresses in some situations;
- 73 ▶ prohibits a governmental entity's chief administrative officer, the records
- 74 committee, and a court from releasing certain protected records via means of a
- 75 balancing test unless it is determined, by a preponderance of the evidence, that the
- 76 public interest favoring access to the record outweighs the interest favoring
- 77 restriction of access to the record;
- 78 ▶ provides that the Legislature may adopt policies regarding the receipt, processing,
- 79 and response to record requests;
- 80 ▶ rewrites and reorganizes the section addressing the act's application to the
- 81 Legislature;
- 82 ▶ addresses legislative compliance requirements with Title 63G, Chapter 2, Part 9,
- 83 Public Associations; and
- 84 ▶ makes technical changes.

85 **Money Appropriated in this Bill:**

86 None

87 **Other Special Clauses:**

88 This bill takes effect on July 1, 2011.

89 **Utah Code Sections Affected:**

90 AMENDS:

91 **20A-2-104**, as last amended by Laws of Utah 2010, Chapter 197

92 **58-1-301**, as last amended by Laws of Utah 2008, Chapter 382

93 **61-1-4**, as last amended by Laws of Utah 2009, Chapter 351

94 **61-2f-203**, as renumbered and amended by Laws of Utah 2010, Chapter 379

95 **63G-2-103**, as last amended by Laws of Utah 2010, Chapter 366

96 **63G-2-203**, as last amended by Laws of Utah 2009, Chapter 183

97 **63G-2-204**, as last amended by Laws of Utah 2010, Chapter 380

98 **63G-2-206**, as last amended by Laws of Utah 2009, Chapter 344

99 **63G-2-301**, as last amended by Laws of Utah 2009, Chapter 344

100 **63G-2-302**, as last amended by Laws of Utah 2010, Chapters 36 and 379

101 **63G-2-303**, as renumbered and amended by Laws of Utah 2008, Chapter 382

102 **63G-2-305**, as last amended by Laws of Utah 2010, Chapters 6, 113, and 247

103 **63G-2-401**, as renumbered and amended by Laws of Utah 2008, Chapter 382

104 **63G-2-403**, as renumbered and amended by Laws of Utah 2008, Chapter 382

105 **63G-2-404**, as renumbered and amended by Laws of Utah 2008, Chapter 382

106 **63G-2-703**, as renumbered and amended by Laws of Utah 2008, Chapter 382

107 **63G-2-803**, as last amended by Laws of Utah 2009, Chapter 44

108 ENACTS:

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

110 REPEALS:

111 **63G-2-102**, as renumbered and amended by Laws of Utah 2008, Chapter 382

112

113 Be it enacted by the Legislature of the state of Utah:

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

115 **20A-2-104. Voter registration form -- Registered voter lists -- Fees for copies.**

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

118 -----

119 UTAH ELECTION REGISTRATION FORM

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

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

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

123 Name of Voter

124 _____

125 First Middle Last

126 Utah Driver License or Utah Identification Card Number _____

127 Date of Birth _____

128 Street Address of Principal Place of Residence

129 _____

130 City County State Zip Code

131 Telephone Number (optional) _____

132 Last four digits of Social Security Number _____

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

134 known) _____

135 _____

136 City County State Zip Code

137 Political Party

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

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

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

141 I do swear (or affirm), subject to penalty of law for false statements, that the
142 information contained in this form is true, and that I am a citizen of the United States and a
143 resident of the state of Utah, residing at the above address. I will be at least 18 years old and
144 will have resided in Utah for 30 days immediately before the next election. I am not a
145 convicted felon currently incarcerated for commission of a felony.

146 Signed and sworn

147 _____

148 Voter's Signature

149 _____(month/day/year).

150 **CITIZENSHIP AFFIDAVIT**

151 Name:

152 Name at birth, if different:

153 Place of birth:

154 Date of birth:

155 Date and place of naturalization (if applicable):

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

159 _____

160 Signature of Applicant

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

164 **NOTICE: IN ORDER TO BE ALLOWED TO VOTE, YOU MUST PRESENT VALID**
165 **VOTER IDENTIFICATION TO THE POLL WORKER BEFORE VOTING, WHICH MUST**
166 **BE A VALID FORM OF PHOTO IDENTIFICATION THAT SHOWS YOUR NAME AND**
167 **PHOTOGRAPH; OR**

168 TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND
169 CURRENT ADDRESS.
170 FOR OFFICIAL USE ONLY

171 Type of I.D. _____

172 Voting Precinct _____

173 Voting I.D. Number _____

174 -----

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

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

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

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

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

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

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

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

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

195 (b) if the county clerk believes, based upon a review of the form, that a person may be

196 seeking to register to vote who is not legally entitled to register to vote, refer the form to the
197 county attorney for investigation and possible prosecution.

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

199 **58-1-301. License application -- Licensing procedure.**

200 (1) (a) Each license applicant shall apply to the division in writing upon forms
201 available from the division. Each completed application shall contain documentation of the
202 particular qualifications required of the applicant, shall include the applicant's Social Security
203 number, shall be verified by the applicant, and shall be accompanied by the appropriate fees.

204 (b) An applicant's Social Security number is a private record under [~~Subsection~~
205 ~~63G-2-302(1)(h)~~] Section 63G-2-302.

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

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

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

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

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

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

224 license.

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

226 **61-1-4. Licensing and notice filing procedure.**

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

230 (b) (i) The application shall contain the applicant's Social Security number and
231 whatever information the division by rule requires concerning such matters as:

232 (A) the applicant's form and place of organization;

233 (B) the applicant's proposed method of doing business;

234 (C) (I) the qualifications and business history of the applicant; and

235 (II) in the case of a broker-dealer or investment adviser, the qualifications and business
236 history of any partner, officer, or director, any person occupying a similar status or performing
237 similar functions, or any person directly or indirectly controlling the broker-dealer or
238 investment adviser;

239 (D) whether the applicant has been subject to:

240 (I) an injunction, administrative order, or misdemeanor conviction involving a security
241 or any aspect of the securities business; or

242 (II) a felony conviction; and

243 (E) the applicant's financial condition and history.

244 (ii) An applicant's Social Security number is a private record under [~~Subsection~~
245 ~~63G-2-302(1)(h)~~] Section 63G-2-302.

246 (c) The division may, by rule or order, require an applicant for an initial license to
247 publish an announcement of the application in one or more specified newspapers published in
248 this state.

249 (d) A license or notice filing of a broker-dealer, agent, investment adviser, or
250 investment adviser representative expires on December 31 of each year.

251 (e) (i) If no denial order is in effect and no proceeding is pending under Section 61-1-6,

252 a license becomes effective at noon of the 30th day after an application is filed.

253 (ii) The division may by rule or order specify an earlier effective date and may by order
254 defer the effective date until noon of the 30th day after the filing of any amendment.

255 (iii) Licensing of a broker-dealer automatically constitutes licensing of only one
256 partner, officer, director, or a person occupying a similar status or performing similar functions
257 as a licensed agent of the broker-dealer.

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

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

262 (I) the broker-dealer shall maintain a principal; and

263 (II) the investment adviser shall maintain a designated official.

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

266 (I) a principal or designated official at the time a license is issued; and

267 (II) a different principal or designated official if:

268 (Aa) a broker-dealer changes its principal; or

269 (Bb) an investment adviser changes its designated official.

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

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

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

279 (b) An applicant for an initial or renewal license as an investment adviser or

280 investment adviser representative who is subject to licensing under this chapter shall pay a
281 reasonable filing fee as determined under Section 61-1-18.4.

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

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

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

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

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

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

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

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

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

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

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

307 (d) A bond shall provide for suit on the bond by a person who has a cause of action

308 under Section 61-1-22 and, if the division by rule or order requires, by any person who has a
309 cause of action not arising under this chapter.

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

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

313 (ii) the expiration of two years after the discovery by the plaintiff of the facts
314 constituting the violation.

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

316 **61-2f-203. Licensing requirements.**

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

319 (i) a principal broker license;

320 (ii) an associate broker license; or

321 (iii) a sales agent license.

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

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

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

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

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

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

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

340 (i) the fundamentals of:

341 (A) the English language;

342 (B) arithmetic;

343 (C) bookkeeping; and

344 (D) real estate principles and practices;

345 (ii) the provisions of this chapter;

346 (iii) the rules established by the commission; and

347 (iv) any other aspect of Utah real estate license law considered appropriate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

387 **63A-12-109. Applicability of chapter.**

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

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

391 **63G-2-103. Definitions.**

392 As used in this chapter:

393 (1) "Audit" means:

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

397 (b) a systematic examination of program procedures and operations for the purpose of
398 determining their effectiveness, economy, efficiency, and compliance with statutes and
399 regulations.

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

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

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

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

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

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

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

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

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

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

418 (iii) the mathematical or statistical formulas, excluding the underlying mathematical
419 algorithms contained in the program, that would be used if the manipulated forms of the

420 original data were to be produced manually.

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

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

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

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

426 (6) "Controlled record" means a record containing data on individuals that is

427 [~~controlled as provided by~~] classified as "controlled" under Section 63G-2-304.

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

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

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

437 (a) commonly used or intended for the purpose of producing an explosion; and

438 (b) that contains oxidizing or combustive units or other ingredients in proportions,
439 quantities, or packing so that:

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

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

443 (A) producing destructive effects on contiguous objects; or

444 (B) causing death or serious bodily injury.

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

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

447 (i) executive department agencies of the state, the offices of the governor, lieutenant

448 governor, state auditor, attorney general, and state treasurer, the Board of Pardons and Parole,
 449 the Board of Examiners, the National Guard, the Career Service Review Board, the State Board
 450 of Education, the State Board of Regents, and the State Archives;

451 (ii) the Senate, House of Representatives, Legislative Printing Office, Office of the
 452 Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative
 453 Research and General Counsel, [the Legislature, and legislative committees, except any
 454 political party, group, caucus, or rules or sifting committee of the Legislature] a legislative
 455 committee, a legislative task force, or a legislative commission;

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

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

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

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

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

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

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

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

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

475 (14) (a) "Initial contact report" means an initial written or recorded report, however

476 titled, prepared by peace officers engaged in public patrol or response duties describing official
477 actions initially taken in response to either a public complaint about or the discovery of an
478 apparent violation of law, which ~~[report]~~ may ~~[describe]~~ include:

- 479 (i) the date, time, location, and nature of the complaint, the incident, or offense;
480 (ii) names of victims;
481 (iii) the nature or general scope of the agency's initial actions taken in response to the
482 incident;
483 (iv) the general nature of any injuries or estimate of damages sustained in the incident;
484 (v) the name, address, and other identifying information about any person arrested or
485 charged in connection with the incident; or
486 (vi) the identity of the public safety personnel, except undercover personnel, or
487 prosecuting attorney involved in responding to the initial incident.

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

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

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

501 (16) (a) "Legislature" means the Senate, House of Representatives, Legislative Printing
502 Office, Office of Legislative Auditor General, Office of Legislative Fiscal Analyst, Office of
503 Legislative Research and General Counsel, a legislative committee, a legislative task force, a

504 legislative commission, or any other office or subdivision of the legislative branch of state
505 government.

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

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

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

509 ~~[(16)]~~ (17) "Notice of compliance" means a statement confirming that a governmental
510 entity has complied with a records committee order.

511 ~~[(17)]~~ (18) "Person" means:

512 (a) an individual;

513 (b) a nonprofit or profit corporation;

514 (c) a partnership;

515 (d) a sole proprietorship;

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

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

519 ~~[(18)]~~ (19) "Private provider" means any person who contracts with a governmental
520 entity to provide services directly to the public.

521 ~~[(19)]~~ (20) "Private record" means a record containing data on individuals that is
522 classified as "private" ~~[as provided by]~~ under Section 63G-2-302.

523 ~~[(20)]~~ (21) "Protected record" means a record that is classified as "protected" ~~[as~~
524 provided by] under Section 63G-2-305.

525 ~~[(21)]~~ (22) "Public record" means a record that is not private, controlled, or protected
526 and that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).

527 ~~[(22)]~~ (23) (a) "Record" means a book, letter, document, paper, map, plan, photograph,
528 film, card, tape, recording, electronic data, or other documentary material regardless of physical
529 form or characteristics:

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

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

534 (b) "Record" does not mean:

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

536 (i) material in the following format:

537 (A) a voice mail message, or an electronic reproduction or textual representation of a
538 voice mail message;

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

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

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

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

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

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

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

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

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

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

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

565 [~~(viii)~~] (x) material that is cataloged, indexed, or inventoried and contained in the
566 collections of a library open to the public, regardless of physical form or characteristics of the
567 material;

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

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

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

575 (A) a member of the judiciary;

576 (B) an administrative law judge;

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

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

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

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

587 [~~(xiv)~~] (xvi) information that an owner of unimproved property provides to a local

588 entity as provided in Section 11-42-205.

589 ~~[(23)]~~ (24) "Record series" means a group of records that may be treated as a unit for
590 purposes of designation, description, management, or disposition.

591 ~~[(24)]~~ (25) "Records committee" means the State Records Committee created in
592 Section 63G-2-501.

593 ~~[(25)]~~ (26) "Records officer" means the individual appointed by the chief
594 administrative officer of each governmental entity~~[-]~~ or ~~[the]~~ political subdivision to work with
595 State Archives in the care, maintenance, scheduling, designation, classification, disposal, and
596 preservation of records.

597 ~~[(26)]~~ (27) "Schedule," "scheduling," and their derivative forms mean the process of
598 specifying the length of time each record series should be retained by a governmental entity for
599 administrative, legal, fiscal, or historical purposes and when each record series should be
600 transferred to the state archives or destroyed.

601 ~~[(27)]~~ (28) "Sponsored research" means research, training, and other sponsored
602 activities as defined by the federal Executive Office of the President, Office of Management
603 and Budget that is:

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

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

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

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

611 ~~[(28)]~~ (29) "State archives" means the Division of Archives and Records Service
612 created in Section 63A-12-101.

613 ~~[(29)]~~ (30) "State archivist" means the director of the state archives.

614 ~~[(30)]~~ (31) "Summary data" means statistical records and compilations that contain
615 data derived from private, controlled, or protected information but that do not disclose private,

616 controlled, or protected information.

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

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

621 **63G-2-203. Fees -- Standard fee -- Establishment of fees -- Additional costs.**

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

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

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

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

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

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

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

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

644 media to meet the person's request;

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

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

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

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

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

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

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

670 (i) shall, for a service performed by an employee of the governmental entity, charge the
671 actual hourly pay rate of each employee performing a service in response to the request, or the

672 actual hourly pay rate of the lowest paid employee available to perform the service who, in the
673 discretion of the custodian of records, has the job classification and training necessary to
674 perform the service, whichever is lower:

675 (ii) shall, for a service performed by a person who is not an employee of the
676 governmental entity, charge the actual rate charged to the governmental entity for each service
677 performed in response to the request, provided that the service provider certifies that the rates
678 charged are not higher than the actual hourly pay rate of the lowest paid person having the job
679 classification and training necessary to perform the service; and

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

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

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

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

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

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

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

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

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

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

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

699 ~~[(4)] (3) A governmental entity may choose to fulfill a record request without [charge~~

700 ~~and is encouraged to do so when~~ a fee or cost assessment, or for a reduced fee or cost
 701 assessment if it determines [that]:

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

704 (b) that:

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

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

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

710 ~~[(5)]~~ (4) A governmental entity may not charge a fee or assess a cost for:

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

715 (b) inspecting a readily accessible public record.

716 ~~[(6)]~~ (5) (a) A person who believes that there has been an [unreasonable] abuse of
 717 discretion in the denial of a fee or cost waiver under [Subsection (4)] this section may appeal
 718 the denial in the same manner as a person appeals when inspection of a public record is denied
 719 under Section 63G-2-205.

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

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

727 ~~[(8)]~~ (7) (a) A governmental entity may require payment of past fees or costs and future

728 estimated fees or costs before beginning to process a request if:

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

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

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

733 ~~[(9)]~~ (8) This section does not alter, repeal, or reduce fees established by other statutes
734 or legislative acts.

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

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

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

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

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

743 **63G-2-204. Requests -- Time limit for response and extraordinary circumstances.**

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

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

747 and

748 (b) a description of the record requested that identifies the record with reasonable
749 specificity.

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

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

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

758 (i) deny the records request; and

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

761 (d) A governmental entity may make rules in accordance with Title 63G, Chapter 3,
762 Utah Administrative Rulemaking Act, specifying where and to whom requests for access shall
763 be directed.

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

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

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

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

774 (ii) deny the request in accordance with the procedures and requirements of Section
775 63G-2-205;

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

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

780 (A) a description of the circumstances that constitute the extraordinary circumstances;
781 and

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

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

787 (5) The following circumstances constitute "extraordinary circumstances" that allow a
788 governmental entity to delay approval or denial by an additional period of time as specified in
789 Subsection (6) if the governmental entity determines that due to the extraordinary
790 circumstances it cannot respond within the time limits provided in Subsection (3):

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

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

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

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

799 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

828 (A) require the person to provide for copying of the records as provided in Subsection
829 63G-2-201(9); or

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

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

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

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

839 (7) (a) If a request for access is submitted to an office of a governmental entity other

840 than that specified by rule in accordance with Subsection (2), the office shall promptly forward
841 the request to the appropriate office.

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

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

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

848 **63G-2-206. Sharing records.**

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

850 (a) the Senate or House of Representatives;

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

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

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

854 Representatives, a legislative committee, a legislative task force, a legislative commission, or a
855 member of the Senate or House of Representatives.

856 ~~[(1)]~~ (2) A governmental entity may provide a record ~~[that is]~~ that is classified as
857 private, controlled, or protected to another governmental entity, a government-managed
858 corporation, a political subdivision, the federal government, or another state if the requesting
859 entity:

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

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

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

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

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

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

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

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

872 ~~[(D) a legislative staff member acting at the request of the Legislature, a legislative~~

873 ~~committee, or a member of the Legislature; and]~~

874 ~~[(ii)]~~ (3) A governmental entity may provide a record that is classified as private,

875 controlled, or protected to a legislative entity when the legislative entity requests the record in

876 relation to the Legislature's duties including:

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

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

879 ~~[(C)]~~ (c) an investigation or review conducted by the Legislature or a legislative

880 committee, legislative task force, or legislative commission.

881 ~~[(2)]~~ (4) (a) A governmental entity may provide a private, controlled, or protected

882 record or record series to another governmental entity, a legislative entity, a political

883 subdivision, a government-managed corporation, the federal government, or another state if the

884 requesting entity provides written assurance:

885 (i) that the record or record series is necessary to the performance of the duties and

886 functions of the governmental [entity's duties and functions] entity, legislative entity, political

887 subdivision, government-managed corporation, the federal government, or the other state;

888 (ii) that the record or record series will be used for a purpose similar to the purpose for

889 which the information in the record or record series was collected or obtained; and

890 (iii) that the use of the record or record series produces a public benefit that outweighs

891 the individual privacy right that protects the record or record series.

892 (b) A governmental entity may provide a private, controlled, or protected record or

893 record series to a contractor or a private provider according to the requirements of Subsection

894 ~~[(6)]~~ (8)(b).

895 ~~[(3)]~~ (5) (a) A governmental entity shall provide a private, controlled, or protected

896 record to another governmental entity, a legislative entity, a political subdivision, a
 897 government-managed corporation, the federal government, or another state if the requesting
 898 entity:

899 (i) is entitled by law to inspect the record;
 900 (ii) is required to inspect the record as a condition of participating in a state or federal
 901 program or for receiving state or federal funds; or

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

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

905 [~~(4)~~] (6) Before disclosing a record or record series under this section to another
 906 governmental entity, a legislative entity, another state, the United States, a foreign government,
 907 or to a contractor or private provider, the originating governmental entity shall:

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

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

914 [~~(5)~~] (7) A governmental entity may disclose a record to another state, the United
 915 States, or a foreign government for the reasons listed in Subsections [~~(1)~~] (2) and [~~(2)~~] (4)
 916 without complying with the procedures of Subsection [~~(2)~~] (4) or [~~(4)~~] (6) if disclosure is
 917 authorized by executive agreement, treaty, federal statute, compact, federal regulation, or state
 918 statute.

919 [~~(6)~~] (8) (a) Subject to Subsections [~~(6)~~] (8)(b) and (c), an entity receiving a record
 920 under this section is [~~subject to~~] governed by the same restrictions on disclosure of the private,
 921 protected, or controlled record as the originating entity.

922 (b) A contractor or a private provider may [~~receive information~~] obtain a record or
 923 record series under this section only if the originating governmental entity determines and the

924 contractor or private provider gives written assurance to the originating governmental entity
925 that:

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

929 (ii) the record or record series [~~it requests~~] requested by the contractor or private
930 provider:

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

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

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

942 [~~(7)~~] (9) Notwithstanding any other provision of this section, if a more specific court
943 rule or order, state statute, federal statute, or federal regulation prohibits or requires sharing
944 information, that rule, order, statute, or federal regulation controls.

945 [~~(8)~~] (10) The following records may not be shared under this section:

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

949 (b) records of publicly funded libraries as described in [~~Subsection~~] Section
950 63G-2-302[~~(1)~~(c)].

951 [~~(9)~~] (11) Records that may evidence or relate to a violation of law may be disclosed to

952 a government prosecutor, peace officer, or auditor.

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

954 **63G-2-301. Records that must be disclosed.**

955 (1) As used in this section:

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

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

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

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

965 (a) laws;

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

970 (i) undercover law enforcement personnel; and

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

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

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

979 (e) information contained in or compiled from a transcript, minutes, or report of the

980 open portions of a meeting of a governmental entity as provided by Title 52, Chapter 4, Open
981 and Public Meetings Act, including the records of all votes of each member of the
982 governmental entity;

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

985 (g) unless otherwise classified as private under Section 63G-2-303, records or parts of
986 records filed with or maintained by county recorders, clerks, treasurers, surveyors, zoning
987 commissions, the Division of Forestry, Fire, and State Lands, the School and Institutional Trust
988 Lands Administration, the Division of Oil, Gas, and Mining, the Division of Water Rights, or
989 other governmental entities that give public notice of:

990 (i) titles or encumbrances to real property;

991 (ii) restrictions on the use of real property;

992 (iii) the capacity of persons to take or convey title to real property; or

993 (iv) tax status for real and personal property;

994 (h) records of the Department of Commerce that evidence incorporations, mergers,
995 name changes, and uniform commercial code filings;

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

999 (j) documentation of the compensation that a governmental entity pays to a contractor
1000 or private provider;

1001 (k) summary data; and

1002 (l) voter registration records, including an individual's voting history, except for those
1003 parts of the record that are classified as private in [~~Subsection 63G-2-302(1)(i)~~] Section
1004 63G-2-302.

1005 (3) The following records are normally public, but to the extent that a record is
1006 expressly exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),
1007 Section 63G-2-302, 63G-2-304, or 63G-2-305:

1008 (a) administrative staff manuals, official instructions to staff, and formal statements of
1009 policy;

1010 (b) records documenting a contractor's or private provider's compliance with the terms
1011 of a contract with a governmental entity;

1012 (c) records documenting the services provided by a contractor or a private provider to
1013 the extent the records would be public if prepared by the governmental entity;

1014 (d) contracts entered into by a governmental entity;

1015 (e) any account, voucher, or contract that deals with the receipt or expenditure of funds
1016 by a governmental entity;

1017 (f) records relating to government assistance or incentives publicly disclosed,
1018 contracted for, or given by a governmental entity, encouraging a person to expand or relocate a
1019 business in Utah, except as provided in Subsection 63G-2-305(35);

1020 (g) chronological logs and initial contact reports;

1021 (h) correspondence by and with a governmental entity in which the governmental entity
1022 determines or states an official opinion [~~upon~~] about the rights of the state, a political
1023 subdivision, the public, or any person;

1024 [~~(i) empirical data contained in drafts if:~~]

1025 [~~(i) the empirical data is not reasonably available to the requester elsewhere in similar
1026 form; and]~~

1027 [~~(ii) the governmental entity is given a reasonable opportunity to correct any errors or
1028 make nonsubstantive changes before release;]~~

1029 [(~~j~~)] (i) drafts that are circulated to anyone other than:

1030 (i) a governmental entity;

1031 (ii) a political subdivision;

1032 (iii) a federal agency if the governmental entity and the federal agency are jointly
1033 responsible for implementation of a program or project that has been legislatively approved;

1034 (iv) a government-managed corporation; or

1035 (v) a contractor or private provider;

1036 ~~[(k)]~~ (j) drafts that have never been finalized but were directly relied upon by the
1037 governmental entity in carrying out action or policy;

1038 ~~[(l)]~~ original data in a computer program if the governmental entity chooses not to
1039 disclose the program;]

1040 ~~[(m)]~~ (k) arrest warrants after issuance, except that, for good cause, a court may order
1041 restricted access to an arrest ~~[warrants prior to service]~~ warrant before the warrant is served;

1042 ~~[(n)]~~ (l) search warrants after execution and filing of the return, except that a court, for
1043 good cause, may order restricted access to search warrants ~~[prior to]~~ before trial;

1044 ~~[(o)]~~ (m) records that would disclose information relating to formal charges or formal
1045 disciplinary ~~[actions]~~ action against a past or present governmental entity employee if:

1046 (i) the disciplinary action has been completed and all time periods for administrative
1047 appeal have expired; and

1048 (ii) the charges on which the disciplinary action was based were sustained;

1049 ~~[(p)]~~ (n) records maintained by the Division of Forestry, Fire, and State Lands, the
1050 School and Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining
1051 that evidence mineral production on government lands;

1052 ~~[(q)]~~ (o) final audit reports;

1053 ~~[(r)]~~ (p) occupational and professional licenses;

1054 ~~[(s)]~~ (q) business licenses; and

1055 ~~[(t)]~~ (r) a notice of violation, a notice of agency action under Section 63G-4-201, or
1056 similar records used to initiate proceedings for discipline or sanctions against persons regulated
1057 by a governmental entity, but not including records that initiate employee discipline.

1058 (4) The list of public records in this section is not exhaustive and should not be used to
1059 limit access to records.

1060 Section 11. Section **63G-2-302** is amended to read:

1061 **63G-2-302. Private records.**

1062 (1) The following records are private:

1063 (a) records concerning an individual's eligibility for unemployment insurance benefits,

1064 social services, welfare benefits, or the determination of benefit levels;

1065 (b) records containing data on individuals describing medical history, diagnosis,

1066 condition, treatment, evaluation, or similar medical data;

1067 (c) records of publicly funded libraries that when examined alone or with other records

1068 identify a patron;

1069 (d) records received by or generated by or for:

1070 (i) the Independent Legislative Ethics Commission, except for:

1071 (A) the commission's summary data report that is required under legislative rule; and

1072 (B) any other document that is classified as public under legislative rule; or

1073 (ii) a Senate or House Ethics Committee in relation to the review of ethics complaints,

1074 unless the record is classified as public under legislative rule;

1075 (e) the Social Security number, home address, personal email address or other personal

1076 electronic or online address, personal telephone number, or personal financial information of

1077 an applicant or nominee for a position that is received by a Senate confirmation committee;

1078 ~~(f)~~ (f) records received or generated for a Senate confirmation committee concerning

1079 character, professional competence, or physical or mental health of an individual if:

1080 (i) ~~if prior to~~ before the meeting, the chair of the committee determines that release of

1081 the records ~~:(A) reasonably~~ could be reasonably expected to interfere with the investigation

1082 undertaken by the committee~~;~~ or ~~(B)~~ would create a danger of depriving a person of a right

1083 to a fair proceeding or impartial hearing; and

1084 (ii) after the meeting, if the meeting was closed to the public;

1085 ~~(g)~~ (g) employment records concerning a current or former employee of, or applicant

1086 for employment with, a governmental entity that would disclose that individual's home address,

1087 home telephone number, personal email address or other personal electronic or online address,

1088 Social Security number, insurance coverage, marital status, or payroll deductions;

1089 ~~(h)~~ (h) records or parts of records under Section 63G-2-303 that a current or former

1090 employee identifies as private according to the requirements of that section;

1091 ~~(i)~~ (i) that part of a record indicating a person's Social Security number or federal

1092 employer identification number if provided under Section 31A-23a-104, 31A-25-202,
1093 31A-26-202, 58-1-301, 61-1-4, or 61-2f-203;

1094 ~~[(i)]~~ (j) that part of a voter registration record identifying a voter's driver license or
1095 identification card number, Social Security number, or last four digits of the Social Security
1096 number;

1097 ~~[(j)]~~ (k) a record that~~[(i)]~~ contains information about an individual~~[(ii)]~~, is
1098 voluntarily provided by the individual~~[(i)]~~, and ~~[(iii) goes into]~~ is placed in an electronic
1099 database that:

1100 ~~[(A)]~~ (i) is designated by and administered under the authority of the Chief Information
1101 Officer; and

1102 ~~[(B)]~~ (ii) acts as a repository of information about the individual that can be
1103 electronically retrieved and used to facilitate the individual's online interaction with a state
1104 agency;

1105 ~~[(k)]~~ (l) information provided to the Commissioner of Insurance under:

1106 (i) Subsection 31A-23a-115(2)(a);

1107 (ii) Subsection 31A-23a-302(3); or

1108 (iii) Subsection 31A-26-210(3);

1109 ~~[(H)]~~ (m) information obtained through a criminal background check under Title 11,
1110 Chapter 40, Criminal Background Checks by Political Subdivisions Operating Water Systems;

1111 ~~[(m)]~~ (n) information provided by an offender that is:

1112 (i) required by the registration requirements of Section 77-27-21.5; and

1113 (ii) not required to be made available to the public under Subsection 77-27-21.5(27);

1114 and

1115 ~~[(n)]~~ (o) a statement and any supporting documentation filed with the attorney general
1116 in accordance with Section 34-45-107, if the federal law or action supporting the filing
1117 involves homeland security.

1118 (2) The following records are private if properly classified by a governmental entity:

1119 (a) records concerning a current or former employee of, or applicant for employment

1120 with, a governmental entity, including performance evaluations and personal status information
1121 such as race, religion, or disabilities, but not including records that are public under Subsection
1122 63G-2-301(2)(b) or [~~63G-2-301(3)(c)~~] (3)(m), or private under Subsection (1)(b);

1123 (b) records describing an individual's finances, except that the following are public:

1124 (i) records described in Subsection 63G-2-301(2);

1125 (ii) information provided to the governmental entity for the purpose of complying with
1126 a financial assurance requirement; or

1127 (iii) records that must be disclosed in accordance with another statute;

1128 (c) records of independent state agencies if the disclosure of those records would
1129 conflict with the fiduciary obligations of the agency;

1130 (d) other records containing data on individuals the disclosure of which constitutes a
1131 clearly unwarranted invasion of personal privacy;

1132 (e) records provided by the United States or by a government entity outside the state
1133 that are given with the requirement that the records be managed as private records, if the
1134 providing entity states in writing that the record would not be subject to public disclosure if
1135 retained by it; and

1136 (f) any portion of a record in the custody of the Division of Aging and Adult Services,
1137 created in Section 62A-3-102, that may disclose, or lead to the discovery of, the identity of a
1138 person who made a report of alleged abuse, neglect, or exploitation of a vulnerable adult.

1139 (3) (a) As used in this Subsection (3), "medical records" means medical reports,
1140 records, statements, history, diagnosis, condition, treatment, and evaluation.

1141 (b) Medical records in the possession of the University of Utah Hospital, its clinics,
1142 doctors, or affiliated entities are not private records or controlled records under Section
1143 63G-2-304 when the records are sought:

1144 (i) in connection with any legal or administrative proceeding in which the patient's
1145 physical, mental, or emotional condition is an element of any claim or defense; or

1146 (ii) after a patient's death, in any legal or administrative proceeding in which any party
1147 relies upon the condition as an element of the claim or defense.

1148 (c) Medical records are subject to production in a legal or administrative proceeding
1149 according to state or federal statutes or rules of procedure and evidence as if the medical
1150 records were in the possession of a nongovernmental medical care provider.

1151 Section 12. Section **63G-2-303** is amended to read:

1152 **63G-2-303. Private information concerning certain government employees.**

1153 (1) As used in this section:

1154 (a) "At-risk government employee" means a current or former:

1155 (i) peace officer as specified in Section 53-13-102;

1156 (ii) supreme court justice;

1157 (iii) judge of an appellate, district, or juvenile court;

1158 (iv) justice court judge;

1159 (v) judge authorized by Title 39, Chapter 6, Utah Code of Military Justice;

1160 (vi) federal judge;

1161 (vii) federal magistrate judge;

1162 (viii) judge authorized by Armed Forces, Title 10, United States Code;

1163 (ix) United States Attorney;

1164 (x) Assistant United States Attorney;

1165 (xi) a prosecutor appointed pursuant to Armed Forces, Title 10, United States Code;

1166 (xii) a law enforcement official as defined in Section 53-5-711; or

1167 (xiii) a prosecutor authorized by Title 39, Chapter 6, Utah Code of Military Justice.

1168 (b) "Family member" means the spouse, child, sibling, parent, or grandparent of an
1169 at-risk government employee who is living with the employee.

1170 (2) (a) Pursuant to [~~Subsection 63G-2-302(1)(g)~~] Section 63G-2-302, an at-risk
1171 government employee may file a written application that:

1172 (i) gives notice of the employee's status to each agency of a government entity holding
1173 a record or a part of a record that would disclose the employee's or the employee's family
1174 member's home address, home telephone number, Social Security number, insurance coverage,
1175 marital status, or payroll deductions; and

1176 (ii) requests that the government agency classify those records or parts of records
1177 private.

1178 (b) An at-risk government employee desiring to file an application under this section
1179 may request assistance from the government agency to identify the individual records
1180 containing the private information specified in Subsection (2)(a)(i).

1181 (c) Each government agency shall develop a form that:

1182 (i) requires the at-risk government employee to provide evidence of qualifying
1183 employment;

1184 (ii) requires the at-risk government employee to designate each specific record or part
1185 of a record containing the employee's home address, home telephone number, Social Security
1186 number, insurance coverage, marital status, or payroll deductions that the applicant desires to
1187 be classified as private; and

1188 (iii) affirmatively requests that the government entity holding those records classify
1189 them as private.

1190 (3) A county recorder, county treasurer, county auditor, or a county tax assessor may
1191 fully satisfy the requirements of this section by:

1192 (a) providing a method for the assessment roll and index and the tax roll and index that
1193 will block public access to the home address, home telephone number, situs address, and Social
1194 Security number; and

1195 (b) providing the at-risk government employee requesting the classification with a
1196 disclaimer informing the employee that the employee may not receive official announcements
1197 affecting the employee's property, including notices about proposed annexations,
1198 incorporations, or zoning modifications.

1199 (4) A government agency holding records of an at-risk government employee classified
1200 as private under this section may release the record or part of the record if:

1201 (a) the employee or former employee gives written consent;

1202 (b) a court orders release of the records; or

1203 (c) the government agency receives a certified death certificate for the employee or

1204 former employee.

1205 (5) (a) If the government agency holding the private record receives a subpoena for the
1206 records, the government agency shall attempt to notify the at-risk government employee or
1207 former employee by mailing a copy of the subpoena to the employee's last-known mailing
1208 address together with a request that the employee either:

1209 (i) authorize release of the record; or

1210 (ii) within 10 days of the date that the copy and request are mailed, deliver to the
1211 government agency holding the private record a copy of a motion to quash filed with the court
1212 who issued the subpoena.

1213 (b) The government agency shall comply with the subpoena if the government agency
1214 has:

1215 (i) received permission from the at-risk government employee or former employee to
1216 comply with the subpoena;

1217 (ii) has not received a copy of a motion to quash within 10 days of the date that the
1218 copy of the subpoena was mailed; or

1219 (iii) receives a court order requiring release of the records.

1220 Section 13. Section **63G-2-305** is amended to read:

1221 **63G-2-305. Protected records.**

1222 The following records are protected if properly classified by a governmental entity:

1223 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret
1224 has provided the governmental entity with the information specified in Section 63G-2-309;

1225 (2) commercial information or nonindividual financial information obtained from a
1226 person if:

1227 (a) disclosure of the information could reasonably be expected to result in unfair
1228 competitive injury to the person submitting the information or would impair the ability of the
1229 governmental entity to obtain necessary information in the future;

1230 (b) the person submitting the information has a greater interest in prohibiting access
1231 than the public in obtaining access; and

1232 (c) the person submitting the information has provided the governmental entity with
1233 the information specified in Section 63G-2-309;

1234 (3) commercial or financial information acquired or prepared by a governmental entity
1235 to the extent that disclosure would lead to financial speculations in currencies, securities, or
1236 commodities that will interfere with a planned transaction by the governmental entity or cause
1237 substantial financial injury to the governmental entity or state economy;

1238 (4) records the disclosure of which could cause commercial injury to, or confer a
1239 competitive advantage upon, a potential or actual competitor of, a commercial project entity as
1240 defined in Subsection 11-13-103(4);

1241 (5) test questions and answers to be used in future license, certification, registration,
1242 employment, or academic examinations;

1243 (6) records the disclosure of which would impair governmental procurement
1244 proceedings or give an unfair advantage to any person proposing to enter into a contract or
1245 agreement with a governmental entity, except, subject to Subsections (1) and (2), that this
1246 Subsection (6) does not restrict the right of a person to have access to, once the contract or
1247 grant has been awarded, a bid, proposal, or application submitted to or by a governmental
1248 entity in response to:

1249 (a) a request for bids;

1250 (b) a request for proposals;

1251 (c) a grant; or

1252 (d) other similar document;

1253 (7) records that would identify real property or the appraisal or estimated value of real
1254 or personal property, including intellectual property, under consideration for public acquisition
1255 before any rights to the property are acquired unless:

1256 (a) public interest in obtaining access to the information outweighs the governmental
1257 entity's need to acquire the property on the best terms possible;

1258 (b) the information has already been disclosed to persons not employed by or under a
1259 duty of confidentiality to the entity;

1260 (c) in the case of records that would identify property, potential sellers of the described
1261 property have already learned of the governmental entity's plans to acquire the property;

1262 (d) in the case of records that would identify the appraisal or estimated value of
1263 property, the potential sellers have already learned of the governmental entity's estimated value
1264 of the property; or

1265 (e) the property under consideration for public acquisition is a single family residence
1266 and the governmental entity seeking to acquire the property has initiated negotiations to acquire
1267 the property as required under Section 78B-6-505;

1268 (8) records prepared in contemplation of sale, exchange, lease, rental, or other
1269 compensated transaction of real or personal property including intellectual property, which, if
1270 disclosed prior to completion of the transaction, would reveal the appraisal or estimated value
1271 of the subject property, unless:

1272 (a) the public interest in access outweighs the interests in restricting access, including
1273 the governmental entity's interest in maximizing the financial benefit of the transaction; or

1274 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
1275 the value of the subject property have already been disclosed to persons not employed by or
1276 under a duty of confidentiality to the entity;

1277 (9) records created or maintained for civil, criminal, or administrative enforcement
1278 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
1279 release of the records:

1280 (a) reasonably could be expected to interfere with investigations undertaken for
1281 enforcement, discipline, licensing, certification, or registration purposes;

1282 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
1283 proceedings;

1284 (c) would create a danger of depriving a person of a right to a fair trial or impartial
1285 hearing;

1286 (d) reasonably could be expected to disclose the identity of a source who is not
1287 generally known outside of government and, in the case of a record compiled in the course of

1288 an investigation, disclose information furnished by a source not generally known outside of
1289 government if disclosure would compromise the source; or

1290 (e) reasonably could be expected to disclose investigative or audit techniques,
1291 procedures, policies, or orders not generally known outside of government if disclosure would
1292 interfere with enforcement or audit efforts;

1293 (10) records the disclosure of which would jeopardize the life or safety of an
1294 individual;

1295 (11) records the disclosure of which would jeopardize the security of governmental
1296 property, governmental programs, or governmental recordkeeping systems from damage, theft,
1297 or other appropriation or use contrary to law or public policy;

1298 (12) records that, if disclosed, would jeopardize the security or safety of a correctional
1299 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
1300 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

1301 (13) records that, if disclosed, would reveal recommendations made to the Board of
1302 Pardons and Parole by an employee of or contractor for the Department of Corrections, the
1303 Board of Pardons and Parole, or the Department of Human Services that are based on the
1304 employee's or contractor's supervision, diagnosis, or treatment of any person within the board's
1305 jurisdiction;

1306 (14) records and audit workpapers that identify audit, collection, and operational
1307 procedures and methods used by the State Tax Commission, Office of the Utah State Auditor,
1308 or Office of Legislative Auditor General, if disclosure would interfere with audits or
1309 collections;

1310 (15) records of a governmental audit agency relating to an ongoing or planned audit
1311 until the final audit is released;

1312 (16) records prepared by or on behalf of a governmental entity [~~solely~~] in reasonable
1313 anticipation of litigation that are not available under the rules of discovery;

1314 (17) records disclosing an attorney's work product, including the mental impressions or
1315 legal theories of an attorney or other representative of a governmental entity [~~concerning~~]

1316 involving pending litigation or reasonably anticipated litigation;

1317 (18) records of communications between a governmental entity and an attorney
1318 representing, retained, or employed by the governmental entity if the communications would be
1319 privileged as provided in Section 78B-1-137;

1320 (19) (a) ~~[(i) personal files of]~~ a record related to the performance of a legislator's
1321 official governmental duties that is prepared, received, or retained by a [state] legislator,
1322 including [personal] correspondence to or from a [member of the Legislature; and (ii)
1323 notwithstanding Subsection (19)(a)(i), correspondence that gives notice of] legislator, except
1324 that a record that provides notice of an official legislative action or policy may not be classified
1325 as protected under this [section] Subsection (19)(a); and

1326 (b) (i) ~~[an internal]~~ a record disclosing a communication that is [part of the deliberative
1327 process in connection with the preparation of legislation] related to the performance of official
1328 governmental duties and that is between:

1329 (A) ~~[members of a legislative body]~~ one or more legislators;

1330 (B) ~~[a member of a legislative body and a member of the legislative body's staff]~~ one or
1331 more legislators and one or more legislative staff employees; or

1332 (C) ~~[members of a legislative body's staff]~~ one or more legislative staff employees; and

1333 (ii) notwithstanding Subsection (19)(b)(i), a ~~[communication that gives notice of~~
1334 ~~legislative action or policy]~~ record that provides notice of official legislative action or policy
1335 may not be classified as protected under this [section] Subsection (19);

1336 (20) (a) records in the custody or control of the Office of Legislative Research and
1337 General Counsel, that, if disclosed, would reveal a ~~[particular]~~ legislator's contemplated
1338 legislation or contemplated course of action ~~[before the legislator has elected to support]~~ until
1339 the legislation [or course of action] has been introduced, or the legislator made the legislation
1340 or course of action public; and

1341 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
1342 Office of Legislative Research and General Counsel is a public document unless a legislator
1343 asks that the records requesting the legislation be maintained as protected records until such

1344 time as the legislator introduces the legislation or elects to make the legislation or course of
1345 action public;

1346 (21) [~~research~~] legislator requests [~~from legislators to~~] for staff services from the Office
1347 of Legislative Research and General Counsel or the Office of the Legislative Fiscal Analyst and
1348 [~~research~~] findings prepared in response to these requests;

1349 (22) drafts, unless otherwise classified as public;

1350 (23) records concerning a governmental entity's strategy about;

1351 (a) collective bargaining; or

1352 (b) reasonably anticipated or pending litigation;

1353 (24) records of investigations of loss occurrences and analyses of loss occurrences that
1354 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
1355 Uninsured Employers' Fund, or similar divisions in other governmental entities;

1356 (25) records, other than personnel evaluations, that contain a personal recommendation
1357 concerning an individual if disclosure would constitute a clearly unwarranted invasion of
1358 personal privacy, or disclosure is not in the public interest;

1359 (26) records that reveal the location of historic, prehistoric, paleontological, or
1360 biological resources that, if known, would jeopardize the security of those resources or of
1361 valuable historic, scientific, educational, or cultural information;

1362 (27) records of independent state agencies if the disclosure of the records would
1363 conflict with the fiduciary obligations of the agency;

1364 (28) records of an institution within the state system of higher education as defined in
1365 Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
1366 retention decisions, and promotions, which could be properly discussed in a meeting closed in
1367 accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of
1368 the final decisions about tenure, appointments, retention, promotions, or those students
1369 admitted, may not be classified as protected under this section;

1370 (29) records [~~of~~] prepared, received, or retained by the governor's office, including
1371 budget recommendations, legislative proposals, internal communications, working papers, and

1372 policy statements, that if disclosed would reveal the governor's contemplated policies or
1373 contemplated courses of action [~~before the governor has implemented or rejected those policies~~
1374 ~~or courses of action or made them public~~];

1375 (30) records of the Office of the Legislative Fiscal Analyst relating to;

1376 (a) budget analysis[~~;~~];

1377 (b) revenue estimates[~~;~~ and fiscal notes of proposed legislation before issuance of the
1378 final recommendations in these areas]; and

1379 (c) data and working papers associated with a fiscal note for legislation until the
1380 legislation has passed;

1381 (31) records provided by the United States or by a government entity outside the state
1382 that are given to the governmental entity with a requirement that they be managed as protected
1383 records if the providing entity certifies that the record would not be subject to public disclosure
1384 if retained by it;

1385 (32) transcripts, minutes, or reports of the closed portion of a meeting of a public body
1386 except as provided in Section 52-4-206;

1387 (33) records that would reveal the contents of settlement negotiations but not including
1388 final settlements or empirical data to the extent that they are not otherwise exempt from
1389 disclosure;

1390 (34) memoranda prepared by staff and used in the decision-making process by an
1391 administrative law judge, a member of the Board of Pardons and Parole, or a member of any
1392 other body charged by law with performing a quasi-judicial function;

1393 (35) records that would reveal negotiations regarding assistance or incentives offered
1394 by or requested from a governmental entity for the purpose of encouraging a person to expand
1395 or locate a business in Utah, but only if disclosure would result in actual economic harm to the
1396 person or place the governmental entity at a competitive disadvantage, but this section may not
1397 be used to restrict access to a record evidencing a final contract;

1398 (36) materials to which access must be limited for purposes of securing or maintaining
1399 the governmental entity's proprietary protection of intellectual property rights including patents,

1400 copyrights, and trade secrets;

1401 (37) the name of a donor or a prospective donor to a governmental entity, including an
1402 institution within the state system of higher education as defined in Section 53B-1-102, and
1403 other information concerning the donation that could reasonably be expected to reveal the
1404 identity of the donor, provided that:

1405 (a) the donor requests anonymity in writing;

1406 (b) any terms, conditions, restrictions, or privileges relating to the donation may not be
1407 classified protected by the governmental entity under this Subsection (37); and

1408 (c) except for an institution within the state system of higher education defined in
1409 Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged
1410 in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority
1411 over the donor, a member of the donor's immediate family, or any entity owned or controlled
1412 by the donor or the donor's immediate family;

1413 (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and
1414 73-18-13;

1415 (39) a notification of workers' compensation insurance coverage described in Section
1416 34A-2-205;

1417 (40) (a) the following records of an institution within the state system of higher
1418 education defined in Section 53B-1-102, which have been developed, discovered, disclosed to,
1419 or received by or on behalf of faculty, staff, employees, or students of the institution:

1420 (i) unpublished lecture notes;

1421 (ii) unpublished notes, data, and information[~~-(A)~~] relating to research[~~;~~ and ~~(B)~~ of: ~~(F)~~
1422 ~~the~~] conducted by:

1423 (A) an institution within the state system of higher education defined in Section
1424 53B-1-102; or

1425 [~~(H)~~] (B) a sponsor of sponsored research;

1426 (iii) unpublished manuscripts;

1427 (iv) creative works in process;

- 1428 (v) scholarly correspondence; and
- 1429 (vi) confidential information contained in research proposals;
- 1430 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public
- 1431 information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- 1432 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 1433 (41) (a) records in the custody or control of the Office of Legislative Auditor General
- 1434 that would reveal the name of a particular legislator who requests a legislative audit [~~prior to~~
- 1435 before the date that audit is completed and made public; and
- 1436 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
- 1437 Office of the Legislative Auditor General is a public document unless the legislator asks that
- 1438 the records in the custody or control of the Office of Legislative Auditor General that would
- 1439 reveal the name of a particular legislator who requests a legislative audit be maintained as
- 1440 protected records until the audit is completed and made public;
- 1441 (42) records that provide detail as to the location of an explosive, including a map or
- 1442 other document that indicates the location of:
- 1443 (a) a production facility; or
- 1444 (b) a magazine;
- 1445 (43) information:
- 1446 (a) contained in the statewide database of the Division of Aging and Adult Services
- 1447 created by Section 62A-3-311.1; or
- 1448 (b) received or maintained in relation to the Identity Theft Reporting Information
- 1449 System (IRIS) established under Section 67-5-22;
- 1450 (44) information contained in the Management Information System and Licensing
- 1451 Information System described in Title 62A, Chapter 4a, Child and Family Services;
- 1452 (45) information regarding National Guard operations or activities in support of the
- 1453 National Guard's federal mission;
- 1454 (46) records provided by any pawn or secondhand business to a law enforcement
- 1455 agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop and

1456 Secondhand Merchandise Transaction Information Act;

1457 (47) information regarding food security, risk, and vulnerability assessments performed

1458 by the Department of Agriculture and Food;

1459 (48) except to the extent that the record is exempt from this chapter [~~pursuant to~~] under

1460 Section 63G-2-106, records related to an emergency plan or program prepared or maintained by

1461 the Division of Homeland Security the disclosure of which would jeopardize:

1462 (a) the safety of the general public; or

1463 (b) the security of[~~(i)~~] governmental property[~~(ii)~~], governmental programs[~~(i)~~], or

1464 [~~(iii)~~] the property of a private person who provides information to the Division of Homeland

1465 Security [~~information~~];

1466 (49) records of the Department of Agriculture and Food relating to the National

1467 Animal Identification System or any other program that provides for the identification, tracing,

1468 or control of livestock diseases, including any program established under Title 4, Chapter 24,

1469 Utah Livestock Brand and Anti-theft Act or Title 4, Chapter 31, Livestock Inspection and

1470 Quarantine;

1471 (50) as provided in Section 26-39-501:

1472 (a) information or records held by the Department of Health related to a complaint

1473 regarding a child care program or residential child care which the department is unable to

1474 substantiate; and

1475 (b) information or records related to a complaint received by the Department of Health

1476 from an anonymous complainant regarding a child care program or residential child care;

1477 (51) unless otherwise classified as public under Section 63G-2-301 and except as

1478 provided under Section 41-1a-116, an individual's home address, home telephone number,

1479 personal email address or other personal electronic or online address, or personal mobile phone

1480 number, if:

1481 (a) the individual is required to provide the information in order to comply with a law,

1482 ordinance, rule, or order of a government entity; and

1483 (b) the subject of the record has a reasonable expectation that this information will be

1484 kept confidential due to:

1485 (i) the nature of the law, ordinance, rule, or order; and

1486 (ii) the individual complying with the law, ordinance, rule, or order;

1487 (52) the name, home address, work [~~addresses, and~~] address, telephone [~~numbers~~

1488 number, and email address or other personal electronic or online address of an individual that is

1489 engaged in, or that provides goods or services for, medical or scientific research that is:

1490 (a) conducted within the state system of higher education, as defined in Section

1491 53B-1-102; and

1492 (b) conducted using animals;

1493 (53) an initial proposal under Title 63M, Chapter 1, Part 26, Government Procurement

1494 Private Proposal Program, to the extent not made public by rules made under that chapter;

1495 (54) information collected and a report prepared by the Judicial Performance

1496 Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter

1497 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public,

1498 the information or report;

1499 (55) (a) records of the Utah Educational Savings Plan created under Section

1500 53B-8a-103 if the disclosure of the records would conflict with its fiduciary obligations;

1501 (b) proposals submitted to the Utah Educational Savings Plan; and

1502 (c) contracts entered into by the Utah Educational Savings Plan and the related

1503 payments;

1504 (56) records contained in the Management Information System created in Section

1505 62A-4a-1003;

1506 (57) records provided or received by the Public Lands Policy Coordinating Office in

1507 furtherance of any contract or other agreement made in accordance with Section 63J-4-603;

1508 (58) information requested by and provided to the Utah State 911 Committee under

1509 Section 53-10-602;

1510 (59) recorded Children's Justice Center investigative interviews, both video and audio,

1511 the release of which are governed by Section 77-37-4; and

1512 (60) in accordance with Section 73-10-33:

1513 (a) a management plan for a water conveyance facility in the possession of the Division
1514 of Water Resources or the Board of Water Resources; or

1515 (b) an outline of an emergency response plan in possession of the state or a county or
1516 municipality.

1517 Section 14. Section **63G-2-401** is amended to read:

1518 **63G-2-401. Appeal to head of governmental entity.**

1519 (1) (a) Any person aggrieved by a governmental entity's access determination under
1520 this chapter, including a person not a party to the governmental entity's proceeding, may appeal
1521 the determination within 30 days to the chief administrative officer of the governmental entity
1522 by filing a notice of appeal.

1523 (b) If a governmental entity claims extraordinary circumstances and specifies the date
1524 when the records will be available under Subsection 63G-2-204(3), and, if the requester
1525 believes the extraordinary circumstances do not exist or that the time specified is unreasonable,
1526 the requester may appeal the governmental entity's claim of extraordinary circumstances or date
1527 for compliance within 30 days after notification of a claim of extraordinary circumstances by
1528 the governmental entity, despite the lack of a "determination" or its equivalent under
1529 Subsection 63G-2-204[~~(7)~~](8).

1530 (2) The notice of appeal shall contain the following information:

1531 (a) the petitioner's name, mailing address, and daytime telephone number; and

1532 (b) the relief sought.

1533 (3) The petitioner may file a short statement of facts, reasons, and legal authority in
1534 support of the appeal.

1535 (4) (a) If the appeal involves a record that is the subject of a business confidentiality
1536 claim under Section 63G-2-309, the chief administrative officer shall:

1537 (i) send notice of the requester's appeal to the business confidentiality claimant within
1538 three business days after receiving notice, except that if notice under this section must be given
1539 to more than 35 persons, it shall be given as soon as reasonably possible; and

1540 (ii) send notice of the business confidentiality claim and the schedule for the chief
1541 administrative officer's determination to the requester within three business days after receiving
1542 notice of the requester's appeal.

1543 (b) The claimant shall have seven business days after notice is sent by the
1544 administrative officer to submit further support for the claim of business confidentiality.

1545 (5) (a) The chief administrative officer shall make a determination on the appeal within
1546 ~~[the following period of time]~~:

1547 (i) ~~[within]~~ five business days after the chief administrative officer's receipt of the
1548 notice of appeal; or

1549 (ii) ~~[within]~~ 12 business days after the governmental entity sends the requester's notice
1550 of appeal to a person who submitted a claim of business confidentiality.

1551 (b) If the chief administrative officer fails to make a determination within the time
1552 specified in Subsection (5)(a), the failure shall be considered the equivalent of an order denying
1553 the appeal.

1554 (c) The provisions of this section notwithstanding, the parties participating in the
1555 proceeding may, by written agreement, extend the time periods specified in this section.

1556 (6) The chief administrative officer may, upon consideration and weighing of the
1557 various interests and public policies pertinent to the classification and disclosure or
1558 nondisclosure, order the disclosure of information properly classified as private under
1559 Subsection 63G-2-302(2) or protected under Section 63G-2-305 ~~[if]~~ only if the person or party
1560 seeking disclosure of the record has established that, by a preponderance of the evidence, the
1561 ~~[interests]~~ public interest favoring access ~~[outweigh the interests]~~ outweighs the interest
1562 favoring restriction of access.

1563 (7) (a) The governmental entity shall send written notice of the determination of the
1564 chief administrative officer to all participants.

1565 (b) If the chief administrative officer affirms the denial in whole or in part, the denial
1566 shall include a statement that the requester has the right to appeal the denial to either the
1567 records committee or district court, the time limits for filing an appeal, and the name and

1568 business address of the executive secretary of the records committee.

1569 (8) (a) A person aggrieved by a governmental entity's classification or designation
1570 determination under this chapter, but who is not requesting access to the records, may appeal
1571 that determination using the procedures provided in this section.

1572 (b) If a nonrequester is the only appellant, the procedures provided in this section shall
1573 apply, except that the determination on the appeal shall be made within 30 days after receiving
1574 the notice of appeal.

1575 (9) The ~~[duties of the]~~ chief administrative officer may delegate the officer's duties
1576 established under this section ~~[may be delegated]~~.

1577 Section 15. Section **63G-2-403** is amended to read:

1578 **63G-2-403. Appeals to the records committee.**

1579 (1) ~~[A]~~ Except as exempted under Part 7, Applicability to Political Subdivisions, the
1580 Judiciary, and the Legislature, a petitioner, including an aggrieved person who did not
1581 participate in the appeal to the governmental entity's chief administrative officer, may appeal to
1582 the records committee by filing a notice of appeal with the executive secretary no later than:

1583 (a) 30 days after the chief administrative officer of the governmental entity has granted
1584 or denied the record request in whole or in part, including a denial under Subsection
1585 63G-2-204~~[(7)]~~(8);

1586 (b) 45 days after the original request for a record if:

1587 (i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

1588 (ii) the chief administrative officer failed to make a determination under Section
1589 63G-2-401.

1590 (2) The notice of appeal shall contain the following information:

1591 (a) the petitioner's name, mailing address, and daytime telephone number;

1592 (b) a copy of any denial of the record request; and

1593 (c) the relief sought.

1594 (3) The petitioner may file a short statement of facts, reasons, and legal authority in
1595 support of the appeal.

1596 (4) (a) Except as provided in Subsection (4)(b), no later than five business days after
1597 receiving a notice of appeal, the executive secretary of the records committee shall:

1598 (i) schedule a hearing for the records committee to discuss the appeal at the next
1599 regularly scheduled committee meeting falling at least 14 days after the date the notice of
1600 appeal is filed but no longer than 52 calendar days after the date the notice of appeal was filed,
1601 except that the records committee may schedule an expedited hearing upon application of the
1602 petitioner and good cause shown;

1603 (ii) send a copy of the notice of hearing to the petitioner; and

1604 (iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing
1605 to:

1606 (A) each member of the records committee;

1607 (B) the records officer and the chief administrative officer of the governmental entity
1608 from which the appeal originated;

1609 (C) any person who made a business confidentiality claim under Section 63G-2-309 for
1610 a record that is the subject of the appeal; and

1611 (D) all persons who participated in the proceedings before the governmental entity's
1612 chief administrative officer.

1613 (b) (i) The executive secretary of the records committee may decline to schedule a
1614 hearing if the record series that is the subject of the appeal has been found by the committee in
1615 a previous hearing involving the same government entity to be appropriately classified as
1616 private, controlled, or protected.

1617 (ii) ~~(A)~~ If the executive secretary of the records committee declines to schedule a
1618 hearing, the executive secretary of the records committee shall send a notice to the petitioner
1619 indicating that the request for hearing has been denied and the reason for the denial.

1620 ~~[(B) The committee shall make rules to implement this section as provided by Title~~
1621 ~~63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

1622 (5) (a) A written statement of facts, reasons, and legal authority in support of the
1623 governmental entity's position must be submitted to the executive secretary of the records

1624 committee not later than five business days before the hearing.

1625 (b) The governmental entity shall send a copy of the written statement to the petitioner
1626 by first class mail, postage prepaid.

1627 (c) The executive secretary shall forward a copy of the written statement to each
1628 member of the records committee.

1629 (6) (a) No later than 10 business days after the notice of appeal is sent by the executive
1630 secretary, a person whose legal interests may be substantially affected by the proceeding may
1631 file a request for intervention before the records committee.

1632 (b) Any written statement of facts, reasons, and legal authority in support of the
1633 intervener's position shall be filed with the request for intervention.

1634 (c) The person seeking intervention shall provide copies of the statement described in
1635 Subsection (6)(b) to all parties to the proceedings before the records committee.

1636 (7) The records committee shall hold a hearing within the period of time described in
1637 Subsection (4).

1638 (8) (a) At the hearing, the records committee shall allow the parties to testify, present
1639 evidence, and comment on the issues.

1640 (b) The records committee may allow other interested persons to comment on the
1641 issues.

1642 (9) (a) ~~The~~ Subject to Subsection (9)(b), the records committee may review the
1643 disputed records. ~~However, if~~

1644 (b) If the records committee is weighing the various interests under Subsection (11),
1645 the committee must review the disputed records~~[-The review shall be]~~ in camera.

1646 ~~(b)~~ (c) Members of the records committee may not disclose any information or record
1647 reviewed by the committee in camera unless the disclosure is otherwise authorized by this
1648 chapter.

1649 (10) (a) Discovery is prohibited, but the records committee may issue subpoenas or
1650 other orders to compel production of necessary evidence.

1651 (b) When the subject of a records committee subpoena disobeys or fails to comply with

1652 the subpoena, the records committee may file a motion for an order to compel obedience to the
1653 subpoena with the district court.

1654 (c) The records committee's review shall be de novo.

1655 (11) (a) No later than five business days after the hearing, the records committee shall
1656 issue a signed order either granting the petition in whole or in part or upholding the
1657 determination of the governmental entity in whole or in part.

1658 (b) The records committee may, upon consideration and weighing of the various
1659 interests and public policies pertinent to the classification and disclosure or nondisclosure,
1660 order the disclosure of information properly classified as private, controlled, or protected [~~if~~]
1661 only if the person or party seeking disclosure of the record has established that, by a
1662 preponderance of the evidence, the public interest favoring access outweighs the interest
1663 favoring restriction of access.

1664 (c) In making a determination under Subsection (11)(b), the records committee shall
1665 consider and, where appropriate, limit the requester's use and further disclosure of the record in
1666 order to protect:

1667 (i) privacy interests in the case of a private or controlled record;

1668 (ii) business confidentiality interests in the case of a record protected under Subsection
1669 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and

1670 (iii) privacy interests or the public interest in the case of other protected records.

1671 (12) The order of the records committee shall include:

1672 (a) a statement of reasons for the decision, including citations to this chapter, court rule
1673 or order, another state statute, federal statute, or federal regulation that governs disclosure of
1674 the record, provided that the citations do not disclose private, controlled, or protected
1675 information;

1676 (b) a description of the record or portions of the record to which access was ordered or
1677 denied, provided that the description does not disclose private, controlled, or protected
1678 information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

1679 (c) a statement that any party to the proceeding before the records committee may

1680 appeal the records committee's decision to district court; and

1681 (d) a brief summary of the appeals process, the time limits for filing an appeal, and a
1682 notice that in order to protect its rights on appeal, the party may wish to seek advice from an
1683 attorney.

1684 (13) (a) If the records committee fails to issue a decision within 57 calendar days of the
1685 filing of the notice of appeal, that failure shall be considered the equivalent of an order denying
1686 the appeal.

1687 (b) The petitioner shall notify the records committee in writing if the petitioner
1688 considers the appeal denied.

1689 (14) (a) Unless a notice of intent to appeal is filed under Subsection (14)(b), each party
1690 to the proceeding shall comply with the order of the records committee.

1691 (b) If a party disagrees with the order of the records committee, that party may file a
1692 notice of intent to appeal the order of the records committee.

1693 (c) If the records committee orders the governmental entity to produce a record and no
1694 appeal is filed, or if, as a result of the appeal, the governmental entity is required to produce a
1695 record, the governmental entity shall:

1696 (i) produce the record; and

1697 (ii) file a notice of compliance with the records committee.

1698 (d) (i) If the governmental entity that is ordered to produce a record fails to file a notice
1699 of compliance or a notice of intent to appeal, the records committee may do either or both of
1700 the following:

1701 (A) impose a civil penalty of up to \$500 for each day of continuing noncompliance; or

1702 (B) send written notice of the governmental entity's noncompliance to~~[-(†)]~~ the
1703 governor, for executive branch entities; ~~[(H)]~~ the Legislative Management Committee for
1704 legislative branch entities; ~~[and (H)]~~ or the Judicial Council, for judicial branch ~~[agencies]~~
1705 entities.

1706 (ii) In imposing a civil penalty, the records committee shall consider the gravity and
1707 circumstances of the violation, including whether the failure to comply was due to neglect or

1708 was willful or intentional.

1709 (15) The records committee shall make rules to implement this section as provided by
1710 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

1711 Section 16. Section **63G-2-404** is amended to read:

1712 **63G-2-404. Judicial review.**

1713 (1) (a) Any party to a proceeding before the records committee may petition for judicial
1714 review by the district court of the records committee's order.

1715 (b) The petition shall be filed no later than 30 days after the date of the records
1716 committee's order.

1717 (c) The records committee is a necessary party to the petition for judicial review.

1718 (d) The executive secretary of the records committee shall be served with notice of the
1719 petition in accordance with the Utah Rules of Civil Procedure.

1720 (2) (a) A requester may petition for judicial review by the district court of a
1721 governmental entity's determination as specified in Subsection 63G-2-402(1)(b).

1722 (b) The requester shall file a petition no later than:

1723 (i) 30 days after the governmental entity has responded to the records request by either
1724 providing the requested records or denying the request in whole or in part;

1725 (ii) 35 days after the original request if the governmental entity failed to respond to the
1726 request; or

1727 (iii) 45 days after the original request for records if:

1728 (A) the circumstances described in Subsection 63G-2-401(1)(b) occur; and

1729 (B) the chief administrative officer failed to make a determination under Section
1730 63G-2-401.

1731 (3) The petition for judicial review shall be a complaint governed by the Utah Rules of
1732 Civil Procedure and shall contain:

1733 (a) the petitioner's name and mailing address;

1734 (b) a copy of the records committee order from which the appeal is taken, if the
1735 petitioner brought a prior appeal to the records committee;

1736 (c) the name and mailing address of the governmental entity that issued the initial
1737 determination with a copy of that determination;

1738 (d) a request for relief specifying the type and extent of relief requested; and

1739 (e) a statement of the reasons why the petitioner is entitled to relief.

1740 (4) If the appeal is based on the denial of access to a protected record, the court shall
1741 allow the claimant of business confidentiality to provide to the court the reasons for the claim
1742 of business confidentiality.

1743 (5) All additional pleadings and proceedings in the district court are governed by the
1744 Utah Rules of Civil Procedure.

1745 (6) (a) The district court may review the disputed records. [~~The review shall be~~]

1746 (b) If the district court chooses to review the records, the court shall review the records
1747 in camera.

1748 (7) The court shall:

1749 (a) make its decision de novo, but allow introduction of evidence presented to the
1750 records committee;

1751 (b) determine all questions of fact and law without a jury; and

1752 (c) decide the issue at the earliest practical opportunity.

1753 (8) (a) The court may, upon consideration and weighing of the various interests and
1754 public policies pertinent to the classification and disclosure or nondisclosure, order the
1755 disclosure of information properly classified as private, controlled, or protected [if] only if the
1756 person or party seeking disclosure of the record has established that, by a preponderance of the
1757 evidence, the public interest favoring access outweighs the interest favoring restriction of
1758 access.

1759 (b) The court shall consider and, where appropriate, limit the requester's use and
1760 further disclosure of the record in order to protect privacy interests in the case of private or
1761 controlled records, business confidentiality interests in the case of records protected under
1762 Subsections 63G-2-305(1) and (2), and privacy interests or the public interest in the case of
1763 other protected records.

1764 Section 17. Section **63G-2-703** is amended to read:

1765 **63G-2-703. Applicability to the Legislature and legislative staff offices.**

1766 (1) ~~[The] This chapter applies to the Legislature [and its staff offices shall designate~~
1767 ~~and classify records in accordance with Sections 63G-2-301 through 63G-2-305 as public,~~
1768 ~~private, controlled, or protected.] as follows:~~

1769 (a) The Legislature is subject to:

1770 (i) Part 1, General Provisions, except the Legislative Management Committee may
1771 define terms as is necessary to establish a policy described in Subsection (2);

1772 (ii) Part 2, Access to Records, except Sections 63G-2-203 and 63G-2-204;

1773 (iii) Part 3, Classification, except Subsection 63G-2-307(1);

1774 (iv) this section; and

1775 (v) Part 8, Remedies.

1776 ~~[(2)(a)] (b) The Legislature [and its staff offices are not subject to Section 63G-2-203~~
1777 ~~or to] is exempt from:~~

1778 (i) Part 4, Appeals[-], but shall establish a policy to provide for an appeal process;

1779 (ii) Part 5, State Records Committee[-or], but shall establish a policy to provide for an
1780 appellate body to hear an appeal from a denial of access to a record or a dispute related to a fee
1781 and cost assessment;

1782 (iii) Part 6, Collection of Information and Accuracy of Records[-], but shall establish a
1783 policy relating to the retention and disposition of records;

1784 ~~[(b) The Legislature is subject to only the following sections in Part 9, Archives and~~
1785 ~~Records Service: Sections 63A-12-102, 63A-12-106, and 63G-2-310.]~~

1786 (iv) Part 7, Applicability to Political Subdivisions, the Judiciary, and the Legislature,
1787 except for this section; and

1788 (v) Part 9, Public Associations, except to the extent that the part may apply to
1789 legislators or legislative staff employees acting in a private capacity.

1790 ~~[(3)] (2) The Legislature, through the Legislative Management Committee[-(a)], shall~~
1791 ~~establish policies [to handle requests for classification, designation,] relating to:~~

- 1792 (a) receiving, processing, and responding to a record request, including time periods
 1793 and procedures for the record request process;
- 1794 (b) classifying or designating a record;
- 1795 (c) fees[;] and costs;
- 1796 (d) access[; denials;] to a record;
- 1797 (e) denial of access to a record;
- 1798 (f) segregation[;] of a record;
- 1799 (g) appeals[;], including time periods and procedures for the appeals process;
- 1800 (h) ownership, management, and retention[;] of a record; and
- 1801 (i) amendment of [records; and] a record.
- 1802 ~~[(b) may establish an appellate board to hear appeals from denials of access.]~~
- 1803 ~~[(4) Policies shall include reasonable times for responding to access requests consistent~~
 1804 ~~with the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.]~~
- 1805 ~~[(5)] (3) Upon request, the state archivist shall:~~
- 1806 (a) assist with and advise concerning the establishment of a records management
 1807 program in the Legislature; and
- 1808 (b) as required by the Legislature, provide program services similar to those available
 1809 to the executive branch of government, as provided in this chapter and Title 63A, Chapter 12,
 1810 ~~[Part 1, Archives and Records Service]~~ Public Records Management Act.
- 1811 (4) The Legislature is not subject to Title 63A, Chapter 12, Public Records
 1812 Management Act, except for compliance with Sections 63A-12-102 and 63A-12-106.
- 1813 Section 18. Section **63G-2-803** is amended to read:
- 1814 **63G-2-803. No individual liability for certain decisions of a governmental entity.**
- 1815 (1) Neither the governmental entity, nor any officer or employee of the governmental
 1816 entity, is liable for damages resulting from the release of a record where the person or
 1817 ~~[government]~~ governmental entity requesting the record presented evidence of authority to
 1818 obtain the record, even if it is subsequently determined that the requester had no authority.
- 1819 (2) Neither the governmental entity, nor any officer or employee of the governmental

1820 entity, is liable for damages arising from the negligent disclosure of records classified as
1821 private under [~~Subsection 63G-2-302(1)(f)~~] Section 63G-2-302 unless:

1822 (a) the disclosure was of employment records maintained by the governmental entity;

1823 or

1824 (b) the current or former government employee had previously filed the notice required
1825 by Section 63G-2-303 and[~~-(i)~~] the government entity did not take reasonable steps to preclude
1826 access or distribution of the record[~~;-or-(ii)~~] or the release of the record was otherwise willfully
1827 or grossly negligent.

1828 (3) A mailing from a government agency to an individual who has filed an application
1829 under Section 63G-2-303 is not a wrongful disclosure under this chapter or under Title 63A,
1830 Chapter 12, [~~Archives and Records Service~~] Public Records Management Act.

1831 Section 19. **Repealer.**

1832 This bill repeals:

1833 Section **63G-2-102, Legislative intent.**

1834 Section 20. **Effective date.**

1835 This bill takes effect on July 1, 2011.