

Higher Education Hiring Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Chris H. Wilson

House Sponsor: Doug Fiefia

LONG TITLE

General Description:

This bill amends provisions regarding the hiring process of an institution of higher education president.

Highlighted Provisions:

This bill:

- exempts a search committee for an institution of higher education president from the Open and Public Meetings Act;
- expands the duties of a search committee;
- requires a search committee to:
 - protect candidate confidentiality, including by meeting in closed executive sessions;
- and
- recommend three finalists to the Utah Board of Higher Education (board);
- maintains all presidential application materials as protected records;
- requires an open and public meeting of the board for final hiring action of a president; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

52-4-103, as last amended by Laws of Utah 2024, Chapters 392, 522

53B-1-402, as last amended by Laws of Utah 2024, Chapters 144, 378

53B-2-102, as last amended by Laws of Utah 2023, Chapter 254

28 **63G-2-305**, as last amended by Laws of Utah 2024, Chapters 18, 101, 135, 267, 344, and
29 522

30
31 *Be it enacted by the Legislature of the state of Utah:*

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

33 **52-4-103 . Definitions.**

34 As used in this chapter:

35 (1) "Anchor location" means:

- 36 (a) the physical location where the public body conducting an electronic meeting under
37 Section 52-4-207 normally conducts meetings of the public body; or
38 (b) a location other than the location described in Subsection (1)(a) that is reasonably as
39 accessible to the public as the location described in Subsection (1)(a).

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

43 (3) "Electronic meeting" means a meeting that some or all public body members attend
44 through an electronic video, audio, or both video and audio connection, as provided in
45 Section 52-4-207.

46 (4) "Fiduciary or commercial information" means information:

47 (a) related to any subject if disclosure:

- 48 (i) would conflict with a fiduciary obligation; or
49 (ii) is prohibited by insider trading provisions; or

50 (b) that is commercial in nature including:

- 51 (i) account owners or borrowers;
52 (ii) demographic data;
53 (iii) contracts and related payments;
54 (iv) negotiations;
55 (v) proposals or bids;
56 (vi) investments;
57 (vii) management of funds;
58 (viii) fees and charges;
59 (ix) plan and program design;
60 (x) investment options and underlying investments offered to account owners;
61 (xi) marketing and outreach efforts;

- 62 (xii) financial plans; or
63 (xiii) reviews and audits excluding the final report required under Section 53B-8a-111.
- 64 (5) "Meeting" means a gathering:
65 (a) of a public body or specified body;
66 (b) with a quorum present; and
67 (c) that is convened:
68 (i) by an individual:
69 (A) with authority to convene the public body or specified body; and
70 (B) following the process provided by law for convening the public body or
71 specified body; and
72 (ii) for the express purpose of acting as a public body or specified body to:
73 (A) receive public comment about a relevant matter;
74 (B) deliberate about a relevant matter; or
75 (C) take action upon a relevant matter.
- 76 (6) "Participate" means the ability to communicate with all of the members of a public
77 body, either verbally or electronically, so that each member of the public body can hear
78 or observe the communication.
- 79 (7)(a) "Public body" means:
80 (i) any administrative, advisory, executive, or legislative body of the state or its
81 political subdivisions that:
82 (A) is created by the Utah Constitution, statute, rule, ordinance, or resolution;
83 (B) consists of two or more individuals;
84 (C) expends, disburses, or is supported in whole or in part by tax revenue; and
85 (D) is vested with the authority to make decisions regarding the public's business;
86 or
87 (ii) any administrative, advisory, executive, or policymaking body of an association,
88 as that term is defined in Section 53G-7-1101, that:
89 (A) consists of two or more individuals;
90 (B) expends, disburses, or is supported in whole or in part by dues paid by a
91 public school or whose employees participate in a benefit or program described
92 in Title 49, Utah State Retirement and Insurance Benefit Act; and
93 (C) is vested with authority to make decisions regarding the participation of a
94 public school or student in an interscholastic activity, as that term is defined in
95 Section 53G-7-1101.

(b) "Public body" includes:

- (i) an interlocal entity or joint or cooperative undertaking, as those terms are defined in Section 11-13-103, except for the Water District Water Development Council created pursuant to Section 11-13-228;
- (ii) a governmental nonprofit corporation as that term is defined in Section 11-13a-102;
- (iii) the Utah Independent Redistricting Commission; and
- (iv) a project entity, as that term is defined in Section 11-13-103.

(c) "Public body" does not include:

- (i) a political party, a political group, or a political caucus;
- (ii) a conference committee, a rules committee, a sifting committee, or an administrative staff committee of the Legislature;
- (iii) a school community council or charter trust land council, as that term is defined in Section 53G-7-1203;
- (iv) a taxed interlocal entity, as that term is defined in Section 11-13-602, if the taxed interlocal entity is not a project entity;~~[-or]~~
- (v) the following Legislative Management subcommittees, which are established in Section 36-12-8, when meeting for the purpose of selecting or evaluating a candidate to recommend for employment, except that the meeting in which a subcommittee votes to recommend that a candidate be employed shall be subject to the provisions of this act:
 - (A) the Research and General Counsel Subcommittee;
 - (B) the Budget Subcommittee; and
 - (C) the Audit Subcommittee~~[-]~~ ; or
- (vi) a search committee that selects finalists for a position as an institution of higher education president under Section 53B-2-102.

(8) "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.

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

(10) "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.

(11)(a) "Relevant matter" means a matter that is within the scope of the authority of a public body or specified body.

(b) "Relevant matter" does not include, for a public body with both executive and legislative responsibilities, a managerial or operational matter.

(12) "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 (7)(c)(ii) or (7)(c)(v).

Section 2. Section **53B-1-402** is amended to read:

53B-1-402 . Establishment of board -- Powers, duties, and authority -- Reports.

(1)(a) There is established the Utah Board of Higher Education, which:

(i) is the governing board for the institutions of higher education; and

(ii) controls, oversees, and regulates the Utah System of Higher Education in a manner consistent with the purpose of this title and the specific powers and responsibilities granted to the board.

(b)(i) The University of Utah shall provide administrative support for the board.

(ii) Notwithstanding Subsection (1)(b)(i), the board shall maintain the board's independence, including in relation to the powers and responsibilities granted to the board.

(2) The board shall:

(a) establish and promote a state-level vision and goals for higher education that emphasize data-driven retrospective and prospective system priorities, including:

(i) quality;

(ii) affordability;

(iii) access and equity;

(iv) completion;

(v) workforce alignment and preparation for high-quality jobs; and

(vi) economic growth;

(b) establish system policies and practices that advance the vision and goals;

(c) establish metrics to demonstrate and monitor:

(i) performance related to the goals; and

- 164 (ii) performance on measures of operational efficiency;
- 165 (d) collect and analyze data including economic data, demographic data, and data related
166 to the metrics;
- 167 (e) govern data quality and collection across institutions;
- 168 (f) establish, approve, and oversee each institution's mission and role in accordance with
169 Section 53B-16-101;
- 170 (g) assess an institution's performance in accomplishing the institution's mission and role;
- 171 (h) participate in the establishment and review of programs of instruction in accordance
172 with Section 53B-16-102;
- 173 (i) perform the following duties related to an institution of higher education president,
174 including:
- 175 (i) hiring an institution of higher education president in accordance with Section
176 53B-2-102;
- 177 (ii) through the commissioner and the board's executive committee:
- 178 (A) providing support and guidance to an institution of higher education president;
179 and
- 180 (B) evaluating an institution of higher education president based on institution
181 performance and progress toward systemwide priorities;
- 182 (iii) setting the terms of employment for an institution of higher education president,
183 including performance-based compensation, through an employment contract or
184 another method of establishing employment; and
- 185 (iv) establishing, through a [public] confidential process, a statewide succession plan
186 to develop potential institution presidents from within the system;
- 187 (j) create and implement a strategic finance plan for higher education, including by:
- 188 (i) establishing comprehensive budget and finance priorities for academic education
189 and technical education;
- 190 (ii) allocating statewide resources to institutions;
- 191 (iii) setting tuition for each institution;
- 192 (iv) administering state financial aid programs;
- 193 (v) administering performance funding in accordance with Chapter 7, Part 7,
194 Performance Funding; and
- 195 (vi) developing a strategic capital facility plan and prioritization process in
196 accordance with Chapter 22, Part 2, Capital Developments, and Sections
197 53B-2a-117 and 53B-2a-118;

- 198 (k) create and annually report to the Higher Education Appropriations Subcommittee on
199 a seamless articulated education system for Utah students that responds to changing
200 demographics and workforce, including by:
- 201 (i) providing for statewide prior learning assessment, in accordance with Section
202 53B-16-110;
 - 203 (ii) establishing and maintaining clear pathways for articulation and transfer, in
204 accordance with Section 53B-16-105;
 - 205 (iii) establishing degree program requirement guidelines, including credit hour limits;
 - 206 (iv) aligning general education requirements across degree-granting institutions;
 - 207 (v) coordinating and incentivizing collaboration and partnerships between institutions
208 in delivering programs;
 - 209 (vi) coordinating distance delivery of programs;
 - 210 (vii) coordinating work-based learning; and
 - 211 (viii) emphasizing the system priorities and metrics described in Subsections (2)(a)
212 and (c);
- 213 (l) coordinate with the public education system:
- 214 (i) regarding public education programs that provide postsecondary credit or
215 certificates; and
 - 216 (ii) to ensure that an institution of higher education providing technical education
217 serves secondary students in the public education system;
- 218 (m) delegate to an institution board of trustees certain duties related to institution
219 governance including:
- 220 (i) guidance and support for the institution president;
 - 221 (ii) effective administration;
 - 222 (iii) the institution's responsibility for contributing to progress toward achieving
223 systemwide goals; and
 - 224 (iv) other responsibilities determined by the board;
- 225 (n) delegate to an institution of higher education president management of the institution
226 of higher education;
- 227 (o) consult with an institution of higher education board of trustees or institution of
228 higher education president before acting on matters pertaining to the institution of
229 higher education;
- 230 (p) maximize efficiency throughout the Utah System of Higher Education by identifying
231 and establishing shared administrative services, beginning with:

- 232 (i) commercialization;
- 233 (ii) services for compliance with Title IX of the Education Amendments of 1972, 20
- 234 U.S.C. Sec. 1681 et seq.;
- 235 (iii) information technology services; and
- 236 (iv) human resources, payroll, and benefits administration;
- 237 (q) develop strategies for providing higher education, including career and technical
- 238 education, in rural areas;
- 239 (r) manage and facilitate a process for initiating, prioritizing, and implementing
- 240 education reform initiatives, beginning with common applications and direct
- 241 admissions;
- 242 (s) provide ongoing quality review of programs;
- 243 (t) before each annual legislative general session, provide to the Higher Education
- 244 Appropriations Subcommittee a prioritization of all projects and proposals for which
- 245 the board or an institution of higher education seeks an appropriation; and
- 246 (u) coordinate with the Department of Corrections to establish educational programs for
- 247 inmates as described in Section 64-13-6.
- 248 (3) The board shall submit an annual report of the board's activities and performance
- 249 against the board's goals and metrics to:
- 250 (a) the Education Interim Committee;
- 251 (b) the Higher Education Appropriations Subcommittee;
- 252 (c) the governor; and
- 253 (d) each institution of higher education.
- 254 (4) The board shall prepare and submit an annual report detailing the board's progress and
- 255 recommendations on workforce related issues, including career and technical education,
- 256 to the governor and to the Education Interim Committee by October 31 of each year,
- 257 including information detailing:
- 258 (a) how institutions of higher education are meeting the career and technical education
- 259 needs of secondary students;
- 260 (b) how the system emphasized high demand, high wage, and high skill jobs in business
- 261 and industry;
- 262 (c) performance outcomes, including:
- 263 (i) entered employment;
- 264 (ii) job retention; and
- 265 (iii) earnings;

(d) an analysis of workforce needs and efforts to meet workforce needs; and

(e) student tuition and fees.

(5) The board may modify the name of an institution of higher education to reflect the role and general course of study of the institution.

(6) The board may not take action relating to merging a technical college with another institution of higher education without legislative approval.

(7) This section does not affect the power and authority vested in the State Board of Education to apply for, accept, and manage federal appropriations for the establishment and maintenance of career and technical education.

(8) The board shall ensure that any training or certification that an employee of the higher education system is required to complete under this title or by board rule complies with Title 63G, Chapter 22, State Training and Certification Requirements.

(9) The board shall demonstrate compliance with Subsection (2)(p) by providing to the Higher Education Appropriations Subcommittee:

(a) on or before October 1, 2024, evidence of implementation of at least one shared administrative service;

(b) on or before October 1, 2025, evidence of implementation of at least two shared administrative services; and

(c) on or before October 1, 2026, evidence of implementation of at least three shared administrative services.

(10) If the Higher Education Appropriations Subcommittee finds the board to be out of compliance with Subsection (9), the Legislature shall:

(a) deduct 10% of the appropriation described in Section 53B-7-703 for the following fiscal year; and

(b) deduct an additional 10% of the appropriation described in Section 53B-7-703 for each subsequent year of noncompliance up to a maximum deduction of 30%.

Section 3. Section **53B-2-102** is amended to read:

53B-2-102 . Appointment of institution of higher education presidents.

(1) As used in this section:

(a) "Institution of higher education" means:

(i) a degree-granting institution; or

(ii) a technical college.

(b) "President" means the president of an institution of higher education.

(c) "Search committee" means a committee that selects finalists for a position as an

institution of higher education president.

(2) The board shall appoint a president for each institution of higher education.

(3) ~~[An institution of higher education]~~ A president serves in accordance with the terms of employment that the board establishes as described in Section 53B-1-402.

(4)(a)(i) Except as provided in Subsection (4)(a)(ii), to appoint ~~[an institution of higher education]~~ a president, the board shall establish a search committee that includes representatives of faculty, staff, students, the institution of higher education board of trustees, alumni, the outgoing ~~[institution of higher education]~~ president's executive council or cabinet, and the board.

(ii) The board may delegate the authority to appoint the search committee ~~[described in Subsection (4)(a)(i)]~~ to an institution of higher education board of trustees.

(iii) The commissioner shall provide staff support to a search committee.

(b)(i) Except as provided in Subsection (4)(b)(ii), ~~[a search committee shall be cochaired by]~~ a member of the board and a member of the institution of higher education board of trustees shall cochair a search committee.

(ii) The board may delegate the authority to chair a search committee to the institution of higher education board trustees.

(c) A search committee ~~[described in Subsection (4)(a)]~~ shall forward three to five finalists] shall:

(i) respect and protect candidate confidentiality; and

(ii) through closed executive sessions:

(A) review prospective candidates; and

(B) forward three prioritized finalists to the board to consider for a position as ~~[an institution of higher education]~~ a president.

(d) A search committee may not forward an individual to the board as a finalist unless ~~[two-thirds]~~ a majority of the search committee members, as verified by the commissioner, find the individual to be qualified and likely to succeed as ~~[an institution of higher education]~~ a president.

(5)(a) The board shall select an institution of higher education president from among the finalists ~~[presented by]~~ a search committee presents to the board under Subsections (4)(c) and (5)(b).

(b) If the board is not satisfied with the finalists ~~[forwarded by]~~ a search committee presents to the board, the board may direct the search committee to resume the search process and submit three additional prioritized finalists until the search committee [

has forwarded three finalists with whom the board is satisfied] presents a finalist whom the board approves.

(6) The board, through the commissioner, shall:

(a) create a comprehensive, active recruiting plan to ensure a strong, diverse pool of potential candidates for [institution of higher education] presidents; and

(b) review, in a closed executive session, individuals from within the system whose candidacy may be considered for future applicant pools in relation to the succession plan described in Section 53B-1-402.

(7)[(a) Except as provided in Subsection (7)(b), a] A record or information gathered or generated during the search process, including a candidate's application and the search committee's deliberations, is confidential and is a protected record under Section 63G-2-305.

[(b) Application materials for a publicly named finalist described in Subsection (5)(a) are not protected records under Section 63G-2-305.]

(8) The board shall take final hiring action of a president in an open and public board meeting.

Section 4. Section **63G-2-305** is amended to read:

63G-2-305 . Protected records.

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

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

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

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

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

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

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

- (4) records, the disclosure of which could cause commercial injury to, or confer a competitive advantage upon a potential or actual competitor of, a commercial project entity as defined in Subsection 11-13-103(4);
- (5) test questions and answers to be used in future license, certification, registration, employment, or academic examinations;
- (6) records, the disclosure of which would impair governmental procurement proceedings or give an unfair advantage to any person proposing to enter into a contract or agreement with a governmental entity, except, subject to Subsections (1) and (2), that this Subsection (6) does not restrict the right of a person to have access to, after the contract or grant has been awarded and signed by all parties:
- (a) a bid, proposal, application, or other information submitted to or by a governmental entity in response to:
- (i) an invitation for bids;
- (ii) a request for proposals;
- (iii) a request for quotes;
- (iv) a grant; or
- (v) other similar document; or
- (b) an unsolicited proposal, as defined in Section 63G-6a-712;
- (7) information submitted to or by a governmental entity in response to a request for information, except, subject to Subsections (1) and (2), that this Subsection (7) does not restrict the right of a person to have access to the information, after:
- (a) a contract directly relating to the subject of the request for information has been awarded and signed by all parties; or
- (b)(i) a final determination is made not to enter into a contract that relates to the subject of the request for information; and
- (ii) at least two years have passed after the day on which the request for information is issued;
- (8) records that would identify real property or the appraisal or estimated value of real or personal property, including intellectual property, under consideration for public acquisition before any rights to the property are acquired unless:
- (a) public interest in obtaining access to the information is greater than or equal to the governmental entity's need to acquire the property on the best terms possible;
- (b) the information has already been disclosed to persons not employed by or under a duty of confidentiality to the entity;

- 402 (c) in the case of records that would identify property, potential sellers of the described
403 property have already learned of the governmental entity's plans to acquire the
404 property;
- 405 (d) in the case of records that would identify the appraisal or estimated value of
406 property, the potential sellers have already learned of the governmental entity's
407 estimated value of the property; or
- 408 (e) the property under consideration for public acquisition is a single family residence
409 and the governmental entity seeking to acquire the property has initiated negotiations
410 to acquire the property as required under Section 78B-6-505;
- 411 (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated
412 transaction of real or personal property including intellectual property, which, if
413 disclosed prior to completion of the transaction, would reveal the appraisal or estimated
414 value of the subject property, unless:
- 415 (a) the public interest in access is greater than or equal to the interests in restricting
416 access, including the governmental entity's interest in maximizing the financial
417 benefit of the transaction; or
- 418 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
419 the value of the subject property have already been disclosed to persons not
420 employed by or under a duty of confidentiality to the entity;
- 421 (10) records created or maintained for civil, criminal, or administrative enforcement
422 purposes or audit purposes, or for discipline, licensing, certification, or registration
423 purposes, if release of the records:
- 424 (a) reasonably could be expected to interfere with investigations undertaken for
425 enforcement, discipline, licensing, certification, or registration purposes;
- 426 (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement
427 proceedings;
- 428 (c) would create a danger of depriving a person of a right to a fair trial or impartial
429 hearing;
- 430 (d) reasonably could be expected to disclose the identity of a source who is not generally
431 known outside of government and, in the case of a record compiled in the course of
432 an investigation, disclose information furnished by a source not generally known
433 outside of government if disclosure would compromise the source; or
- 434 (e) reasonably could be expected to disclose investigative or audit techniques,
435 procedures, policies, or orders not generally known outside of government if

- disclosure would interfere with enforcement or audit efforts;
- (11) records the disclosure of which would jeopardize the life or safety of an individual;
- (12) records the disclosure of which would jeopardize the security of governmental property, governmental programs, or governmental recordkeeping systems from damage, theft, or other appropriation or use contrary to law or public policy;
- (13) records that, if disclosed, would jeopardize the security or safety of a correctional facility, or records relating to incarceration, treatment, probation, or parole, that would interfere with the control and supervision of an offender's incarceration, treatment, probation, or parole;
- (14) records that, if disclosed, would reveal recommendations made to the Board of Pardons and Parole by an employee of or contractor for the Department of Corrections, the Board of Pardons and Parole, or the Department of Health and Human Services that are based on the employee's or contractor's supervision, diagnosis, or treatment of any person within the board's jurisdiction;
- (15) records and audit workpapers that identify audit, collection, and operational procedures and methods used by the State Tax Commission, if disclosure would interfere with audits or collections;
- (16) records of a governmental audit agency relating to an ongoing or planned audit until the final audit is released;
- (17) records that are subject to the attorney client privilege;
- (18) records prepared for or by an attorney, consultant, surety, indemnitor, insurer, employee, or agent of a governmental entity for, or in anticipation of, litigation or a judicial, quasi-judicial, or administrative proceeding;
- (19)(a)(i) personal files of a state legislator, including personal correspondence to or from a member of the Legislature; and
- (ii) notwithstanding Subsection (19)(a)(i), correspondence that gives notice of legislative action or policy may not be classified as protected under this section; and
- (b)(i) an internal communication that is part of the deliberative process in connection with the preparation of legislation between:
- (A) members of a legislative body;
- (B) a member of a legislative body and a member of the legislative body's staff; or
- (C) members of a legislative body's staff; and
- (ii) notwithstanding Subsection (19)(b)(i), a communication that gives notice of

- 470 legislative action or policy may not be classified as protected under this section;
- 471 (20)(a) records in the custody or control of the Office of Legislative Research and
472 General Counsel, that, if disclosed, would reveal a particular legislator's
473 contemplated legislation or contemplated course of action before the legislator has
474 elected to support the legislation or course of action, or made the legislation or course
475 of action public; and
- 476 (b) notwithstanding Subsection (20)(a), the form to request legislation submitted to the
477 Office of Legislative Research and General Counsel is a public document unless a
478 legislator asks that the records requesting the legislation be maintained as protected
479 records until such time as the legislator elects to make the legislation or course of
480 action public;
- 481 (21) a research request from a legislator to a legislative staff member and research findings
482 prepared in response to the request;
- 483 (22) drafts, unless otherwise classified as public;
- 484 (23) records concerning a governmental entity's strategy about:
- 485 (a) collective bargaining; or
486 (b) imminent or pending litigation;
- 487 (24) records of investigations of loss occurrences and analyses of loss occurrences that may
488 be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
489 Uninsured Employers' Fund, or similar divisions in other governmental entities;
- 490 (25) records, other than personnel evaluations, that contain a personal recommendation
491 concerning an individual if disclosure would constitute a clearly unwarranted invasion
492 of personal privacy, or disclosure is not in the public interest;
- 493 (26) records that reveal the location of historic, prehistoric, paleontological, or biological
494 resources that if known would jeopardize the security of those resources or of valuable
495 historic, scientific, educational, or cultural information;
- 496 (27) records of independent state agencies if the disclosure of the records would conflict
497 with the fiduciary obligations of the agency;
- 498 (28) records of an institution within the state system of higher education defined in Section
499 53B-1-102 regarding tenure evaluations, appointments, applications for admissions,
500 retention decisions, and promotions, which could be properly discussed in a meeting
501 closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided
502 that records of the final decisions about tenure, appointments, retention, promotions, or
503 those students admitted, may not be classified as protected under this section;

- (29) records of the governor's office, including budget recommendations, legislative proposals, and policy statements, that if disclosed would reveal the governor's contemplated policies or contemplated courses of action before the governor has implemented or rejected those policies or courses of action or made them public;
- (30) records of the Office of the Legislative Fiscal Analyst relating to budget analysis, revenue estimates, and fiscal notes of proposed legislation before issuance of the final recommendations in these areas;
- (31) records provided by the United States or by a government entity outside the state that are given to the governmental entity with a requirement that they be managed as protected records if the providing entity certifies that the record would not be subject to public disclosure if retained by it;
- (32) transcripts, minutes, recordings, or reports of the closed portion of a meeting of a public body except as provided in Section 52-4-206;
- (33) records that would reveal the contents of settlement negotiations but not including final settlements or empirical data to the extent that they are not otherwise exempt from disclosure;
- (34) memoranda prepared by staff and used in the decision-making process by an administrative law judge, a member of the Board of Pardons and Parole, or a member of any other body charged by law with performing a quasi-judicial function;
- (35) records that would reveal negotiations regarding assistance or incentives offered by or requested from a governmental entity for the purpose of encouraging a person to expand or locate a business in Utah, but only if disclosure would result in actual economic harm to the person or place the governmental entity at a competitive disadvantage, but this section may not be used to restrict access to a record evidencing a final contract;
- (36) materials to which access must be limited for purposes of securing or maintaining the governmental entity's proprietary protection of intellectual property rights including patents, copyrights, and trade secrets;
- (37) the name of a donor or a prospective donor to a governmental entity, including an institution within the state system of higher education defined in Section 53B-1-102, and other information concerning the donation that could reasonably be expected to reveal the identity of the donor, provided that:
- (a) the donor requests anonymity in writing;
 - (b) any terms, conditions, restrictions, or privileges relating to the donation may not be classified protected by the governmental entity under this Subsection (37); and

- (c) except for an institution within the state system of higher education defined in Section 53B-1-102, the governmental unit to which the donation is made is primarily engaged in educational, charitable, or artistic endeavors, and has no regulatory or legislative authority over the donor, a member of the donor's immediate family, or any entity owned or controlled by the donor or the donor's immediate family;
- (38) accident reports, except as provided in Sections 41-6a-404, 41-12a-202, and 73-18-13;
- (39) a notification of workers' compensation insurance coverage described in Section 34A-2-205;
- (40)(a) the following records of an institution within the state system of higher education defined in Section 53B-1-102, which have been developed, discovered, disclosed to, or received by or on behalf of faculty, staff, employees, or students of the institution:
- (i) unpublished lecture notes;
 - (ii) unpublished notes, data, and information:
 - (A) relating to research; and
 - (B) of:
 - (I) the institution within the state system of higher education defined in Section 53B-1-102; or
 - (II) a sponsor of sponsored research;
 - (iii) unpublished manuscripts;
 - (iv) creative works in process;
 - (v) scholarly correspondence; and
 - (vi) confidential information contained in research proposals;
- (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- (41)(a) records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit prior to the date that audit is completed and made public; and
- (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the Office of the Legislative Auditor General is a public document unless the legislator asks that the records in the custody or control of the Office of the Legislative Auditor General that would reveal the name of a particular legislator who requests a legislative audit be maintained as protected records until the audit is completed and made public;

- (42) records that provide detail as to the location of an explosive, including a map or other document that indicates the location of:
- (a) a production facility; or
 - (b) a magazine;
- (43) information contained in the statewide database of the Division of Aging and Adult Services created by Section 26B-6-210;
- (44) information contained in the Licensing Information System described in Title 80, Chapter 2, Child Welfare Services;
- (45) information regarding National Guard operations or activities in support of the National Guard's federal mission;
- (46) records provided by any pawn or secondhand business to a law enforcement agency or to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand Merchandise, and Catalytic Converter Transaction Information Act;
- (47) information regarding food security, risk, and vulnerability assessments performed by the Department of Agriculture and Food;
- (48) except to the extent that the record is exempt from this chapter pursuant to Section 63G-2-106, records related to an emergency plan or program, a copy of which is provided to or prepared or maintained by the Division of Emergency Management, and the disclosure of which would jeopardize:
- (a) the safety of the general public; or
 - (b) the security of:
 - (i) governmental property;
 - (ii) governmental programs; or
 - (iii) the property of a private person who provides the Division of Emergency Management information;
- (49) records of the Department of Agriculture and Food that provides for the identification, tracing, or control of livestock diseases, including any program established under Title 4, Chapter 24, Utah Livestock Brand and Anti-Theft Act, or Title 4, Chapter 31, Control of Animal Disease;
- (50) as provided in Section 26B-2-709:
- (a) information or records held by the Department of Health and Human Services related to a complaint regarding a provider, program, or facility which the department is unable to substantiate; and
 - (b) information or records related to a complaint received by the Department of Health

- 606 and Human Services from an anonymous complainant regarding a provider, program,
607 or facility;
- 608 (51) unless otherwise classified as public under Section 63G-2-301 and except as provided
609 under Section 41-1a-116, an individual's home address, home telephone number, or
610 personal mobile phone number, if:
- 611 (a) the individual is required to provide the information in order to comply with a law,
612 ordinance, rule, or order of a government entity; and
- 613 (b) the subject of the record has a reasonable expectation that this information will be
614 kept confidential due to:
- 615 (i) the nature of the law, ordinance, rule, or order; and
- 616 (ii) the individual complying with the law, ordinance, rule, or order;
- 617 (52) the portion of the following documents that contains a candidate's residential or
618 mailing address, if the candidate provides to the filing officer another address or phone
619 number where the candidate may be contacted:
- 620 (a) a declaration of candidacy, a nomination petition, or a certificate of nomination,
621 described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405,
622 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;
- 623 (b) an affidavit of impecuniosity, described in Section 20A-9-201; or
- 624 (c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;
- 625 (53) the name, home address, work addresses, and telephone numbers of an individual that
626 is engaged in, or that provides goods or services for, medical or scientific research that is:
- 627 (a) conducted within the state system of higher education, as defined in Section
628 53B-1-102; and
- 629 (b) conducted using animals;
- 630 (54) in accordance with Section 78A-12-203, any record of the Judicial Performance
631 Evaluation Commission concerning an individual commissioner's vote, in relation to
632 whether a judge meets or exceeds minimum performance standards under Subsection
633 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);
- 634 (55) information collected and a report prepared by the Judicial Performance Evaluation
635 Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12,
636 Judicial Performance Evaluation Commission Act, requires disclosure of, or makes
637 public, the information or report;
- 638 (56) records provided or received by the Public Lands Policy Coordinating Office in
639 furtherance of any contract or other agreement made in accordance with Section

63L-11-202;

(57) information requested by and provided to the 911 Division under Section 63H-7a-302;

(58) in accordance with Section 73-10-33:

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

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

(59) the following records in the custody or control of the Office of Inspector General of Medicaid Services, created in Section 63A-13-201:

(a) records that would disclose information relating to allegations of personal misconduct, gross mismanagement, or illegal activity of a person if the information or allegation cannot be corroborated by the Office of Inspector General of Medicaid Services through other documents or evidence, and the records relating to the allegation are not relied upon by the Office of Inspector General of Medicaid Services in preparing a final investigation report or final audit report;

(b) records and audit workpapers to the extent they would disclose the identity of a person who, during the course of an investigation or audit, communicated the existence of any Medicaid fraud, waste, or abuse, or a violation or suspected violation of a law, rule, or regulation adopted under the laws of this state, a political subdivision of the state, or any recognized entity of the United States, if the information was disclosed on the condition that the identity of the person be protected;

(c) before the time that an investigation or audit is completed and the final investigation or final audit report is released, records or drafts circulated to a person who is not an employee or head of a governmental entity for the person's response or information;

(d) records that would disclose an outline or part of any investigation, audit survey plan, or audit program; or

(e) requests for an investigation or audit, if disclosure would risk circumvention of an investigation or audit;

(60) records that reveal methods used by the Office of Inspector General of Medicaid Services, the fraud unit, or the Department of Health and Human Services, to discover Medicaid fraud, waste, or abuse;

(61) information provided to the Department of Health and Human Services or the Division of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections

58-68-304(3) and (4);

(62) a record described in Section 63G-12-210;

(63) captured plate data that is obtained through an automatic license plate reader system used by a governmental entity as authorized in Section 41-6a-2003;

(64) an audio or video recording created by a body-worn camera, as that term is defined in Section 77-7a-103, that records sound or images inside a hospital or health care facility as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider, as that term is defined in Section 78B-3-403, or inside a human service program as that term is defined in Section 26B-2-101, except for recordings that:

(a) depict the commission of an alleged crime;

(b) record any encounter between a law enforcement officer and a person that results in death or bodily injury, or includes an instance when an officer fires a weapon;

(c) record any encounter that is the subject of a complaint or a legal proceeding against a law enforcement officer or law enforcement agency;

(d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f); or

(e) have been requested for reclassification as a public record by a subject or authorized agent of a subject featured in the recording;

(65) a record pertaining to the search process for a president of an institution of higher education described in Section 53B-2-102[~~except for application materials for a publicly announced finalist~~];

(66) an audio recording that is:

(a) produced by an audio recording device that is used in conjunction with a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition;

(b) produced during an emergency event when an individual employed to provide law enforcement, fire protection, paramedic, emergency medical, or other first responder service:

(i) is responding to an individual needing resuscitation or with a life-threatening condition; and

(ii) uses a device or piece of equipment designed or intended for resuscitating an individual or for treating an individual with a life-threatening condition; and

(c) intended and used for purposes of training emergency responders how to improve their response to an emergency situation;

- (67) records submitted by or prepared in relation to an applicant seeking a recommendation by the Research and General Counsel Subcommittee, the Budget Subcommittee, or the Audit Subcommittee, established under Section 36-12-8, for an employment position with the Legislature;
- (68) work papers as defined in Section 31A-2-204;
- (69) a record made available to Adult Protective Services or a law enforcement agency under Section 61-1-206;
- (70) a record submitted to the Insurance Department in accordance with Section 31A-37-201;
- (71) a record described in Section 31A-37-503;
- (72) any record created by the Division of Professional Licensing as a result of Subsection 58-37f-304(5) or 58-37f-702(2)(a)(ii);
- (73) a record described in Section 72-16-306 that relates to the reporting of an injury involving an amusement ride;
- (74) except as provided in Subsection 63G-2-305.5(1), the signature of an individual on a political petition, or on a request to withdraw a signature from a political petition, including a petition or request described in the following titles:
- (a) Title 10, Utah Municipal Code;
 - (b) Title 17, Counties;
 - (c) Title 17B, Limited Purpose Local Government Entities - Special Districts;
 - (d) Title 17D, Limited Purpose Local Government Entities - Other Entities; and
 - (e) Title 20A, Election Code;
- (75) except as provided in Subsection 63G-2-305.5(2), the signature of an individual in a voter registration record;
- (76) except as provided in Subsection 63G-2-305.5(3), any signature, other than a signature described in Subsection (74) or (75), in the custody of the lieutenant governor or a local political subdivision collected or held under, or in relation to, Title 20A, Election Code;
- (77) a Form I-918 Supplement B certification as described in Title 77, Chapter 38, Part 5, Victims Guidelines for Prosecutors Act;
- (78) a record submitted to the Insurance Department under Section 31A-48-103;
- (79) personal information, as defined in Section 63G-26-102, to the extent disclosure is prohibited under Section 63G-26-103;
- (80) an image taken of an individual during the process of booking the individual into jail, unless:

- 742 (a) the individual is convicted of a criminal offense based upon the conduct for which
743 the individual was incarcerated at the time the image was taken;
- 744 (b) a law enforcement agency releases or disseminates the image:
- 745 (i) after determining that the individual is a fugitive or an imminent threat to an
746 individual or to public safety and releasing or disseminating the image will assist
747 in apprehending the individual or reducing or eliminating the threat; or
- 748 (ii) to a potential witness or other individual with direct knowledge of events relevant
749 to a criminal investigation or criminal proceeding for the purpose of identifying or
750 locating an individual in connection with the criminal investigation or criminal
751 proceeding;
- 752 (c) a judge orders the release or dissemination of the image based on a finding that the
753 release or dissemination is in furtherance of a legitimate law enforcement interest; or
- 754 (d) the image is displayed to a person who is permitted to view the image under Section
755 17-22-30[-] ;
- 756 (81) a record:
- 757 (a) concerning an interstate claim to the use of waters in the Colorado River system;
- 758 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
759 representative from another state or the federal government as provided in Section
760 63M-14-205; and
- 761 (c) the disclosure of which would:
- 762 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
763 Colorado River system;
- 764 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
765 negotiate the best terms and conditions regarding the use of water in the Colorado
766 River system; or
- 767 (iii) give an advantage to another state or to the federal government in negotiations
768 regarding the use of water in the Colorado River system;
- 769 (82) any part of an application described in Section 63N-16-201 that the Governor's Office
770 of Economic Opportunity determines is nonpublic, confidential information that if
771 disclosed would result in actual economic harm to the applicant, but this Subsection (82)
772 may not be used to restrict access to a record evidencing a final contract or approval
773 decision;
- 774 (83) the following records of a drinking water or wastewater facility:
- 775 (a) an engineering or architectural drawing of the drinking water or wastewater facility;

776 and

777 (b) except as provided in Section 63G-2-106, a record detailing tools or processes the
778 drinking water or wastewater facility uses to secure, or prohibit access to, the records
779 described in Subsection (83)(a);

780 (84) a statement that an employee of a governmental entity provides to the governmental
781 entity as part of the governmental entity's personnel or administrative investigation into
782 potential misconduct involving the employee if the governmental entity:

783 (a) requires the statement under threat of employment disciplinary action, including
784 possible termination of employment, for the employee's refusal to provide the
785 statement; and

786 (b) provides the employee assurance that the statement cannot be used against the
787 employee in any criminal proceeding;

788 (85) any part of an application for a Utah Fits All Scholarship account described in Section
789 53F-6-402 or other information identifying a scholarship student as defined in Section
790 53F-6-401;

791 (86) a record:

792 (a) concerning a claim to the use of waters in the Great Salt Lake;

793 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
794 person concerning the claim, including a representative from another state or the
795 federal government; and

796 (c) the disclosure of which would:

797 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
798 Great Salt Lake;

799 (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms
800 and conditions regarding the use of water in the Great Salt Lake; or

801 (iii) give an advantage to another person including another state or to the federal
802 government in negotiations regarding the use of water in the Great Salt Lake;[~~and~~]

803 (87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is
804 reclassified as public as described in Subsection 13-2-11(4)[~~:~~] ; and

805 (88) a record of the Utah water agent, appointed under Section 73-10g-702:

806 (a) concerning a claim to the use of waters;

807 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
808 representative from another state, a tribe, the federal government, or other
809 government entity as provided in Title 73, Chapter 10g, Part 6, Utah Water Agent;

- 810 and
- 811 (c) the disclosure of which would:
- 812 (i) reveal a legal strategy relating to the state's claim to the use of the water;
- 813 (ii) harm the ability of the Utah water agent to negotiate the best terms and conditions
- 814 regarding the use of water; or
- 815 (iii) give an advantage to another state, a tribe, the federal government, or other
- 816 government entity in negotiations regarding the use of water.

817 Section 5. **Effective Date.**

818 This bill takes effect:

- 819 (1) except as provided in Subsection (2), May 7, 2025; or
- 820 (2) if approved by two-thirds of all members elected to each house:
- 821 (a) upon approval by the governor;
- 822 (b) without the governor's signature, the day following the constitutional time limit of
- 823 Utah Constitution, Article VII, Section 8; or
- 824 (c) in the case of a veto, the date of veto override.