

HB0413S01 compared with HB0413

~~deleted text~~ shows text that was in HB0413 but was deleted in HB0413S01.

Inserted text shows text that was not in HB0413 but was inserted into HB0413S01.

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Representative Francis D. Gibson proposes the following substitute bill:

PUBLIC SCHOOL MEMBERSHIP IN ASSOCIATIONS

2017 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Francis D. Gibson

Senate Sponsor: _____

LONG TITLE

General Description:

This bill enacts language governing a public school's membership in certain associations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ prohibits a public school from membership in certain associations after July 1, 2017;
- ▶ establishes requirements for the membership of an association governing body;
- ▶ requires an association to provide certain reports to the State Board of Education;
- ▶ requires an association to follow certain budgetary procedures;
- ▶ establishes an appeals panel to hear an appeal of certain decisions by an association;

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- ▶ requires an association to comply with:
 - Title 52, Chapter 4, Open and Public Meetings Act;
 - Title 63G, Chapter 2, Government Records Access and Management Act; and
 - Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

~~{None}~~ This bill appropriates:

- ▶ to the State Board of Education -- State Administrative Office, an ongoing appropriation:
 - from the General Fund, \$15,000.

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

52-4-103, as last amended by Laws of Utah 2016, Chapter 77

63A-3-106, as last amended by Laws of Utah 2016, Chapter 298

63G-2-103, as last amended by Laws of Utah 2015, Chapter 265

67-16-3, as last amended by Laws of Utah 2012, Chapter 202

ENACTS:

53A-1-1601, Utah Code Annotated 1953

53A-1-1602, Utah Code Annotated 1953

53A-1-1603, Utah Code Annotated 1953

53A-1-1604, Utah Code Annotated 1953

53A-1-1605, Utah Code Annotated 1953

53A-1-1606, Utah Code Annotated 1953

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

Section 1. Section **52-4-103** is amended to read:

52-4-103. Definitions.

As used in this chapter:

(1) "Anchor location" means the physical location from which:

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- (a) an electronic meeting originates; or
- (b) the participants are connected.

(2) "Capitol hill complex" means the grounds and buildings within the area bounded by 300 North Street, Columbus Street, 500 North Street, and East Capitol Boulevard in Salt Lake City.

(3) "Convening" means the calling together of a public body by a person authorized to do so for the express purpose of discussing or acting upon a subject over which that public body has jurisdiction or advisory power.

(4) "Electronic meeting" means a public meeting convened or conducted by means of a conference using electronic communications.

(5) "Electronic message" means a communication transmitted electronically, including:

- (a) electronic mail;
- (b) instant messaging;
- (c) electronic chat;
- (d) text messaging as defined in Section 76-4-401; or
- (e) any other method that conveys a message or facilitates communication

electronically.

(6) (a) "Meeting" means the convening of a public body or a specified body, with a quorum present, including a workshop or an executive session, whether in person or by means of electronic communications, for the purpose of discussing, receiving comments from the public about, or acting upon a matter over which the public body or specific body has jurisdiction or advisory power.

(b) "Meeting" does not mean:

- (i) a chance gathering or social gathering; or
- (ii) a convening of the State Tax Commission to consider a confidential tax matter in accordance with Section 59-1-405.

(c) "Meeting" does not mean the convening of a public body that has both legislative and executive responsibilities if:

(i) no public funds are appropriated for expenditure during the time the public body is convened; and

(ii) the public body is convened solely for the discussion or implementation of

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administrative or operational matters:

- (A) for which no formal action by the public body is required; or
- (B) that would not come before the public body for discussion or action.

(7) "Monitor" means to hear or observe, live, by audio or video equipment, all of the public statements of each member of the public body who is participating in a meeting.

(8) "Participate" means the ability to communicate with all of the members of a public body, either verbally or electronically, so that each member of the public body can hear or observe the communication.

(9) (a) "Public body" means:

(i) any administrative, advisory, executive, or legislative body of the state or its political subdivisions that:

~~[(i)]~~ (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;

~~[(ii)]~~ (B) consists of two or more persons;

~~[(iii)]~~ (C) expends, disburses, or is supported in whole or in part by tax revenue; and

~~[(iv)]~~ (D) is vested with the authority to make decisions regarding the public's business~~[-];~~ or

(ii) any administrative, advisory, executive, or policymaking body of an association, as defined in Section 53A-1-1601, that:

(A) consists of two or more persons;

(B) expends, disburses, or is supported in whole or in part by dues paid by a public school or whose employees participate in a benefit or program described in Title 49, Utah State Retirement and Insurance Benefit Act; and

(C) is vested with authority to make decisions regarding the participation of a public school or student in an interscholastic activity as defined in Section 53A-1-1601.

(b) "Public body" includes, as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking.

(c) "Public body" does not include a:

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

(ii) conference committee, rules committee, or sifting committee of the Legislature; or

(iii) school community council or charter trust land council as defined in Section 53A-1a-108.1.

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(10) "Public statement" means a statement made in the ordinary course of business of the public body with the intent that all other members of the public body receive it.

(11) (a) "Quorum" means a simple majority of the membership of a public body, unless otherwise defined by applicable law.

(b) "Quorum" does not include a meeting of two elected officials by themselves when no action, either formal or informal, is taken on a subject over which these elected officials have advisory power.

(12) "Recording" means an audio, or an audio and video, record of the proceedings of a meeting that can be used to review the proceedings of the meeting.

(13) "Specified body":

(a) means an administrative, advisory, executive, or legislative body that:

(i) is not a public body;

(ii) consists of three or more members; and

(iii) includes at least one member who is:

(A) a legislator; and

(B) officially appointed to the body by the president of the Senate, speaker of the House of Representatives, or governor; and

(b) does not include a body listed in Subsection (9)(c)(ii).

(14) "Transmit" means to send, convey, or communicate an electronic message by electronic means.

Section 2. Section **53A-1-1601** is enacted to read:

Part 16. Public School Membership in Associations

53A-1-1601. Definitions.

As used in this part:

(1) "Alignment" or "realignment" means the initial or subsequent act, respectively, of assigning a public school a classification or region.

(2) "Appeals panel" means the appeals panel created in Section 53A-1-1606.

(3) (a) "Association" means an organization that governs or regulates a student's participation in an interscholastic activity.

(b) "Association" does not include an institution of higher education described in Section 53B-1-102.

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(4) "Classification" means the designation of a school based on the size of the school's student enrollment population for purposes of interscholastic activities.

(5) "Eligibility" means eligibility to participate in an interscholastic activity regulated or governed by an association.

(6) "Governing body" means a body within an association that:

(a) is responsible for:

(i) adopting rules or policies that govern interscholastic activities or the administration of the association;

(ii) adopting or amending the association's governing document or bylaws;

(iii) enforcing the rules and policies of the association; and

(iv) adopting the association's budget; and

(b) has oversight of other boards, committees, councils, or bodies within the association.

(7) "Interscholastic activity" means an activity within the state in which:

(a) a student that participates represents the student's school in the activity; and

(b) the participating student is enrolled in grade 9, 10, 11, or 12.

(8) "Public hearing" means a hearing at which members of the public are provided a reasonable opportunity to comment on the subject of the hearing.

(9) "Region" means a grouping of schools of the same classification for purposes of interscholastic activities.

Section 3. Section **53A-1-1602** is enacted to read:

53A-1-1602. Public schools prohibited from membership.

(1) A public school may not be a member of ~~f.1~~ or pays due to ~~f.1~~, or otherwise facilitate student participation in interscholastic activities through ~~f.1~~ an association that is not in compliance on or after July 1, 2017, with:

(~~f.1~~)a) this part;

(~~f.2~~)b) Title 52, Chapter 4, Open and Public Meetings Act;

(~~f.3~~)c) Title 63G, Chapter 2, Government Records Access and Management Act; and

(~~f.4~~)d) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act.

(2) Unless otherwise specified, an association's compliance with or an association employee or officer's compliance with the provisions described in Subsection (1) does not alter:

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(a) the association's public or private status; or

(b) the public or private employment status of the employee or officer.

Section 4. Section **53A-1-1603** is enacted to read:

53A-1-1603. Governing body membership.

(1) (a) A governing body shall have 15 members as follows:

(i) six members who:

(A) are each an elected member of a local school board; and

(B) each represent a different classification;

(ii) (A) one school superintendent representing the two largest classifications;

(B) one school superintendent representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(ii)(A);
and

(C) one school superintendent representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(ii)(B);

(iii) (A) one school principal representing the two largest classifications;

(B) one school principal representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(iii)(A);
and

(C) one school principal representing the two classifications that are next in diminishing size to the smaller of the two classifications described in Subsection (1)(a)(iii)(B);

(iv) one representative of charter schools;

(v) one representative of private schools, if private schools are members of or regulated by the association; and

(vi) one member representing the State Board of Education.

(b) Only a member respectively described in Subsection (1)(a)(iv) or (v) may be elected or appointed by or represent charter or private schools on the governing body.

(2) (a) A member described in Subsection (1)(a)(i), (ii), (iii), or (v) may be elected, appointed, or otherwise selected in accordance with association rule or policy to the extent the selection reflects the membership requirements in Subsection (1)(a)(i), (ii), (iii), or (v).

(b) A governing body member described in Subsection (1)(a)(vi) shall be the chair of the State Board of Education or the chair's designee if the designee is an elected member of the

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State Board of Education.

Section 5. Section **53A-1-1604** is enacted to read:

53A-1-1604. Reporting requirements.

An association shall provide a verbal report, accompanied by a written report, annually to the State Board of Education, including:

- (1) the association's annual budget in accordance with Section 53A-1-1605;
- (2) a schedule of events scheduled or facilitated by the association;
- (3) procedures for alignment or realignment;
- (4) any amendments or changes to the association's governing document or bylaws; and
- (5) any other information requested by the State Board of Education.

Section 6. Section **53A-1-1605** is enacted to read:

53A-1-1605. Association budgets.

(1) An association shall:

(a) adopt a budget in accordance with this section; and

(b) use uniform budgeting, accounting, and auditing procedures and forms, which shall be in accordance with generally accepted accounting principles or auditing standards.

(2) An association budget officer or executive director shall annually prepare a tentative budget, with supporting documentation, to be submitted to the governing body.

(3) The tentative budget and supporting documents shall include the following items:

(a) the revenues and expenditures of the preceding fiscal year;

(b) the estimated revenues and expenditures of the current fiscal year;

(c) a detailed estimate of the essential expenditures for all purposes for the next succeeding fiscal year; and

(d) the estimated financial condition of the association by funds at the close of the current fiscal year.

(4) The tentative budget shall be filed with the governing body 15 days, or earlier, before the date of the tentative budget's proposed adoption by the governing body.

(5) The governing body shall adopt a budget.

(6) Before the adoption or amendment of a budget, the governing body shall hold a public hearing on the proposed budget or budget amendment.

(7) (a) In addition to complying with Title 52, Chapter 4, Open and Public Meetings

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Act, in regards to the public hearing described in Subsection (6), at least 10 days before the public hearing, a governing body shall:

(i) publish a notice of the public hearing electronically in accordance with Section 45-1-101; and

(ii) post the proposed budget on the association's Internet website.

(b) A notice of a public hearing on an association's proposed budget shall include information on how the public may access the proposed budget as provided in Subsection (7)(a).

(8) No later than September 30 of each year, the governing body shall file a copy of the adopted budget with the state auditor and the State Board of Education.

Section 7. Section **53A-1-1606** is enacted to read:

53A-1-1606. Procedures for disputes -- Appeals -- Appeals panel -- Compensation.

(1) (a) An association shall establish a uniform procedure for hearing and deciding:

(i) disputes;

~~{~~ (ii) questions;

~~†~~ (~~iii~~)ⁱⁱ allegations of violations of the association's rules or policies;

(~~iv~~)ⁱⁱⁱ requests to establish eligibility after a student transfers schools; and

(~~v~~)^{iv} disputes related to alignment or realignment.

(b) An individual may appeal to an appeals panel established in this section an association decision regarding a request to establish eligibility after a student transfers schools.

(2) (a) There is established an appeals panel for an association decision described in Subsection (1)(b).

(b) The appeals panel shall consist of the following three members:

(i) a judge or attorney who is not employed by, or contracts with, a school;

(ii) a retired educator, principal, or superintendent; and

(iii) a retired athletic director or coach.

(c) A review and decision by the appeals panel is limited to whether the association properly followed the association's rules and procedures in regard to a decision described in Subsection (1)(b).

(d) (i) An association shall adopt policies for filing an appeal with the appeals panel.

(ii) The appeals panel shall review an appeal and issue a written decision explaining

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the appeals panel's decision no later than 10 business days after an appeal is filed.

~~(f)(e)~~ The appeals panel's decision is final.

(3) (a) The State Board of Education shall appoint the members of the appeals panel described in Subsection (2):

(i) from the association's nominations described in Subsection (3)(b); and

(ii) in accordance with the State Board of Education's appointment process.

(b) (i) The association shall nominate up to three individuals for each position described in Subsection (2) for the State Board of Education's consideration.

(ii) If the State Board of Education refuses to appoint members to the panel who were nominated by the association as described in Subsection (3)(b)(i), the State Board of Education shall request additional nominations from the association.

(iii) No later than 45 days after the association provides the nominations, the State Board of Education shall appoint to the appeals panel an individual from the names provided by the association.

(c) For the initial membership, the State Board of Education shall appoint two of the positions having an initial term of three years and one position having an initial term of two years.

(d) Except as required by Subsection (3)(e), as terms of appeals panel members expire, the State Board of Education shall appoint each new member or reappointed member to a two-year term.

(e) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term.

~~(4) (a) The salary for a member;~~ The State Board of Education shall reimburse an association for per diem and travel expenses of members of the appeals panel ~~described in this section shall be:~~

~~—— (i) the same as the salary for a member of the Legislature as described in Section 36-2-3; and~~

~~—— (ii) except as provided in Subsection (4)(b), set in accordance with Section 36-2-3 and Subsection 36-2-2(1).~~

~~—— (b) For purposes of setting the salary for a member of the appeals panel:~~

~~—— (i) a calendar day for the annual general session described in Subsection~~

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~~36-2-3(1)(b)(i)(A) is interpreted as a calendar day of a meeting of the appeals panel; and~~
~~— (ii) unless the Legislative Compensation Commission created in Section 36-2-4 issues a revised report on or after July 1, 2017, the salary for a member of the appeals panel through calendar year 2017 is \$273 per day for each calendar day that a member described in Subsection (2)(b) attends a meeting described in Subsection (4)(b)(i).~~
~~— (c) In addition to a salary, a member of the appeals panel shall receive reimbursement for travel expenses incurred as a member of the appeals panel at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.~~

Section 8. Section **63A-3-106** is amended to read:

63A-3-106. Per diem rates for board members.

(1) As used in this section and Section 63A-3-107:

(a) "Board" means a board, commission, council, committee, task force, or similar body established to perform a governmental function.

(b) "Board member" means a person appointed or designated by statute to serve on a board.

(c) "Executive branch" means an agency within the executive branch of state government.

(d) (i) "Governmental entity" has the same meaning, except as provided in Subsection (1)(d)(ii), as provided under Section 63G-2-103.

(ii) "Governmental entity" does not include an association as defined in Section 53A-16-101.

(e) "Higher education" means a state institution of higher education, as defined under Section 53B-1-102.

(f) "Officer" means a person who is elected or appointed to an office or position within a governmental entity.

(g) "Official meeting" means a meeting of a board that is called in accordance with statute.

(2) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, and subject to approval by the executive director, the director of the Division of Finance shall make rules establishing per diem rates to defray subsistence costs for a board member's attendance at an official meeting.

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(3) Unless otherwise provided by statute, a per diem rate established under Subsection (2) is applicable to a board member who serves:

- (a) within the executive branch, except as provided under Subsection (3)(b);
- (b) within higher education, unless higher education pays the costs of the per diem;
- (c) on a board that is:
 - (i) not included under Subsection (3)(a) or (b); and
 - (ii) created by a statute that adopts the per diem rates by reference to:
 - (A) this section; and
 - (B) the rule authorized by this section; and
- (d) within a government entity that is not included under Subsection (3)(a), if the

government entity adopts the per diem rates by reference to:

- (i) this section; or
- (ii) the rule establishing the per diem rates.

(4) (a) Unless otherwise provided by statute, a board member who is not a legislator may receive per diem under this section and travel expenses under Section 63A-3-107 if the per diem and travel expenses are incurred by the board member for attendance at an official meeting.

(b) Notwithstanding Subsection (4)(a), a board member may not receive per diem or travel expenses under this Subsection (4) if the board member is being paid by a governmental entity while performing the board member's service on the board.

(5) A board member may decline to receive per diem for the board member's service.

(6) Compensation and expenses of a board member who is a legislator are governed by Section 36-2-2 and Legislative Joint Rules, Title 5, Legislative Compensation and Expenses.

Section 9. Section **63G-2-103** is amended to read:

63G-2-103. Definitions.

As used in this chapter:

(1) "Audit" means:

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

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

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

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

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

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

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

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

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

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

(b) "Computer program" does not mean:

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

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

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

(5) (a) "Contractor" means:

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

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

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

(6) "Controlled record" means a record containing data on individuals that is controlled as provided by Section 63G-2-304.

(7) "Designation," "designate," and their derivative forms mean indicating, based on a

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governmental entity's familiarity with a record series or based on a governmental entity's review of a reasonable sample of a record series, the primary classification that a majority of records in a record series would be given if classified and the classification that other records typically present in the record series would be given if classified.

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

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

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

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

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

(ii) the resultant gaseous pressures are capable of:

(A) producing destructive effects on contiguous objects; or

(B) causing death or serious bodily injury.

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

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

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

(ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal Analyst, Office of Legislative Research and General Counsel, the Legislature, and legislative committees, except any political party, group, caucus, or rules or sifting committee of the Legislature;

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

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

(v) any political subdivision of the state, but, if a political subdivision has adopted an ordinance or a policy relating to information practices pursuant to Section 63G-2-701, this

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chapter shall apply to the political subdivision to the extent specified in Section 63G-2-701 or as specified in any other section of this chapter that specifically refers to political subdivisions.

(b) "Governmental entity" also means:

(i) every office, agency, board, bureau, committee, department, advisory board, or commission of an entity listed in Subsection (11)(a) that is funded or established by the government to carry out the public's business; ~~and~~

(ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative undertaking~~[-]; and~~

(iii) an association as defined in Section 53A-1-1601.

(c) "Governmental entity" does not include the Utah Educational Savings Plan created in Section 53B-8a-103.

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

(13) "Individual" means a human being.

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

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

(ii) names of victims;

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

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

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

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

(b) Initial contact reports do not include follow-up or investigative reports prepared after the initial contact report. However, if the information specified in Subsection (14)(a)

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appears in follow-up or investigative reports, it may only be treated confidentially if it is private, controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

(15) "Legislative body" means the Legislature.

(16) "Notice of compliance" means a statement confirming that a governmental entity has complied with a records committee order.

(17) "Person" means:

(a) an individual;

(b) a nonprofit or profit corporation;

(c) a partnership;

(d) a sole proprietorship;

(e) other type of business organization; or

(f) any combination acting in concert with one another.

(18) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

(19) "Private record" means a record containing data on individuals that is private as provided by Section 63G-2-302.

(20) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

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

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

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

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

(b) "Record" does not mean:

(i) a personal note or personal communication prepared or received by an employee or officer of a governmental entity:

(A) in a capacity other than the employee's or officer's governmental capacity; or

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- (B) that is unrelated to the conduct of the public's business;
- (ii) a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;
- (iii) material that is legally owned by an individual in the individual's private capacity;
- (iv) material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by a governmental entity or political subdivision;
- (v) proprietary software;
- (vi) junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity;
- (vii) a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;
- (viii) material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;
- (ix) a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;
- (x) a computer program that is developed or purchased by or for any governmental entity for its own use;
- (xi) a note or internal memorandum prepared as part of the deliberative process by:
 - (A) a member of the judiciary;
 - (B) an administrative law judge;
 - (C) a member of the Board of Pardons and Parole; or
 - (D) a member of any other body, other than an association or appeals panel as defined in Section 53A-1-1601, charged by law with performing a quasi-judicial function;
- (xii) a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of a governmental entity, provided that the employee or officer of the governmental entity has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;
- (xiii) information provided by the Public Employees' Benefit and Insurance Program, created in Section 49-20-103, to a county to enable the county to calculate the amount to be

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paid to a health care provider under Subsection 17-50-319(2)(e)(ii);

(xiv) information that an owner of unimproved property provides to a local entity as provided in Section 11-42-205; or

(xv) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102.

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

(24) "Records committee" means the State Records Committee created in Section 63G-2-501.

(25) "Records officer" means the individual appointed by the chief administrative officer of each governmental entity, or the political subdivision to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

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

(27) "Sponsored research" means research, training, and other sponsored activities as defined by the federal Executive Office of the President, Office of Management and Budget:

(a) conducted:

(i) by an institution within the state system of higher education defined in Section 53B-1-102; and

(ii) through an office responsible for sponsored projects or programs; and

(b) funded or otherwise supported by an external:

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

(ii) federal, state, or local governmental entity.

(28) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

(29) "State archivist" means the director of the state archives.

(30) "Summary data" means statistical records and compilations that contain data

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derived from private, controlled, or protected information but that do not disclose private, controlled, or protected information.

Section 10. Section **67-16-3** is amended to read:

67-16-3. Definitions.

As used in this chapter:

(1) "Agency" means:

(a) any department, division, agency, commission, board, council, committee, authority, or any other institution of the state or any of its political subdivisions[-]; or

(b) an association as defined in Section 53A-16-101.

(2) "Agency head" means the chief executive or administrative officer of any agency.

(3) "Assist" means to act, or offer or agree to act, in such a way as to help, represent, aid, advise, furnish information to, or otherwise provide assistance to a person or business entity, believing that such action is of help, aid, advice, or assistance to such person or business entity and with the intent to assist such person or business entity.

(4) "Business entity" means a sole proprietorship, partnership, association, joint venture, corporation, firm, trust, foundation, or other organization or entity used in carrying on a business.

(5) "Compensation" means anything of economic value, however designated, which is paid, loaned, granted, given, donated, or transferred to any person or business entity by anyone other than the governmental employer for or in consideration of personal services, materials, property, or any other thing whatsoever.

(6) "Controlled, private, or protected information" means information classified as controlled, private, or protected in Title 63G, Chapter 2, Government Records Access and Management Act, or other applicable provision of law.

(7) "Governmental action" means any action on the part of the state, a political subdivision, or an agency, including:

(a) any decision, determination, finding, ruling, or order; and

(b) any grant, payment, award, license, contract, subcontract, transaction, decision, sanction, or approval, or the denial thereof, or the failure to act in respect to.

(8) "Improper disclosure" means disclosure of controlled, private, or protected information to any person who does not have the right to receive the information.

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(9) "Legislative employee" means any officer or employee of the Legislature, or any committee of the Legislature, who is appointed or employed to serve, either with or without compensation, for an aggregate of less than 800 hours during any period of 365 days.

"Legislative employee" does not include legislators.

(10) "Legislator" means a member or member-elect of either house of the Legislature of the state of Utah.

(11) "Political subdivision" means a district, school district, or any other political subdivision of the state that is not an agency, but does not include a municipality or a county.

(12) (a) "Public employee" means a person who is not a public officer who is employed on a full-time, part-time, or contract basis by:

(i) the state [~~or any of its political subdivisions.~~];

(ii) a subdivision of the state; or

(iii) an association as defined in Section 53A-1-1601.

(b) "Public employee" does not include legislators or legislative employees.

(13) (a) "Public officer" means [~~all~~] an elected or appointed [~~officers of the state or any of its political subdivisions who occupy policymaking posts.-~~] officer:

(i) (A) of the state;

(B) of a political subdivision of the state; or

(C) an association as defined in Section 53A-1-1601; and

(ii) who occupies a policymaking post.

(b) "Public officer" does not include legislators or legislative employees.

(14) "State" means the state of Utah.

(15) "Substantial interest" means the ownership, either legally or equitably, by an individual, the individual's spouse, or the individual's minor children, of at least 10% of the outstanding capital stock of a corporation or a 10% interest in any other business entity.

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Legislative Review Note

Office of Legislative Research and General Counsel†

Section 11. Appropriation.

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The following sums of money are appropriated for the fiscal year beginning July 1, 2017, and ending June 30, 2018. These are additions to amounts previously appropriated for fiscal year 2018. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

To State Board of Education -- State Administrative Office

From Education Fund, Ongoing \$15,000

Schedule of Programs:

Board and Administration \$15,000

The Legislature intends that the State Board of Education use the appropriation to the State Board of Education under this section to reimburse an association for per diem and travel expenses incurred by a member of an appeals panel described in Section 53A-1-1606.