

Matt MacPherson proposes the following substitute bill:

Government Records Amendments

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Wayne A. Harper

House Sponsor: Matt MacPherson

LONG TITLE

General Description:

This bill amends provisions relating to the Government Records Access and Management Act.

Highlighted Provisions:

This bill:

- defines terms;
- requires a summary of government records requirements to be developed and provided to employees of a governmental entity;
- modifies provisions relating to fees charged in relation to a record request;
- modifies requirements for responding to a record request, including:
 - deadlines;
 - a request for an expedited response;
 - appeals; and
 - other requirements;
- modifies provisions relating to certain protected records;
- modifies provisions relating to the State Records Committee;
- requires a governmental entity to conduct an annual review of records retention requirements and compliance with those requirements;
- amends requirements for an ordinance or policy adopted by a political subdivision in relation to public records;
- makes it a crime to destroy a record with the intent to avoid disclosure in response to a pending record request;
- makes technical and conforming changes; and
- includes a coordination clause to resolve conflicts between this bill and S.B. 277, Government Records Management Amendments, to make technical changes that allow

the changes in both bills to take effect.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:

20A-2-104, as last amended by Laws of Utah 2023, Chapters 327, 406

20A-11-1205, as last amended by Laws of Utah 2020, Chapter 22

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

63G-2-103, as last amended by Laws of Utah 2024, Chapters 18, 465, 509, and 522

63G-2-107, as last amended by Laws of Utah 2024, Chapters 18, 381

63G-2-201, as last amended by Laws of Utah 2023, Chapters 173, 516

63G-2-203, as last amended by Laws of Utah 2022, Chapter 128

63G-2-204, as last amended by Laws of Utah 2023, Chapter 173

63G-2-301, as last amended by Laws of Utah 2020, Chapters 255, 399

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

63G-2-400.5, as last amended by Laws of Utah 2019, Chapters 254, 334

63G-2-401, as last amended by Laws of Utah 2024, Chapter 407

63G-2-403, as last amended by Laws of Utah 2024, Chapter 407

63G-2-501, as last amended by Laws of Utah 2024, Chapter 529

63G-2-502, as last amended by Laws of Utah 2019, Chapter 254

63G-2-604, as last amended by Laws of Utah 2023, Chapters 173, 516

63G-2-701, as last amended by Laws of Utah 2019, Chapter 254

63G-2-801, as last amended by Laws of Utah 2019, Chapter 254

77-27-5, as last amended by Laws of Utah 2024, Chapters 145, 187 and 208

ENACTS:

63A-12-117, Utah Code Annotated 1953

63G-2-605, Utah Code Annotated 1953

Utah Code Sections affected by Coordination Clause:

63G-2-403, as last amended by Laws of Utah 2024, Chapter 407

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

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

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

(1) As used in this section:

(a) "Candidate for public office" means an individual:

(i) who files a declaration of candidacy for a public office;

(ii) who files a notice of intent to gather signatures under Section 20A-9-408; or

(iii) employed by, under contract with, or a volunteer of, an individual described in

Subsection (1)(a)(i) or (ii) for political campaign purposes.

(b) "Dating violence" means the same as that term is defined in Section 78B-7-402 and the federal Violence Against Women Act of 1994, as amended.

(c) "Domestic violence" means the same as that term is defined in Section 77-36-1 and the federal Violence Against Women Act of 1994, as amended.

(d) "Hash Code" means a code generated by applying an algorithm to a set of data to produce a code that:

(i) uniquely represents the set of data;

(ii) is always the same if the same algorithm is applied to the same set of data; and

(iii) cannot be reversed to reveal the data applied to the algorithm.

(e) "Protected individual" means an individual:

(i) who submits a withholding request form with the individual's voter registration record, or to the lieutenant governor or a county clerk, if the individual indicates on the form that the individual, or an individual who resides with the individual, is a victim of domestic violence or dating violence or is likely to be a victim of domestic violence or dating violence;

(ii) who submits a withholding request form with the individual's voter registration record, or to the lieutenant governor or a county clerk, if the individual indicates on the form and provides verification that the individual, or an individual who resides with the individual, is a law enforcement officer, a member of the armed forces as defined in Section 20A-1-513, a public figure, or protected by a protective order or protection order; or

(iii) whose voter registration record was classified as a private record at the request of the individual before May 12, 2020.

(2)(a) An individual applying for voter registration, or an individual preregistering to vote, shall complete a voter registration form in substantially the following form:

UTAH ELECTION REGISTRATION FORM

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

If you checked "no" to the above question, do not complete this form.

Will you be 18 years of age on or before election day? Yes No

If you checked "no" to the above question, are you 16 or 17 years of age and
preregistering to vote? Yes No

If you checked "no" to both of the prior two questions, do not complete this form.

Name of Voter

First Middle Last

Utah Driver License or Utah Identification Card

Number _____

Date of Birth _____

Street Address of Principal Place of Residence

City County State Zip Code

Telephone Number (optional) _____

Email Address (optional) _____

Last four digits of Social Security Number _____

Last former address at which I was registered to vote (if
known) _____

City County State Zip Code

Political Party

(a listing of each registered political party, as defined in Section 20A-8-101 and
maintained by the lieutenant governor under Section 67-1a-2, with each party's name preceded
by a checkbox)

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

I do swear (or affirm), subject to penalty of law for false statements, that the information
contained in this form is true, and that I am a citizen of the United States and a resident of the
state of Utah, residing at the above address. Unless I have indicated above that I am
preregistering to vote in a later election, I will be at least 18 years of age and will have resided
in Utah for 30 days immediately before the next election. I am not a convicted felon currently

incarcerated for commission of a felony.

Signed and sworn

Voter's Signature

_____(month/day/year).

PRIVACY INFORMATION

Voter registration records contain some information that is available to the public, such as your name and address, some information that is available only to government entities, and some information that is available only to certain third parties in accordance with the requirements of law.

Your driver license number, identification card number, social security number, email address, full date of birth, and phone number are available only to government entities. Your year of birth is available to political parties, candidates for public office, certain third parties, and their contractors, employees, and volunteers, in accordance with the requirements of law.

You may request that all information on your voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers, by indicating here:

_____ Yes, I request that all information on my voter registration records be withheld from all persons other than government entities, political parties, candidates for public office, and their contractors, employees, and volunteers.

REQUEST FOR ADDITIONAL PRIVACY PROTECTION

In addition to the protections provided above, you may request that identifying information on your voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form, and any required verification, as described in the following paragraphs.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their contractors, employees, and volunteers, by submitting a withholding request form with this registration record, or to the lieutenant governor or a county clerk, if the person is or is likely to be, or resides with a person who is or is likely to be, a victim of domestic violence or dating violence.

A person may request that identifying information on the person's voter registration records be withheld from all political parties, candidates for public office, and their

contractors, employees, and volunteers, by submitting a withholding request form and any required verification with this registration form, or to the lieutenant governor or a county clerk, if the person is, or resides with a person who is, a law enforcement officer, a member of the armed forces, a public figure, or protected by a protective order or a protection order.

CITIZENSHIP AFFIDAVIT

Name:

Name at birth, if different:

Place of birth:

Date of birth:

Date and place of naturalization (if applicable):

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

Signature of Applicant

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

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

TWO DIFFERENT FORMS OF IDENTIFICATION THAT SHOW YOUR NAME AND CURRENT ADDRESS.

FOR OFFICIAL USE ONLY

Type of I.D. _____

Voting Precinct _____

Voting I.D. Number _____

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- (b) The voter registration form described in Subsection (2)(a) shall include a section in substantially the following form:

BALLOT NOTIFICATIONS

If you have provided a phone number or email address, you can receive notifications by

text message or email regarding the status of a ballot that is mailed to you or a ballot that you deposit in the mail or in a ballot drop box, by indicating here:

_____ Yes, I would like to receive electronic notifications regarding the status of my ballot.

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

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

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

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

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

(d) The lieutenant governor and the county clerks may charge the fees established under the authority of Subsection [~~63G-2-203(10)~~] 63G-2-203(11) to individuals who wish to obtain a copy of the list of registered voters.

(4)(a) As used in this Subsection (4), "qualified person" means:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or a government employee;

(ii) a health care provider, as defined in Section 26B-8-501, or an agent, employee, or independent contractor of a health care provider;

(iii) an insurance company, as defined in Section 67-4a-102, or an agent, employee, or independent contractor of an insurance company;

(iv) a financial institution, as defined in Section 7-1-103, or an agent, employee, or independent contractor of a financial institution;

(v) a political party, or an agent, employee, or independent contractor of a political party;

(vi) a candidate for public office, or an employee, independent contractor, or volunteer of a candidate for public office;

(vii) a person described in Subsections (4)(a)(i) through (vi) who, after obtaining a year of birth from the list of registered voters:

(A) provides the year of birth only to a person described in Subsections (4)(a)(i)

- 232 through (vii);
- 233 (B) verifies that the person described in Subsection (4)(a)(vii)(A) is a person
- 234 described in Subsections (4)(a)(i) through (vii);
- 235 (C) ensures, using industry standard security measures, that the year of birth may
- 236 not be accessed by a person other than a person described in Subsections
- 237 (4)(a)(i) through (vii);
- 238 (D) verifies that each person described in Subsections (4)(a)(ii) through (iv) to
- 239 whom the person provides the year of birth will only use the year of birth to
- 240 verify the accuracy of personal information submitted by an individual or to
- 241 confirm the identity of a person in order to prevent fraud, waste, or abuse;
- 242 (E) verifies that each person described in Subsection (4)(a)(i) to whom the person
- 243 provides the year of birth will only use the year of birth in the person's capacity
- 244 as a government official or government employee; and
- 245 (F) verifies that each person described in Subsection (4)(a)(v) or (vi) to whom the
- 246 person provides the year of birth will only use the year of birth for a political
- 247 purpose of the political party or candidate for public office; or
- 248 (viii) a person described in Subsection (4)(a)(v) or (vi) who, after obtaining
- 249 information under Subsection (4)(n) and (o):
- 250 (A) provides the information only to another person described in Subsection
- 251 (4)(a)(v) or (vi);
- 252 (B) verifies that the other person described in Subsection (4)(a)(viii)(A) is a
- 253 person described in Subsection (4)(a)(v) or (vi);
- 254 (C) ensures, using industry standard security measures, that the information may
- 255 not be accessed by a person other than a person described in Subsection
- 256 (4)(a)(v) or (vi); and
- 257 (D) verifies that each person described in Subsection (4)(a)(v) or (vi) to whom the
- 258 person provides the information will only use the information for a political
- 259 purpose of the political party or candidate for public office.
- 260 (b) Notwithstanding Subsection 63G-2-302(1)(j)(iv), and except as provided in
- 261 Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall,
- 262 when providing the list of registered voters to a qualified person under this section,
- 263 include, with the list, the years of birth of the registered voters, if:
- 264 (i) the lieutenant governor or a county clerk verifies the identity of the person and
- 265 that the person is a qualified person; and

(ii) the qualified person signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the years of birth;

(D) a list of the purposes for which the qualified person may use the year of birth of a registered voter that is obtained from the list of registered voters;

(E) a statement that the year of birth of a registered voter that is obtained from the list of registered voters may not be provided or used for a purpose other than a purpose described under Subsection (4)(b)(ii)(D);

(F) a statement that if the person obtains the year of birth of a registered voter from the list of registered voters under false pretenses, or provides or uses the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law, is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the year of birth of a registered voter that is obtained from the list of registered voters in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is punishable by law under Section 76-8-504.

(c) The lieutenant governor or a county clerk:

(i) may not disclose the year of birth of a registered voter to a person that the lieutenant governor or county clerk reasonably believes:

(A) is not a qualified person or a person described in Subsection (4)(l); or

(B) will provide or use the year of birth in a manner prohibited by law; and

(ii) may not disclose information under Subsections (4)(n) or (o) to a person that the lieutenant governor or county clerk reasonably believes:

(A) is not a person described in Subsection (4)(a)(v) or (vi); or

(B) will provide or use the information in a manner prohibited by law.

(d) The lieutenant governor or a county clerk may not disclose the voter registration form of a person, or information included in the person's voter registration form, whose voter registration form is classified as private under Subsection (4)(h) to a

person other than:

(i) a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee; or

(ii) subject to Subsection (4)(e), a person described in Subsection (4)(a)(v) or (vi) for a political purpose.

(e)(i) Except as provided in Subsection (4)(e)(ii), when disclosing a record or information under Subsection (4)(d)(ii), the lieutenant governor or county clerk shall exclude the information described in Subsection 63G-2-302(1)(j), other than the year of birth.

(ii) If disclosing a record or information under Subsection (4)(d)(ii) in relation to the voter registration record of a protected individual, the lieutenant governor or county clerk shall comply with Subsections (4)(n) through (p).

(f) The lieutenant governor or a county clerk may not disclose a withholding request form, described in Subsections (7) and (8), submitted by an individual, or information obtained from that form, to a person other than a government official or government employee acting in the government official's or government employee's capacity as a government official or government employee.

(g) A person is guilty of a class A misdemeanor if the person:

(i) obtains from the list of registered voters, under false pretenses, the year of birth of a registered voter or information described in Subsection (4)(n) or (o);

(ii) uses or provides the year of birth of a registered voter, or information described in Subsection (4)(n) or (o), that is obtained from the list of registered voters in a manner that is not permitted by law;

(iii) obtains a voter registration record described in Subsection 63G-2-302(1)(k) under false pretenses;

(iv) uses or provides information obtained from a voter registration record described in Subsection 63G-2-302(1)(k) in a manner that is not permitted by law;

(v) unlawfully discloses or obtains a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8); or

(vi) unlawfully discloses or obtains information from a voter registration record withheld under Subsection (7) or a withholding request form described in Subsections (7) and (8).

- (h) The lieutenant governor or a county clerk shall classify the voter registration record of a voter as a private record if the voter:
- (i) submits a written application, created by the lieutenant governor, requesting that the voter's voter registration record be classified as private;
 - (ii) requests on the voter's voter registration form that the voter's voter registration record be classified as a private record; or
 - (iii) submits a withholding request form described in Subsection (7) and any required verification.
- (i) Except as provided in Subsections (4)(d)(ii) and (e)(ii), the lieutenant governor or a county clerk may not disclose to a person described in Subsection (4)(a)(v) or (vi) a voter registration record, or information obtained from a voter registration record, if the record is withheld under Subsection (7).
- (j) In addition to any criminal penalty that may be imposed under this section, the lieutenant governor may impose a civil fine against a person who violates a provision of this section, in an amount equal to the greater of:
- (i) the product of 30 and the square root of the total number of:
 - (A) records obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or
 - (B) records from which information is obtained, provided, or used unlawfully, rounded to the nearest whole dollar; or
 - (ii) \$200.
- (k) A qualified person may not obtain, provide, or use the year of birth of a registered voter, if the year of birth is obtained from the list of registered voters or from a voter registration record, unless the person:
- (i) is a government official or government employee who obtains, provides, or uses the year of birth in the government official's or government employee's capacity as a government official or government employee;
 - (ii) is a qualified person described in Subsection (4)(a)(ii), (iii), or (iv) and obtains or uses the year of birth only to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse;
 - (iii) is a qualified person described in Subsection (4)(a)(v) or (vi) and obtains, provides, or uses the year of birth for a political purpose of the political party or candidate for public office; or

(iv) is a qualified person described in Subsection (4)(a)(vii) and obtains, provides, or uses the year of birth to provide the year of birth to another qualified person to verify the accuracy of personal information submitted by an individual or to confirm the identity of a person in order to prevent fraud, waste, or abuse.

(l) The lieutenant governor or a county clerk may provide a year of birth to a member of the media, in relation to an individual designated by the member of the media, in order for the member of the media to verify the identity of the individual.

(m) A person described in Subsection (4)(a)(v) or (vi) may not use or disclose information from a voter registration record for a purpose other than a political purpose.

(n) Notwithstanding Subsection 63G-2-302(1)(k) or (l), the lieutenant governor or a county clerk shall, when providing the list of registered voters to a qualified person described in Subsection (4)(a)(v) or (vi), include, from the record of a voter whose record is withheld under Subsection (7), the information described in Subsection (4)(o), if:

(i) the lieutenant governor or a county clerk verifies the identity of the person and that the person is a qualified person described in Subsection (4)(a)(v) or (vi); and

(ii) the qualified person described in Subsection (4)(a)(v) or (vi) signs a document that includes the following:

(A) the name, address, and telephone number of the person requesting the list of registered voters;

(B) an indication of the type of qualified person that the person requesting the list claims to be;

(C) a statement regarding the purpose for which the person desires to obtain the information;

(D) a list of the purposes for which the qualified person may use the information;

(E) a statement that the information may not be provided or used for a purpose other than a purpose described under Subsection (4)(n)(ii)(D);

(F) a statement that if the person obtains the information under false pretenses, or provides or uses the information in a manner that is prohibited by law, the person is guilty of a class A misdemeanor and is subject to a civil fine;

(G) an assertion from the person that the person will not provide or use the information in a manner that is prohibited by law; and

(H) notice that if the person makes a false statement in the document, the person is

- 402 punishable by law under Section 76-8-504.
- 403 (o) Except as provided in Subsection (4)(p), the information that the lieutenant governor
404 or a county clerk is required to provide, under Subsection (4)(n), from the record of a
405 protected individual is:
- 406 (i) a single hash code, generated from a string of data that includes both the voter's
407 voter identification number and residential address;
- 408 (ii) the voter's residential address;
- 409 (iii) the voter's mailing address, if different from the voter's residential address;
- 410 (iv) the party affiliation of the voter;
- 411 (v) the precinct number for the voter's residential address;
- 412 (vi) the voter's voting history; and
- 413 (vii) a designation of which age group, of the following age groups, the voter falls
414 within:
- 415 (A) 25 or younger;
- 416 (B) 26 through 35;
- 417 (C) 36 through 45;
- 418 (D) 46 through 55;
- 419 (E) 56 through 65;
- 420 (F) 66 through 75; or
- 421 (G) 76 or older.
- 422 (p) The lieutenant governor or a county clerk may not disclose:
- 423 (i) information described in Subsection (4)(o) that, due to a small number of voters
424 affiliated with a particular political party, or due to another reason, would likely
425 reveal the identity of a voter if disclosed; or
- 426 (ii) the address described in Subsection (4)(o)(iii) if the lieutenant governor or the
427 county clerk determines that the nature of the address would directly reveal
428 sensitive information about the voter.
- 429 (q) A qualified person described in Subsection (4)(a)(v) or (vi), may not obtain, provide,
430 or use the information described in Subsection (4)(n) or (o), except to the extent that
431 the qualified person uses the information for a political purpose of a political party or
432 candidate for public office.
- 433 (5) When political parties not listed on the voter registration form qualify as registered
434 political parties under Title 20A, Chapter 8, Political Party Formation and Procedures,
435 the lieutenant governor shall inform the county clerks of the name of the new political

436 party and direct the county clerks to ensure that the voter registration form is modified to
437 include that political party.

438 (6) Upon receipt of a voter registration form from an applicant, the county clerk or the
439 clerk's designee shall:

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

441 (b) if the county clerk believes, based upon a review of the form, that an individual may
442 be seeking to register or preregister to vote who is not legally entitled to register or
443 preregister to vote, refer the form to the county attorney for investigation and
444 possible prosecution.

445 (7) The lieutenant governor or a county clerk shall withhold from a person, other than a
446 person described in Subsection (4)(a)(i), the voter registration record, and information
447 obtained from the voter registration record, of a protected individual.

448 (8)(a) The lieutenant governor shall design and distribute the withholding request form
449 described in Subsection (7) to each election officer and to each agency that provides
450 a voter registration form.

451 (b) An individual described in Subsection (1)(e)(i) is not required to provide
452 verification, other than the individual's attestation and signature on the withholding
453 request form, that the individual, or an individual who resides with the individual, is a
454 victim of domestic violence or dating violence or is likely to be a victim of domestic
455 violence or dating violence.

456 (c) The director of elections within the Office of the Lieutenant Governor shall make
457 rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act,
458 establishing requirements for providing the verification described in Subsection
459 (1)(e)(ii).

460 (9) An election officer or an employee of an election officer may not encourage an
461 individual to submit, or discourage an individual from submitting, a withholding request
462 form.

463 (10)(a) The lieutenant governor shall make and execute a plan to provide notice to
464 registered voters who are protected individuals, that includes the following
465 information:

466 (i) that the voter's classification of the record as private remains in effect;

467 (ii) that certain non-identifying information from the voter's voter registration record
468 may, under certain circumstances, be released to political parties and candidates
469 for public office;

(iii) that the voter's name, driver license or identification card number, social security number, email address, phone number, and the voter's day, month, and year of birth will remain private and will not be released to political parties or candidates for public office;

(iv) that a county clerk will only release the information to political parties and candidates in a manner that does not associate the information with a particular voter; and

(v) that a county clerk may, under certain circumstances, withhold other information that the county clerk determines would reveal identifying information about the voter.

(b) The lieutenant governor may include in the notice described in this Subsection (10) a statement that a voter may obtain additional information on the lieutenant governor's website.

(c) The plan described in Subsection (10)(a) may include providing the notice described in Subsection (10)(a) by:

(i) publication on the Utah Public Notice Website, created in Section 63A-16-601;

(ii) publication on the lieutenant governor's website or a county's website;

(iii) posting the notice in public locations;

(iv) publication in a newspaper;

(v) sending notification to the voters by electronic means;

(vi) sending notice by other methods used by government entities to communicate with citizens; or

(vii) providing notice by any other method.

(d) The lieutenant governor shall provide the notice included in a plan described in this Subsection (10) before June 16, 2023.

Section 2. Section **20A-11-1205** is amended to read:

20A-11-1205 . Use of public email for a political purpose.

(1) Except as provided in Subsection (5), a person may not send an email using the email of a public entity:

(a) for a political purpose;

(b) to advocate for or against a proposed initiative, initiative, proposed referendum, referendum, a proposed bond, a bond, or any ballot proposition; or

(c) to solicit a campaign contribution.

(2)(a) The lieutenant governor shall, after giving the person and the complainant notice

and an opportunity to be heard, impose a civil fine against a person who violates Subsection (1) as follows:

- (i) up to \$250 for a first violation; and
 - (ii) except as provided in Subsection (3), for each subsequent violation committed after the lieutenant governor imposes a fine against the person for a first violation, \$1,000 multiplied by the number of violations committed by the person.
- (b) A person may, within 30 days after the day on which the lieutenant governor imposes a fine against the person under this Subsection (2), appeal the fine to a district court.
- (3) The lieutenant governor shall consider a violation of this section as a first violation if the violation is committed more than seven years after the day on which the person last committed a violation of this section.
- (4) For purposes of this section, one violation means one act of sending an email, regardless of the number of recipients of the email.
- (5) A person does not violate this section if:
- (a) the lieutenant governor finds that the email described in Subsection (1) was inadvertently sent by the person using the email of a public entity;
 - (b) the person is directly providing information solely to another person or a group of people in response to a question asked by the other person or group of people;
 - (c) the information the person emails is an argument or rebuttal argument prepared under Section 20A-7-401.5 or 20A-7-402, and the email includes each opposing argument and rebuttal argument that:
 - (i) relates to the same proposed initiative, initiative, proposed referendum, or referendum; and
 - (ii) complies with the requirements of Section 20A-7-401.5 or 20A-7-402; or
 - (d) the person is engaging in:
 - (i) an internal communication solely within the public entity;
 - (ii) a communication solely with another public entity;
 - (iii) a communication solely with legal counsel;
 - (iv) a communication solely with the sponsors of an initiative or referendum;
 - (v) a communication solely with a land developer for a project permitted by a local land use law that is challenged by a proposed referendum or a referendum; or
 - (vi) a communication solely with a person involved in a business transaction directly relating to a project described in Subsection (5)(d)(v).

- (6) A violation of this section does not invalidate an otherwise valid election.
- (7) An email sent in violation of Subsection (1), as determined by the records officer, constitutes a record, as defined in Section 63G-2-103, that is subject to the provisions of Title 63G, Chapter 2, Government Records Access and Management Act, notwithstanding any applicability of Subsection [63G-2-103(25)(b)(i)] 63G-2-103(28)(b)(i).

Section 3. Section **63A-12-117** is enacted to read:

63A-12-117 . Summary of government records requirements -- Provision to employee of a governmental entity.

(1) As used in this section:

- (a) "Summary" means the one-page summary developed and updated by the division under Subsection (2).
- (b) "Summary" includes, in relation to a governmental entity that adopts an ordinance or policy under Section 63G-2-701, the supplement developed and updated by the governmental entity in accordance with Subsection (3).

(2) The division shall:

- (a) before September 1, 2025, develop a one-page summary of Title 63G, Chapter 2, Government Records Access and Management Act, to instruct an employee of a governmental entity on legal requirements relating to records, including information on:
- (i) a citizen's ability to access public records;
- (ii) the classification and retention of records;
- (iii) the confidentiality of records that are not public records;
- (iv) criminal penalties relating to government records; and
- (v) where the employee may obtain additional information on questions relating to government records;

(b) update the summary before September 1 each year; and

(c) post a copy of the summary in a conspicuous place on the division's website.

(3) A governmental entity that adopts an ordinance or policy under Section 63G-2-701 shall:

- (a) before November 1, 2025, develop a supplement to the summary described in Subsection (2) that:
- (i) describes provisions in the ordinance or policy that differ from, or add to, the provisions of the summary described in Subsection (2); and
- (ii) does not exceed one page;

- (b) update the supplement before November 1 each year; and
(c) post a copy of the supplement, with the summary described in Subsection (2), in a conspicuous place on the governmental entity's website.

(4) A governmental entity described in Subsection (3) shall:

- (a) on an annual basis, within 30 days after the day on which the governmental entity develops or updates the supplement described in Subsection (3), provide each employee of the governmental entity with a copy of the summary; and
(b) within 30 days after the day on which the governmental entity hires an employee, provide the employee with a copy of the summary.

(5) A governmental entity, other than a governmental entity described in Subsection (3), shall:

- (a) on an annual basis, within 30 days after the day on which the division develops or updates the summary, provide each employee of the governmental entity with a copy of the summary; and
(b) within 30 days after the day on which the governmental entity hires an employee, provide the employee with a copy of the summary.

Section 4. Section **63G-2-102** is amended to read:

63G-2-102 . Legislative intent.

(1) In enacting this act, the Legislature recognizes~~[two constitutional rights]~~:

- (a) the public's right of access to ~~[information]~~ records concerning the conduct of the public's business; and
(b) the right of privacy in relation to personal data gathered by governmental entities.

(2) The Legislature also recognizes a public policy interest in allowing a government to restrict access to certain records, as specified in this chapter, for the public good.

(3) It is the intent of the Legislature to:

- (a) promote the public's right of easy and reasonable access to unrestricted public records;
(b) specify those conditions under which the public interest in allowing restrictions on access to records may outweigh the public's interest in access;
(c) prevent abuse of confidentiality by governmental entities by permitting confidential treatment of records only as provided in this chapter;
(d) provide guidelines for both disclosure and restrictions on access to government records, which are based on the equitable weighing of the pertinent interests and which are consistent with nationwide standards of information practices;

(e) favor public access when, in the application of this act, countervailing interests are of equal weight; and

(f) establish fair and reasonable records management practices.

Section 5. 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 determining [their] the program's effectiveness, economy, efficiency, and compliance with statutes and regulations.

(2) "Chief administrative officer" means the chief administrative officer of a governmental entity who is responsible to fulfill the duties described in Section 63A-12-103.

(3) "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)]~~ (4) "Classification[;]" ["classify," and their derivative forms mean determining whether] means the designation of a record series, record, or information within a record [is-] as:

(a) public[;] ;

(b) private[;] ;

(c) controlled[;] ;

(d) protected[;] ; or[-]

(e) exempt from disclosure under Subsection 63G-2-201(3)(b).

(5) "Classify" means the process of designating or determining the classification of a record series, record, or information within a record.

~~[(4)]~~ (6)(a) "Computer program" means:

(i) a series of instructions or statements that ~~[permit]~~ permits 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

640 computer program.

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

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

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

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

648 [(5)] (7)(a) "Contractor" means:

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

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

653 (b) "Contractor" does not [mean] include a private provider.

654 [(6)] (8) "Controlled record" means a record containing data [on individuals] on an individual
655 that is controlled as [provided by] described in Section 63G-2-304.

656 [(7)] (9) [~~"Designation," "designate," and their derivative forms mean indicating~~]

657 "Designate," in relation to a record series, means, based on a governmental entity's
658 familiarity with a record series or based on a governmental entity's review of a
659 reasonable sample of a record series, specifying the primary classification that a
660 majority of records in a record series would be given if classified and the classification
661 that other records typically present in the record series would be given if classified.

662 [(8)] (10) "Elected official" means [each person] an individual elected to a state office,
663 county office, municipal office, school board or school district office, special district
664 office, or special service district office, but does not include judges.

665 [(9)] (11) "Explosive" means a chemical compound, device, or mixture:

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

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

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

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

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

673 (B) causing death or serious bodily injury.

674 [(10)] (12) "Government audit agency" means any governmental entity that conducts an
675 audit.

676 [(11)] (13)(a) "Governmental entity" means:

- 677 (i) executive department agencies of the state, the offices of the governor, lieutenant
678 governor, state auditor, attorney general, and state treasurer, the Board of Pardons
679 and Parole, the Board of Examiners, the National Guard, the Career Service
680 Review Office, the State Board of Education, the Utah Board of Higher
681 Education, and the State Archives;
- 682 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal
683 Analyst, Office of Legislative Research and General Counsel, the Legislature, and
684 legislative committees, except any political party, group, caucus, or rules or sifting
685 committee of the Legislature;
- 686 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar
687 administrative units in the judicial branch;
- 688 (iv) any state-funded institution of higher education or public education; or
- 689 (v) ~~[any] a political subdivision of the state, [but, if a political subdivision has adopted~~
690 ~~an ordinance or a policy relating to information practices pursuant to Section~~
691 ~~63G-2-701, this chapter shall apply to the political subdivision to the extent~~
692 ~~specified in Section 63G-2-701 or as specified in any other section of this chapter~~
693 ~~that specifically refers to political subdivisions.]~~ except to the extent expressly
694 provided otherwise in this chapter, including to the extent otherwise provided in
695 Section 63G-2-701.
- 696 (b) "Governmental entity" ~~[also means]~~ includes:
- 697 (i) every office, agency, board, bureau, committee, department, advisory board, or
698 commission of an entity listed in Subsection [(11)(a)] (13)(a) that is funded or
699 established by the government to carry out the public's business;
- 700 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative
701 undertaking, except for the Water District Water Development Council created
702 pursuant to Section 11-13-228;
- 703 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;
- 704 (iv) an association as defined in Section 53G-7-1101;
- 705 (v) the Utah Independent Redistricting Commission; and
- 706 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or
707 more law enforcement officers, as defined in Section 53-13-103.

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

~~[(12)]~~ (14) "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)]~~ (15) "Individual" means a human being.

~~[(14)]~~ (16)(a) "Initial contact report" means an initial written or recorded report, however titled, prepared by ~~[peace officers]~~ a peace officer who is engaged in public patrol or response duties ~~[describing]~~ that describes 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]~~ the victim's name;

(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]~~ an individual who is 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]~~ report" does not include:

(i) a follow-up or investigative [reports] report prepared after the initial contact report~~[-~~ However, if the information specified in Subsection (14)(a) 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).] ; or

~~[(e)]~~ (ii) ~~[Initial contact reports do not include]~~ an accident [reports] report, as that term is described in Title 41, Chapter 6a, Part 4, Accident Responsibilities.

~~[(15)]~~ (17) "Legislative body" means the Legislature.

~~[(16)]~~ (18)(a) "Media representative" means an individual who requests a record to obtain information for a story or report for a news publication or a news broadcast to the general public.

(b) "Media representative" does not include an individual who requests a record to

obtain information for a blog, podcast, social media account, or other mass communication methods generally available for a member of the public to disseminate opinions or information.

(19) "Notice of compliance" means a statement confirming that a governmental entity has complied with an order of the State Records Committee.

~~[(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)]~~ (20) "Personal identifying information" means the same as that term is defined in Section 63A-12-100.5.

~~[(19)]~~ (21) "Privacy annotation" means the same as that term is defined in Section 63A-12-100.5.

~~[(20)]~~ (22) "Private provider" means any person who contracts with a governmental entity to provide services directly to the public.

~~[(21)]~~ (23) "Private record" means a record containing data on ~~[individuals]~~ an individual that is private as provided by Section 63G-2-302.

~~[(22)]~~ (24) "Protected record" means a record that is classified protected as provided by Section 63G-2-305.

~~[(23)]~~ (25) "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).

~~[(24)]~~ (26) "Reasonable search" means a search that is:

(a) reasonable in scope and intensity; and

(b) not unreasonably burdensome for the government entity.

(27) "Reasonable specificity" means that:

(a) a request for a record or multiple records:

(i) describes the requested records' scope, nature, content, and subject; and

(ii) for records that will be searched electronically, specifies the names, words, or symbols to be used as search terms; and

(b) the request has sufficient specificity to identify the records sought.

~~[(25)]~~ (28)(a) "Record" means ~~[a book, letter, document, paper, map, plan, photograph,~~

776 ~~film, card, tape, recording, electronic data, or other documentary material regardless~~
777 ~~of physical form or characteristics]~~ recorded information, regardless of medium,
778 characteristics, or location:

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

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

783 (b) "Record" does not include:

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

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

787 (B) that is unrelated to the conduct of the public's business;

788 (ii) a temporary draft or similar material prepared for the originator's personal use or
789 prepared by the originator for the personal use of an individual for whom the
790 originator is working;

791 (iii) material that is legally owned by an individual in the individual's private capacity;

792 (iv) material to which access is limited by the laws of copyright or patent unless the
793 copyright or patent is owned by a governmental entity or political subdivision;

794 (v) proprietary software;

795 (vi) junk mail or a commercial publication received by a governmental entity or an
796 official or employee of a governmental entity;

797 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections
798 of a library open to the public;

799 (viii) material that is cataloged, indexed, or inventoried and contained in the
800 collections of a library open to the public, regardless of physical form or
801 characteristics of the material;

802 (ix) a daily calendar[-];

803 (x) a note prepared by the originator for the originator's own use or for the sole use of
804 an individual for whom the originator is working;

805 (xi) a computer program that is developed or purchased by or for [any] a
806 governmental entity for [its] the governmental entity's own use;

807 (xii) a note or internal memorandum prepared as part of the deliberative process by:

808 (A) a member of the judiciary;

809 (B) an administrative law judge;

- 810 (C) a member of the Board of Pardons and Parole; or
- 811 (D) a member of any other body, other than an association or appeals panel as
- 812 defined in Section 53G-7-1101, charged by law with performing a
- 813 quasi-judicial function;
- 814 (xiii) a telephone number or similar code used to access a mobile communication
- 815 device that is used by an employee or officer of a governmental entity, provided
- 816 that the employee or officer of the governmental entity has designated at least one
- 817 business telephone number that is a public record as provided in Section
- 818 63G-2-301;
- 819 (xiv) information provided by the Public Employees' Benefit and Insurance Program,
- 820 created in Section 49-20-103, to a county to enable the county to calculate the
- 821 amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);
- 822 (xv) information that an owner of unimproved property provides to a local entity as
- 823 provided in Section 11-42-205;
- 824 (xvi) a video or audio recording of an interview, or a transcript of the video or audio
- 825 recording, that is conducted at a Children's Justice Center established under
- 826 Section 67-5b-102;
- 827 (xvii) child sexual abuse material, as defined by Section 76-5b-103;
- 828 (xviii) before final disposition of an ethics complaint occurs, a video or audio
- 829 recording of the closed portion of a meeting or hearing of:
- 830 (A) a Senate or House Ethics Committee;
- 831 (B) the Independent Legislative Ethics Commission;
- 832 (C) the Independent Executive Branch Ethics Commission, created in Section
- 833 63A-14-202; or
- 834 (D) the Political Subdivisions Ethics Review Commission established in Section
- 835 63A-15-201;
- 836 (xix) confidential communication described in Section 58-60-102, 58-61-102, or
- 837 58-61-702;
- 838 (xx) any item described in Subsection (25)(a) that is:
- 839 (A) described in Subsection 63G-2-305(17), (18), or (23)(b); and
- 840 (B) shared between any of the following entities:
- 841 (I) the Division of Risk Management;
- 842 (II) the Office of the Attorney General;
- 843 (III) the governor's office; or

(IV) the Legislature; or

(xxi) the email address that a candidate for elective office provides to a filing officer under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv).

~~[(26)]~~ (29) "Record request" means a request for a record under Section 63G-2-204.

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

~~[(27)]~~ (31) "Records officer" means ~~[the]~~ an individual appointed by ~~[the]~~ a chief administrative officer of each governmental entity~~[, or the]~~ in accordance with Section 63A-12-103, or by a political subdivision, to work with state archives in the care, maintenance, scheduling, designation, classification, disposal, and preservation of records.

~~[(28)]~~ (32) "Schedule," ~~["scheduling," and their derivative forms mean]~~ when used as a verb, means:

(a) 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

(b) when each record series should be transferred to the state archives or destroyed.

~~[(29)]~~ (33) "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.

~~[(30)]~~ (34) "State archives" means the Division of Archives and Records Service created in Section 63A-12-101.

~~[(31)]~~ (35) "State archivist" means the director of the state archives.

~~[(32)]~~ (36) "State Records Committee" means the State Records Committee created in Section 63G-2-501.

~~[(33)]~~ (37) "Summary data" means statistical records and compilations that contain data derived from private, controlled, or protected information but that do not disclose

private, controlled, or protected information.

Section 6. Section **63G-2-107** is amended to read:

63G-2-107 . Disclosure of records subject to federal law or other provisions of state law.

(1)(a) The disclosure of a record to which access is governed or limited pursuant to court rule, another state statute, federal statute, or federal regulation, including a record for which access is governed or limited as a condition of participation in a state or federal program or for receiving state or federal funds, is governed by the specific provisions of that statute, rule, or regulation.

(b) Except as provided in Subsections (2) and (3), this chapter applies to records described in Subsection (1)(a) to the extent that this chapter is not inconsistent with the statute, rule, or regulation.

(2) Except as provided in Subsection (4), this chapter does not apply to a record containing protected health information as defined in 45 C.F.R., Part 164, Standards for Privacy of Individually Identifiable Health Information, or to any portion of the record, if the record is:

(a) controlled or maintained by a governmental entity; and

(b) governed by 45 C.F.R., Parts 160 and 164, Standards for Privacy of Individually Identifiable Health Information.

~~[(3) The disclosure of an education record as defined in the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99, that is controlled or maintained by a governmental entity is governed by the Family Educational Rights and Privacy Act, 34 C.F.R. Part 99.]~~

(3) Except as provided in Subsection (4), this chapter does not apply to education records, as that term is defined in 20 U.S.C Sec. 1232g(a)(4) of the Family Educational Rights and Privacy Act, or to any portion of an educational record, regardless of whether the education records were requested before May 7, 2025, or on or after May 7, 2025.

(4) This section does not exempt any record or record series from the provisions of Subsection 63G-2-601(1).

Section 7. Section **63G-2-201** is amended to read:

63G-2-201 . Provisions relating to records -- Public records -- Private, controlled, protected, and other restricted records -- Disclosure and nondisclosure of records -- Certified copy of record -- Limits on obligation to respond to record request.

(1)(a) Except as provided in Subsection (1)(b), a person has the right to inspect a public

record free of charge, and the right to take a copy of a public record during normal working hours, subject to Sections 63G-2-203 and 63G-2-204.

(b) A right under Subsection (1)(a) does not apply with respect to a record:

(i) a copy of which the governmental entity has already provided to the person;

(ii) that is the subject of a records request that the governmental entity is not required to fill under Subsection (7)(a)(v); or

(iii)(A) that is accessible only by a computer or other electronic device owned or controlled by the governmental entity;

(B) that is part of an electronic file that also contains a record that is private, controlled, or protected; and

(C) that the governmental entity cannot readily segregate from the part of the electronic file that contains a private, controlled, or protected record.

(2) A record is public unless otherwise expressly provided by statute.

(3) The following records are not public:

(a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303, 63G-2-304, and 63G-2-305; and

(b) a record to which access is restricted pursuant to court rule, another state statute, federal statute, or federal regulation, including records for which access is governed or restricted as a condition of participation in a state or federal program or for receiving state or federal funds.

(4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305 may be classified private, controlled, or protected.

(5)(a) A governmental entity may not disclose a record that is private, controlled, or protected to any person except as provided in Subsection (5)(b), Subsection (5)(c), Section 63G-2-202, 63G-2-206, or 63G-2-303.

(b) A governmental entity may disclose a record that is private under Subsection 63G-2-302(2) or protected under Section 63G-2-305 to ~~[persons]~~ a person other than ~~[those]~~ a person specified in Section 63G-2-202 or 63G-2-206 if the ~~[head of a governmental entity, or a designee,]~~ chief administrative officer or records officer determines that:

(i) there is no interest in restricting access to the record; or

(ii) the interests favoring access are greater than or equal to the interest favoring restriction of access.

(c) In addition to the disclosure under Subsection (5)(b), a governmental entity may

disclose a record that is protected under Subsection 63G-2-305(51) if:

(i) the ~~[head of the governmental entity, or a designee,]~~ chief administrative officer or records officer determines that the disclosure:

(A) is mutually beneficial to:

(I) the subject of the record;

(II) the governmental entity; and

(III) the public; and

(B) serves a public purpose related to:

(I) public safety; or

(II) consumer protection; and

(ii) the person who receives the record from the governmental entity agrees not to use or allow the use of the record for advertising or solicitation purposes.

(6) A governmental entity shall provide a person with a certified copy of a record if:

(a) the person requesting the record has a right to inspect it;

(b) the person identifies the record with reasonable specificity; and

(c) the person pays the lawful fees.

(7)(a) In response to a request, a governmental entity is not required to:

(i) create a record;

(ii) compile, format, manipulate, package, summarize, or tailor information;

(iii) provide a record in a particular format, medium, or program not currently maintained by the governmental entity;

(iv) fulfill a person's records request if the request unreasonably duplicates prior records requests from that person;

(v) fill a person's records request if:

(A) the record requested is:

(I) publicly accessible online; or

(II) included in a public publication or product produced by the governmental entity receiving the request; and

(B) the governmental entity:

(I) specifies to the person requesting the record where the record is accessible online; or

(II) provides the person requesting the record with the public publication or product and specifies where the record can be found in the public publication or product; or

(vi) fulfill a person's records request if:

(A) the person has been determined under Section 63G-2-209 to be a vexatious requester;

(B) the State Records Committee order determining the person to be a vexatious requester provides that the governmental entity is not required to fulfill a request from the person for a period of time; and

(C) the period of time described in Subsection (7)(a)(vi)(B) has not expired.

(b) A governmental entity shall conduct a reasonable search for a requested record.

(8)(a) Although not required to do so, a governmental entity may, upon request from the person who submitted the records request, compile, format, manipulate, package, summarize, or tailor information or provide a record in a format, medium, or program not currently maintained by the governmental entity.

(b) In determining whether to fulfill a request described in Subsection (8)(a), a governmental entity may consider whether the governmental entity is able to fulfill the request without unreasonably interfering with the governmental entity's duties and responsibilities.

(c) A governmental entity may require a person who makes a request under Subsection (8)(a) to pay the governmental entity, in accordance with Section 63G-2-203, for providing the information or record as requested.

(9)(a) Notwithstanding any other provision of this chapter, and subject to Subsection (9)(b), a governmental entity is not required to respond to, or provide a record in response to, a record request if the request is submitted by or in behalf of an individual who is confined in a jail or other correctional facility following the individual's conviction.

(b) Subsection (9)(a) does not apply to:

- (i) the first five record requests submitted to the governmental entity by or in behalf of an individual described in Subsection (9)(a) during any calendar year requesting only a record that contains a specific reference to the individual; or
- (ii) a record request that is submitted by an attorney of an individual described in Subsection (9)(a).

(10)(a) A governmental entity may allow a person requesting more than 50 pages of records to copy the records if:

- (i) the records are contained in files that do not contain records that are exempt from disclosure, or the records may be segregated to remove private, protected, or

- 1014 controlled information from disclosure; and
- 1015 (ii) the governmental entity provides reasonable safeguards to protect the public from
- 1016 the potential for loss of a public record.
- 1017 (b) If the requirements of Subsection (10)(a) are met, the governmental entity may:
- 1018 (i) provide the requester with the facilities for copying the requested records and
- 1019 require that the requester make the copies; or
- 1020 (ii) allow the requester to provide the requester's own copying facilities and personnel
- 1021 to make the copies at the governmental entity's offices and waive the fees for
- 1022 copying the records.
- 1023 (11)(a) A governmental entity that owns an intellectual property right and that offers the
- 1024 intellectual property right for sale or license may control by ordinance or policy the
- 1025 duplication and distribution of the material based on terms the governmental entity
- 1026 considers to be in the public interest.
- 1027 (b) Nothing in this chapter [~~shall be construed to limit or impair~~] limits or impairs the
- 1028 rights or protections granted to the governmental entity under federal copyright or
- 1029 patent law as a result of [~~its ownership of~~]the intellectual property right ownership.
- 1030 (12) A governmental entity may not use the physical form, electronic or otherwise, in
- 1031 which a record is stored to deny[,] or unreasonably hinder the rights of a person to
- 1032 inspect and receive a copy of a record under this chapter.
- 1033 (13) Subject to the requirements of Subsection (7), a governmental entity shall provide
- 1034 access to an electronic copy of a record in lieu of providing access to [~~its~~] the record's
- 1035 paper equivalent if:
- 1036 (a) the person making the request requests or states a preference for an electronic copy;
- 1037 (b) the governmental entity currently maintains the record in an electronic format that is
- 1038 reproducible and may be provided without reformatting or conversion; and
- 1039 (c) the electronic copy of the record:
- 1040 (i) does not disclose other records that are exempt from disclosure; or
- 1041 (ii) may be segregated to protect private, protected, or controlled information from
- 1042 disclosure without the undue expenditure of public resources or funds.
- 1043 (14) In determining whether a record is properly classified as private under Subsection
- 1044 63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals
- 1045 board, or court shall consider and weigh:
- 1046 (a) any personal privacy [~~interests~~] interest, including [~~those~~] a personal privacy interest
- 1047 in images, that would be affected by disclosure of the records[~~-in question~~]; and

(b) any public ~~[interests]~~ interest served by disclosure.

Section 8. Section **63G-2-203** is amended to read:

63G-2-203 . Fees.

(1)(a) Subject to Subsection (5), a governmental entity may charge a reasonable fee to cover the governmental entity's actual cost of providing a record.

(b) A fee ~~[under]~~ described in Subsection (1)(a) shall be approved by the governmental entity's executive officer.

(2)(a) ~~[When a governmental entity compiles a record in a form other than that normally maintained by the governmental entity, the]~~ The actual costs under this section may include the following:

(i) the cost of staff time for compiling, formatting, manipulating, packaging, summarizing, or tailoring the record either into an organization or media to meet the person's request;

(ii) the cost of staff time for search, retrieval, and other direct administrative costs for complying with a request; and

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

(b) An hourly charge under Subsection (2)(a) may not exceed the salary of the lowest paid employee who, in the discretion of the custodian of records, has the necessary skill and training to perform the request.

(3)(a) Fees shall be established as provided in this Subsection (3).

(b) A governmental entity with fees established by the Legislature:

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

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

(c) Political subdivisions shall establish fees by ordinance or written formal policy adopted by the governing body.

(d) The judiciary shall establish fees by rules of the judicial council.

(4) A governmental entity may fulfill a record request without charge, and is encouraged to[

do so if it] , if the governmental entity determines that:

- (a) releasing the record primarily benefits the public rather than a person;
- (b) the individual requesting the record is the subject of the record, or an individual specified in Subsection 63G-2-202(1) or (2); or
- (c) the requester's legal rights are directly implicated by the information in the record, and the requester is impecunious.

~~[(5)(a) As used in this Subsection (5), "media representative":]~~

~~[(i) means a person who requests a record to obtain information for a story or report for publication or broadcast to the general public; and]~~

~~[(ii) does not include a person who requests a record to obtain information for a blog, podcast, social media account, or other means of mass communication generally available to a member of the public.]~~

~~[(b)]~~ (5)(a) A governmental entity may not charge a fee for:

- (i) reviewing a record to determine whether it is subject to disclosure, except as permitted by Subsection (2)(a)(ii);
- (ii) inspecting a record; or
- (iii) the first quarter hour of staff time spent in responding to a request under Section 63G-2-204.

~~[(e)]~~ (b) Notwithstanding Subsection ~~[(5)(b)(iii)]~~ (5)(a)(iii), a governmental entity is not prevented from charging a fee for the first quarter hour of staff time spent in responding to a request under Section 63G-2-204 if the person who submits the request:

- (i) is not a Utah media representative; and
- (ii) previously submitted a separate request within the 10-day period immediately before the date of the request to which the governmental entity is responding.

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

(b) The adjudicative body hearing the appeal:

- (i) shall review the fee waiver de novo~~[-but]~~ ;
- (ii) notwithstanding Subsection (6)(b)(i), shall review and consider the governmental entity's denial of the fee waiver and any determination under Subsection (4); and
- ~~[(ii)]~~ (iii) has the same authority when a fee waiver or reduction is denied as ~~[it]~~ the adjudicative body has when the inspection of a public record is denied.

(c) An adjudicative body hearing an appeal under this Subsection (6) is not required to schedule a hearing if the adjudicative body previously upheld a fee waiver denial for a fee charged under this section:

- (i) for the same records; or
- (ii) under the same facts or circumstances applicable to the matter appealed under this Subsection (6).

(7)(a) If a governmental entity denies a fee waiver request under this section, the governmental entity shall inform the requester of the estimated cost of fulfilling the record request.

(b) The governmental entity shall provide the requester with an opportunity, no later than 10 business days after the day on which the governmental entity provides notice of the estimated cost, to:

- (i) agree to pay the estimated fees; or
- (ii) cancel the record request.

(c) If the requester fails to respond within the time described in Subsection (7)(b), the governmental entity may not consider the request.

(d) Nothing in this Subsection (7) prevents a requester from submitting a new record request.

~~[(7)]~~ (8)(a) All fees received under this section by a governmental entity subject to Subsection (3)(b) shall be retained by the governmental entity as a dedicated credit.

(b) Those funds shall be used to recover the actual cost and expenses incurred by the governmental entity in providing the requested record or record series.

~~[(8)]~~ (9)(a) ~~[A]~~ Subject to Subsections (9)(c) and (d), a governmental entity may require payment of past fees and future estimated fees before beginning to process a request if:

- (i) fees are expected to exceed \$50; or
- (ii) the requester has not paid fees from a previous [requests] request.

(b) Any prepaid amount in excess of fees due shall be returned to the requester.

(c) A governmental entity that receives a request from a requester that has not paid fees owed by the requester for a previous request may refuse to respond to the request until the requester pays the amount owed for the previous request, if, within the time period described in Subsection 63G-2-204(4), the governmental entity notifies the requester, in writing:

- (i) of the amount owed for the previous request;

(ii) of the request to which the amount owed relates; and

(iii) that the governmental entity will not respond to the request until the requester pays the amount owed for the previous request.

(d) The notification described in Subsection (9)(c) is not a denial under Section 63G-2-205.

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

[(10)] (11)(a) Notwithstanding Subsection (3)(c), fees for voter registration records shall be set as provided in this Subsection [(10)] (11).

(b) The lieutenant governor shall:

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

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

Section 9. Section **63G-2-204** is amended to read:

63G-2-204 . Record request -- Response -- Time for responding.

(1)(a) A person [~~making a request for a record~~] who makes a record request shall submit to the governmental entity that retains the record a written request containing:

(i) the person's:

(A) name;

(B) mailing address;

(C) email address, if the person has an email address and is willing to accept communications by email relating to the person's [~~records request~~] record request; and

(D) daytime telephone number; and

(ii) a description of the record requested that identifies the record with reasonable specificity.

(b)(i) A single record request may not be submitted to multiple governmental entities.

(ii) Subsection (1)(b)(i) [~~may not be construed to~~] does not prevent a person from submitting a separate record request to [~~each of~~] multiple governmental entities, even if each [~~of the separate requests~~] separate request seeks access to the same record.

(c) When making a record request, the requester may seek an expedited response to the request if the requester provides an explanation of how the expedited response

benefits the public rather than the requester.

(d) Subject to Subsection (1)(f), a governmental entity may reject a record request that does not comply with the requirements described in Subsection (1)(a).

(e) The rejection of a record request under Subsection (1)(d) does not constitute an access denial as defined in Section 63G-2-400.5.

(f) If a governmental entity rejects a record request under Subsection (1)(d) because the description of the record requested fails to identify the record with reasonable specificity, the governmental entity shall make a good faith effort to assist the requester in providing reasonable specificity.

(2)(a) ~~In response to a [request for a record]~~ record request, a governmental entity may not provide a record that ~~[it has received]~~ the governmental entity receives under Section 63G-2-206 as a shared record.

(b) If a governmental entity is prohibited from providing a record under Subsection (2)(a), the governmental entity shall:

(i) deny the ~~[records]~~ record request; and

(ii) ~~[inform the person making the request of the identity]~~ provide the requester with the name of the governmental entity from which the shared record was received.

(3) A governmental entity may make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, specifying where and to whom ~~[requests for access shall be]~~ a record request is directed.

~~[(4) After receiving a request for a record, a governmental entity shall:]~~

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

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

~~[(i) approve the request and provide a copy of the record;]~~

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

~~[(iii) notify the requester that it does not maintain the record requested and provide, if known, the name and address of the governmental entity that does maintain the~~

1218 ~~record; or]~~

1219 ~~[(iv) notify the requester that because of one of the extraordinary circumstances listed~~

1220 ~~in Subsection (6), it cannot immediately approve or deny the request, and include~~

1221 ~~with the notice:]~~

1222 ~~[(A) a description of the circumstances that constitute the extraordinary~~

1223 ~~circumstances; and]~~

1224 ~~[(B) the date when the records will be available, consistent with the requirements~~

1225 ~~of Subsection (7).]~~

1226 [(5)] (4) After a governmental entity receives a written record request, if the requester seeks

1227 an expedited response in accordance with Subsection (1)(c), the governmental entity

1228 shall:

1229 (a) review the request to determine if an expedited response:

1230 (i) is warranted, because the expedited response benefits the public rather than the

1231 requester as described in Subsection (1)(c); and

1232 (ii) is reasonably possible under the circumstances;

1233 (b) no later than five business days after the day on which the governmental entity

1234 receives the request:

1235 (i) if the governmental entity determines that an expedited response is warranted and

1236 reasonably possible under the circumstances, respond to the record request in

1237 accordance with the requirements of this chapter; or

1238 (ii) if the governmental entity determines that an expedited response is not warranted

1239 or is not reasonably possible under the circumstances:

1240 (A) deny the request for an expedited response;

1241 (B) notify the requester of the determination and the grounds for the

1242 determination; and

1243 (C) inform the requester that the governmental entity will respond to the record

1244 request as a non-expedited request, in accordance with the requirements of law;

1245 and

1246 (c) if the governmental entity denies the request for an expedited response under

1247 Subsection (4)(b)(ii), respond to the record request under Subsection (5).

1248 (5) After a governmental entity receives a record request, if the requester does not seek an

1249 expedited response in accordance with Subsection (1)(c), or if the governmental entity

1250 denies a request for an expedited response under Subsection (4)(b)(ii), the governmental

1251 entity shall, no later than 15 business days after the day on which the governmental

entity receives the request:

- (a) approve the request and provide the requester with a copy of the record;
- (b) approve the request, subject to the payment of a fee in accordance with Section 63G-2-203;
- (c) deny the request in accordance with Section 63G-2-205;
- (d) notify the requester that the governmental entity does not retain the record and provide the requester with the name and address of the governmental entity that maintains the record, if known;
- (e) notify the requester that the governmental entity:
 - (i) conducted a reasonable search for the record; and
 - (ii) was unable to locate a record that is responsive to the request; or
- (f) notify the requester that because of an exceptional circumstance, as described in Subsection (7), the governmental entity is unable to immediately approve or deny the record request, and include with the notice:
 - (i) a description of the circumstance that constitutes the exceptional circumstance; and
 - (ii) the anticipated date when the record request will be fulfilled.

~~(6)~~ [Any person who requests a record] A media representative who makes a record request to obtain information for a story or report for publication or broadcast to the general public is presumed to be acting to benefit the public rather than [a person] the media representative.

~~[(6)]~~ (7) The following circumstances constitute ["extraordinary circumstances"] exceptional circumstances that allow a governmental entity to delay approval or denial by an additional period of time as [specified] described in Subsection [(7)] (8) if the governmental entity determines that, due to the [extraordinary circumstances it] exceptional circumstances, the governmental entity cannot respond within the time [limits provided in Subsection (4)] described in Subsection (5):

- (a) another governmental entity is using the record, in which case the originating governmental entity shall promptly request that the governmental entity currently in possession return the record;
- (b) another governmental entity is using the record as part of an audit, and returning the record before the completion of the audit would impair the conduct of the audit;
- (c)(i) the request is for a voluminous quantity of records or a record series containing a substantial number of records; or
- (ii) the requester seeks a substantial number of records or records series in requests

filed within five working days of each other;

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

(e) the request requires the governmental entity to review a large number of records to locate the records requested;

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

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

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

~~[(7)] (8) [If one of the extraordinary circumstances listed]~~ If an exceptional circumstance described in Subsection [(6)] (7) precludes approval or denial within the time [specified in Subsection (4)] described in Subsection (5), the following time limits apply to the [extraordinary circumstances] exceptional circumstance:

(a) for claims under Subsection ~~[(6)(a)] (7)(a)~~, the governmental entity currently in possession of the record shall return the record to the originating entity within five business days ~~[of]~~ after the day of the request for the return, unless returning the record would impair the ~~[holder's]~~ governmental entity's work;

(b) for claims under Subsection ~~[(6)(b)] (7)(b)~~, the originating governmental entity shall notify the requester when the record is available for inspection and copying;

(c) for claims under ~~[Subsections (6)(e), (d), and (e)]~~ Subsection (7)(c), (d), or (e), the governmental entity shall:

(i) disclose the records ~~[that it has located which]~~ the governmental entity locates that the requester is entitled to inspect;

(ii) provide the requester with ~~[an estimate of the amount of time it will take to finish the work required]~~ a time estimate that the governmental entity needs to respond to the request;

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

(iv) for ~~[any person]~~ a person that does not establish a right to an expedited response as ~~[authorized by]~~ described in Subsection (4), a governmental entity may~~[-choose to]:~~

(A) require the person to ~~[provide for copying of the records as provided]~~ copy the

- 1320 records as described in Subsection 63G-2-201(10); or
- 1321 (B) ~~[treat a request for multiple records as separate record requests, and respond~~
- 1322 ~~sequentially to each request;]~~ treat a request for multiple records as multiple
- 1323 requests and respond to each request sequentially and separately;
- 1324 (d) for claims under Subsection ~~[(6)(f)]~~ (7)(f), the governmental entity shall either
- 1325 approve or deny the request within five business days after the ~~[response time~~
- 1326 ~~specified for the original request has expired]~~ day of the deadline described in
- 1327 Subsection (5);
- 1328 (e) for claims under Subsection ~~[(6)(g)]~~ (7)(g), the governmental entity shall, to the
- 1329 extent reasonably possible, fulfill the request ~~[within 15]~~ no later than 20 business
- 1330 days ~~[from the date of the original request]~~ after the day on which the governmental
- 1331 entity receives the request; or
- 1332 (f) for claims under Subsection ~~[(6)(h)]~~ (7)(h), the governmental entity shall complete ~~[its]~~
- 1333 the necessary computer programming and disclose the requested records as soon as
- 1334 reasonably possible and no later than 12 months from the day the governmental entity
- 1335 receives the request.
- 1336 ~~[(8)]~~ (9)(a) ~~[If a request for access is submitted to]~~ If an office of a governmental entity,
- 1337 other than that specified by rule in accordance with Subsection (3), receives a record
- 1338 request, the office shall promptly forward the request to the appropriate office.
- 1339 (b) If the request is forwarded promptly, the time limit for response begins when the
- 1340 request is received by the office specified by rule.
- 1341 ~~[(9)]~~ (10) ~~[If the governmental entity fails to provide the requested records or issue a denial~~
- 1342 ~~within the specified time period, that failure is considered the equivalent of a~~
- 1343 ~~determination denying access to the record.]~~ If a governmental entity fails to respond to a
- 1344 record request within the time allowed under this section, the failure to respond is
- 1345 considered an access denial, as defined in Section 63G-2-400.5.
- 1346 Section 10. Section **63G-2-301** is amended to read:
- 1347 **63G-2-301 . Public records.**
- 1348 (1) As used in this section:
- 1349 (a) "Business address" means a single address of a governmental agency designated for
- 1350 the public to contact an employee or officer of the governmental agency.
- 1351 (b) "Business email address" means a single email address of a governmental agency
- 1352 designated for the public to contact an employee or officer of the governmental
- 1353 agency.

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

(d) "Correctional facility" means the same as that term is defined in Section 77-16b-102.

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

(a) laws;

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

(i) undercover law enforcement personnel; and

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

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

(d) final interpretations of statutes or rules by a governmental entity unless classified as protected as provided in Subsection 63G-2-305(17) or (18);

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

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

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

- 1388 (i) titles or encumbrances to real property;
- 1389 (ii) restrictions on the use of real property;
- 1390 (iii) the capacity of persons to take or convey title to real property; or
- 1391 (iv) tax status for real and personal property;
- 1392 (h) records of the Department of Commerce that evidence incorporations, mergers, name
- 1393 changes, and uniform commercial code filings;
- 1394 (i) data on individuals that would otherwise be private under this chapter if the
- 1395 individual who is the subject of the record has given the governmental entity written
- 1396 permission to make the records available to the public;
- 1397 (j) documentation of the compensation that a governmental entity pays to a contractor or
- 1398 private provider;
- 1399 (k) summary data;
- 1400 (l) voter registration records, including an individual's voting history, except for a voter
- 1401 registration record or those parts of a voter registration record that are classified as
- 1402 private under Subsections 63G-2-302(1)(j) through (m) or withheld under Subsection
- 1403 20A-2-104(7);
- 1404 (m) for an elected official, as defined in Section 11-47-102, a telephone number, if
- 1405 available, and email address, if available, where that elected official may be reached
- 1406 as required in Title 11, Chapter 47, Access to Elected Officials;
- 1407 (n) for a school community council member, a telephone number, if available, and email
- 1408 address, if available, where that elected official may be reached directly as required
- 1409 in Section 53G-7-1203;
- 1410 (o) annual audited financial statements of the Utah Educational Savings Plan described
- 1411 in Section 53B-8a-111; and
- 1412 (p) an initiative packet, as defined in Section 20A-7-101, and a referendum packet, as
- 1413 defined in Section 20A-7-101, after the packet is submitted to a county clerk.
- 1414 (3) The following records are normally public, but to the extent that a record is expressly
- 1415 exempt from disclosure, access may be restricted under Subsection 63G-2-201(3)(b),
- 1416 Section 63G-2-302, 63G-2-304, or 63G-2-305:
- 1417 (a) administrative staff manuals, instructions to staff, and statements of policy;
- 1418 (b) records documenting a contractor's or private provider's compliance with the terms
- 1419 of a contract with a governmental entity;
- 1420 (c) records documenting the services provided by a contractor or a private provider to
- 1421 the extent the records would be public if prepared by the governmental entity;

- (d) contracts entered into by a governmental entity;
- (e) any account, voucher, or contract that deals with the receipt or expenditure of funds by a governmental entity;
- (f) records relating to government assistance or incentives publicly disclosed, contracted for, or given by a governmental entity, encouraging a person to expand or relocate a business in Utah, except as provided in Subsection 63G-2-305(35);
- (g) subject to Subsection (5), chronological logs and initial contact reports;
- (h) correspondence by and with a governmental entity in which the governmental entity determines or states an opinion upon the rights of the state, a political subdivision, the public, or any person;
- (i) empirical data contained in drafts if:
 - (i) the empirical data is not reasonably available to the requester elsewhere in similar form; and
 - (ii) the governmental entity is given a reasonable opportunity to correct any errors or make nonsubstantive changes before release;
- (j) drafts that are circulated to anyone other than:
 - (i) a governmental entity;
 - (ii) a political subdivision;
 - (iii) a federal agency if the governmental entity and the federal agency are jointly responsible for implementation of a program or project that has been legislatively approved;
 - (iv) a government-managed corporation; or
 - (v) a contractor or private provider;
- (k) drafts that have never been finalized but were relied upon by the governmental entity in carrying out action or policy;
- (l) original data in a computer program if the governmental entity chooses not to disclose the program;
- (m) arrest warrants after issuance, except that, for good cause, a court may order restricted access to arrest warrants prior to service;
- (n) search warrants after execution and filing of the return, except that a court, for good cause, may order restricted access to search warrants prior to trial;
- (o) records that would disclose information relating to formal charges or disciplinary actions against a past or present governmental entity employee if:
 - (i) the disciplinary action has been completed and all time periods for administrative

1456 appeal have expired; and

1457 (ii) the charges on which the disciplinary action was based were sustained;

1458 (p) records maintained by the Division of Forestry, Fire, and State Lands, the School and
1459 Institutional Trust Lands Administration, or the Division of Oil, Gas, and Mining that
1460 evidence mineral production on government lands;

1461 (q) final audit reports;

1462 (r) occupational and professional licenses;

1463 (s) business licenses;

1464 (t) a notice of violation, a notice of agency action under Section 63G-4-201, or similar
1465 records used to initiate proceedings for discipline or sanctions against persons
1466 regulated by a governmental entity, but not including records that initiate employee
1467 discipline; and

1468 (u)(i) records that disclose a standard, regulation, policy, guideline, or rule regarding
1469 the operation of a correctional facility or the care and control of inmates
1470 committed to the custody of a correctional facility; and

1471 (ii) records that disclose the results of an audit or other inspection assessing a
1472 correctional facility's compliance with a standard, regulation, policy, guideline, or
1473 rule described in Subsection (3)(u)(i).

1474 (4) The list of public records in this section is not exhaustive and should not be used to limit
1475 access to records.

1476 (5)(a) Subject to Subsection (5)(b), if information of the type described in Subsections
1477 63G-2-103(16)(a)(i) through (vi) appears in a follow-up or investigative report
1478 described in Subsection 63G-2-103(16)(b), the information contained in the
1479 follow-up or investigative report is public, unless the information is private,
1480 controlled, protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).

1481 (b) If a follow-up or investigative report described in Subsection 63G-2-103(16)(b) is
1482 expressly exempt from disclosure, the exemption and restriction of access described
1483 in Subsection (3) does not change based on the follow-up or investigative report
1484 containing any information included in an initial contact report that is a public record.

1485 Section 11. Section **63G-2-305** is amended to read:

1486 **63G-2-305 . Protected records.**

1487 The following records are protected if properly classified by a governmental entity:

1488 (1) trade secrets as defined in Section 13-24-2 if the person submitting the trade secret has
1489 provided the governmental entity with the information specified in Section 63G-2-309;

- 1490 (2) commercial information or nonindividual financial information obtained from a person
1491 if:
- 1492 (a) disclosure of the information could reasonably be expected to result in unfair
1493 competitive injury to the person submitting the information or would impair the
1494 ability of the governmental entity to obtain necessary information in the future;
- 1495 (b) the person submitting the information has a greater interest in prohibiting access than
1496 the public in obtaining access; and
- 1497 (c) the person submitting the information has provided the governmental entity with the
1498 information specified in Section 63G-2-309;
- 1499 (3) commercial or financial information acquired or prepared by a governmental entity to
1500 the extent that disclosure would lead to financial speculations in currencies, securities, or
1501 commodities that will interfere with a planned transaction by the governmental entity or
1502 cause substantial financial injury to the governmental entity or state economy;
- 1503 (4) records, the disclosure of which could cause commercial injury to, or confer a
1504 competitive advantage upon a potential or actual competitor of, a commercial project
1505 entity as defined in Subsection 11-13-103(4);
- 1506 (5) test questions and answers to be used in future license, certification, registration,
1507 employment, or academic examinations;
- 1508 (6) records, the disclosure of which would impair governmental procurement proceedings
1509 or give an unfair advantage to any person proposing to enter into a contract or agreement
1510 with a governmental entity, except, subject to Subsections (1) and (2), that this
1511 Subsection (6) does not restrict the right of a person to have access to, after the contract
1512 or grant has been awarded and signed by all parties:
- 1513 (a) a bid, proposal, application, or other information submitted to or by a governmental
1514 entity in response to:
- 1515 (i) an invitation for bids;
- 1516 (ii) a request for proposals;
- 1517 (iii) a request for quotes;
- 1518 (iv) a grant; or
- 1519 (v) other similar document; or
- 1520 (b) an unsolicited proposal, as defined in Section 63G-6a-712;
- 1521 (7) information submitted to or by a governmental entity in response to a request for
1522 information, except, subject to Subsections (1) and (2), that this Subsection (7) does not
1523 restrict the right of a person to have access to the information, after:

- 1524 (a) a contract directly relating to the subject of the request for information has been
1525 awarded and signed by all parties; or
- 1526 (b)(i) a final determination is made not to enter into a contract that relates to the
1527 subject of the request for information; and
1528 (ii) at least two years have passed after the day on which the request for information
1529 is issued;
- 1530 (8) records that would identify real property or the appraisal or estimated value of real or
1531 personal property, including intellectual property, under consideration for public
1532 acquisition before any rights to the property are acquired unless:
- 1533 (a) public interest in obtaining access to the information is greater than or equal to the
1534 governmental entity's need to acquire the property on the best terms possible;
- 1535 (b) the information has already been disclosed to persons not employed by or under a
1536 duty of confidentiality to the entity;
- 1537 (c) in the case of records that would identify property, potential sellers of the described
1538 property have already learned of the governmental entity's plans to acquire the
1539 property;
- 1540 (d) in the case of records that would identify the appraisal or estimated value of
1541 property, the potential sellers have already learned of the governmental entity's
1542 estimated value of the property; or
- 1543 (e) the property under consideration for public acquisition is a single family residence
1544 and the governmental entity seeking to acquire the property has initiated negotiations
1545 to acquire the property as required under Section 78B-6-505;
- 1546 (9) records prepared in contemplation of sale, exchange, lease, rental, or other compensated
1547 transaction of real or personal property including intellectual property, which, if
1548 disclosed prior to completion of the transaction, would reveal the appraisal or estimated
1549 value of the subject property, unless:
- 1550 (a) the public interest in access is greater than or equal to the interests in restricting
1551 access, including the governmental entity's interest in maximizing the financial
1552 benefit of the transaction; or
- 1553 (b) when prepared by or on behalf of a governmental entity, appraisals or estimates of
1554 the value of the subject property have already been disclosed to persons not
1555 employed by or under a duty of confidentiality to the entity;
- 1556 (10) records created or maintained for civil, criminal, or administrative enforcement
1557 purposes or audit purposes, or for discipline, licensing, certification, or registration

purposes, if release of the records:

- (a) reasonably could be expected to interfere with investigations undertaken for enforcement, discipline, licensing, certification, or registration purposes;
- (b) reasonably could be expected to interfere with audits, disciplinary, or enforcement proceedings;
- (c) would create a danger of depriving a person of a right to a fair trial or impartial hearing;
- (d) reasonably could be expected to disclose the identity of a source who is not generally known outside of government and, in the case of a record compiled in the course of an investigation, disclose information furnished by a source not generally known outside of government if disclosure would compromise the source; or
- (e) reasonably could be expected to disclose investigative or audit techniques, 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 legislative action or policy may not be classified as protected under this section;

(20)(a) records in the custody or control of the Office of Legislative Research and

General Counsel, that, if disclosed, would reveal a particular legislator's

contemplated legislation or contemplated course of action before the legislator has

elected to support the legislation or course of action, or made the legislation or course

of action public; and

(b) notwithstanding Subsection (20)(a), the ~~[form to request legislation]~~ following

information included in a request for legislation submitted to the Office of

Legislative Research and General Counsel is ~~[a public document]~~ public, unless a

legislator ~~[asks that the records requesting the legislation]~~ requests that the information

be maintained as a protected [records until such time as] record, until the legislator

elects to make the legislation or course of action public[:]; :

(i) the short title of the legislation; and

(ii) the name of the legislator;

(21) a research request from a legislator to a legislative staff member and research findings prepared in response to the request;

(22) drafts, unless otherwise classified as public;

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

(a) collective bargaining; or

(b) imminent or pending litigation;

(24) records of investigations of loss occurrences and analyses of loss occurrences that may

be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the Uninsured Employers' Fund, or similar divisions in other governmental entities;

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

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

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

(28) records of an institution within the state system of higher education defined in Section 53B-1-102 regarding tenure evaluations, appointments, applications for admissions, retention decisions, and promotions, which could be properly discussed in a meeting closed in accordance with Title 52, Chapter 4, Open and Public Meetings Act, provided that records of the final decisions about tenure, appointments, retention, promotions, or 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;

- 1694 (iii) unpublished manuscripts;
1695 (iv) creative works in process;
1696 (v) scholarly correspondence; and
1697 (vi) confidential information contained in research proposals;
- 1698 (b) Subsection (40)(a) may not be construed to prohibit disclosure of public information
1699 required pursuant to Subsection 53B-16-302(2)(a) or (b); and
- 1700 (c) Subsection (40)(a) may not be construed to affect the ownership of a record;
- 1701 (41)(a) records in the custody or control of the Office of the Legislative Auditor General
1702 that would reveal the name of a[particular] legislator who requests a legislative audit
1703 prior to the date that audit is completed and made public; and
- 1704 (b) notwithstanding Subsection (41)(a), a request for a legislative audit submitted to the
1705 Office of the Legislative Auditor General is a public document unless the legislator
1706 asks that the records in the custody or control of the Office of the Legislative Auditor
1707 General that would reveal the name of a[particular] legislator who requests a
1708 legislative audit be maintained as protected records until the audit is completed and
1709 made public;
- 1710 (42) records that provide detail as to the location of an explosive, including a map or other
1711 document that indicates the location of:
- 1712 (a) a production facility; or
1713 (b) a magazine;
- 1714 (43) information contained in the statewide database of the Division of Aging and Adult
1715 Services created by Section 26B-6-210;
- 1716 (44) information contained in the Licensing Information System described in Title 80,
1717 Chapter 2, Child Welfare Services;
- 1718 (45) information regarding National Guard operations or activities in support of the
1719 National Guard's federal mission;
- 1720 (46) records provided by any pawn or secondhand business to a law enforcement agency or
1721 to the central database in compliance with Title 13, Chapter 32a, Pawnshop, Secondhand
1722 Merchandise, and Catalytic Converter Transaction Information Act;
- 1723 (47) information regarding food security, risk, and vulnerability assessments performed by
1724 the Department of Agriculture and Food;
- 1725 (48) except to the extent that the record is exempt from this chapter pursuant to Section
1726 63G-2-106, records related to an emergency plan or program, a copy of which is
1727 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 and Human Services from an anonymous complainant regarding a provider, program, or facility;

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

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

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

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

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

(52) the portion of the following documents that contains a candidate's residential or mailing address, if the candidate provides to the filing officer another address or phone number where the candidate may be contacted:

(a) a declaration of candidacy, a nomination petition, or a certificate of nomination, described in Section 20A-9-201, 20A-9-202, 20A-9-203, 20A-9-404, 20A-9-405, 20A-9-408, 20A-9-408.5, 20A-9-502, or 20A-9-601;

(b) an affidavit of impecuniosity, described in Section 20A-9-201; or

- (c) a notice of intent to gather signatures for candidacy, described in Section 20A-9-408;
- (53) the name, home address, work addresses, and telephone numbers of an individual that is engaged in, or that provides goods or services for, medical or scientific research that is:
- (a) conducted within the state system of higher education, as defined in Section 53B-1-102; and
- (b) conducted using animals;
- (54) in accordance with Section 78A-12-203, any record of the Judicial Performance Evaluation Commission concerning an individual commissioner's vote, in relation to whether a judge meets or exceeds minimum performance standards under Subsection 78A-12-203(4), and information disclosed under Subsection 78A-12-203(5)(e);
- (55) information collected and a report prepared by the Judicial Performance Evaluation Commission concerning a judge, unless Section 20A-7-702 or Title 78A, Chapter 12, Judicial Performance Evaluation Commission Act, requires disclosure of, or makes public, the information or report;
- (56) records provided or received by the Public Lands Policy Coordinating Office in 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

1796 violation of a law, rule, or regulation adopted under the laws of this state, a political
1797 subdivision of the state, or any recognized entity of the United States, if the
1798 information was disclosed on the condition that the identity of the person be
1799 protected;

1800 (c) before the time that an investigation or audit is completed and the final investigation
1801 or final audit report is released, records or drafts circulated to a person who is not an
1802 employee or head of a governmental entity for the person's response or information;

1803 (d) records that would disclose an outline or part of any investigation, audit survey plan,
1804 or audit program; or

1805 (e) requests for an investigation or audit, if disclosure would risk circumvention of an
1806 investigation or audit;

1807 (60) records that reveal methods used by the Office of Inspector General of Medicaid
1808 Services, the fraud unit, or the Department of Health and Human Services, to discover
1809 Medicaid fraud, waste, or abuse;

1810 (61) information provided to the Department of Health and Human Services or the Division
1811 of Professional Licensing under Subsections 58-67-304(3) and (4) and Subsections
1812 58-68-304(3) and (4);

1813 (62) a record described in Section 63G-12-210;

1814 (63) captured plate data that is obtained through an automatic license plate reader system
1815 used by a governmental entity as authorized in Section 41-6a-2003;

1816 (64) an audio or video recording created by a body-worn camera, as that term is defined in
1817 Section 77-7a-103, that records sound or images inside a hospital or health care facility
1818 as those terms are defined in Section 78B-3-403, inside a clinic of a health care provider,
1819 as that term is defined in Section 78B-3-403, or inside a human service program as that
1820 term is defined in Section 26B-2-101, except for recordings that:

1821 (a) depict the commission of an alleged crime;

1822 (b) record any encounter between a law enforcement officer and a person that results in
1823 death or bodily injury, or includes an instance when an officer fires a weapon;

1824 (c) record any encounter that is the subject of a complaint or a legal proceeding against a
1825 law enforcement officer or law enforcement agency;

1826 (d) contain an officer involved critical incident as defined in Subsection 76-2-408(1)(f);
1827 or

1828 (e) have been requested for reclassification as a public record by a subject or authorized
1829 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:

(a) the individual is convicted of a criminal offense based upon the conduct for which the individual was incarcerated at the time the image was taken;

(b) a law enforcement agency releases or disseminates the image:

(i) after determining that the individual is a fugitive or an imminent threat to an individual or to public safety and releasing or disseminating the image will assist in apprehending the individual or reducing or eliminating the threat; or

(ii) to a potential witness or other individual with direct knowledge of events relevant to a criminal investigation or criminal proceeding for the purpose of identifying or locating an individual in connection with the criminal investigation or criminal proceeding;

(c) a judge orders the release or dissemination of the image based on a finding that the release or dissemination is in furtherance of a legitimate law enforcement interest; or

(d) the image is displayed to a person who is permitted to view the image under Section 17-22-30[-] ;

(81) a record:

(a) concerning an interstate claim to the use of waters in the Colorado River system;

(b) relating to a judicial proceeding, administrative proceeding, or negotiation with a representative from another state or the federal government as provided in Section

- 1898 63M-14-205; and
- 1899 (c) the disclosure of which would:
- 1900 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
- 1901 Colorado River system;
- 1902 (ii) harm the ability of the Colorado River Authority of Utah or river commissioner to
- 1903 negotiate the best terms and conditions regarding the use of water in the Colorado
- 1904 River system; or
- 1905 (iii) give an advantage to another state or to the federal government in negotiations
- 1906 regarding the use of water in the Colorado River system;
- 1907 (82) any part of an application described in Section 63N-16-201 that the Governor's Office
- 1908 of Economic Opportunity determines is nonpublic, confidential information that if
- 1909 disclosed would result in actual economic harm to the applicant, but this Subsection (82)
- 1910 may not be used to restrict access to a record evidencing a final contract or approval
- 1911 decision;
- 1912 (83) the following records of a drinking water or wastewater facility:
- 1913 (a) an engineering or architectural drawing of the drinking water or wastewater facility;
- 1914 and
- 1915 (b) except as provided in Section 63G-2-106, a record detailing tools or processes the
- 1916 drinking water or wastewater facility uses to secure, or prohibit access to, the records
- 1917 described in Subsection (83)(a);
- 1918 (84) a statement that an employee of a governmental entity provides to the governmental
- 1919 entity as part of the governmental entity's personnel or administrative investigation into
- 1920 potential misconduct involving the employee if the governmental entity:
- 1921 (a) requires the statement under threat of employment disciplinary action, including
- 1922 possible termination of employment, for the employee's refusal to provide the
- 1923 statement; and
- 1924 (b) provides the employee assurance that the statement cannot be used against the
- 1925 employee in any criminal proceeding;
- 1926 (85) any part of an application for a Utah Fits All Scholarship account described in Section
- 1927 53F-6-402 or other information identifying a scholarship student as defined in Section
- 1928 53F-6-401;
- 1929 (86) a record:
- 1930 (a) concerning a claim to the use of waters in the Great Salt Lake;
- 1931 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a

- 1932 person concerning the claim, including a representative from another state or the
 1933 federal government; and
- 1934 (c) the disclosure of which would:
- 1935 (i) reveal a legal strategy relating to the state's claim to the use of the water in the
 1936 Great Salt Lake;
- 1937 (ii) harm the ability of the Great Salt Lake commissioner to negotiate the best terms
 1938 and conditions regarding the use of water in the Great Salt Lake; or
- 1939 (iii) give an advantage to another person including another state or to the federal
 1940 government in negotiations regarding the use of water in the Great Salt Lake;[-and]
- 1941 (87) a consumer complaint described in Section 13-2-11, unless the consumer complaint is
 1942 reclassified as public as described in Subsection 13-2-11(4)[-] ; and
- 1943 (88) a record of the Utah water agent, appointed under Section 73-10g-702:
- 1944 (a) concerning a claim to the use of waters;
- 1945 (b) relating to a judicial proceeding, administrative proceeding, or negotiation with a
 1946 representative from another state, a tribe, the federal government, or other
 1947 government entity as provided in Title 73, Chapter 10g, Part 6, Utah Water Agent;
 1948 and
- 1949 (c) the disclosure of which would:
- 1950 (i) reveal a legal strategy relating to the state's claim to the use of the water;
- 1951 (ii) harm the ability of the Utah water agent to negotiate the best terms and conditions
 1952 regarding the use of water; or
- 1953 (iii) give an advantage to another state, a tribe, the federal government, or other
 1954 government entity in negotiations regarding the use of water.
- 1955 Section 12. Section **63G-2-400.5** is amended to read:
- 1956 **63G-2-400.5 . Definitions.**
- 1957 As used in this part:
- 1958 (1) "Access denial" means a governmental entity's denial, under Subsection [~~63G-2-204(9)~~]
 1959 63G-2-204(10) or Section 63G-2-205, in whole or in part, of a record request.
- 1960 [~~(2) "Appellate affirmation" means a decision of a chief administrative officer, local~~
 1961 ~~appeals board, or State Records Committee affirming an access denial.]~~
- 1962 [(3)] (2) "Interested party" means a person, other than a requester, who is aggrieved by an
 1963 access denial or [~~an appellate~~] a respondent affirmation, regardless of whether [~~or not~~]
 1964 the person participated in proceedings leading to the access denial or [~~appellate~~]
 1965 respondent affirmation.

[~~(4)~~] (3) "Local appeals board" means an appeals board established by a political subdivision under Subsection 63G-2-701(5)(c).

[~~(5)~~] (4) "Record request" means a [~~request for a~~] record request under Section 63G-2-204.

[~~(6)~~] (5) "Records committee [~~appellant~~] petitioner" means:

(a) a political subdivision that seeks to appeal [~~a decision of~~] a local appeals board decision to the State Records Committee; or

(b) a requester or interested party who seeks to appeal [~~to the State Records Committee a decision affirming an access denial~~] an access denial to the State Records Committee.

[~~(7)~~] (6) "Requester" means a person who submits a record request to a governmental entity.

(7) "Respondent affirmation" means a decision of a chief administrative officer, local appeals board, or State Records Committee affirming an access denial.

Section 13. Section **63G-2-401** is amended to read:

63G-2-401 . Appeal to chief administrative officer -- Notice of the decision of the appeal.

(1)(a) A requester or interested party may appeal an access denial or the denial of a fee waiver under Subsection 63G-2-203(4) to the chief administrative officer of the governmental entity by filing a notice of appeal with the chief administrative officer within 30 days after:

(i) for an access denial:

(A) the governmental entity sends a notice of denial under Section 63G-2-205, if the governmental entity denies a record request under Subsection 63G-2-205 (1); or

(B) the record request is considered denied under Subsection [~~63G-2-204(9)~~] 63G-2-204(10), if that subsection applies; or

(ii) for a denial of a fee waiver, the date the governmental entity notifies the requester that the fee waiver is denied.

(b) If a governmental entity claims [~~extraordinary~~] exceptional circumstances and specifies the date when the records will be available under Subsection 63G-2-204(4), and, if the requester believes the [~~extraordinary~~] exceptional circumstances do not exist or that the date specified is unreasonable, the requester may appeal the governmental entity's claim of [~~extraordinary~~] exceptional circumstances or date for compliance to the chief administrative officer by filing a notice of appeal with the chief administrative officer within 30 days after notification of a claim of [~~extraordinary~~] exceptional circumstances by the governmental entity, despite the lack

of a "determination" or its equivalent under Subsection [63G-2-204(9)] 63G-2-204(10).

(2) A notice of appeal shall contain:

(a) the name, mailing address, and daytime telephone number of the requester or

interested party; and

(b) the relief sought.

(3) The requester or interested party may file a short statement of facts, reasons, and legal authority in support of the appeal.

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

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

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

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

(5)(a) The chief administrative officer shall make a decision on the appeal within:

(i)(A) 10 business days after the chief administrative officer's receipt of the notice of appeal; or

(B) five business days after the chief administrative officer's receipt of the notice of appeal, if the requester or interested party demonstrates that an expedited decision benefits the public rather than the requester or interested party; or

(ii) 12 business days after the governmental entity sends the notice of appeal to a person who submitted a claim of business confidentiality.

(b)(i) If the chief administrative officer fails to make a decision on an appeal of an access denial within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the access denial.

(ii) If the chief administrative officer fails to make a decision on an appeal under Subsection (1)(b) within the time specified in Subsection (5)(a), the failure is the equivalent of a decision affirming the claim of [extraordinary] exceptional circumstances or the reasonableness of the date specified when the records will be

2034 available.

2035 (c) ~~[The provisions of this section notwithstanding]~~ Notwithstanding any other provision
2036 of this section, the parties participating in the proceeding may, by agreement, extend
2037 the time periods specified in this section.

2038 (6) Except as provided in Section 63G-2-406, the chief administrative officer may, upon
2039 consideration and weighing of the various interests and public policies ~~[pertinent]~~ related
2040 to the classification and disclosure or nondisclosure of a record, order the disclosure of
2041 information properly classified as private under Subsection 63G-2-302(2) or protected
2042 under Section 63G-2-305 if the interests favoring access are greater than or equal to the
2043 interests favoring restriction of access.

2044 (7)(a) The governmental entity shall ~~[send]~~ provide written notice of the chief
2045 administrative officer's decision to all participants.

2046 (b) If the chief administrative officer's decision is to affirm the access denial in whole or
2047 in part or to affirm the fee waiver denial, the notice under Subsection (7)(a) shall
2048 include:

2049 (i) a statement that the requester has a right under Section 63A-12-111 to request the
2050 government records ombudsman to mediate the dispute between the requester and
2051 the governmental entity concerning the access denial or the fee waiver denial;

2052 (ii) a statement that the requester or interested party has the right to appeal the
2053 decision, as provided in Section 63G-2-402, to:

2054 (A) the State Records Committee or district court; or

2055 (B) the local appeals board, if the governmental entity is a political subdivision
2056 and the governmental entity has established a local appeals board;

2057 (iii) the time limits for filing an appeal described in Subsection (7)(b)(ii), including
2058 an explanation of a suspension of the time limits, as provided in Subsections
2059 63G-2-403(1)(c) and 63G-2-404(1)(b), for a requester if the requester seeks
2060 mediation under Section 63A-12-111; and

2061 (iv) the name and business address of:

2062 (A) the executive secretary of the State Records Committee;

2063 (B) the individual designated as the contact individual for the appeals board, if the
2064 governmental entity is a political subdivision that has established an appeals
2065 board under Subsection 63G-2-701(5)(c); and

2066 (C) the government records ombudsman.

2067 ~~[(8) A person aggrieved by a governmental entity's classification or designation~~

determination under this chapter, but who is not requesting access to the records, may appeal that determination using the procedures provided in this section. If a nonrequester is the only appellant, the procedures provided in this section shall apply, except that the decision on the appeal shall be made within 30 days after receiving the notice of appeal.]

- [(9)] (8)(a) Except as provided in Subsection (8)(b), an interested party who is aggrieved by a governmental entity's record classification or designation under this chapter may appeal the governmental entity's determination as provided in this section.
- (b) If a governmental entity receives a notice of appeal as described in Subsection (8)(a), and the interested party is the only petitioner, the chief administrative officer shall respond no later than 30 days after the day on which the chief administrative officer receives notice of the appeal.

(9) The duties of the chief administrative officer under this section may be delegated.

The following section is affected by a coordination clause at the end of this bill.

Section 14. Section **63G-2-403** is amended to read:

63G-2-403 . Appeals to the State Records Committee.

- (1)(a) A records committee [appellant] petitioner appeals to the State Records Committee by filing a notice of appeal with the executive secretary of the State Records Committee no later than 30 days after the date of issuance of the decision being appealed.
- (b) Notwithstanding Subsection (1)(a), a requester may file a notice of appeal with the executive secretary of the State Records Committee no later than 45 days after the day on which the record request is made if:
- (i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and
 - (ii) the chief administrative officer fails to make a decision under Section 63G-2-401.
- (c) The time for a requester to file a notice of appeal under Subsection (1)(a) or (b) is suspended for the period of time that:
- (i) begins the date the requester submits a request under Section 63A-12-111 for the government records ombudsman to mediate the dispute between the requester and the governmental entity; and
 - (ii) ends the earlier of the following dates:
 - (A) the date that the government records ombudsman certifies in writing that the mediation is concluded; or
 - (B) the date that the government records ombudsman certifies in writing that the

mediation did not occur or was not concluded because of a lack of the required consent.

(2) The notice of appeal shall:

- (a) contain the name, mailing address, and daytime telephone number of the records committee [appellant] petitioner;
- (b) be accompanied by a copy of the decision being appealed; and
- (c) state the relief sought.

(3) The records committee [appellant] petitioner:

- (a) shall, on the day on which the notice of appeal is filed with the State Records Committee, serve a copy of the notice of appeal on:
 - (i) the governmental entity whose access denial or fee waiver denial is the subject of the appeal, if the records committee appellant is a requester or interested party; or
 - (ii) the requester or interested party who is a party to the local appeals board proceeding that resulted in the decision that the political subdivision is appealing to the committee, if the records committee appellant is a political subdivision; and
- (b) may file a short statement of facts, reasons, and legal authority in support of the appeal.

(4)(a) Except as provided in Subsections (4)(b) and (c), no later than seven business days after ~~[receiving a notice of appeal, the executive secretary of the State Records Committee]~~ the day on which the executive secretary of the State Records Committee receives a notice of appeal, the executive secretary shall:

- (i) schedule a hearing for the State Records Committee to discuss the appeal at the next regularly scheduled committee meeting falling at least 16 days after the date the notice of appeal is filed but no ~~[longer than 64]~~ later than 90 calendar days after the ~~[date]~~ day on which the notice of appeal was filed, except that the committee may schedule an expedited hearing upon application of the records committee [appellant] petitioner and for good cause shown;
- (ii) send a copy of the notice of hearing to the records committee [appellant] petitioner; and
- (iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing to:
 - (A) each member of the State Records Committee;
 - (B) the records officer and the chief administrative officer of the governmental entity whose access denial is the subject of the appeal, if the records committee [

2136 appellant] petitioner is a requester or interested party; and

2137 [~~(C)~~ any person who made a business confidentiality claim under Section
2138 63G-2-309 for a record that is the subject of the appeal; and]

2139 [~~(D)~~] (C) [all persons] any person who participated in the proceedings before the
2140 governmental entity's chief administrative officer, if the appeal is of the chief
2141 administrative officer's decision affirming an access denial.

2142 (b)[~~(i)~~] The executive secretary, with approval of the State Records Committee chair,
2143 may decline to schedule a hearing if the record series that is the subject of the
2144 appeal [has been found by the committee in a previous hearing involving the same
2145 governmental entity to be appropriately classified as private, controlled, or
2146 protected] is substantially similar to an appeal previously decided by the State
2147 Records Committee.

2148 (c) If, in accordance with Subsection (4)(b), the executive secretary declines to schedule
2149 a hearing, the State Records Committee members may vote at the next regular
2150 meeting to:

2151 (i) render a decision and enter an order consistent with the previous decision; and

2152 (ii) provide the parties with notice of:

2153 (A) the decision and order; and

2154 (B) the right to appeal the decision and order, as described in Subsection (15).

2155 [~~(ii)~~] (iii)(A) If the executive secretary [of the State Records Committee] declines
2156 to schedule a hearing, the executive secretary shall send a notice to the records
2157 committee [appellant] petitioner indicating that the request for hearing has been
2158 denied and the reason for the denial.

2159 (B) The State Records Committee shall make rules to implement the procedures
2160 described in this section [as provided by] in accordance with Title 63G, Chapter
2161 3, Utah Administrative Rulemaking Act.

2162 [~~(e)~~] (d) The executive secretary [of the State Records Committee] may schedule a
2163 hearing on an appeal to the State Records Committee at a regularly scheduled State
2164 Records Committee meeting that is later than the period described in Subsection
2165 (4)(a)(i) if [that] the committee meeting is the first regularly scheduled State Records
2166 Committee meeting at which there are fewer than 10 appeals scheduled to be heard.

2167 (5)(a) No later than five business days before the day of the hearing, [a governmental
2168 entity shall submit to the executive secretary of the State Records Committee] each
2169 party shall provide the executive secretary with a written statement of facts, reasons,

and legal authority in support of the ~~[governmental entity's]~~ party's position.

(b) ~~[The governmental entity shall send a copy of the written statement by first class mail, postage prepaid, to the requester or interested]~~ Each party shall send a copy of the party's written statement to each other party involved in the appeal, by email, on the same day on which the party complies with Subsection (5)(a). ~~[The executive secretary shall forward a copy of the written statement to each member of the State Records Committee.]~~

(6)(a) No later than ~~[10]~~ 15 business days ~~[after the day on which the executive secretary sends the notice of appeal]~~ before the day of the hearing, a person whose legal interests may be substantially affected by the proceeding may file a request for intervention with the State Records Committee.

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

(c) The person seeking intervention shall provide copies of the statement described in Subsection (6)(b) to all parties to the proceedings before the State Records Committee.

(7) The State Records Committee shall hold a hearing within the period of time described in Subsection (4).

(8)(a) At the hearing, the State Records Committee shall allow the parties to testify, present evidence, and comment on the issues.

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

(9)(a)(i) The State Records Committee:

(A) may review the disputed records; and

(B) shall review the disputed records, if the committee is weighing the various interests under Subsection (11).

(ii) A review of the disputed records under Subsection (9)(a)(i) shall be in camera.

(b) Members of the State Records Committee may not disclose any information or record reviewed by the committee in camera unless the disclosure is otherwise authorized ~~[by]~~ under this chapter.

(10)(a) ~~[Discovery is prohibited, but the]~~ The State Records Committee may issue subpoenas or other orders to compel production of necessary evidence.

(b) When the subject of a State Records Committee subpoena disobeys or fails to comply with the subpoena, the committee may file a motion for an order to compel ~~[obedience to the subpoena]~~ with the district court.

- 2204 (c)(i) The State Records Committee's review shall be de novo, if the appeal is an
2205 appeal from a decision of a chief administrative officer:
2206 (A) issued under Section 63G-2-401; or
2207 (B) issued by a chief administrative officer of a political subdivision that has not
2208 established a local appeals board.

- 2209 (ii) For an appeal from a decision of a local appeals board, the State Records
2210 Committee shall review and consider the decision of the local appeals board.

2211 (11)(a) No later than seven business days after the day of the hearing, the State Records
2212 Committee shall issue a signed order:

- 2213 (i) granting the relief sought, in whole or in part; or
2214 (ii) upholding the governmental entity's access denial, in whole or in part.
2215 (b) Except as provided in Section 63G-2-406, the State Records Committee may, upon
2216 consideration and weighing of the various interests and public policies [~~pertinent~~
2217 relating to the classification and disclosure or nondisclosure of a record, order the
2218 disclosure of information properly classified as private, controlled, or protected if the
2219 public interest favoring access is greater than or equal to the interest favoring
2220 restriction of access.

- 2221 (c) In making a determination under Subsection (11)(b), the State Records Committee
2222 shall consider and, where appropriate, limit the requester's or interested party's use
2223 and further disclosure of the record in order to protect:

- 2224 (i) privacy interests in the case of a private or controlled record;
2225 (ii) business confidentiality interests in the case of a record protected under
2226 Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
2227 (iii) privacy interests or the public interest in the case of other protected records.

2228 (12) The order of the State Records Committee shall include:

- 2229 (a) a statement of reasons for the decision, including citations to this chapter, court rule
2230 or order, another state statute, federal statute, or federal regulation that governs
2231 disclosure of the record, if the citations do not disclose private, controlled, or
2232 protected information;
2233 (b) a description of the record or portions of the record to which access was ordered or
2234 denied, if the description does not disclose private, controlled, or protected
2235 information or information exempt from disclosure under Subsection 63G-2-201
2236 (3)(b);
2237 (c) a statement that any party to the proceeding before the State Records Committee may

2238 appeal the committee's decision to district court; and
2239 (d) a brief summary of the appeals process, the time limits for filing an appeal, and a
2240 notice that in order to protect [its] a party's rights on appeal, the party may wish to
2241 seek advice from an attorney.

2242 (13) If the State Records Committee fails to issue a decision within 73 calendar days of the
2243 filing of the notice of appeal, that failure is the equivalent of an order denying the
2244 appeal. A records committee appellant shall notify the State Records Committee in
2245 writing if the records committee appellant considers the appeal denied.

2246 (14) A party to a proceeding before the State Records Committee may seek judicial review
2247 in district court of a State Records Committee order by filing a petition for review [~~of~~
2248 ~~the order~~] as provided in Section 63G-2-404.

2249 (15)(a) Unless [~~a notice of intent to~~] an appeal is filed under Subsection [~~(15)(b)~~] (14),
2250 each party to the proceeding shall comply with the order of the State Records
2251 Committee.

2252 [~~(b) If a party disagrees with the order of the State Records Committee, that party may~~
2253 ~~file a notice of intent to appeal the order.~~]

2254 [~~(c)~~] (b) If the State Records Committee orders the governmental entity to produce a
2255 record and no appeal is timely filed, or if, as a result of the appeal, the governmental
2256 entity is required to produce a record, the governmental entity shall:

2257 (i) produce the record; and
2258 (ii) file a notice of compliance with the committee.

2259 [~~(d)~~] (c)(i) If the governmental entity that is ordered to produce a record fails to file a
2260 notice of compliance or [~~a notice of intent to~~] to timely file an appeal, the State
2261 Records Committee may [~~do either or both of the following~~]:

2262 (A) impose a civil penalty of up to \$500 for each day of continuing
2263 noncompliance; or
2264 (B) send written notice of the governmental entity's noncompliance to the
2265 governor.

2266 (ii) In imposing a civil penalty under Subsection (15)(c)(i)(A), the State Records
2267 Committee shall consider the gravity and circumstances of the violation, including
2268 whether the failure to comply was due to neglect or was willful or intentional.

2269 (16)(a) The executive secretary may decline to schedule a hearing regarding a disputed
2270 fee, fee amount, or fee waiver if the executive secretary and the committee chair
2271 agree that the petition for hearing is without merit.

- 2272 (b) At the chair's direction, the executive secretary may request that the governmental
 2273 entity provide information regarding how the fee was calculated.
 2274 (17)(a) If the executive secretary declines to schedule a hearing under Subsection (16)(a),
 2275 the executive secretary shall send a notice to the parties indicating:
 2276 (i) that the request for a hearing has been denied; and
 2277 (ii) whether the petition is granted or denied.
 2278 (b) The committee shall:
 2279 (i) vote at the next regular meeting to accept or reject the recommendation to respond
 2280 to the petition without a hearing; and
 2281 (ii) issue an order that includes the reasons for the committee's decision to accept or
 2282 reject the recommendation.

2283 Section 15. Section **63G-2-501** is amended to read:

2284 **63G-2-501 . State Records Committee created -- Membership -- Terms --**
 2285 **Vacancies -- Expenses.**

- 2286 (1) ~~[There is created the State Records Committee within the Department of Government~~
 2287 ~~Operations consisting of the following seven individuals]~~ The State Records Committee
 2288 is created within the Department of Government Operations and consists of the
 2289 following seven individuals:
 2290 (a) ~~an individual [in the private sector] whose profession requires the individual to [~~
 2291 ~~create or]manage records[that, if created by a governmental entity, would be private~~
 2292 ~~or controlled];~~
 2293 (b) ~~an individual with experience with [electronic records and databases, as~~
 2294 ~~recommended by a statewide technology advocacy organization that represents the~~
 2295 ~~public, private, and nonprofit sectors]~~ databases or data management;
 2296 (c) ~~the director of the Division of Archives and Records Services or the director's~~
 2297 ~~designee;~~
 2298 (d) ~~[two citizen members]~~ one citizen member;
 2299 (e) ~~one [person]~~ individual representing political subdivisions, as recommended by the
 2300 Utah League of Cities and Towns;~~[-and]~~
 2301 (f) ~~one individual representing the news media[-] ; and~~
 2302 (g) one individual with professional experience in law enforcement.
 2303 (2) The governor shall appoint or reappoint the members described in ~~[Subsections (1)(a),~~
 2304 ~~(b), (d), (e), and (f)]~~ Subsection (1) with the advice and consent of the Senate in
 2305 accordance with Chapter 24, Part 2, Vacancies.

(3)(a) Except as provided in Subsection (3)(b), the governor shall appoint each member to a four-year term.

(b) Notwithstanding Subsection (3)(a), the governor shall, at the time of appointment or reappointment, adjust the length of terms to ensure that the terms of committee members are staggered so that approximately half of the committee is appointed every two years.

(c) Each appointed member is eligible for reappointment for one additional term.

(4) When a vacancy occurs in the membership for any reason, the governor shall, with the advice and consent of the Senate in accordance with Chapter 24, Part 2, Vacancies, appoint a replacement for the unexpired term.

(5) A member of the State Records Committee may not receive compensation or benefits for the member's service on the committee, but may receive per diem and travel expenses in accordance with:

(a) Section 63A-3-106;

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

(c) rules made by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

(6) A member described in [~~Subsection (1)(a), (b), (d), (e), or (f)~~] Subsection (1) shall comply with the conflict of interest provisions described in Chapter 24, Part 3, Conflicts of Interest.

Section 16. Section **63G-2-502** is amended to read:

63G-2-502 . State Records Committee -- Duties.

(1) The State Records Committee shall:

(a) hear appeals from determinations of access under Section 63G-2-403;

(b) hear appeals regarding disputed fees under Section 63G-2-203;

~~[(b)]~~ (c) determine disputes submitted by the state auditor under Subsection 67-3-1(17)(d);

and

~~[(e)]~~ (d) appoint a chair from among the committee's members.

(2) The State Records Committee may:

(a) make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to govern the committee's proceedings; and

(b) by order, after notice and hearing, reassign classification and designation for any record series by a governmental entity if the governmental entity's classification or designation is inconsistent with this chapter.

(3)(a) The State Records Committee shall annually appoint an executive secretary to

provide administrative support to the committee.

(b) The executive secretary is not a voting member of the committee.

(4) ~~[Five]~~ Four members of the State Records Committee are a quorum for the transaction of business.

(5) The state archives shall provide staff and support services for the State Records Committee.

(6)(a) If the State Records Committee reassigns the classification or designation of a record or record series under Subsection (2)(b), any affected governmental entity or any other interested ~~[person]~~ party may appeal the reclassification or redesignation to the district court.

(b) The district court shall hear the matter de novo.

(7) The Office of the Attorney General shall provide counsel to the State Records Committee.

Section 17. Section **63G-2-604** is amended to read:

63G-2-604 . Retention and disposition of records.

(1)(a) Except for a governmental entity that is permitted to maintain the governmental entity's own retention schedules under Part 7, Applicability to Political Subdivisions, the Judiciary, the Legislature, and the Governor and Lieutenant Governor, each governmental entity shall file with the Records Management Committee created in Section 63A-12-112 a proposed schedule for the retention and disposition of each type of material that is defined as a record under this chapter.

(b) After a retention schedule is reviewed and approved by the Records Management Committee under Subsection 63A-12-113(1)(b), the governmental entity shall maintain and destroy records in accordance with the retention schedule.

(c) If a governmental entity subject to the provisions of this ~~[section]~~ Subsection (1) has not received an approved retention schedule from the Records Management Committee for a specific type of material that is defined as a record under this chapter, the general retention schedule maintained by the state archivist shall govern the retention and destruction of that type of material.

(2) A retention schedule that is filed with or approved by the Records Management Committee under the requirements of this section is a public record.

(3) A governmental entity shall, on an annual basis, before August 1:

(a) review the governmental entity's records retention requirements;

(b) update the governmental entity's records retention requirements, if needed;

(c) determine whether the governmental entity is complying with the records retention requirements; and

(d) take necessary action to ensure compliance with the records retention requirements.

Section 18. Section **63G-2-605** is enacted to read:

63G-2-605 . Employee education on government records requirements.

A governmental entity shall comply with the applicable employee education requirements described in Section 63A-12-117.

Section 19. Section **63G-2-701** is amended to read:

63G-2-701 . Political subdivisions may adopt ordinances in compliance with chapter -- Appeal process.

(1) As used in this section:

(a) "Access denial" means the same as that term is defined in Section 63G-2-400.5.

(b) "Interested party" means the same as that term is defined in Section 63G-2-400.5.

(c) "Requester" means the same as that term is defined in Section 63G-2-400.5.

(2)(a) Each political subdivision may adopt an ordinance or a policy [~~applicable throughout its jurisdiction~~] within the political subdivision's jurisdiction relating to information practices including classification, designation, access, denials, segregation, appeals, management, retention, and amendment of records.

(b) The ordinance or policy shall:

(i) comply with the criteria [~~set forth~~] described in this section[-] ;

(ii) provide guidance to staff and elected officials regarding the use of a personal device or account when conducting government business;

(iii) assign records management staff specific responsibilities related to records management; and

(iv) be approved by the political subdivision's governing body.

(c) A political subdivision shall:

(i) regularly train staff and elected officials on the records retention ordinance or policy; and

(ii) implement a process to monitor and encourage compliance with the ordinance or policy by staff and elected officials.

~~[(e)] (d) [If any] A political subdivision that does not adopt and maintain an ordinance or policy[-, then that political subdivision]~~ is subject to this chapter.

~~[(d)] (e)~~ Notwithstanding the adoption of an ordinance or policy, each political subdivision is subject to Part 1, General Provisions, Part 3, Classification, and

Sections 63A-12-105, 63A-12-107, 63G-2-201, 63G-2-202, 63G-2-205, 63G-2-206, 63G-2-601, and 63G-2-602.

~~[(e)]~~ (f) ~~[Every]~~ A political subdivision shall file the political subdivision's ordinance, policy, ~~[or]~~ and each amendment to the ordinance or policy ~~[shall be filed]~~ with ~~[the]~~ state archives no later than 30 days after ~~[its]~~ the effective date of the ordinance, policy, or amendment.

~~[(f)]~~ (g) The political subdivision shall ~~[also report to the state archives]~~ provide to state archives all retention schedules~~[-]~~ and all designations and classifications applied to a record series ~~[maintained by]~~ that the political subdivision maintains.

~~[(g)]~~ ~~(h)(i)~~ ~~[The report required by Subsection (2)(f) is notification to state archives of the political subdivision's retention schedules, designations, and classifications. The report]~~ The information provided under Subsection (2)(g) is not subject to approval by state archives.

(ii) If state archives determines that a different retention schedule is needed for state purposes, state archives shall notify the political subdivision of the state's retention schedule for the records and shall maintain the records if requested to do so under Subsection 63A-12-105(2).

(3) Each political subdivision's ordinance or policy relating to information practices shall:

(a) provide standards for ~~[the]~~ record classification and designation ~~[of the records of the political subdivision]~~ as public, private, controlled, or protected in accordance with Part 3, Classification;

(b) require ~~[the]~~ record classification ~~[of the records of the political subdivision]~~ in accordance with ~~[those]~~ the standards described in Subsection (3)(a);

(c) provide guidelines for ~~[establishment of]~~ establishing fees in accordance with Section 63G-2-203; and

(d) provide management and retention standards ~~[for the management and retention of the records of the political subdivision]~~ comparable to Section 63A-12-103.

(4)(a) Each ordinance or policy shall establish:

(i) access criteria, procedures, and response times for requests to inspect, obtain, or amend records~~[- of the political subdivision,]~~ ; and

(ii) time limits for appeals consistent with this chapter.

~~(b) [In establishing response times for access requests and time limits for appeals, the political subdivision may establish reasonable time frames different than those set out in Section 63G-2-204 and Part 4, Appeals, if it determines that the resources of the~~

political subdivision are insufficient to meet the requirements of those sections] In establishing response times for access requests and time limits for appeals, if a political subdivision determines that the political subdivision's resources are insufficient to meet the requirements under this chapter, the political subdivision may set reasonable time frames different than the time frames described in Section 63G-2-204 and Part 4, Appeals.

- (5)(a) A political subdivision shall establish an appeals process for ~~[persons]~~ a person aggrieved by a classification, designation, or access ~~[decisions]~~ decision.
- (b) A political subdivision's appeals process shall include a process for a requester or interested party to appeal an access denial~~[to a person designated by the political subdivision as]~~ , as described in Section 63G-2-401, to the individual designated as the chief administrative officer~~[for purposes of an appeal under Section 63G-2-401]~~.
- (c)(i) A political subdivision may establish an appeals board to decide an appeal of a decision of the chief administrative officer affirming an access denial.
- (ii) An appeals board established by a political subdivision shall be composed of three members:
- (A) one of whom shall be an employee of the political subdivision; and
- (B) two of whom shall be members of the public who are not employed by or officials of a governmental entity, at least one of whom shall have professional experience with requesting or managing records.
- (iii) If a political subdivision establishes an appeals board, any appeal of a decision of a chief administrative officer shall be made to the appeals board.
- (iv) If a political subdivision does not establish an appeals board, the political subdivision's appeals process shall provide for an appeal of a chief administrative officer's decision to the State Records Committee, as provided in Section 63G-2-403.
- (d) A political subdivision that establishes an appeals board shall notify the executive secretary no later than 30 days after the day on which the political subdivision establishes the appeals board.
- (6)(a) A political subdivision or requester may appeal an appeals board decision:
- (i) to the State Records Committee, as provided in Section 63G-2-403; or
- (ii) by filing a petition for judicial review with the district court.
- (b) The contents of a petition for judicial review under Subsection (6)(a)(ii) and the conduct of the proceeding shall be in accordance with Sections 63G-2-402 and

2476 63G-2-404.

2477 (c) A person who appeals an appeals board decision to the State Records Committee
2478 does not lose or waive the right to seek judicial review of the State Records
2479 Committee decision~~[of the State Records Committee]~~.

2480 (7) ~~[Any]~~ A political subdivision that adopts an ordinance or policy under Subsection ~~[(4)]~~
2481 ~~(2)~~ shall forward~~[to state archives]~~ a copy and summary description of the ordinance or
2482 policy to state archives.

2483 Section 20. Section **63G-2-801** is amended to read:

2484 **63G-2-801 . Criminal penalties.**

2485 (1)(a) A public employee or other ~~[person]~~ individual who has lawful access to any
2486 private, controlled, or protected record under this chapter, and who intentionally
2487 discloses, provides a copy of, or improperly uses a private, controlled, or protected
2488 record knowing that the disclosure or use is prohibited under this chapter, ~~[is,]~~except
2489 as provided in Subsection 53-5-708(1)(c), is guilty of a class B misdemeanor.

2490 (b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released
2491 private, controlled, or protected information in the reasonable belief that the use or
2492 disclosure of the information was necessary to expose a violation of law involving
2493 government corruption, abuse of office, or misappropriation of public funds or
2494 property.

2495 (c) It is a defense to prosecution under Subsection (1)(a) that the record could have
2496 lawfully been released to the recipient if it had been properly classified.

2497 (d) It is a defense to prosecution under Subsection (1)(a) that the public employee or
2498 other person disclosed, provided, or used the record based on a good faith belief that
2499 the disclosure, provision, or use was in accordance with the law.

2500 (2)(a) A person who by false pretenses, bribery, or theft, gains access to or obtains a
2501 copy of any private, controlled, or protected record to which the person is not legally
2502 entitled is guilty of a class B misdemeanor.

2503 (b) No person shall be guilty under Subsection (2)(a) who receives the record,
2504 information, or copy after the fact and without prior knowledge of or participation in
2505 the false pretenses, bribery, or theft.

2506 (3)(a) A public employee who intentionally refuses to release a record, the disclosure of
2507 which the employee knows is required by law, is guilty of a class B misdemeanor.

2508 (b) It is a defense to prosecution under Subsection (3)(a) that the public employee's
2509 failure to release the record was based on a good faith belief that the public employee

2510 was acting in accordance with the requirements of law.
2511 (c) A public employee who intentionally refuses to release a record, the disclosure of
2512 which the employee knows is required by a final unappealed order from a [
2513 government] governmental entity, the State Records Committee, or a court is guilty of
2514 a class B misdemeanor.

2515 (4)(a) As used in this Subsection (4), "pending records request" means that:

2516 (i) a person has made a record request; and

2517 (ii) the governmental entity:

2518 (A) has not denied the record request, but has not yet provided all records
2519 requested;

2520 (B) has denied the record request, in whole or in part, and the deadline for
2521 appealing the denial has not passed;

2522 (C) has denied the record request, in whole or in part, an appeal is filed in relation
2523 to the record request, and the appeal has not become final; or

2524 (D) is subject to an order to provide a record and has not yet fully complied with
2525 the order.

2526 (b) It is unlawful for an individual to destroy or delete a record that the individual
2527 knows, or has reason to know, may be responsive to a pending records request, with
2528 the intent of avoiding disclosure of the record or information in the record.

2529 (c) Violation of Subsection (4)(b) is an infraction.

2530 Section 21. Section **77-27-5** is amended to read:

2531 **77-27-5 . Board of Pardons and Parole authority.**

2532 (1)(a) Subject to this chapter and other laws of the state, and except for a conviction for
2533 treason or impeachment, the board shall determine by majority decision when and
2534 under what conditions an offender's conviction may be pardoned or commuted.

2535 (b) The board shall determine by majority decision when and under what conditions an
2536 offender committed to serve a sentence at a penal or correctional facility, which is
2537 under the jurisdiction of the department, may:

2538 (i) be released upon parole;

2539 (ii) have a fine or forfeiture remitted;

2540 (iii) have the offender's criminal accounts receivable remitted in accordance with
2541 Section 77-32b-105 or 77-32b-106;

2542 (iv) have the offender's payment schedule modified in accordance with Section
2543 77-32b-103; or

- 2544 (v) have the offender's sentence terminated.
- 2545 (c) The board shall prioritize public safety when making a determination under
- 2546 Subsection (1)(a) or (1)(b).
- 2547 (d)(i) The board may sit together or in panels to conduct hearings.
- 2548 (ii) The chair shall appoint members to the panels in any combination and in
- 2549 accordance with rules made by the board in accordance with Title 63G, Chapter 3,
- 2550 Utah Administrative Rulemaking Act.
- 2551 (iii) The chair may participate on any panel and when doing so is chair of the panel.
- 2552 (iv) The chair of the board may designate the chair for any other panel.
- 2553 (e)(i) Except after a hearing before the board, or the board's appointed examiner, in
- 2554 an open session, the board may not:
- 2555 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts
- 2556 receivable;
- 2557 (B) release the offender on parole; or
- 2558 (C) commute, pardon, or terminate an offender's sentence.
- 2559 (ii) An action taken under this Subsection (1) other than by a majority of the board
- 2560 shall be affirmed by a majority of the board.
- 2561 (f) A commutation or pardon may be granted only after a full hearing before the board.
- 2562 (2)(a) In the case of a hearing, timely prior notice of the time and location of the hearing
- 2563 shall be given to the offender.
- 2564 (b) The county or district attorney's office responsible for prosecution of the case, the
- 2565 sentencing court, and law enforcement officials responsible for the defendant's arrest
- 2566 and conviction shall be notified of any board hearings through the board's website.
- 2567 (c) Whenever possible, the victim or the victim's representative, if designated, shall be
- 2568 notified of original hearings and any hearing after that if notification is requested and
- 2569 current contact information has been provided to the board.
- 2570 (d)(i) Notice to the victim or the victim's representative shall include information
- 2571 provided in Section 77-27-9.5, and any related rules made by the board under that
- 2572 section.
- 2573 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are
- 2574 reasonable for the lay person to understand.
- 2575 (3)(a) A decision by the board is final and not subject for judicial review if the decision
- 2576 is regarding:
- 2577 (i) a pardon, parole, commutation, or termination of an offender's sentence;

- 2578 (ii) the modification of an offender's payment schedule for restitution; or
2579 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.
- 2580 (b) Deliberative processes are not public and the board is exempt from Title 52, Chapter
2581 4, Open and Public Meetings Act, when the board is engaged in the board's
2582 deliberative process.
- 2583 (c) Pursuant to Subsection [~~63G-2-103(25)(b)(xi)~~] 63G-2-103(28)(b)(xii), records of the
2584 deliberative process are exempt from Title 63G, Chapter 2, Government Records
2585 Access and Management Act.
- 2586 (d) Unless it will interfere with a constitutional right, deliberative processes are not
2587 subject to disclosure, including discovery.
- 2588 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.
- 2589 (4)(a) This chapter may not be construed as a denial of or limitation of the governor's
2590 power to grant respite or reprieves in all cases of convictions for offenses against the
2591 state, except treason or conviction on impeachment.
- 2592 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the
2593 next session of the board.
- 2594 (c) At the next session of the board, the board:
2595 (i) shall continue or terminate the respite or reprieve; or
2596 (ii) may commute the punishment or pardon the offense as provided.
- 2597 (d) In the case of conviction for treason, the governor may suspend execution of the
2598 sentence until the case is reported to the Legislature at the Legislature's next session.
- 2599 (e) The Legislature shall pardon or commute the sentence or direct the sentence's
2600 execution.
- 2601 (5)(a) In determining when, where, and under what conditions an offender serving a
2602 sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the
2603 offender's criminal accounts receivable remitted, or have the offender's sentence
2604 commuted or terminated, the board shall:
- 2605 (i) consider whether the offender has made restitution ordered by the court under
2606 Section 77-38b-205, or is prepared to pay restitution as a condition of any parole,
2607 pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a
2608 commutation or termination of the offender's sentence;
- 2609 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for
2610 making determinations under this Subsection (5);
- 2611 (iii) consider information provided by the department regarding an offender's

- individual case action plan; and
- (iv) review an offender's status within 60 days after the day on which the board receives notice from the department that the offender has completed all of the offender's case action plan components that relate to activities that can be accomplished while the offender is imprisoned.
- (b) The board shall determine whether to remit an offender's criminal accounts receivable under this Subsection (5) in accordance with Section 77-32b-105 or 77-32b-106.
- (6) In determining whether parole may be terminated, the board shall consider:
- (a) the offense committed by the parolee; and
- (b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.
- (7) For an offender placed on parole after December 31, 2018, the board shall terminate parole in accordance with the adult sentencing and supervision length guidelines, as defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the requirements of the law.
- (8) The board may not rely solely on an algorithm or a risk assessment tool score in determining whether parole should be granted or terminated for an offender.
- (9) The board may intervene as a limited-purpose party in a judicial or administrative proceeding, including a criminal action, to seek:
- (a) correction of an order that has or will impact the board's jurisdiction; or
- (b) clarification regarding an order that may impact the board's jurisdiction.
- (10) A motion to intervene brought under Subsection (8)(a) shall be raised within 60 days after the day on which a court enters the order that impacts the board's jurisdiction.

Section 22. Effective Date.

This bill takes effect on May 7, 2025.

Section 23. Coordinating S.B. 163 with S.B. 277.

If S.B. 163, Government Records Amendments, and S.B. 277, Government Records Management Amendments, both pass and become law, the Legislature intends that on May 7, 2025, notwithstanding Section 30, Coordinating S.B. 277 with S.B. 163, in S.B. 277, Subsection 63G-2-403(7) be amended to read:

"(7) (a) The [State Records Committee] director shall hold a hearing within the period of time described in Subsection (4).

(b) In accordance with Chapter 3, Utah Administrative Rulemaking Act, the division shall make rules requiring that a hearing under this section is open to the public in substantially the

_2646 same manner as a meeting under Title 52, Chapter 4, Open and Public Meetings Act.".