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**Government Records Management Amendments**

2025 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Michael K. McKell**

House Sponsor:

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**LONG TITLE****General Description:**

This bill creates the Government Records Office (the office) within the Division of Archives and Records Service (the division), and replaces the State Records Committee (the committee) with the director of the office, who is an attorney with knowledge and experience relating to government records law and makes other changes relating to government records.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ creates the office within the division and describes the functions of the office;
- ▶ requires the governor to appoint the director of the office, in consultation with the executive director of the department, and with the advice and consent of the Senate;
- ▶ describes the term of office, qualifications, and duties of the director;
- ▶ repeals the committee;
- ▶ provides that the director will replace the committee in fulfilling the duties currently assigned to the committee, including the duty to decide appeals under the Government Records Access and Management Act;
- ▶ makes the government records ombudsman an employee of the office;
- ▶ grants rulemaking authority to the director of the office;
- ▶ provides for the transition from the committee to the director of the office;
- ▶ removes subjective balancing test provisions for determining the confidentiality of a record; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

## 31 AMENDS:

- 32 **20A-11-1205**, as last amended by Laws of Utah 2020, Chapter 22  
33 **26B-2-709**, as renumbered and amended by Laws of Utah 2024, Chapter 267  
34 **53B-16-303**, as last amended by Laws of Utah 2020, Chapter 365  
35 **63A-12-101**, as last amended by Laws of Utah 2023, Chapter 173  
36 **63A-12-106**, as last amended by Laws of Utah 2019, Chapter 254  
37 **63G-2-103**, as last amended by Laws of Utah 2024, Chapters 18, 465, 509, and 522  
38 **63G-2-201**, as last amended by Laws of Utah 2023, Chapters 173, 516  
39 **63G-2-202**, as last amended by Laws of Utah 2024, Chapter 288  
40 **63G-2-209**, as enacted by Laws of Utah 2023, Chapter 516  
41 **63G-2-309**, as last amended by Laws of Utah 2023, Chapter 516  
42 **63G-2-400.5**, as last amended by Laws of Utah 2019, Chapters 254, 334  
43 **63G-2-401**, as last amended by Laws of Utah 2024, Chapter 407  
44 **63G-2-402**, as last amended by Laws of Utah 2024, Chapter 407  
45 **63G-2-403**, as last amended by Laws of Utah 2024, Chapter 407  
46 **63G-2-404**, as last amended by Laws of Utah 2024, Chapter 407  
47 **63G-2-405**, as last amended by Laws of Utah 2022, Chapter 388  
48 **63G-2-701**, as last amended by Laws of Utah 2019, Chapter 254  
49 **63G-2-702**, as last amended by Laws of Utah 2023, Chapter 516  
50 **63G-2-703**, as last amended by Laws of Utah 2023, Chapters 291, 516  
51 **63G-2-801**, as last amended by Laws of Utah 2019, Chapter 254  
52 **63H-1-202**, as last amended by Laws of Utah 2024, Chapter 514  
53 **67-1b-104**, as enacted by Laws of Utah 2021, Chapter 394  
54 **67-3-1**, as last amended by Laws of Utah 2024, Chapters 3, 158  
55 **77-18-103**, as last amended by Laws of Utah 2024, Chapters 187, 245 and 434  
56 **77-27-5**, as last amended by Laws of Utah 2024, Chapters 145, 187 and 208

## 57 ENACTS:

- 58 **63A-12-201**, Utah Code Annotated 1953  
59 **63A-12-202**, Utah Code Annotated 1953  
60 **63A-12-203**, Utah Code Annotated 1953

## 61 RENUMBERS AND AMENDS:

- 62 **63A-12-204**, (Renumbered from 63A-12-111, as last amended by Laws of Utah 2024,  
63 Chapter 407)

## 64 REPEALS:

65 **63G-2-101**, as renumbered and amended by Laws of Utah 2008, Chapter 382

66 **63G-2-406**, as last amended by Laws of Utah 2013, Chapter 445

67 **63G-2-501**, as last amended by Laws of Utah 2024, Chapter 529

68 **63G-2-502**, as last amended by Laws of Utah 2019, Chapter 254

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

71 Section 1. Section **20A-11-1205** is amended to read:

72 **20A-11-1205 . Use of public email for a political purpose.**

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

75 (a) for a political purpose;

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

78 (c) to solicit a campaign contribution.

79 (2)(a) The lieutenant governor shall, after giving the person and the complainant notice  
80 and an opportunity to be heard, impose a civil fine against a person who violates  
81 Subsection (1) as follows:

82 (i) up to \$250 for a first violation; and

83 (ii) except as provided in Subsection (3), for each subsequent violation committed  
84 after the lieutenant governor imposes a fine against the person for a first violation,  
85 \$1,000 multiplied by the number of violations committed by the person.

86 (b) A person may, within 30 days after the day on which the lieutenant governor  
87 imposes a fine against the person under this Subsection (2), appeal the fine to a  
88 district court.

89 (3) The lieutenant governor shall consider a violation of this section as a first violation if  
90 the violation is committed more than seven years after the day on which the person last  
91 committed a violation of this section.

92 (4) For purposes of this section, one violation means one act of sending an email, regardless  
93 of the number of recipients of the email.

94 (5) A person does not violate this section if:

95 (a) the lieutenant governor finds that the email described in Subsection (1) was  
96 inadvertently sent by the person using the email of a public entity;

97 (b) the person is directly providing information solely to another person or a group of  
98 people in response to a question asked by the other person or group of people;

- 99 (c) the information the person emails is an argument or rebuttal argument prepared  
 100 under Section 20A-7-401.5 or 20A-7-402, and the email includes each opposing  
 101 argument and rebuttal argument that:
- 102 (i) relates to the same proposed initiative, initiative, proposed referendum, or  
 103 referendum; and
- 104 (ii) complies with the requirements of Section 20A-7-401.5 or 20A-7-402; or
- 105 (d) the person is engaging in:
- 106 (i) an internal communication solely within the public entity;
- 107 (ii) a communication solely with another public entity;
- 108 (iii) a communication solely with legal counsel;
- 109 (iv) a communication solely with the sponsors of an initiative or referendum;
- 110 (v) a communication solely with a land developer for a project permitted by a local  
 111 land use law that is challenged by a proposed referendum or a referendum; or
- 112 (vi) a communication solely with a person involved in a business transaction directly  
 113 relating to a project described in Subsection (5)(d)(v).
- 114 (6) A violation of this section does not invalidate an otherwise valid election.
- 115 (7) An email sent in violation of Subsection (1), as determined by the records officer,  
 116 constitutes a record, as defined in Section 63G-2-103, that is subject to the provisions of  
 117 Title 63G, Chapter 2, Government Records Access and Management Act,  
 118 notwithstanding any applicability of Subsection [63G-2-103(25)(b)(i)]  
 119 63G-2-103(26)(b)(i).

120 Section 2. Section **26B-2-709** is amended to read:

121 **26B-2-709 . Complaint investigations -- Records.**

- 122 (1) As used in this section:
- 123 (a) "Anonymous complainant" means a complainant for whom the department does not  
 124 have the minimum personal identifying information necessary, including the  
 125 complainant's full name, to attempt to communicate with the complainant after a  
 126 complaint has been made.
- 127 (b) "Child care program" means the same as that term is defined in Section 26B-2-401.
- 128 (c) "Confidential complainant" means a complainant for whom the department has the  
 129 minimum personal identifying information necessary, including the complainant's  
 130 full name, to attempt to communicate with the complainant after a complaint has  
 131 been made, but who elects under Subsection (3)(c) not to be identified to the subject  
 132 of the complaint.

- 133 (d) "Exempt provider" means the same as that term is defined in Section 26B-2-401.
- 134 (e) "Subject of the complaint" means the provider about whom the complainant is  
135 informing the department.
- 136 (2) The department may conduct investigations necessary to enforce the provisions of this  
137 chapter.
- 138 (3)(a) If the department receives a complaint about a program or facility or an exempt  
139 provider, the department shall:
- 140 (i) solicit information from the complainant to determine whether the complaint  
141 suggests actions or conditions that could pose a serious risk to the safety or  
142 well-being of a client;
- 143 (ii) as necessary:
- 144 (A) encourage the complainant to disclose the minimum personal identifying  
145 information necessary, including the complainant's full name, for the  
146 department to attempt to subsequently communicate with the complainant;
- 147 (B) if the complaint is against a child care program or an exempt provider, inform  
148 the complainant that the department may not investigate an anonymous  
149 complaint;
- 150 (C) if the complaint is not against a child care program or an exempt provider,  
151 inform the complainant that the department may not use information provided  
152 by the complainant to substantiate an alleged violation of state law or  
153 department rule unless the department independently corroborates the  
154 information;
- 155 (D) inform the complainant that the identity of a confidential complainant may be  
156 withheld from the subject of a complaint only as provided in Subsection  
157 (3)(c)(iii); and
- 158 (E) inform the complainant that the department may be limited in its use of  
159 information provided by a confidential complainant, as provided in Subsection  
160 (3)(c)(iii)(B); and
- 161 (iii) inform the complainant that a person is guilty of a class B misdemeanor under  
162 Section 76-8-506 if the person gives false information to the department with the  
163 purpose of inducing a change in that person's or another person's license,  
164 certificate, or certification status.
- 165 (b) If the complainant elects to be an anonymous complainant, or if the complaint  
166 concerns events that occurred more than six months before the complainant contacted

- 167 the department, the department:
- 168 (i) shall refer the information in the complaint to the Division of Child and Family  
169 Services within the department, law enforcement, or any other appropriate agency,  
170 if the complaint suggests actions or conditions which could pose a serious risk to  
171 the safety or well-being of a client;
- 172 (ii) may not investigate or substantiate the complaint if the complaint is against a  
173 child care program or an exempt provider; and
- 174 (iii) may, during a regularly scheduled annual survey, inform the provider that is the  
175 subject of the complaint of allegations or concerns raised by the anonymous  
176 complainant.
- 177 (c)(i) If the complainant elects to be a confidential complainant, the department shall  
178 determine whether the complainant wishes to remain confidential:
- 179 (A) only until the investigation of the complaint has been completed; or  
180 (B) indefinitely.
- 181 (ii) If the complainant elects to remain confidential only until the investigation of the  
182 complaint has been completed, the department shall disclose the name of the  
183 complainant to the subject of the complaint at the completion of the investigation,  
184 but no sooner.
- 185 (iii) If the complainant elects to remain confidential indefinitely, the department:
- 186 (A) [~~notwithstanding Subsection 63G-2-201(5)(b),~~] may not disclose the name of  
187 the complainant, including to the subject of the complaint; and  
188 (B) may not use information provided by the complainant to substantiate an  
189 alleged violation of state law or department rule unless the department  
190 independently corroborates the information.
- 191 (4)(a) Prior to conducting an investigation of a program or facility or an exempt provider  
192 in response to a complaint, a department investigator shall review the complaint with  
193 the investigator's supervisor.
- 194 (b) The investigator may proceed with the investigation only if:
- 195 (i) the supervisor determines the complaint is credible;
- 196 (ii) the complaint is not from an anonymous complainant and against a child care  
197 program or an exempt provider; and
- 198 (iii) prior to the investigation, the investigator informs the subject of the complaint of:
- 199 (A) except as provided in Subsection (3)(c), the name of the complainant; and  
200 (B) except as provided in Subsection (4)(c), the substance of the complaint.

201 (c) An investigator is not required to inform the subject of a complaint of the substance  
 202 of the complaint prior to an investigation if doing so would jeopardize the  
 203 investigation. However, the investigator shall inform the subject of the complaint of  
 204 the substance of the complaint as soon as doing so will no longer jeopardize the  
 205 investigation.

206 (5) If the department is unable to substantiate a complaint, any record related to the  
 207 complaint or the investigation of the complaint[;]  
 208 ~~[(a)]~~ shall be classified under Title 63G, Chapter 2, Government Records Access and  
 209 Management Act, as:  
 210 ~~[(i)]~~ (a) a private or controlled record if appropriate under Section 63G-2-302 or  
 211 63G-2-304; or  
 212 ~~[(ii)]~~ (b) a protected record under Section 63G-2-305[; and] .  
 213 ~~[(b) if disclosed in accordance with Subsection 63G-2-201(5)(b), may not identify an~~  
 214 ~~individual provider, exempt provider, or complainant.]~~

215 (6) Any record of the department related to a complaint is a protected record under Title  
 216 63G, Chapter 2, Government Records Access and Management Act, and[;  
 217 notwithstanding Subsection 63G-2-201(5)(b);] may not be disclosed in a manner that  
 218 identifies an individual program or facility, exempt provider, provider, or complainant.

219 Section 3. Section **53B-16-303** is amended to read:

220 **53B-16-303 . Access to restricted records.**

221 Notwithstanding any other provision of Title 63G, Chapter 2, Government Records  
 222 Access and Management Act, access to records restricted by this part shall only be permitted  
 223 upon:

- 224 (1) written consent of the public institution of higher education originating, receiving, or  
 225 maintaining ~~[such-] the~~ records; or  
 226 (2) a finding by the ~~[State Records Committee-] director of the Government Records Office~~  
 227 or a court that the record has not been properly classified as restricted under Section  
 228 63G-2-302[; provided that the review of a restricted classification of a record shall not  
 229 include considerations of weighing public and private interests regarding access to a  
 230 properly classified record as contained in Subsection 63G-2-403(11)(b) or 63G-2-404(7)  
 231 or Section 63G-2-309. Nothing in this Subsection (2) shall be construed to limit the  
 232 authority of the board to reclassify and disclose a record of a public institution of higher  
 233 education].

234 Section 4. Section **63A-12-101** is amended to read:

235           **63A-12-101 . Division of Archives and Records Service created -- Duties.**

- 236       (1) There is created the Division of Archives and Records Service within the department.
- 237       (2) The state archives shall:
- 238           (a) administer the state's archives and records management programs, including storage
- 239               of records, central reformatting programs, and quality control;
- 240           (b) apply fair, efficient, and economical management methods to the collection, creation,
- 241               use, maintenance, retention, preservation, disclosure, and disposal of records and
- 242               documents;
- 243           (c) establish standards, procedures, and techniques for the effective management and
- 244               physical care of records;
- 245           (d) conduct surveys of office operations and recommend improvements in current
- 246               records management practices, including the use of space, equipment, automation,
- 247               and supplies used in creating, maintaining, storing, and servicing records;
- 248           (e) establish standards for the preparation of schedules providing for the retention of
- 249               records of continuing value and for the prompt and orderly disposal of state records
- 250               no longer possessing sufficient administrative, historical, legal, or fiscal value to
- 251               warrant further retention;
- 252           (f) establish, maintain, and operate centralized reformatting lab facilities and quality
- 253               control for the state;
- 254           (g) provide staff and support services to the Records Management Committee created in
- 255               Section 63A-12-112 and the [~~State Records Committee created in Section 63G-2-501~~]
- 256               Government Records Office, created in Section 63A-12-202;
- 257           (h) develop training programs to assist records officers and other interested officers and
- 258               employees of governmental entities to administer this chapter and Title 63G, Chapter
- 259               2, Government Records Access and Management Act;
- 260           (i) provide access to public records deposited in the archives;
- 261           (j) administer and maintain the Utah Public Notice Website established under Section
- 262               63A-16-601;
- 263           (k) provide assistance to any governmental entity in administering this chapter and Title
- 264               63G, Chapter 2, Government Records Access and Management Act;
- 265           (l) prepare forms for use by all governmental entities for a person requesting access to a
- 266               record; and
- 267           (m) if the department operates the Division of Archives and Records Service as an
- 268               internal service fund agency in accordance with Section 63A-1-109.5, submit to the



- 269 Rate Committee established in Section 63A-1-114:
- 270 (i) the proposed rate schedule as required by Section 63A-1-114; and
- 271 (ii) other information or analysis requested by the Rate Committee.
- 272 (3) The state archives may:
- 273 (a) establish a report and directives management program;
- 274 (b) establish a forms management program; and
- 275 (c) in accordance with Section 63A-12-101, require that an individual undergo a
- 276 background check if the individual:
- 277 (i) applies to be, or currently is, an employee or volunteer of the division; and
- 278 (ii) will have direct access to a vulnerable record in the capacity described in
- 279 Subsection (3)(c)(i).
- 280 (4) The executive director may direct the state archives to administer other functions or
- 281 services consistent with this chapter and Title 63G, Chapter 2, Government Records
- 282 Access and Management Act.

283 Section 5. Section **63A-12-106** is amended to read:

284 **63A-12-106 . Certified and microphotographed copies.**

- 285 (1)(a) Upon demand, the state archives shall furnish certified copies of a record in the
- 286 state archives's exclusive custody that is classified public or that is otherwise
- 287 determined to be public under this chapter by the originating governmental entity, the [  
288 ~~State Records Committee created in Section 63G-2-501~~] director of the Government  
289 Records Office, created in Section 63A-12-202, or a court of law.
- 290 (b) When certified by the state archivist under the seal of the state archives, a copy has
- 291 the same legal force and effect as if certified by the originating governmental entity.
- 292 (2) The state archives may microphotograph records when the state archives determines
- 293 that microphotography is an efficient and economical way to care, maintain, and
- 294 preserve the record. A transcript, exemplification, or certified copy of a
- 295 microphotograph has the same legal force and effect as the original. Upon review and
- 296 approval of the microphotographed film by the state archivist, the source documents
- 297 may be destroyed.
- 298 (3) The state archives may allow another governmental entity to microphotograph records
- 299 in accordance with standards set by the state archives.

300 Section 6. Section **63A-12-201** is enacted to read:

301 **Part 2. Government Records Office**

302 **63A-12-201 . Definitions.**

303 As used in this part:

304 (1) "Director" means the director of the office, appointed under Subsection 63A-12-202(2).

305 (2) "Office" means the Government Records Office, created in Subsection 63A-12-202(1).

306 (3) "Records appeal process" means the process described in Title 63G, Chapter 2, Part 4,  
307 Appeals.

308 Section 7. Section **63A-12-202** is enacted to read:

309 **63A-12-202 . Government Records Office -- Director -- Annual report.**

310 (1) There is created within the division the Government Records Office.

311 (2) The governor shall appoint the director of the office:

312 (a) in consultation with the executive director; and

313 (b) with the advice and consent of the Senate.

314 (3) The director shall be:

315 (a) an attorney in good standing, authorized to practice law in Utah;

316 (b) knowledgeable regarding state law and practices relating to records management,  
317 including the provisions of Title 63G, Chapter 2, Government Records Access and  
318 Management Act;

319 (c) committed to:

320 (i) ensuring that records, and information in records, properly classified as private,  
321 protected, or controlled are disclosed only to the extent expressly provided by law;

322 (ii) protecting the privacy of persons whose information is in the custody of a  
323 government entity; and

324 (iii) the disclosure of records, and information contained in records, to the extent  
325 required by law; and

326 (d) capable of adjudicating appeals relating to the disclosure or nondisclosure of records  
327 in a manner that is impartial, responsible, and strictly in accordance with the  
328 requirements of law.

329 (4)(a) An appointment described in Subsection (2) is for a four year term.

330 (b) The governor may, in accordance with Subsection (2), reappoint the same individual  
331 to consecutive terms as the director.

332 (c) The governor may remove the director with or without cause.

333 (d) Appointment of a director or an interim director is governed by the provisions of  
334 Section 67-1-1.5, relating to an executive branch management position.

335 (5) The Office of the Attorney General shall provide counsel to the office.

336 (6) The office shall, on an annual basis before October 1, electronically transmit a written

337 report to the Government Operations Interim Committee on the work performed by the  
338 office during the previous year.

339 Section 8. Section **63A-12-203** is enacted to read:

340 **63A-12-203 . Duties of director and office -- Reassignment of classification or**  
341 **designation -- Rulemaking authority -- Transition from State Records Committee.**

342 (1) The director shall:

343 (a) supervise and manage the office;

344 (b) appoint and supervise a government records ombudsman to fulfill the duties  
345 described in Section 63A-12-204;

346 (c) administer the records appeal process;

347 (d) hear and decide appeals from determinations of access under Section 63G-2-403; and

348 (e) determine disputes submitted by the state auditor under Subsection 67-3-1(17)(d).

349 (2) The director may:

350 (a) employ staff to support the work of the office;

351 (b) by order, after notice and hearing, reassign classification or designation for any  
352 record series by a governmental entity if the governmental entity's classification or  
353 designation is inconsistent with Title 63G, Chapter 2, Government Records Access  
354 and Management Act; and

355 (c) designate another individual to hear and decide appeals for a specific case if the  
356 director has a conflict of interest in relation to that case.

357 (3) The office shall be a resource to citizens and government entities in relation to  
358 government records, including:

359 (a) ensuring lawful access to records;

360 (b) ensuring the lawful restriction of access to records;

361 (c) classification of records;

362 (d) retention of records; and

363 (e) resolving records disputes informally, via informal mediation, or via the records  
364 appeal process.

365 (4)(a) An affected governmental entity or any other interested person may appeal the  
366 reassignment of a record under Subsection (2)(b) to a district court within 30 days  
367 after the day on which the director makes the reassignment.

368 (b) The district court shall hear an appeal described in Subsection (4)(a) de novo.

369 (5) The director shall make rules, in accordance with Title 63G, Chapter 3, Utah

370 Administrative Rulemaking Act, to govern the procedures and proceedings for appeals

371 made to the director as described in this part.

372 (6) The director shall, to the extent practicable and until the rules described in Subsection  
 373 (5) are in effect, utilize the rules made by the former State Records Committee before  
 374 January 1, 2025, with the director acting in place of the former State Records Committee.

375 (7) Any case or other matter that was, before appointment of the first director, pending  
 376 before the former State Records Committee, is transferred to the director for resolution  
 377 upon the director's appointment, to be resolved as soon as reasonably possible.

378 Section 9. Section **63A-12-204**, which is renumbered from Section 63A-12-111 is renumbered  
 379 and amended to read:

380 **[63A-12-111] 63A-12-204 . Government records ombudsman.**

381 ~~[(1)(a) The director of the division shall appoint a government records ombudsman.]~~

382 ~~[(b) The government records ombudsman may not be a member of the State Records~~  
 383 ~~Committee created in Section 63G-2-501.]~~

384 ~~[(2)] (1)(a) The government records ombudsman, appointed under Section 63A-12-202,~~  
 385 ~~shall:~~

386 (i) be familiar with the provisions of Title 63G, Chapter 2, Government Records  
 387 Access and Management Act;

388 (ii) serve as a resource for a person who is making or responding to a records request  
 389 or filing an appeal relating to a records request; and

390 (iii) upon a request from a requester or responder, and with the consent of both the  
 391 requester and responder, mediate a dispute between a requester and responder,  
 392 including a dispute between a requester and a governmental entity regarding the  
 393 governmental entity's access denial, as defined in Section 63G-2-400.5[; ~~and~~].

394 ~~[(iv) on an annual basis, electronically transmit a written report to the Government~~  
 395 ~~Operations Interim Committee on the work performed by the government records~~  
 396 ~~ombudsman during the previous year.]~~

397 (b)(i) Before the conclusion of a mediation under Subsection ~~[(2)(a)(iii)] (1)(a)(iii)~~, a  
 398 requester or responder may withdraw consent for the mediation.

399 (ii) If a requester or responder withdraws consent under Subsection ~~[(2)(b)(i)] (1)(b)(i)~~,  
 400 the government records ombudsman shall ~~certify, as provided in Subsection~~  
 401 ~~(4)(a)(ii)]~~, in accordance with Subsection (3)(a)(ii), certify that the mediation was  
 402 not concluded because of a lack of the required consent.

403 ~~[(3)] (2) The government records ombudsman may not testify, or be compelled to testify, [~~  
 404 ~~before the State Records Committee created in Section 63G-2-501, another] regarding a~~

- 405 matter for which the government records ombudsman provides services under this  
 406 section:
- 407 (a) in an appeals proceeding described in Title 63G, Chapter 2, Part 4, Appeals; or  
 408 (b) before an administrative body[-] or a court[- regarding a matter that the government  
 409 records ombudsman provided services in relation to under this section].
- 410 [(4)] (3) Upon the conclusion of a mediation [~~under Subsection (2)(a)(iii)] described in  
 411 Subsection (1)(a)(iii), or upon the government records ombudsman's determination that  
 412 the required consent for the mediation is lacking, the government records ombudsman  
 413 shall:~~
- 414 (a) certify in writing that the mediation:  
 415 (i) is concluded; or  
 416 (ii) did not take place or was not concluded because of a lack of the required consent;  
 417 and
- 418 (b) provide a copy of the written certification to the requester and the responder.
- 419 Section 10. Section **63G-2-103** is amended to read:
- 420 **63G-2-103 . Definitions.**
- 421 As used in this chapter:
- 422 (1) "Audit" means:
- 423 (a) a systematic examination of financial, management, program, and related records for  
 424 the purpose of determining the fair presentation of financial statements, adequacy of  
 425 internal controls, or compliance with laws and regulations; or
- 426 (b) a systematic examination of program procedures and operations for the purpose of  
 427 determining their effectiveness, economy, efficiency, and compliance with statutes  
 428 and regulations.
- 429 (2) "Chronological logs" mean the regular and customary summary records of law  
 430 enforcement agencies and other public safety agencies that show:
- 431 (a) the time and general nature of police, fire, and paramedic calls made to the agency;  
 432 and
- 433 (b) any arrests or jail bookings made by the agency.
- 434 (3) "Classification," "classify," and their derivative forms mean determining whether a  
 435 record series, record, or information within a record is public, private, controlled,  
 436 protected, or exempt from disclosure under Subsection 63G-2-201(3)(b).
- 437 (4)(a) "Computer program" means:
- 438 (i) a series of instructions or statements that permit the functioning of a computer

- 439 system in a manner designed to provide storage, retrieval, and manipulation of  
440 data from the computer system; and
- 441 (ii) any associated documentation and source material that explain how to operate the  
442 computer program.
- 443 (b) "Computer program" does not mean:
- 444 (i) the original data, including numbers, text, voice, graphics, and images;
- 445 (ii) analysis, compilation, and other manipulated forms of the original data produced  
446 by use of the program; or
- 447 (iii) the mathematical or statistical formulas, excluding the underlying mathematical  
448 algorithms contained in the program, that would be used if the manipulated forms  
449 of the original data were to be produced manually.
- 450 (5)(a) "Contractor" means:
- 451 (i) any person who contracts with a governmental entity to provide goods or services  
452 directly to a governmental entity; or
- 453 (ii) any private, nonprofit organization that receives funds from a governmental entity.
- 454 (b) "Contractor" does not mean a private provider.
- 455 (6) "Controlled record" means a record containing data on individuals that is controlled as  
456 provided by Section 63G-2-304.
- 457 (7) "Designation," "designate," and their derivative forms mean indicating, based on a  
458 governmental entity's familiarity with a record series or based on a governmental entity's  
459 review of a reasonable sample of a record series, the primary classification that a  
460 majority of records in a record series would be given if classified and the classification  
461 that other records typically present in the record series would be given if classified.
- 462 (8) "Elected official" means each person elected to a state office, county office, municipal  
463 office, school board or school district office, special district office, or special service  
464 district office, but does not include judges.
- 465 (9) "Explosive" means a chemical compound, device, or mixture:
- 466 (a) commonly used or intended for the purpose of producing an explosion; and
- 467 (b) that contains oxidizing or combustive units or other ingredients in proportions,  
468 quantities, or packing so that:
- 469 (i) an ignition by fire, friction, concussion, percussion, or detonator of any part of the  
470 compound or mixture may cause a sudden generation of highly heated gases; and
- 471 (ii) the resultant gaseous pressures are capable of:
- 472 (A) producing destructive effects on contiguous objects; or

- 473 (B) causing death or serious bodily injury.
- 474 (10) "Government audit agency" means any governmental entity that conducts an audit.
- 475 (11)(a) "Governmental entity" means:
- 476 (i) executive department agencies of the state, the offices of the governor, lieutenant  
477 governor, state auditor, attorney general, and state treasurer, the Board of Pardons  
478 and Parole, the Board of Examiners, the National Guard, the Career Service  
479 Review Office, the State Board of Education, the Utah Board of Higher  
480 Education, and the State Archives;
- 481 (ii) the Office of the Legislative Auditor General, Office of the Legislative Fiscal  
482 Analyst, Office of Legislative Research and General Counsel, the Legislature, and  
483 legislative committees, except any political party, group, caucus, or rules or sifting  
484 committee of the Legislature;
- 485 (iii) courts, the Judicial Council, the Administrative Office of the Courts, and similar  
486 administrative units in the judicial branch;
- 487 (iv) any state-funded institution of higher education or public education; or
- 488 (v) any political subdivision of the state, but, if a political subdivision has adopted an  
489 ordinance or a policy relating to information practices pursuant to Section  
490 63G-2-701, this chapter shall apply to the political subdivision to the extent  
491 specified in Section 63G-2-701 or as specified in any other section of this chapter  
492 that specifically refers to political subdivisions.
- 493 (b) "Governmental entity" also means:
- 494 (i) every office, agency, board, bureau, committee, department, advisory board, or  
495 commission of an entity listed in Subsection (11)(a) that is funded or established  
496 by the government to carry out the public's business;
- 497 (ii) as defined in Section 11-13-103, an interlocal entity or joint or cooperative  
498 undertaking, except for the Water District Water Development Council created  
499 pursuant to Section 11-13-228;
- 500 (iii) as defined in Section 11-13a-102, a governmental nonprofit corporation;
- 501 (iv) an association as defined in Section 53G-7-1101;
- 502 (v) the Utah Independent Redistricting Commission; and
- 503 (vi) a law enforcement agency, as defined in Section 53-1-102, that employs one or  
504 more law enforcement officers, as defined in Section 53-13-103.
- 505 (c) "Governmental entity" does not include the Utah Educational Savings Plan created in  
506 Section 53B-8a-103.

- 507 (12) "Government Records Office" means the same as that term is defined in Section  
508 63A-12-201.
- 509 [(12)] (13) "Gross compensation" means every form of remuneration payable for a given  
510 period to an individual for services provided including salaries, commissions, vacation  
511 pay, severance pay, bonuses, and any board, rent, housing, lodging, payments in kind,  
512 and any similar benefit received from the individual's employer.
- 513 [(13)] (14) "Individual" means a human being.
- 514 [(14)] (15)(a) "Initial contact report" means an initial written or recorded report, however  
515 titled, prepared by peace officers engaged in public patrol or response duties  
516 describing official actions initially taken in response to either a public complaint  
517 about or the discovery of an apparent violation of law, which report may describe:
- 518 (i) the date, time, location, and nature of the complaint, the incident, or offense;
  - 519 (ii) names of victims;
  - 520 (iii) the nature or general scope of the agency's initial actions taken in response to the  
521 incident;
  - 522 (iv) the general nature of any injuries or estimate of damages sustained in the incident;
  - 523 (v) the name, address, and other identifying information about any person arrested or  
524 charged in connection with the incident; or
  - 525 (vi) the identity of the public safety personnel, except undercover personnel, or  
526 prosecuting attorney involved in responding to the initial incident.
- 527 (b) Initial contact reports do not include follow-up or investigative reports prepared after  
528 the initial contact report. However, if the information specified in Subsection [(14)(a)]  
529 (15)(a) appears in follow-up or investigative reports, it may only be treated  
530 confidentially if it is private, controlled, protected, or exempt from disclosure under  
531 Subsection 63G-2-201(3)(b).
- 532 (c) Initial contact reports do not include accident reports, as that term is described in  
533 Title 41, Chapter 6a, Part 4, Accident Responsibilities.
- 534 [(15)] (16) "Legislative body" means the Legislature.
- 535 [(16)] (17) "Notice of compliance" means a statement confirming that a governmental entity  
536 has complied with an order of the [~~State Records Committee~~] director of the Government  
537 Records Office.
- 538 [(17)] (18) "Person" means:
- 539 (a) an individual;
  - 540 (b) a nonprofit or profit corporation;



- 541 (c) a partnership;
- 542 (d) a sole proprietorship;
- 543 (e) other type of business organization; or
- 544 (f) any combination acting in concert with one another.
- 545 ~~[(18)]~~ (19) "Personal identifying information" means the same as that term is defined in
- 546 Section 63A-12-100.5.
- 547 ~~[(19)]~~ (20) "Privacy annotation" means the same as that term is defined in Section
- 548 63A-12-100.5.
- 549 ~~[(20)]~~ (21) "Private provider" means any person who contracts with a governmental entity to
- 550 provide services directly to the public.
- 551 ~~[(21)]~~ (22) "Private record" means a record containing data on individuals that is private as
- 552 provided by Section 63G-2-302.
- 553 ~~[(22)]~~ (23) "Protected record" means a record that is classified protected as provided by
- 554 Section 63G-2-305.
- 555 ~~[(23)]~~ (24) "Public record" means a record that is not private, controlled, or protected and
- 556 that is not exempt from disclosure as provided in Subsection 63G-2-201(3)(b).
- 557 ~~[(24)]~~ (25) "Reasonable search" means a search that is:
- 558 (a) reasonable in scope and intensity; and
- 559 (b) not unreasonably burdensome for the government entity.
- 560 ~~[(25)]~~ (26)(a) "Record" means a book, letter, document, paper, map, plan, photograph,
- 561 film, card, tape, recording, electronic data, or other documentary material regardless
- 562 of physical form or characteristics:
- 563 (i) that is prepared, owned, received, or retained by a governmental entity or political
- 564 subdivision; and
- 565 (ii) where all of the information in the original is reproducible by photocopy or other
- 566 mechanical or electronic means.
- 567 (b) "Record" does not include:
- 568 (i) a personal note or personal communication prepared or received by an employee
- 569 or officer of a governmental entity:
- 570 (A) in a capacity other than the employee's or officer's governmental capacity; or
- 571 (B) that is unrelated to the conduct of the public's business;
- 572 (ii) a temporary draft or similar material prepared for the originator's personal use or
- 573 prepared by the originator for the personal use of an individual for whom the
- 574 originator is working;

- 575 (iii) material that is legally owned by an individual in the individual's private capacity;  
576 (iv) material to which access is limited by the laws of copyright or patent unless the  
577 copyright or patent is owned by a governmental entity or political subdivision;  
578 (v) proprietary software;  
579 (vi) junk mail or a commercial publication received by a governmental entity or an  
580 official or employee of a governmental entity;  
581 (vii) a book that is cataloged, indexed, or inventoried and contained in the collections  
582 of a library open to the public;  
583 (viii) material that is cataloged, indexed, or inventoried and contained in the  
584 collections of a library open to the public, regardless of physical form or  
585 characteristics of the material;  
586 (ix) a daily calendar ;  
587 (x) a note prepared by the originator for the originator's own use or for the sole use of  
588 an individual for whom the originator is working;  
589 (xi) a computer program that is developed or purchased by or for any governmental  
590 entity for its own use;  
591 (xii) a note or internal memorandum prepared as part of the deliberative process by:  
592 (A) a member of the judiciary;  
593 (B) an administrative law judge;  
594 (C) a member of the Board of Pardons and Parole; or  
595 (D) a member of any other body, other than an association or appeals panel as  
596 defined in Section 53G-7-1101, charged by law with performing a  
597 quasi-judicial function;  
598 (xiii) a telephone number or similar code used to access a mobile communication  
599 device that is used by an employee or officer of a governmental entity, provided  
600 that the employee or officer of the governmental entity has designated at least one  
601 business telephone number that is a public record as provided in Section  
602 63G-2-301;  
603 (xiv) information provided by the Public Employees' Benefit and Insurance Program,  
604 created in Section 49-20-103, to a county to enable the county to calculate the  
605 amount to be paid to a health care provider under Subsection 17-50-319(2)(e)(ii);  
606 (xv) information that an owner of unimproved property provides to a local entity as  
607 provided in Section 11-42-205;  
608 (xvi) a video or audio recording of an interview, or a transcript of the video or audio

- 609 recording, that is conducted at a Children's Justice Center established under  
 610 Section 67-5b-102;
- 611 (xvii) child sexual abuse material, as defined by Section 76-5b-103;
- 612 (xviii) before final disposition of an ethics complaint occurs, a video or audio  
 613 recording of the closed portion of a meeting or hearing of:
- 614 (A) a Senate or House Ethics Committee;
- 615 (B) the Independent Legislative Ethics Commission;
- 616 (C) the Independent Executive Branch Ethics Commission, created in Section  
 617 63A-14-202; or
- 618 (D) the Political Subdivisions Ethics Review Commission established in Section  
 619 63A-15-201;
- 620 (xix) confidential communication described in Section 58-60-102, 58-61-102, or  
 621 58-61-702;
- 622 (xx) any item described in Subsection [~~(25)~~(a)] (26)(a) that is:
- 623 (A) described in Subsection 63G-2-305(17), (18), or (23)(b); and
- 624 (B) shared between any of the following entities:
- 625 (I) the Division of Risk Management;
- 626 (II) the Office of the Attorney General;
- 627 (III) the governor's office; or
- 628 (IV) the Legislature; or
- 629 (xxi) the email address that a candidate for elective office provides to a filing officer  
 630 under Subsection 20A-9-201(5)(c)(ii) or 20A-9-203(4)(c)(iv).
- 631 [~~(26)~~] (27) "Record series" means a group of records that may be treated as a unit for  
 632 purposes of designation, description, management, or disposition.
- 633 [~~(27)~~] (28) "Records officer" means the individual appointed by the chief administrative  
 634 officer of each governmental entity, or the political subdivision to work with state  
 635 archives in the care, maintenance, scheduling, designation, classification, disposal, and  
 636 preservation of records.
- 637 [~~(28)~~] (29) "Schedule," "scheduling," and their derivative forms mean the process of  
 638 specifying the length of time each record series should be retained by a governmental  
 639 entity for administrative, legal, fiscal, or historical purposes and when each record series  
 640 should be transferred to the state archives or destroyed.
- 641 [~~(29)~~] (30) "Sponsored research" means research, training, and other sponsored activities as  
 642 defined by the federal Executive Office of the President, Office of Management and

643 Budget:

644 (a) conducted:

645 (i) by an institution within the state system of higher education defined in Section  
646 53B-1-102; and

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

648 (b) funded or otherwise supported by an external:

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

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

652 ~~[(30)]~~ (31) "State archives" means the Division of Archives and Records Service created in  
653 Section 63A-12-101.

654 ~~[(31)]~~ (32) "State archivist" means the director of the state archives.

655 ~~[(32) "State Records Committee" means the State Records Committee created in Section  
656 63G-2-501.]~~

657 (33) "Summary data" means statistical records and compilations that contain data derived  
658 from private, controlled, or protected information but that do not disclose private,  
659 controlled, or protected information.

660 Section 11. Section **63G-2-201** is amended to read:

661 **63G-2-201 . Provisions relating to records -- Public records -- Private, controlled,**  
662 **protected, and other restricted records -- Disclosure and nondisclosure of records --**  
663 **Certified copy of record -- Limits on obligation to respond to record request.**

664 (1)(a) Except as provided in Subsection (1)(b), a person has the right to inspect a public  
665 record free of charge, and the right to take a copy of a public record during normal  
666 working hours, subject to Sections 63G-2-203 and 63G-2-204.

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

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

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

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

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

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

- 677 (2) A record is public unless otherwise expressly provided by statute.
- 678 (3) The following records are not public:
- 679 (a) a record that is private, controlled, or protected under Sections 63G-2-302, 63G-2-303,  
680 63G-2-304, and 63G-2-305; and
- 681 (b) a record to which access is restricted pursuant to court rule, another state statute,  
682 federal statute, or federal regulation, including records for which access is governed  
683 or restricted as a condition of participation in a state or federal program or for  
684 receiving state or federal funds.
- 685 (4) Only a record specified in Section 63G-2-302, 63G-2-303, 63G-2-304, or 63G-2-305  
686 may be classified private, controlled, or protected.
- 687 (5)(a) A governmental entity may not disclose a record that is private, controlled, or  
688 protected to any person except as provided in Subsection (5)(b)[, Subsection (5)(e),]  
689 or Section 63G-2-202, 63G-2-206, or 63G-2-303.
- 690 ~~[(b) A governmental entity may disclose a record that is private under Subsection~~  
691 ~~63G-2-302(2) or protected under Section 63G-2-305 to persons other than those~~  
692 ~~specified in Section 63G-2-202 or 63G-2-206 if the head of a governmental entity, or~~  
693 ~~a designee, determines that:]~~
- 694 ~~[(i) there is no interest in restricting access to the record; or]~~  
695 ~~[(ii) the interests favoring access are greater than or equal to the interest favoring~~  
696 ~~restriction of access.]~~
- 697 ~~[(e)] (b) [In addition to the disclosure under Subsection (5)(b), a] A governmental entity~~  
698 ~~may disclose a record that is protected under Subsection 63G-2-305(51) if:~~
- 699 (i) the head of the governmental entity, or a designee, determines that the disclosure:
- 700 (A) is mutually beneficial to:
- 701 (I) the subject of the record;
- 702 (II) the governmental entity; and
- 703 (III) the public; and
- 704 (B) serves a public purpose related to:
- 705 (I) public safety; or
- 706 (II) consumer protection; and
- 707 (ii) the person who receives the record from the governmental entity agrees not to use  
708 or allow the use of the record for advertising or solicitation purposes.
- 709 (6) A governmental entity shall provide a person with a certified copy of a record if:
- 710 (a) the person requesting the record has a right to inspect it;

- 711 (b) the person identifies the record with reasonable specificity; and  
712 (c) the person pays the lawful fees.
- 713 (7)(a) In response to a request, a governmental entity is not required to:
- 714 (i) create a record;
- 715 (ii) compile, format, manipulate, package, summarize, or tailor information;
- 716 (iii) provide a record in a particular format, medium, or program not currently  
717 maintained by the governmental entity;
- 718 (iv) fulfill a person's records request if the request unreasonably duplicates prior  
719 records requests from that person;
- 720 (v) fill a person's records request if:
- 721 (A) the record requested is:
- 722 (I) publicly accessible online; or
- 723 (II) included in a public publication or product produced by the governmental  
724 entity receiving the request; and
- 725 (B) the governmental entity:
- 726 (I) specifies to the person requesting the record where the record is accessible  
727 online; or
- 728 (II) provides the person requesting the record with the public publication or  
729 product and specifies where the record can be found in the public  
730 publication or product; or
- 731 (vi) fulfill a person's records request if:
- 732 (A) the person has been determined under Section 63G-2-209 to be a vexatious  
733 requester;
- 734 (B) the ~~[State Records Committee]~~order of the director of the Government  
735 Records Office determining the person to be a vexatious requester provides  
736 that the governmental entity is not required to fulfill a request from the person  
737 for a period of time; and
- 738 (C) the period of time described in Subsection (7)(a)(vi)(B) has not expired.
- 739 (b) A governmental entity shall conduct a reasonable search for a requested record.
- 740 (8)(a) Although not required to do so, a governmental entity may, upon request from the  
741 person who submitted the records request, compile, format, manipulate, package,  
742 summarize, or tailor information or provide a record in a format, medium, or program  
743 not currently maintained by the governmental entity.
- 744 (b) In determining whether to fulfill a request described in Subsection (8)(a), a

745 governmental entity may consider whether the governmental entity is able to fulfill  
746 the request without unreasonably interfering with the governmental entity's duties  
747 and responsibilities.

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

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

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

757 (i) the first five record requests submitted to the governmental entity by or in behalf  
758 of an individual described in Subsection (9)(a) during any calendar year  
759 requesting only a record that contains a specific reference to the individual; or

760 (ii) a record request that is submitted by an attorney of an individual described in  
761 Subsection (9)(a).

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

764 (i) the records are contained in files that do not contain records that are exempt from  
765 disclosure, or the records may be segregated to remove private, protected, or  
766 controlled information from disclosure; and

767 (ii) the governmental entity provides reasonable safeguards to protect the public from  
768 the potential for loss of a public record.

769 (b) If the requirements of Subsection (10)(a) are met, the governmental entity may:

770 (i) provide the requester with the facilities for copying the requested records and  
771 require that the requester make the copies; or

772 (ii) allow the requester to provide the requester's own copying facilities and personnel  
773 to make the copies at the governmental entity's offices and waive the fees for  
774 copying the records.

775 (11)(a) A governmental entity that owns an intellectual property right and that offers the  
776 intellectual property right for sale or license may control by ordinance or policy the  
777 duplication and distribution of the material based on terms the governmental entity  
778 considers to be in the public interest.

779 (b) Nothing in this chapter shall be construed to limit or impair the rights or protections  
 780 granted to the governmental entity under federal copyright or patent law as a result of  
 781 its ownership of the intellectual property right.

782 (12) A governmental entity may not use the physical form, electronic or otherwise, in  
 783 which a record is stored to deny, or unreasonably hinder the rights of a person to inspect  
 784 and receive a copy of a record under this chapter.

785 (13) Subject to the requirements of Subsection (7), a governmental entity shall provide  
 786 access to an electronic copy of a record in lieu of providing access to its paper  
 787 equivalent if:

788 (a) the person making the request requests or states a preference for an electronic copy;

789 (b) the governmental entity currently maintains the record in an electronic format that is  
 790 reproducible and may be provided without reformatting or conversion; and

791 (c) the electronic copy of the record:

792 (i) does not disclose other records that are exempt from disclosure; or

793 (ii) may be segregated to protect private, protected, or controlled information from  
 794 disclosure without the undue expenditure of public resources or funds.

795 [~~(14) In determining whether a record is properly classified as private under Subsection~~  
 796 ~~63G-2-302(2)(d), the governmental entity, State Records Committee, local appeals~~  
 797 ~~board, or court shall consider and weigh:]~~

798 [~~(a) any personal privacy interests, including those in images, that would be affected by~~  
 799 ~~disclosure of the records in question; and]~~

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

801 Section 12. Section **63G-2-202** is amended to read:

802 **63G-2-202 . Access to private, controlled, and protected documents.**

803 (1) Except as provided in Subsection ~~[(11)(a)]~~ (10)(a), a governmental entity:

804 (a) shall, upon request, disclose a private record to:

805 (i) the subject of the record;

806 (ii) the parent or legal guardian of an unemancipated minor who is the subject of the  
 807 record;

808 (iii) the legal guardian of a legally incapacitated individual who is the subject of the  
 809 record;

810 (iv) any other individual who:

811 (A) has a power of attorney from the subject of the record;

812 (B) submits a notarized release from the subject of the record or the individual's



- 813 legal representative dated no more than 90 days before the date the request is  
814 made; or
- 815 (C) if the record is a medical record described in Subsection 63G-2-302(1)(b), is a  
816 health care provider, as defined in Section 26B-8-501, if releasing the record or  
817 information in the record is consistent with normal professional practice and  
818 medical ethics; or
- 819 (v) any person to whom the record must be provided pursuant to:
- 820 (A) court order as provided in Subsection (7); or
- 821 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative  
822 Subpoena Powers; and
- 823 (b) may disclose a private record described in Subsections 63G-2-302(1)(j) through (m),  
824 without complying with Section 63G-2-206, to another governmental entity for a  
825 purpose related to:
- 826 (i) voter registration; or
- 827 (ii) the administration of an election.
- 828 (2)(a) Upon request, a governmental entity shall disclose a controlled record to:
- 829 (i) a physician, physician assistant, psychologist, certified social worker, insurance  
830 provider or producer, or a government public health agency upon submission of:
- 831 (A) a release from the subject of the record that is dated no more than 90 days  
832 prior to the date the request is made; and
- 833 (B) a signed acknowledgment of the terms of disclosure of controlled information  
834 as provided by Subsection (2)(b); and
- 835 (ii) any person to whom the record must be disclosed pursuant to:
- 836 (A) a court order as provided in Subsection (7); or
- 837 (B) a legislative subpoena as provided in Title 36, Chapter 14, Legislative  
838 Subpoena Powers.
- 839 (b) A person who receives a record from a governmental entity in accordance with  
840 Subsection (2)(a)(i) may not disclose controlled information from that record to any  
841 person, including the subject of the record.
- 842 (3) If there is more than one subject of a private or controlled record, the portion of the  
843 record that pertains to another subject shall be segregated from the portion that the  
844 requester is entitled to inspect.
- 845 (4) Upon request, and except as provided in Subsection [~~(11)(b)~~] (10)(b), a governmental  
846 entity shall disclose a protected record to:

- 847 (a) the person that submitted the record;
- 848 (b) any other individual who:
- 849 (i) has a power of attorney from all persons, governmental entities, or political
- 850 subdivisions whose interests were sought to be protected by the protected
- 851 classification; or
- 852 (ii) submits a notarized release from all persons, governmental entities, or political
- 853 subdivisions whose interests were sought to be protected by the protected
- 854 classification or from their legal representatives dated no more than 90 days prior
- 855 to the date the request is made;
- 856 (c) any person to whom the record must be provided pursuant to:
- 857 (i) a court order as provided in Subsection (7); or
- 858 (ii) a legislative subpoena as provided in Title 36, Chapter 14, Legislative Subpoena
- 859 Powers; or
- 860 (d) the owner of a mobile home park, subject to the conditions of Subsection 41-1a-116
- 861 (5).
- 862 (5) Except as provided in Subsection (1)(b), a governmental entity may disclose a private,
- 863 controlled, or protected record to another governmental entity, political subdivision,
- 864 state, the United States, or a foreign government only as provided by Section 63G-2-206.
- 865 (6) Before releasing a private, controlled, or protected record, the governmental entity shall
- 866 obtain evidence of the requester's identity.
- 867 (7) A governmental entity shall disclose a record pursuant to the terms of a court order
- 868 signed by a judge from a court of competent jurisdiction, provided that:
- 869 (a) the record deals with a matter in controversy over which the court has jurisdiction;
- 870 (b) the court has considered the merits of the request for access to the record;
- 871 (c) the court has considered and, where appropriate, limited the requester's use and
- 872 further disclosure of the record in order to protect:
- 873 (i) privacy interests in the case of private or controlled records;
- 874 (ii) business confidentiality interests in the case of records protected under
- 875 Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and
- 876 (iii) privacy interests or the public interest in the case of other protected records;
- 877 (d) to the extent the record is properly classified private, controlled, or protected, the
- 878 interests favoring access, considering limitations thereon, are greater than or equal to
- 879 the interests favoring restriction of access; and
- 880 (e) where access is restricted by a rule, statute, or regulation referred to in Subsection

- 881 63G-2-201(3)(b), the court has authority independent of this chapter to order  
882 disclosure.
- 883 (8)(a) Except as provided in Subsection (8)(d), a governmental entity may disclose or  
884 authorize disclosure of private or controlled records for research purposes if the  
885 governmental entity:
- 886 (i) determines that the research purpose cannot reasonably be accomplished without  
887 use or disclosure of the information to the researcher in individually identifiable  
888 form;
  - 889 (ii) determines that:
    - 890 (A) the proposed research is bona fide; and
    - 891 (B) the value of the research is greater than or equal to the infringement upon  
892 personal privacy;
  - 893 (iii)(A) requires the researcher to assure the integrity, confidentiality, and security  
894 of the records; and
    - 895 (B) requires the removal or destruction of the individual identifiers associated  
896 with the records as soon as the purpose of the research project has been  
897 accomplished;
  - 898 (iv) prohibits the researcher from:
    - 899 (A) disclosing the record in individually identifiable form, except as provided in  
900 Subsection (8)(b); or
    - 901 (B) using the record for purposes other than the research approved by the  
902 governmental entity; and
  - 903 (v) secures from the researcher a written statement of the researcher's understanding  
904 of and agreement to the conditions of this Subsection (8) and the researcher's  
905 understanding that violation of the terms of this Subsection (8) may subject the  
906 researcher to criminal prosecution under Section 63G-2-801.
- 907 (b) A researcher may disclose a record in individually identifiable form if the record is  
908 disclosed for the purpose of auditing or evaluating the research program and no  
909 subsequent use or disclosure of the record in individually identifiable form will be  
910 made by the auditor or evaluator except as provided by this section.
- 911 (c) A governmental entity may require indemnification as a condition of permitting  
912 research under this Subsection (8).
- 913 (d) A governmental entity may not disclose or authorize disclosure of a private record  
914 for research purposes as described in this Subsection (8) if the private record is a

915 record described in Subsection 63G-2-302(1)(w).

916 ~~[(9)(a) Under Subsections 63G-2-201(5)(b) and 63G-2-401(6), a governmental entity~~

917 ~~may disclose to persons other than those specified in this section records that are:]~~

918 ~~[(i) private under Section 63G-2-302; or]~~

919 ~~[(ii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for~~

920 ~~business confidentiality has been made under Section 63G-2-309.]~~

921 ~~[(b) Under Subsection 63G-2-403(11)(b), the State Records Committee may require the~~

922 ~~disclosure to persons other than those specified in this section of records that are:]~~

923 ~~[(i) private under Section 63G-2-302;]~~

924 ~~[(ii) controlled under Section 63G-2-304; or]~~

925 ~~[(iii) protected under Section 63G-2-305, subject to Section 63G-2-309 if a claim for~~

926 ~~business confidentiality has been made under Section 63G-2-309.]~~

927 ~~[(c) Under Subsection 63G-2-404(7), the court may require the disclosure of records that~~

928 ~~are private under Section 63G-2-302, controlled under Section 63G-2-304, or~~

929 ~~protected under Section 63G-2-305 to persons other than those specified in this~~

930 ~~section.]~~

931 ~~[(10)] (9)(a) A private record described in Subsection 63G-2-302(2)(f) may only be~~

932 ~~disclosed as provided in Subsection (1)(a)(v).~~

933 (b) A protected record described in Subsection 63G-2-305(43) may only be disclosed as

934 provided in Subsection (4)(c) or Section 26B-6-212.

935 ~~[(11)] (10)(a) A private, protected, or controlled record described in Section 26B-1-506~~

936 ~~shall be disclosed as required under:~~

937 (i) Subsections 26B-1-506(1)(b) and (2); and

938 (ii) Subsections 26B-1-507(1) and (6).

939 (b) A record disclosed under Subsection ~~[(11)(a)] (10)(a)~~ shall retain its character as

940 private, protected, or controlled.

941 Section 13. Section **63G-2-209** is amended to read:

942 **63G-2-209 . Vexatious requester.**

943 (1) As used in this section:

944 [(a) "Committee" means the State Records Committee created in Section 63G-2-501.]

945 [(b) "Executive secretary" means an individual appointed as executive secretary under

946 Subsection 63G-2-502(3).]

947 (a) "Director" means the director of the Government Records Office, created in Section

948 63A-12-202.

949 [(e)] (b) "Respondent" means a person that a governmental entity claims is a vexatious  
 950 requester under this section.

951 (2)(a) A governmental entity may file a petition with the [~~committee~~] director to request  
 952 relief from a person that the governmental entity claims is a vexatious requester.

953 (b) A petition under Subsection (2)(a) shall[;]

954 [(i) be filed with the committee by submitting the petition to the executive secretary;  
 955 and]

956 [(ii)] \_contain:

957 [(A)] (i) the name, phone number, mailing address, and email address that the  
 958 respondent submitted to the governmental entity;

959 [(B)] (ii) a description of the conduct that the governmental entity claims  
 960 demonstrates that the respondent is a vexatious requester;

961 [(C)] (iii) a statement of the relief the governmental entity seeks; and

962 [(D)] (iv) a sworn declaration or an unsworn declaration, as those terms are defined in  
 963 Section 78B-18a-102.

964 (c) On the day the governmental entity files a petition under Subsection (2)(a), the  
 965 governmental entity shall send a copy of the petition to the respondent.

966 (3)(a) Except as provided in Subsection (3)(c), no later than seven business days after  
 967 receiving the petition[ ~~the executive secretary~~] , the director shall schedule a hearing[  
 968 ~~for the committee~~] to consider the petition, to be held:

969 (i)(A) at the next [~~regularly scheduled committee meeting falling~~]  
 970 regularly-scheduled hearing date that is at least 16 calendar days after the [~~date~~]  
 971 day on which the petition is filed but no later than 64 calendar days after the [~~date~~]  
 972 day on which the petition is filed; or

973 (B) at a [~~regularly scheduled committee meeting~~] regularly-scheduled hearing date  
 974 that is later than the period described in Subsection (3)(a)(i)(A) if the later [~~committee meeting~~]  
 975 hearing date is the first [~~regularly scheduled committee meeting~~]  
 976 regularly-scheduled hearing date at which there are fewer than 10  
 977 appeals scheduled to be heard; or

978 (ii) to the extent practicable, at a date sooner than a period described in Subsection  
 979 (3)(a)(i) if the governmental entity:

980 (A) requests an expedited hearing; and

981 (B) shows good cause for the expedited hearing.

982 (b) If the [~~executive secretary~~] director schedules a hearing under Subsection (3)(a), the [

983 executive secretary] director shall:

984 [(i) send a copy of the petition to each member of the committee;]

985 [(ii) (i) send a copy of the notice of hearing to the governmental entity[;] and the

986 respondent[; and each member of the committee]; and

987 [(iii) (ii) if applicable, send a copy of the respondent's statement under Subsection [

988 (3)(c)(ii)] (3)(c)(ii)(B) to the governmental entity[ and each member of the

989 committee].

990 [(e)(i) ~~The executive secretary may decline to schedule a hearing if:~~

991 [~~(A) the executive secretary recommends that the committee deny the petition~~

992 ~~without a hearing because the petition does not warrant a hearing;]~~

993 [~~(B) the executive secretary consults with the chair of the committee and at least~~

994 ~~one other member of the committee; and]~~

995 [~~(C) the chair of the committee and all committee members with whom the~~

996 ~~executive secretary consults under this Subsection (3)(c)(i) agree with the~~

997 ~~executive secretary's recommendation to deny the petition without a hearing.]~~

998 [(ii) ~~The executive secretary may, in making the determination described in~~

999 ~~Subsection (3)(c)(i)(A), request that the respondent submit a written response to~~

1000 ~~the petition.]~~

1001 [(d) ~~If the executive secretary declines to schedule a hearing in accordance with~~

1002 ~~Subsection (3)(c):]~~

1003 [(i) ~~the executive secretary shall send a notice to the governmental entity and the~~

1004 ~~respondent indicating that the request for a hearing has been denied and the~~

1005 ~~reasons for the denial; and]~~

1006 [(ii) ~~the committee shall:]~~

1007 [~~(A) vote at the committee's next regular meeting to accept or reject the~~

1008 ~~recommendation to deny the petition without a hearing;]~~

1009 [~~(B) issue an order that includes the reasons for the committee's decision to accept~~

1010 ~~or reject the recommendation; and]~~

1011 [~~(C) if the committee rejects the recommendation to deny the petition without a~~

1012 ~~hearing, direct the executive secretary to schedule a hearing as provided in~~

1013 ~~Subsection (3)(a).]~~

1014 (c) The director may decline to schedule a hearing if:

1015 (i) the director makes an initial determination that the petition should be denied

1016 without a hearing; and

- 1017           (ii) before the director makes a final ruling to deny the petition, the director:
- 1018               (A) provides the parties with notice of the initial determination described in
- 1019               Subsection (3)(c)(i), including the reasons for the initial determination;
- 1020               (B) provides the parties with a reasonable opportunity to respond to the initial
- 1021               determination described in Subsection (3)(c)(i); and
- 1022               (C) provides the respondent with a reasonable opportunity to submit a written
- 1023               response to the petition.
- 1024           (d) If, after complying with Subsection (3)(c), the director makes a final ruling denying
- 1025               the petition without a hearing, the director shall:
- 1026               (i) issue an order denying the petition; and
- 1027               (ii) include in the order the reasons for denying the petition and the reasons for
- 1028               making the ruling without a hearing.
- 1029           (e) If, after complying with Subsection (3)(c), the director determines that a hearing
- 1030               should be held, the director shall schedule a hearing in accordance with Subsection
- 1031               (3)(a).
- 1032           (4)(a) No later than five business days before the day of the hearing, the respondent may
- 1033               submit to the [~~executive secretary~~] director and the governmental entity a written
- 1034               statement in response to the governmental entity's petition.
- 1035           (b) The written statement described in Subsection (4)(a) may be the same document as
- 1036               the respondent's written response described in Subsection [~~(3)(e)(ii)~~] (3)(c)(ii)(C).
- 1037           (5) No later than 10 business days before the day of a hearing under this section, a person
- 1038               whose legal interests may be substantially affected by the proceeding may file a request
- 1039               for intervention with the [~~committee~~] director as provided in Subsection 63G-2-403(6).
- 1040           (6) If a respondent fails to submit a written statement under Subsection (4) or fails to appear
- 1041               at the hearing, the [~~committee~~] director shall:
- 1042               (a) cancel the hearing; or
- 1043               (b) hold the hearing in accordance with Subsection (7).
- 1044           (7)(a) If the [~~committee~~] director holds a hearing scheduled under Subsection (3), the [~~committee~~]
- 1045               director shall:
- 1046               (i) allow the governmental entity to testify, present evidence, and comment on the
- 1047               issues; and
- 1048               (ii) allow the respondent to testify, present evidence, and comment on the issues if
- 1049               the respondent appears at the hearing.
- 1050           (b) At the hearing, the [~~committee~~] director may allow another interested person to

- 1051 comment on the issues.
- 1052 (c)(i) Discovery is prohibited, but the [eommittee] director may issue subpoenas or  
1053 other orders to compel production of necessary testimony or evidence.
- 1054 (ii) If the subject of a [eommittee] director's subpoena disobeys or fails to comply  
1055 with the subpoena, the [eommittee] director may file a motion with the district  
1056 court for an order to compel obedience to the subpoena.
- 1057 (8)(a) No later than seven business days after the day on which a hearing is held as  
1058 scheduled under Subsection (3) or the date on which a hearing cancelled under  
1059 Subsection (6) was scheduled to be held, the [eommittee] director shall:
- 1060 (i) determine, in accordance with Subsection (9), whether the governmental entity has  
1061 demonstrated that the respondent is a vexatious requester; and
- 1062 (ii) issue a signed order that grants or denies the petition in whole or in part.
- 1063 (b) Upon granting the petition in whole or in part, the [eommittee] director may order  
1064 that the governmental entity is not required to fulfill requests from the respondent or  
1065 a person that submits a request on the respondent's behalf for a period of time that  
1066 may not exceed one year.
- 1067 (c) The [eommittee's] director's order shall contain:
- 1068 (i) a statement of the reasons for the [eommittee's-] director's decision;
- 1069 (ii) if the petition is granted in whole or in part, a specific description of the conduct  
1070 the [eommittee] director determines demonstrates that the respondent is a  
1071 vexatious requester, including any conduct the [eommittee] director finds to  
1072 constitute an abuse of the right of access to information under this chapter or a  
1073 substantial interference with the operations of the governmental entity;
- 1074 (iii) a statement that the respondent or governmental entity may seek judicial review  
1075 of the [eommittee's] director's decision in district court as provided in Section  
1076 63G-2-404; and
- 1077 (iv) a brief summary of the judicial review process, the time limits for seeking  
1078 judicial review, and a notice that, in order to protect applicable rights in  
1079 connection with the judicial review, the person seeking judicial review of the [  
1080 eommittee's] director's decision may wish to seek advice from an attorney.
- 1081 (9) In determining whether a governmental entity has demonstrated that the respondent is a  
1082 vexatious requester, the [eommittee] director shall consider:
- 1083 [~~(a) the interests described in Section 63G-2-102;~~]
- 1084 [~~(b)~~] (a) as applicable:



- 1085 (i) the number of requests the respondent has submitted to the governmental entity,  
 1086 including the number of pending record requests;
- 1087 (ii) the scope, nature, content, language, and subject matter of record requests the  
 1088 respondent has submitted to the governmental entity;
- 1089 (iii) the nature, content, language, and subject matter of any communications to the  
 1090 governmental entity related to a record request of the respondent; and
- 1091 (iv) any pattern of conduct that the [~~committee~~] director determines to constitute:  
 1092 (A) an abuse of the right of access to information under this chapter; or  
 1093 (B) substantial interference with the operations of the governmental entity; and  
 1094 [~~(e)~~] (b) any other factor the [~~committee~~] director considers relevant.
- 1095 (10)(a) A governmental entity or respondent aggrieved by the [~~committee's~~] director's  
 1096 decision under this section may seek judicial review of the decision as provided in  
 1097 Section 63G-2-404.
- 1098 (b) In a judicial review under Subsection (10)(a), the court may award reasonable  
 1099 attorney fees to a respondent if:
- 1100 (i) the respondent substantially prevails; and  
 1101 (ii) the court determines that:  
 1102 (A) the petition filed by the governmental entity under Subsection (2) is without  
 1103 merit; and  
 1104 (B) the governmental entity's actions in filing the petition lack a reasonable basis  
 1105 in fact or law.
- 1106 (c) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for  
 1107 attorney fees under this Subsection (10) is not subject to Chapter 7, Governmental  
 1108 Immunity Act of Utah.
- 1109 (11) Notwithstanding any other provision of this chapter, a records request that a  
 1110 governmental entity is not required to fulfill in accordance with an order issued under  
 1111 this section may not be the subject of an appeal under Part 4, Appeals.
- 1112 (12) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the [~~committee~~]  
 1113 director shall make rules to implement the procedures and requirements  
 1114 described in this section.
- 1115 Section 14. Section **63G-2-309** is amended to read:  
 1116 **63G-2-309 . Confidentiality claims.**
- 1117 (1)(a)(i) Any person who provides to a governmental entity a record that the person  
 1118 believes should be protected under Subsection 63G-2-305(1) or (2) or both

- 1119 Subsections 63G-2-305(1) and (2) shall provide with the record:
- 1120 (A) a written claim of business confidentiality; and
- 1121 (B) a concise statement of reasons supporting the claim of business confidentiality.
- 1122 (ii) Any of the following who provides to an institution within the state system of
- 1123 higher education defined in Section 53B-1-102 a record that the person or
- 1124 governmental entity believes should be protected under Subsection
- 1125 63G-2-305(40)(a)(ii) or (vi) or both Subsections 63G-2-305(40)(a)(ii) and (vi)
- 1126 shall provide the institution within the state system of higher education a written
- 1127 claim of business confidentiality in accordance with Section 53B-16-304:
- 1128 (A) a person;
- 1129 (B) a federal governmental entity;
- 1130 (C) a state governmental entity; or
- 1131 (D) a local governmental entity.
- 1132 (b) A person or governmental entity who complies with this Subsection (1) shall be
- 1133 notified by the governmental entity to whom the request for a record is made if[:]
- 1134 [(+)] \_a record claimed to be protected under one of the following is classified public:
- 1135 [(A)] (i) Subsection 63G-2-305(1);
- 1136 [(B)] (ii) Subsection 63G-2-305(2);
- 1137 [(C)] (iii) Subsection 63G-2-305(40)(a)(ii);
- 1138 [(D)] (iv) Subsection 63G-2-305(40)(a)(vi); or
- 1139 [(E)] (v) a combination of the provisions described in Subsections [(1)(b)(i)(A)
- 1140 through (D)]; or] (1)(b)(i) through (iv).
- 1141 [(ii) the governmental entity to whom the request for a record is made determines that
- 1142 the record claimed to be protected under a provision listed in Subsection (1)(b)(i)
- 1143 should be released after balancing interests under Subsection 63G-2-201(5)(b) or
- 1144 63G-2-401(6).]
- 1145 (c) A person who makes a claim of business confidentiality under this Subsection (1)
- 1146 shall protect, defend, and indemnify the governmental entity that retains the record,
- 1147 and all staff and employees of the governmental entity from and against any claims,
- 1148 liability, or damages resulting from or arising from a denial of access to the record as
- 1149 a protected record based on the claim of business confidentiality.
- 1150 (2)(a) Except as provided in Subsection (2)(b) or by court order, the governmental entity
- 1151 to whom the request for a record is made may not disclose a record claimed to be
- 1152 protected under a provision listed in Subsection [(1)(b)(i)] (1)(b) but which the

- 1153 governmental entity or ~~[State Records Committee]~~ the director of the Government  
 1154 Records Office determines should be disclosed until the period in which to bring an  
 1155 appeal expires or the end of the appeals process, including judicial appeal.
- 1156 (b) Subsection (2)(a) does not apply where the claimant, after notice, has waived the  
 1157 claim by not appealing or intervening before the ~~[State Records Committee]~~ director  
 1158 of the Government Records Office.
- 1159 (3) Disclosure or acquisition of information under this chapter does not constitute  
 1160 misappropriation under Subsection 13-24-2(2).
- 1161 Section 15. Section **63G-2-400.5** is amended to read:  
 1162 **63G-2-400.5 . Definitions.**
- 1163 As used in this part:
- 1164 (1) "Access denial" means a governmental entity's denial, under Subsection 63G-2-204(9)  
 1165 or Section 63G-2-205, in whole or in part, of a record request.
- 1166 (2) "Appellate affirmation" means a decision of a chief administrative officer, a local  
 1167 appeals board, or ~~[State Records Committee]~~ the director affirming an access denial.
- 1168 (3) "Director" means the director of the Government Records Office.
- 1169 ~~[(3)]~~ (4) "Interested party" means a person, other than a requester, who is aggrieved by an  
 1170 access denial or an appellate affirmation, regardless of whether ~~[or not]~~ the person  
 1171 participated in proceedings leading to the access denial or appellate affirmation.
- 1172 ~~[(4)]~~ (5) "Local appeals board" means an appeals board established by a political  
 1173 subdivision under Subsection 63G-2-701(5)(c).
- 1174 ~~[(5)]~~ (6) "Record request" means a request for a record under Section 63G-2-204.
- 1175 ~~[(6)]~~ (7) "Records~~-committee~~ appellant" means:  
 1176 (a) a political subdivision that seeks to appeal a decision of a local appeals board to the [  
 1177 ~~State Records Committee]~~ director; or  
 1178 (b) a requester or interested party who seeks to appeal to the ~~[State Records Committee]~~  
 1179 director a decision affirming an access denial.
- 1180 ~~[(7)]~~ (8) "Requester" means a person who submits a record request to a governmental entity.
- 1181 Section 16. Section **63G-2-401** is amended to read:  
 1182 **63G-2-401 . Appeal to chief administrative officer -- Notice of the decision of the**  
 1183 **appeal.**
- 1184 (1)(a) A requester or interested party may appeal an access denial or the denial of a fee  
 1185 waiver under Subsection 63G-2-203(4) to the chief administrative officer of the  
 1186 governmental entity by filing a notice of appeal with the chief administrative officer

- 1187 within 30 days after:
- 1188 (i) for an access denial:
- 1189 (A) the governmental entity sends a notice of denial under Section 63G-2-205, if
- 1190 the governmental entity denies a record request under Subsection 63G-2-205(1);
- 1191 or
- 1192 (B) the record request is considered denied under Subsection 63G-2-204(9), if that
- 1193 subsection applies; or
- 1194 (ii) for a denial of a fee waiver, the date the governmental entity notifies the requester
- 1195 that the fee waiver is denied.
- 1196 (b) If a governmental entity claims extraordinary circumstances and specifies the date
- 1197 when the records will be available under Subsection 63G-2-204(4), and, if the
- 1198 requester believes the extraordinary circumstances do not exist or that the date
- 1199 specified is unreasonable, the requester may appeal the governmental entity's claim
- 1200 of extraordinary circumstances or date for compliance to the chief administrative
- 1201 officer by filing a notice of appeal with the chief administrative officer within 30
- 1202 days after notification of a claim of extraordinary circumstances by the governmental
- 1203 entity, despite the lack of a "determination" or its equivalent under Subsection
- 1204 63G-2-204(9).
- 1205 (2) A notice of appeal shall contain:
- 1206 (a) the name, mailing address, and daytime telephone number of the requester or
- 1207 interested party; and
- 1208 (b) the relief sought.
- 1209 (3) The requester or interested party may file a short statement of facts, reasons, and legal
- 1210 authority in support of the appeal.
- 1211 (4)(a) If the appeal involves a record that is the subject of a business confidentiality
- 1212 claim under Section 63G-2-309, the chief administrative officer shall:
- 1213 (i) send notice of the appeal to the business confidentiality claimant within three
- 1214 business days after receiving notice, except that if notice under this section must
- 1215 be given to more than 35 persons, it shall be given as soon as reasonably possible;
- 1216 and
- 1217 (ii) send notice of the business confidentiality claim and the schedule for the chief
- 1218 administrative officer's determination to the requester or interested party within
- 1219 three business days after receiving notice of the appeal.
- 1220 (b) The business confidentiality claimant shall have seven business days after notice is

1221 sent by the administrative officer to submit further support for the claim of business  
1222 confidentiality.

1223 (5)(a) The chief administrative officer shall make a decision on the appeal within:

1224 (i)(A) 10 business days after the chief administrative officer's receipt of the notice  
1225 of appeal; or

1226 (B) five business days after the chief administrative officer's receipt of the notice  
1227 of appeal, if the requester or interested party demonstrates that an expedited  
1228 decision benefits the public rather than the requester or interested party; or

1229 (ii) 12 business days after the governmental entity sends the notice of appeal to a  
1230 person who submitted a claim of business confidentiality.

1231 (b)(i) If the chief administrative officer fails to make a decision on an appeal of an  
1232 access denial within the time specified in Subsection (5)(a), the failure is the  
1233 equivalent of a decision affirming the access denial.

1234 (ii) If the chief administrative officer fails to make a decision on an appeal under  
1235 Subsection (1)(b) within the time specified in Subsection (5)(a), the failure is the  
1236 equivalent of a decision affirming the claim of extraordinary circumstances or the  
1237 reasonableness of the date specified when the records will be available.

1238 (c) The provisions of this section notwithstanding, the parties participating in the  
1239 proceeding may, by agreement, extend the time periods specified in this section.

1240 [~~(6) Except as provided in Section 63G-2-406, the chief administrative officer may, upon~~  
1241 ~~consideration and weighing of the various interests and public policies pertinent to the~~  
1242 ~~classification and disclosure or nondisclosure, order the disclosure of information~~  
1243 ~~properly classified as private under Subsection 63G-2-302(2) or protected under Section~~  
1244 ~~63G-2-305 if the interests favoring access are greater than or equal to the interests~~  
1245 ~~favoring restriction of access.]~~

1246 [(~~7~~)] (6)(a) The governmental entity shall send written notice of the chief administrative  
1247 officer's decision to all participants.

1248 (b) If the chief administrative officer's decision is to affirm the access denial in whole or  
1249 in part or to affirm the fee waiver denial, the notice under Subsection [(~~7~~)](~~a~~)] (6)(a)  
1250 shall include:

1251 (i) a statement that the requester has a right under Section [~~63A-12-111~~] 63A-12-204  
1252 to request the government records ombudsman to mediate the dispute between the  
1253 requester and the governmental entity concerning the access denial or the fee  
1254 waiver denial;

- 1255 (ii) a statement that the requester or interested party has the right to appeal the  
 1256 decision, as provided in Section 63G-2-402, to:
- 1257 (A) the [~~State Records Committee~~] director or district court; or  
 1258 (B) the local appeals board, if the governmental entity is a political subdivision  
 1259 and the governmental entity has established a local appeals board;
- 1260 (iii) the time limits for filing an appeal described in Subsection [~~(7)(b)(ii)~~] (6)(b)(ii),  
 1261 including an explanation of a suspension of the time limits, as provided in  
 1262 Subsections 63G-2-403(1)(c) and 63G-2-404(1)(b), for a requester if the requester  
 1263 seeks mediation under Section [~~63A-12-111~~] 63A-12-204; and
- 1264 (iv) the name and business address of:
- 1265 [~~(A) the executive secretary of the State Records Committee;~~]  
 1266 (A) the director;  
 1267 (B) the individual designated as the contact individual for the appeals board, if the  
 1268 governmental entity is a political subdivision that has established an appeals  
 1269 board under Subsection 63G-2-701(5)(c); and  
 1270 (C) the government records ombudsman.
- 1271 [~~(8)~~] (7)(a) A person aggrieved by a governmental entity's classification or designation  
 1272 determination under this chapter, but who is not requesting access to the records, may  
 1273 appeal that determination using the procedures provided in this section.
- 1274 (b) If a nonrequester is the only appellant, the procedures provided in this section shall  
 1275 apply, except that the decision on the appeal shall be made within 30 days [~~after~~  
 1276 receiving] after the day on which the appellant files the notice of appeal.
- 1277 [~~(9)~~] (8) The duties of the chief administrative officer under this section may be delegated.  
 1278 Section 17. Section **63G-2-402** is amended to read:  
 1279 **63G-2-402 . Appealing a decision of a chief administrative officer.**
- 1280 (1) If the decision of the chief administrative officer of a governmental entity under Section  
 1281 63G-2-401 is to affirm the denial of a record request or to affirm the denial of a fee  
 1282 waiver, the requester may:
- 1283 (a)(i) appeal the decision to the [~~State Records Committee~~] director, as provided in  
 1284 Section 63G-2-403; or  
 1285 (ii) petition for judicial review of the decision in district court, as provided in Section  
 1286 63G-2-404;
- 1287 (b) seek mediation of the access denial or fee waiver denial under Subsection [~~63A-12-111(2)(e)~~]  
 1288 63A-12-204(1)(a)(iii); or

- 1289 (c) appeal the decision to the local appeals board if:
- 1290 (i) the decision is of a chief administrative officer of a governmental entity that is a
- 1291 political subdivision; and
- 1292 (ii) the political subdivision has established a local appeals board.
- 1293 (2) A requester who appeals a chief administrative officer's decision to the [~~State Records~~
- 1294 ~~Committee~~] director or a local appeals board does not lose or waive the right to seek
- 1295 judicial review of the decision of the [~~State Records Committee~~] director or the local
- 1296 appeals board.
- 1297 (3) As provided in Section 63G-2-403, an interested party may appeal to the [~~State Records~~
- 1298 ~~Committee~~] director of the Government Records Office a chief administrative officer's
- 1299 decision under Section 63G-2-401 affirming an access denial.
- 1300 Section 18. Section **63G-2-403** is amended to read:
- 1301 **63G-2-403 . Appeals to the director of the Government Records Office.**
- 1302 (1)(a) A records [~~committee~~]appellant appeals to the [~~State Records Committee~~] director
- 1303 by filing a notice of appeal with the [~~executive secretary of the State Records~~
- 1304 ~~Committee~~] director no later than 30 days after [~~the date of issuance of~~] the day on
- 1305 which the decision being appealed is issued.
- 1306 (b) Notwithstanding Subsection (1)(a), a requester may file a notice of appeal with the [
- 1307 ~~executive secretary of the State Records Committee~~] director no later than 45 days
- 1308 after the day on which the record request is made if:
- 1309 (i) the circumstances described in Subsection 63G-2-401(1)(b) occur; and
- 1310 (ii) the chief administrative officer fails to make a decision under Section 63G-2-401.
- 1311 (c) The time for a requester to file a notice of appeal under Subsection (1)(a) or (b) is
- 1312 suspended for the period of time that:
- 1313 (i) begins on the date the requester submits a request under Section [~~63A-12-111~~]
- 1314 63A-12-204 for the government records ombudsman to mediate the dispute
- 1315 between the requester and the governmental entity; and
- 1316 (ii) ends the earlier of the following dates:
- 1317 (A) the date that the government records ombudsman certifies in writing that the
- 1318 mediation is concluded; or
- 1319 (B) the date that the government records ombudsman certifies in writing that the
- 1320 mediation did not occur or was not concluded because of a lack of the required
- 1321 consent.
- 1322 (2) The notice of appeal shall:

- 1323 (a) contain the name, mailing address, and daytime telephone number of the records [  
 1324 ~~e~~committee]appellant;
- 1325 (b) be accompanied by a copy of the decision being appealed; and
- 1326 (c) state the relief sought.
- 1327 (3) The records [~~e~~committee]appellant:
- 1328 (a) shall, on the day on which the notice of appeal is filed with the [~~State Records~~  
 1329 ~~C~~ommittee] director, serve a copy of the notice of appeal on:
- 1330 (i) the governmental entity whose access denial or fee waiver denial is the subject of  
 1331 the appeal, if the records [~~e~~committee]appellant is a requester or interested party; or
- 1332 (ii) the requester or interested party who is a party to the local appeals board  
 1333 proceeding that resulted in the decision that the political subdivision is appealing  
 1334 to the [~~e~~committee] director, if the records [~~e~~committee]appellant is a political  
 1335 subdivision; and
- 1336 (b) may file a short statement of facts, reasons, and legal authority in support of the  
 1337 appeal.
- 1338 (4)(a) Except as provided in Subsections (4)(b) and (c), no later than seven business  
 1339 days after receiving a notice of appeal, the [~~executive secretary of the State Records~~  
 1340 ~~C~~ommittee] director shall:
- 1341 (i) schedule a hearing for the [~~State Records Committee~~] director to discuss the appeal  
 1342 at the next regularly scheduled [~~e~~committee meeting falling] hearing date that is at  
 1343 least 16 calendar days after the date the notice of appeal is filed but no [~~longer~~]  
 1344 later than 64 calendar days after the date the notice of appeal [~~was~~] is filed, except  
 1345 that the [~~e~~committee] director may schedule an expedited hearing upon application  
 1346 of the records [~~e~~committee]appellant and good cause shown;
- 1347 (ii) send a copy of the notice of hearing to the records [~~e~~committee]appellant; and
- 1348 (iii) send a copy of the notice of appeal, supporting statement, and a notice of hearing  
 1349 to:
- 1350 [~~(A) each member of the State Records Committee;~~]  
 1351 [~~(B)~~] (A) the records officer and the chief administrative officer of the  
 1352 governmental entity whose access denial is the subject of the appeal, if the  
 1353 records [~~e~~committee]appellant is a requester or interested party;
- 1354 [~~(C)~~] (B) any person who made a business confidentiality claim under Section  
 1355 63G-2-309 for a record that is the subject of the appeal; and
- 1356 [~~(D)~~] (C) all persons who participated in the proceedings before the governmental



1357 entity's chief administrative officer, if the appeal is of the chief administrative  
 1358 officer's decision affirming an access denial.

1359 (b)(i) The ~~[executive secretary of the State Records Committee]~~ director may decline  
 1360 to schedule a hearing if the record series that is the subject of the appeal has been  
 1361 found by the ~~[committee]~~ director in a previous hearing involving the same  
 1362 governmental entity to be appropriately classified as private, controlled, or  
 1363 protected.

1364 (ii)~~(A)~~ If the ~~[executive secretary of the State Records Committee]~~ director  
 1365 declines to schedule a hearing, the ~~[executive secretary]~~ director shall send a  
 1366 notice to the records ~~[committee]~~ appellant indicating that the request for  
 1367 hearing has been denied and the reason for the denial.

1368 ~~[(B) The State Records Committee shall make rules to implement this section as  
 1369 provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act.]~~

1370 (c) The ~~[executive secretary of the State Records Committee]~~ director may schedule a  
 1371 hearing on an appeal to the ~~[State Records Committee at]~~ director on a regularly~~[-]~~ -  
 1372 scheduled ~~[State Records Committee meeting-]~~ hearing date that is later than the  
 1373 period described in Subsection (4)(a)(i) if that ~~[committee meeting-]~~ hearing date is  
 1374 the first regularly~~[-]~~ -scheduled ~~[State Records Committee meeting-]~~ hearing date at  
 1375 which there are fewer than 10 appeals scheduled to be heard.

1376 (5)(a) No later than five business days before the day of the hearing, a governmental  
 1377 entity shall submit to the ~~[executive secretary of the State Records Committee]~~  
 1378 director a written statement of facts, reasons, and legal authority in support of the  
 1379 governmental entity's position.

1380 (b) The governmental entity shall send a copy of the written statement by first class  
 1381 mail, postage prepaid, to the requester or interested party involved in the appeal. [  
 1382 ~~The executive secretary shall forward a copy of the written statement to each member  
 1383 of the State Records Committee.]~~

1384 (6)(a) No later than 10 business days after the day on which the ~~[executive secretary-]~~  
 1385 director sends the notice of appeal, a person whose legal interests may be  
 1386 substantially affected by the proceeding may file a request for intervention with the [  
 1387 ~~State Records Committee]~~ director.

1388 (b) Any written statement of facts, reasons, and legal authority in support of the  
 1389 intervener's position shall be filed with the request for intervention.

1390 (c) The person seeking intervention shall provide copies of the statement described in

- 1391 Subsection (6)(b) to all parties to the proceedings before the [~~State Records~~  
 1392 ~~Committee]~~ director.
- 1393 (7) The [~~State Records Committee]~~ director shall hold a hearing within the period of time  
 1394 described in Subsection (4).
- 1395 (8) At the hearing, the [~~State Records Committee]~~ director:  
 1396 (a) shall allow the parties to testify, present evidence, and comment on the issues[~~—The~~  
 1397 ~~committee]~~ ; and  
 1398 (b) may allow other interested persons to comment on the issues.
- 1399 (9)(a)(i) The [~~State Records Committee]~~ director:  
 1400 (A) may review the disputed records; and  
 1401 (B) shall review the disputed records, if the [~~committee]~~ director is weighing the  
 1402 various interests under Subsection (11).
- 1403 (ii) A review of the disputed records under Subsection (9)(a)(i) shall be in camera.  
 1404 (b) [~~Members of the State Records Committee]~~ The director may not disclose any  
 1405 information or record reviewed by the [~~committee]~~ director in camera unless the  
 1406 disclosure is otherwise authorized by this chapter.
- 1407 (10)(a) Discovery is prohibited, but the [~~State Records Committee]~~ director may issue  
 1408 subpoenas or other orders to compel production of necessary evidence.
- 1409 (b) When the subject of a [~~State Records Committee]~~ subpoena issued by the director  
 1410 disobeys or fails to comply with the subpoena, the [~~committee]~~ director may file a  
 1411 motion for an order to compel obedience to the subpoena with the district court.
- 1412 (c)(i) The [~~State Records Committee's]~~ director's review shall be de novo, if the  
 1413 appeal is an appeal from a decision of a chief administrative officer:  
 1414 (A) issued under Section 63G-2-401; or  
 1415 (B) issued by a chief administrative officer of a political subdivision that has not  
 1416 established a local appeals board.
- 1417 (ii) For an appeal from a decision of a local appeals board, the [~~State Records~~  
 1418 ~~Committee]~~ director shall review and consider the decision of the local appeals  
 1419 board.
- 1420 (11)[~~(a)~~] No later than seven business days after the day of the hearing, the [~~State~~  
 1421 ~~Records Committee]~~ director shall issue a signed order:  
 1422 [(+)] (a) granting the relief sought, in whole or in part; or  
 1423 [(+)] (b) upholding the governmental entity's access denial, in whole or in part.  
 1424 [(b) Except as provided in Section 63G-2-406, the State Records Committee may, upon

1425 consideration and weighing of the various interests and public policies pertinent to  
 1426 the classification and disclosure or nondisclosure, order the disclosure of information  
 1427 properly classified as private, controlled, or protected if the public interest favoring  
 1428 access is greater than or equal to the interest favoring restriction of access.]

1429 [(e) In making a determination under Subsection (11)(b), the State Records Committee  
 1430 shall consider and, where appropriate, limit the requester's or interested party's use  
 1431 and further disclosure of the record in order to protect:]

1432 [(i) privacy interests in the case of a private or controlled record;]

1433 [(ii) business confidentiality interests in the case of a record protected under  
 1434 Subsection 63G-2-305(1), (2), (40)(a)(ii), or (40)(a)(vi); and]

1435 [(iii) privacy interests or the public interest in the case of other protected records.]

1436 (12) The order of the [~~State Records Committee~~] director shall include:

1437 (a) a statement of reasons for the decision, including citations to this chapter, court rule  
 1438 or order, another state statute, federal statute, or federal regulation that governs  
 1439 disclosure of the record, if the citations do not disclose private, controlled, or  
 1440 protected information;

1441 (b) a description of the record or portions of the record to which access [~~was~~] is ordered  
 1442 or denied, if the description does not disclose private, controlled, or protected  
 1443 information or information exempt from disclosure under Subsection 63G-2-201(3)(b);

1444 (c) a statement that any party to the proceeding before the [~~State Records Committee~~]  
 1445 director may appeal the [~~committee's~~] director's decision to district court; and

1446 (d) a brief summary of the appeals process, the time limits for filing an appeal, and a  
 1447 notice that in order to protect its rights on appeal, the party may wish to seek advice  
 1448 from an attorney.

1449 (13)(a) If the [~~State Records Committee~~] director fails to issue a decision within 73  
 1450 calendar days after the day of the filing of the notice of appeal, that failure is the  
 1451 equivalent of an order denying the appeal.[-]

1452 (b) A records [~~committee~~]appellant shall notify the [~~State Records Committee~~] director  
 1453 in writing if the records [~~committee~~]appellant considers the appeal denied.

1454 (14) A party to a proceeding before the [~~State Records Committee~~] director may seek  
 1455 judicial review in district court of a [~~State Records Committee~~] director's order by filing  
 1456 a petition for review of the order as provided in Section 63G-2-404.

1457 (15)(a) Unless a notice of intent to appeal is filed under Subsection (15)(b), each party to  
 1458 the proceeding shall comply with the order of the [~~State Records Committee~~] director.

- 1459 (b) If a party disagrees with the order of the [~~State Records Committee~~] director, that  
1460 party may file a notice of intent to appeal the order.
- 1461 (c) If the [~~State Records Committee~~] director orders the governmental entity to produce  
1462 a record and no appeal is filed, or if, as a result of the appeal, the governmental entity  
1463 is required to produce a record, the governmental entity shall:
- 1464 (i) produce the record; and  
1465 (ii) file a notice of compliance with the [~~committee~~] director.
- 1466 (d)(i) If the governmental entity that is ordered to produce a record fails to file a  
1467 notice of compliance or a notice of intent to appeal, the [~~State Records Committee~~]  
1468 director may do either or both of the following:
- 1469 (A) impose a civil penalty of up to \$500 for each day of continuing  
1470 noncompliance; or  
1471 (B) send written notice of the governmental entity's noncompliance to the  
1472 governor.
- 1473 (ii) In imposing a civil penalty, the [~~State Records Committee~~] director shall consider  
1474 the gravity and circumstances of the violation, including whether the failure to  
1475 comply was due to neglect or was willful or intentional.
- 1476 Section 19. Section **63G-2-404** is amended to read:  
1477 **63G-2-404 . Judicial review.**
- 1478 (1)(a) A petition for judicial review of an order or decision, as allowed under this part, in  
1479 Section 63G-2-209, or in Subsection 63G-2-701(6)(a)(ii), shall be filed no later than  
1480 30 days after the date of the order or decision, subject to Subsection (1)(b).
- 1481 (b) The time for a requester to file a petition for judicial review under Subsection (1)(a)  
1482 is suspended for the period of time that:
- 1483 (i) begins the date the requester submits a request under Section [~~63A-12-111~~]  
1484 63A-12-204 for the government records ombudsman to mediate the dispute  
1485 between the requester and the governmental entity; and  
1486 (ii) ends the earlier of the following dates:
- 1487 (A) the date that the government records ombudsman certifies in writing that the  
1488 mediation is concluded; or  
1489 (B) the date that the government records ombudsman certifies in writing that the  
1490 mediation did not occur or was not concluded because of a lack of the required  
1491 consent.
- 1492 (2)(a) A petition for judicial review is a complaint governed by the Utah Rules of Civil

- 1493 Procedure and shall contain:
- 1494 (i) the petitioner's name and mailing address;
- 1495 (ii) a copy of the ~~[State Records Committee]~~ director's order from which the appeal is
- 1496 taken, if the petitioner is seeking judicial review of an order of the ~~[State Records~~
- 1497 ~~Committee]~~ director;
- 1498 (iii) the name and mailing address of the governmental entity that issued the initial
- 1499 determination with a copy of that determination;
- 1500 (iv) a request for relief specifying the type and extent of relief requested; and
- 1501 (v) a statement of the reasons why the petitioner is entitled to relief.
- 1502 (b) Except in exceptional circumstances, a petition for judicial review may not raise an
- 1503 issue that was not raised in the underlying appeal and order.
- 1504 (3) If the appeal is based on the denial of access to a protected record based on a claim of
- 1505 business confidentiality, the court shall allow the claimant of business confidentiality to
- 1506 provide to the court the reasons for the claim of business confidentiality.
- 1507 (4) All additional pleadings and proceedings in the district court are governed by the Utah
- 1508 Rules of Civil Procedure.
- 1509 (5)(a) The district court may review the disputed records.~~[-The]~~
- 1510 (b) A review described in Subsection (5)(a) shall be in camera.
- 1511 (6)(a) The court shall:
- 1512 (i) make the court's decision de novo, but, for a petition seeking judicial review of a [
- 1513 ~~State Records Committee]~~ director's order, allow introduction of evidence
- 1514 presented to the ~~[State Records Committee]~~ director;
- 1515 (ii) determine all questions of fact and law without a jury; and
- 1516 (iii) decide the issue at the earliest practical opportunity.
- 1517 (b) A court may remand a petition for judicial review to the ~~[State Records Committee]~~
- 1518 director if:
- 1519 (i) the remand is to allow the ~~[State Records Committee]~~ director to decide an issue
- 1520 that:
- 1521 (A) involves access to a record; and
- 1522 (B) the ~~[State Records Committee has not previously addressed]~~ director did not
- 1523 address in the proceeding that led to the petition for judicial review; and
- 1524 (ii) the court determines that remanding to the ~~[State Records Committee]~~ director is
- 1525 in the best interests of justice.
- 1526 ~~[(7)(a) Except as provided in Section 63G-2-406, the court may, upon consideration and~~

1527 ~~weighing of the various interests and public policies pertinent to the classification~~  
 1528 ~~and disclosure or nondisclosure, order the disclosure of information properly~~  
 1529 ~~classified as private, controlled, or protected if the interest favoring access is greater~~  
 1530 ~~than or equal to the interest favoring restriction of access.]~~

1531 ~~[(b) The court shall consider and, where appropriate, limit the requester's use and further~~  
 1532 ~~disclosure of the record in order to protect privacy interests in the case of private or~~  
 1533 ~~controlled records, business confidentiality interests in the case of records protected~~  
 1534 ~~under Subsections 63G-2-305(1) and (2), and privacy interests or the public interest~~  
 1535 ~~in the case of other protected records.]~~

1536 Section 20. Section **63G-2-405** is amended to read:

1537 **63G-2-405 . Confidential treatment of records for which no exemption applies.**

1538 (1) A court may, on appeal or in a declaratory or other action, order the confidential  
 1539 treatment of records for which no exemption from disclosure applies if[~~;~~]

1540 [~~(a)~~] ~~\_there are compelling interests favoring restriction of access to the record[~~;~~and] .~~

1541 [~~(b) the interests favoring restriction of access clearly are greater than or equal to the~~  
 1542 ~~interests favoring access.]~~

1543 (2) If a governmental entity requests a court to restrict access to a record under this section,  
 1544 the court shall require the governmental entity to pay the reasonable attorney fees and  
 1545 costs incurred by the lead party in opposing the governmental entity's request, if:

1546 (a) the court finds that no statutory or constitutional exemption from disclosure could  
 1547 reasonably apply to the record in question; and

1548 (b) the court denies confidential treatment under this section.

1549 (3) This section does not apply to records that are specifically required to be public under  
 1550 statutory provisions outside of this chapter or under Section 63G-2-301, except as  
 1551 provided in Subsection (4).

1552 (4)(a) Access to drafts and empirical data in drafts may be limited under this section, but  
 1553 the court may consider, in its evaluation of interests favoring restriction of access,  
 1554 only those interests that relate to the underlying information, and not to the  
 1555 deliberative nature of the record.

1556 (b) Access to original data in a computer program may be limited under this section, but  
 1557 the court may consider, in its evaluation of interests favoring restriction of access,  
 1558 only those interests that relate to the underlying information, and not to the status of  
 1559 that data as part of a computer program.

1560 (5) Except for the waiver of immunity in Subsection 63G-7-301(2)(e), a claim for attorney

1561 fees or costs under this section is not subject to Chapter 7, Governmental Immunity Act  
1562 of Utah.

1563 Section 21. Section **63G-2-701** is amended to read:

1564 **63G-2-701 . Political subdivisions may adopt ordinances in compliance with**  
1565 **chapter -- Appeal process.**

1566 (1) As used in this section:

1567 (a) "Access denial" means the same as that term is defined in Section 63G-2-400.5.

1568 (b) "Interested party" means the same as that term is defined in Section 63G-2-400.5.

1569 (c) "Requester" means the same as that term is defined in Section 63G-2-400.5.

1570 (2)(a) Each political subdivision may adopt an ordinance or a policy applicable  
1571 throughout its jurisdiction relating to information practices including classification,  
1572 designation, access, denials, segregation, appeals, management, retention, and  
1573 amendment of records.

1574 (b) The ordinance or policy shall comply with the criteria set forth in this section.

1575 (c) If any political subdivision does not adopt and maintain an ordinance or policy, then  
1576 that political subdivision is subject to this chapter.

1577 (d) Notwithstanding the adoption of an ordinance or policy, each political subdivision is  
1578 subject to Part 1, General Provisions, Part 3, Classification, and Sections 63A-12-105,  
1579 63A-12-107, 63G-2-201, 63G-2-202, 63G-2-205, 63G-2-206, 63G-2-601, and  
1580 63G-2-602.

1581 (e) Every ordinance, policy, or amendment to the ordinance or policy shall be filed with  
1582 the state archives no later than 30 days after its effective date.

1583 (f) The political subdivision shall also report to the state archives all retention schedules,  
1584 and all designations and classifications applied to record series maintained by the  
1585 political subdivision.

1586 (g) The report required by Subsection (2)(f) is notification to state archives of the  
1587 political subdivision's retention schedules, designations, and classifications. The  
1588 report is not subject to approval by state archives. If state archives determines that a  
1589 different retention schedule is needed for state purposes, state archives shall notify  
1590 the political subdivision of the state's retention schedule for the records and shall  
1591 maintain the records if requested to do so under Subsection 63A-12-105(2).

1592 (3) Each ordinance or policy relating to information practices shall:

1593 (a) provide standards for the classification and designation of the records of the political  
1594 subdivision as public, private, controlled, or protected in accordance with Part 3,

- 1595 Classification;
- 1596 (b) require the classification of the records of the political subdivision in accordance  
1597 with those standards;
- 1598 (c) provide guidelines for establishment of fees in accordance with Section 63G-2-203;  
1599 and
- 1600 (d) provide standards for the management and retention of the records of the political  
1601 subdivision comparable to Section 63A-12-103.
- 1602 (4)(a) Each ordinance or policy shall establish access criteria, procedures, and response  
1603 times for requests to inspect, obtain, or amend records of the political subdivision,  
1604 and time limits for appeals consistent with this chapter.
- 1605 (b) In establishing response times for access requests and time limits for appeals, the  
1606 political subdivision may establish reasonable time frames different than those set out  
1607 in Section 63G-2-204 and Part 4, Appeals, if it determines that the resources of the  
1608 political subdivision are insufficient to meet the requirements of those sections.
- 1609 (5)(a) A political subdivision shall establish an appeals process for persons aggrieved by  
1610 classification, designation, or access decisions.
- 1611 (b) A political subdivision's appeals process shall include a process for a requester or  
1612 interested party to appeal an access denial to a person designated by the political  
1613 subdivision as the chief administrative officer for purposes of an appeal under  
1614 Section 63G-2-401.
- 1615 (c)(i) A political subdivision may establish an appeals board to decide an appeal of a  
1616 decision of the chief administrative officer affirming an access denial.
- 1617 (ii) An appeals board established by a political subdivision shall be composed of  
1618 three members:
- 1619 (A) one of whom shall be an employee of the political subdivision; and  
1620 (B) two of whom shall be members of the public who are not employed by or  
1621 officials of a governmental entity, at least one of whom shall have professional  
1622 experience with requesting or managing records.
- 1623 (iii) If a political subdivision establishes an appeals board, any appeal of a decision of  
1624 a chief administrative officer shall be made to the appeals board.
- 1625 (iv) If a political subdivision does not establish an appeals board, the political  
1626 subdivision's appeals process shall provide for an appeal of a chief administrative  
1627 officer's decision to the ~~[State Records Committee]~~ director of the Government  
1628 Records Office, as provided in Section 63G-2-403.



- 1629 (6)(a) A political subdivision or requester may appeal an appeals board decision:  
1630 (i) to the [~~State Records Committee~~] director of the Government Records Office, as  
1631 provided in Section 63G-2-403; or  
1632 (ii) by filing a petition for judicial review with the district court.
- 1633 (b) The contents of a petition for judicial review under Subsection (6)(a)(ii) and the  
1634 conduct of the proceeding shall be in accordance with Sections 63G-2-402 and  
1635 63G-2-404.
- 1636 (c) A person who appeals an appeals board decision to the [~~State Records Committee~~]  
1637 director of the Government Records Office does not lose or waive the right to seek  
1638 judicial review of the decision of the [~~State Records Committee~~] director of the  
1639 Government Records Office.
- 1640 (7) Any political subdivision that adopts an ordinance or policy under Subsection (1) shall  
1641 forward to state archives a copy and summary description of the ordinance or policy.
- 1642 Section 22. Section **63G-2-702** is amended to read:  
1643 **63G-2-702 . Applicability to the judiciary.**
- 1644 (1) The judiciary is subject to the provisions of this chapter except as provided in this  
1645 section.
- 1646 (2)(a) The judiciary is not subject to:  
1647 (i) Section 63G-2-209; or  
1648 (ii) Part 4, Appeals, except as provided in Subsection (6).
- 1649 (b) The judiciary is not subject to [~~Part 5, State Records Committee, and~~] Title 63A,  
1650 Chapter 12, Part 2, Government Records Office, or Part 6, Collection of Information  
1651 and Accuracy of Records.
- 1652 (c) The judiciary is subject to only the following sections in Part 9, Public Associations:  
1653 Sections 63A-12-105 and 63A-12-106.
- 1654 (3) The Judicial Council, the Administrative Office of the Courts, the courts, and other  
1655 administrative units in the judicial branch shall designate and classify their records in  
1656 accordance with Sections 63G-2-301 through 63G-2-305.
- 1657 (4) Substantially consistent with the provisions of this chapter, the Judicial Council shall:  
1658 (a) make rules governing requests for access, fees, classification, designation,  
1659 segregation, management, retention, denials and appeals of requests for access and  
1660 retention, and amendment of judicial records;  
1661 (b) establish an appellate board to handle appeals from denials of requests for access and  
1662 provide that a requester who is denied access by the appellate board may file a

- 1663 lawsuit in district court; and
- 1664 (c) provide standards for the management and retention of judicial records substantially
- 1665 consistent with Section 63A-12-103.
- 1666 (5) The Judicial Council may:
- 1667 (a) establish a process for an administrative unit of the judicial branch to petition for
- 1668 relief from a person that the administrative unit claims is a vexatious requester; and
- 1669 (b) establish an appellate board to hear a petition for relief from a person that an
- 1670 administrative unit of the judicial branch claims is a vexatious requester.
- 1671 (6) Rules governing appeals from denials of requests for access shall substantially comply
- 1672 with the time limits provided in Section 63G-2-204 and Part 4, Appeals.
- 1673 (7) Upon request, the state archivist shall:
- 1674 (a) assist with and advise concerning the establishment of a records management
- 1675 program in the judicial branch; and
- 1676 (b) as required by the judiciary, provide program services similar to those available to
- 1677 the executive and legislative branches of government as provided in this chapter and
- 1678 Title 63A, Chapter 12, Division of Archives and Records Service and Management
- 1679 of Government Records.
- 1680 Section 23. Section **63G-2-703** is amended to read:
- 1681 **63G-2-703 . Applicability to the Legislature.**
- 1682 (1) The Legislature and its staff offices shall designate and classify records in accordance
- 1683 with Sections 63G-2-301 through 63G-2-305 as public, private, controlled, or protected.
- 1684 (2)(a) The Legislature and its staff offices are not subject to:
- 1685 (i) Section 63G-2-203 or 63G-2-209; or
- 1686 (ii) Part 4, Appeals, [~~Part 5, State Records Committee~~] Title 63A, Chapter 12, Part 2,
- 1687 Government Records Office, or Part 6, Collection of Information and Accuracy of
- 1688 Records.
- 1689 (b) The Legislature is subject to only the following sections in Title 63A, Chapter 12,
- 1690 Division of Archives and Records Service and Management of Government Records:[
- 1691 ~~Sections-~~]
- 1692 (i) Section 63A-12-102[~~-~~] ;
- 1693 (ii) Section 63A-12-102.5[~~-~~] ; and[~~-~~]
- 1694 (iii) Section 63A-12-106.
- 1695 (3) The Legislature, through the Legislative Management Committee:
- 1696 (a)(i) shall establish policies to handle requests for classification, designation, fees,

- 1697 access, denials, segregation, appeals, management, retention, and amendment of  
1698 records; and
- 1699 (ii) may establish an appellate board to hear appeals from denials of access; and
- 1700 (b) may establish:
- 1701 (i) a process for determining that a person is a vexatious requester, including a  
1702 process for an appeal from a determination that a person is a vexatious requester;  
1703 and
- 1704 (ii) appropriate limitations on a person determined to be a vexatious requester.
- 1705 (4) Policies shall include reasonable times for responding to access requests consistent with  
1706 the provisions of Part 2, Access to Records, fees, and reasonable time limits for appeals.
- 1707 (5) Upon request, the state archivist shall:
- 1708 (a) assist with and advise concerning the establishment of a records management  
1709 program in the Legislature; and
- 1710 (b) as required by the Legislature, provide program services similar to those available to  
1711 the executive branch of government, as provided in this chapter and Title 63A,  
1712 Chapter 12, Division of Archives and Records Service and Management of  
1713 Government Records.
- 1714 Section 24. Section **63G-2-801** is amended to read:
- 1715 **63G-2-801 . Criminal penalties.**
- 1716 (1)(a) A public employee or other person who has lawful access to any private,  
1717 controlled, or protected record under this chapter, and who intentionally discloses,  
1718 provides a copy of, or improperly uses a private, controlled, or protected record  
1719 knowing that the disclosure or use is prohibited under this chapter, is, except as  
1720 provided in Subsection 53-5-708(1)(c), guilty of a class B misdemeanor.
- 1721 (b) It is a defense to prosecution under Subsection (1)(a) that the actor used or released  
1722 private, controlled, or protected information in the reasonable belief that the use or  
1723 disclosure of the information was necessary to expose a violation of law involving  
1724 government corruption, abuse of office, or misappropriation of public funds or  
1725 property.
- 1726 (c) It is a defense to prosecution under Subsection (1)(a) that the record could have  
1727 lawfully been released to the recipient if it had been properly classified.
- 1728 (d) It is a defense to prosecution under Subsection (1)(a) that the public employee or  
1729 other person disclosed, provided, or used the record based on a good faith belief that  
1730 the disclosure, provision, or use was in accordance with the law.

- 1731 (2)(a) A person who by false pretenses, bribery, or theft, gains access to or obtains a  
 1732 copy of any private, controlled, or protected record to which the person is not legally  
 1733 entitled is guilty of a class B misdemeanor.
- 1734 (b) No person shall be guilty under Subsection (2)(a) who receives the record,  
 1735 information, or copy after the fact and without prior knowledge of or participation in  
 1736 the false pretenses, bribery, or theft.
- 1737 (3)(a) A public employee who intentionally refuses to release a record, the disclosure of  
 1738 which the employee knows is required by law, is guilty of a class B misdemeanor.
- 1739 (b) It is a defense to prosecution under Subsection (3)(a) that the public employee's  
 1740 failure to release the record was based on a good faith belief that the public employee  
 1741 was acting in accordance with the requirements of law.
- 1742 (c) A public employee who intentionally refuses to release a record, the disclosure of  
 1743 which the employee knows is required by a final unappealed order from a  
 1744 government entity, the ~~[State Records Committee]~~ director of the Government  
 1745 Records Office, or a court is guilty of a class B misdemeanor.
- 1746 Section 25. Section **63H-1-202** is amended to read:
- 1747 **63H-1-202 . Applicability of other law.**
- 1748 (1) As used in this section:
- 1749 (a) "Subsidiary" means an authority subsidiary that is a public body as defined in  
 1750 Section 52-4-103.
- 1751 (b) "Subsidiary board" means the governing body of a subsidiary.
- 1752 (2) The authority or land within a project area is not subject to:
- 1753 (a) Title 10, Chapter 9a, Municipal Land Use, Development, and Management Act;  
 1754 (b) Title 17, Chapter 27a, County Land Use, Development, and Management Act;  
 1755 (c) ordinances or regulations of a county or municipality, including those relating to land  
 1756 use, health, business license, or franchise; or  
 1757 (d) the jurisdiction of a special district under Title 17B, Limited Purpose Local  
 1758 Government Entities - Special Districts, or a special service district under Title 17D,  
 1759 Chapter 1, Special Service District Act.
- 1760 (3) The authority is subject to and governed by Sections 63E-2-106, 63E-2-107, 63E-2-108,  
 1761 63E-2-109, 63E-2-110, and 63E-2-111, but is not otherwise subject to or governed by  
 1762 Title 63E, Independent Entities Code.
- 1763 (4)(a) The definitions in Section 57-8-3 apply to this Subsection (4).  
 1764 (b) Notwithstanding the provisions of Title 57, Chapter 8, Condominium Ownership Act,

- 1765 or any other provision of law:
- 1766 (i) if the military is the owner of land in a project area on which a condominium
- 1767 project is constructed, the military is not required to sign, execute, or record a
- 1768 declaration of a condominium project; and
- 1769 (ii) if a condominium unit in a project area is owned by the military or owned by the
- 1770 authority and leased to the military for \$1 or less per calendar year, not including
- 1771 any common charges that are reimbursements for actual expenses:
- 1772 (A) the condominium unit is not subject to any liens under Title 57, Chapter 8,
- 1773 Condominium Ownership Act;
- 1774 (B) condominium unit owners within the same building or commercial
- 1775 condominium project may agree on any method of allocation and payment of
- 1776 common area expenses, regardless of the size or par value of each unit; and
- 1777 (C) the condominium project may not be dissolved without the consent of all the
- 1778 condominium unit owners.
- 1779 (5) Notwithstanding any other provision, when a law requires the consent of a local
- 1780 government, the authority is the consenting entity for a project area.
- 1781 (6)(a) A department, division, or other agency of the state and a political subdivision of
- 1782 the state shall cooperate with the authority to the fullest extent possible to provide
- 1783 whatever support, information, or other assistance the authority requests that is
- 1784 reasonably necessary to help the authority fulfill the authority's duties and
- 1785 responsibilities under this chapter.
- 1786 (b) Subsection (6)(a) does not apply to a political subdivision that does not have any of a
- 1787 project area located within the boundary of the political subdivision.
- 1788 (7)(a) The authority and a subsidiary are subject to Title 52, Chapter 4, Open and Public
- 1789 Meetings Act, except that:
- 1790 (i) notwithstanding Section 52-4-104, the timing and nature of training to authority
- 1791 board members or subsidiary board members on the requirements of Title 52,
- 1792 Chapter 4, Open and Public Meetings Act, may be determined by:
- 1793 (A) the board chair, for the authority board; or
- 1794 (B) the subsidiary board chair, for a subsidiary board;
- 1795 (ii) authority staff may adopt a rule governing the use of electronic meetings under
- 1796 Section 52-4-207, if, under Subsection 63H-1-301(3), the board delegates to
- 1797 authority staff the power to adopt the rule; and
- 1798 (iii) for an electronic meeting of the authority board or subsidiary board that

- 1799 otherwise complies with Section 52-4-207, the authority board or subsidiary  
1800 board, respectively:
- 1801 (A) is not required to establish an anchor location; and  
1802 (B) may convene and conduct the meeting without the determination otherwise  
1803 required under Subsection 52-4-207(5)(a)(i).
- 1804 (b) The authority and subsidiaries are not required to physically post notice  
1805 notwithstanding any other provision of law.
- 1806 (8) The authority and a subsidiary are subject to Title 63G, Chapter 2, Government Records  
1807 Access and Management Act, except that:
- 1808 (a) notwithstanding Section 63G-2-701:
- 1809 (i) the authority may establish an appeals board consisting of at least three members;  
1810 (ii) an appeals board established under Subsection (8)(a)(i) shall include:
- 1811 (A) one of the authority board members appointed by the governor;  
1812 (B) the authority board member appointed by the president of the Senate; and  
1813 (C) the authority board member appointed by the speaker of the House of  
1814 Representatives; and
- 1815 (iii) an appeal of a decision of an appeals board is to district court, as provided in  
1816 Section 63G-2-404, except that the ~~[State Records Committee is not a party]~~  
1817 Government Records Office and the director of the Government Records Office  
1818 are not parties; and
- 1819 (b) a record created or retained by the authority or a subsidiary acting in the role of a  
1820 facilitator under Subsection 63H-1-201(3)(v) is a protected record under Title 63G,  
1821 Chapter 2, Government Records Access and Management Act.
- 1822 (9) The authority or a subsidiary acting in the role of a facilitator under Subsection  
1823 63H-1-201(3)(v) is not prohibited from receiving a benefit from a public-private  
1824 partnership that results from the facilitator's work as a facilitator.
- 1825 (10)(a)(i) A subsidiary created as a public infrastructure district under Title 17D,  
1826 Chapter 4, Public Infrastructure District Act, may, subject to limitations of Title  
1827 17D, Chapter 4, Public Infrastructure District Act, levy a property tax for the  
1828 operations and maintenance of the public infrastructure district's financed  
1829 infrastructure and related improvements, subject to a maximum rate of .015.
- 1830 (ii) A levy under Subsection (10)(a)(i) may be separate from a public infrastructure  
1831 district property tax levy for a bond.
- 1832 (b) If a subsidiary created as a public infrastructure district issues a bond:

- 1833 (i) the subsidiary may:
- 1834 (A) delay the effective date of the property tax levy for the bond until after the
- 1835 period of capitalized interest payments; and
- 1836 (B) covenant with bondholders not to reduce or impair the property tax levy; and
- 1837 (ii) notwithstanding a provision to the contrary in Title 17D, Chapter 4, Public
- 1838 Infrastructure District Act, the tax rate for the property tax levy for the bond may
- 1839 not exceed a rate that generates more revenue than required to pay the annual debt
- 1840 service of the bond plus administrative costs, subject to a maximum of .02.
- 1841 (c)(i) A subsidiary created as a public infrastructure district under Title 17D, Chapter
- 1842 4, Public Infrastructure District Act, may create tax areas, as defined in Section
- 1843 59-2-102, within the public infrastructure district and apply a different property
- 1844 tax rate to each tax area, subject to the maximum rate limitations described in
- 1845 Subsections (10)(a)(i) and (10)(b)(ii).
- 1846 (ii) If a subsidiary created by a public infrastructure district issues bonds, the
- 1847 subsidiary may issue bonds secured by property taxes from:
- 1848 (A) the entire public infrastructure district; or
- 1849 (B) one or more tax areas within the public infrastructure district.
- 1850 (11)(a) Terms defined in Section 57-11-2 apply to this Subsection (11).
- 1851 (b) Title 57, Chapter 11, Utah Uniform Land Sales Practices Act, does not apply to an
- 1852 offer or disposition of an interest in land if the interest in land lies within the
- 1853 boundaries of the project area and the authority:
- 1854 (i)(A) has a development review committee using at least one professional planner;
- 1855 (B) enacts standards and guidelines that require approval of planning, land use,
- 1856 and plats, including the approval of plans for streets, culinary water, sanitary
- 1857 sewer, and flood control; and
- 1858 (C) will have the improvements described in Subsection (11)(b)(i)(B) plus
- 1859 telecommunications and electricity; and
- 1860 (ii) if at the time of the offer or disposition, the subdivider furnishes satisfactory
- 1861 assurance of completion of the improvements described in Subsection (11)(b)(i)(C).
- 1862 (12)(a) As used in this Subsection (12), "officer" means the same as an officer within the
- 1863 meaning of the Utah Constitution, Article IV, Section 10.
- 1864 (b) An official act of an officer may not be invalidated for the reason that the officer
- 1865 failed to take the oath of office.
- 1866 Section 26. Section **67-1b-104** is amended to read:

1867 **67-1b-104 . Duties during transition period.**

- 1868 (1) During a transition period, the executive branch shall:
- 1869 (a) provide any lawful assistance that the incoming gubernatorial administration may
- 1870 reasonably request related to the transition between gubernatorial administrations; and
- 1871 (b) take reasonable steps to:
- 1872 (i) avoid or minimize disruptions that might be occasioned by a transition between
- 1873 gubernatorial administrations; and
- 1874 (ii) facilitate an efficient transition between gubernatorial administrations.
- 1875 (2) During a transition period, the incoming gubernatorial administration shall take
- 1876 reasonable steps to:
- 1877 (a) avoid or minimize disruptions that might be occasioned by a transition between
- 1878 gubernatorial administrations; and
- 1879 (b) facilitate an efficient transition between gubernatorial administrations.
- 1880 (3)(a) During a transition period, the executive branch shall timely provide a
- 1881 governor-elect, upon the governor-elect's request, with all records and information
- 1882 from the executive branch upon any subject relating to the executive branch's
- 1883 condition, expenditures, expenses, management, operations, personnel, and receipts.
- 1884 ~~[(b) For a record requested by a governor-elect under Subsection (3)(a) that is classified~~
- 1885 ~~as private or protected under Title 63G, Chapter 2, Government Records Access and~~
- 1886 ~~Management Act, there is a rebuttable presumption that disclosure of the record to~~
- 1887 ~~the governor-elect meets the conditions for disclosure under Subsection 63G-2-201(5).]~~
- 1888 [(e)] (b) A governor-elect who receives records under this Subsection (3) is subject to the
- 1889 provisions of Title 63G, Chapter 2, Government Records Access and Management
- 1890 Act, governing the use and disclosure of records.
- 1891 [(d)] (c) The disclosure of a record that is classified as private or protected to a
- 1892 governor-elect does not affect the classification of that record under Title 63G,
- 1893 Chapter 2, Government Records Access and Management Act.

1894 Section 27. Section **67-3-1** is amended to read:

1895 **67-3-1 . Functions and duties.**

- 1896 (1)(a) The state auditor is the auditor of public accounts and is independent of any
- 1897 executive or administrative officers of the state.
- 1898 (b) The state auditor is not limited in the selection of personnel or in the determination
- 1899 of the reasonable and necessary expenses of the state auditor's office.
- 1900 (2) The state auditor shall examine and certify annually in respect to each fiscal year,



- 1901 financial statements showing:
- 1902 (a) the condition of the state's finances;
- 1903 (b) the revenues received or accrued;
- 1904 (c) expenditures paid or accrued;
- 1905 (d) the amount of unexpended or unencumbered balances of the appropriations to the
- 1906 agencies, departments, divisions, commissions, and institutions; and
- 1907 (e) the cash balances of the funds in the custody of the state treasurer.
- 1908 (3)(a) The state auditor shall:
- 1909 (i) audit each permanent fund, each special fund, the General Fund, and the accounts
- 1910 of any department of state government or any independent agency or public
- 1911 corporation as the law requires, as the auditor determines is necessary, or upon
- 1912 request of the governor or the Legislature;
- 1913 (ii) perform the audits in accordance with generally accepted auditing standards and
- 1914 other auditing procedures as promulgated by recognized authoritative bodies; and
- 1915 (iii) as the auditor determines is necessary, conduct the audits to determine:
- 1916 (A) honesty and integrity in fiscal affairs;
- 1917 (B) accuracy and reliability of financial statements;
- 1918 (C) effectiveness and adequacy of financial controls; and
- 1919 (D) compliance with the law.
- 1920 (b) If any state entity receives federal funding, the state auditor shall ensure that the
- 1921 audit is performed in accordance with federal audit requirements.
- 1922 (c)(i) The costs of the federal compliance portion of the audit may be paid from an
- 1923 appropriation to the state auditor from the General Fund.
- 1924 (ii) If an appropriation is not provided, or if the federal government does not
- 1925 specifically provide for payment of audit costs, the costs of the federal compliance
- 1926 portions of the audit shall be allocated on the basis of the percentage that each
- 1927 state entity's federal funding bears to the total federal funds received by the state.
- 1928 (iii) The allocation shall be adjusted to reflect any reduced audit time required to
- 1929 audit funds passed through the state to local governments and to reflect any
- 1930 reduction in audit time obtained through the use of internal auditors working
- 1931 under the direction of the state auditor.
- 1932 (4)(a) Except as provided in Subsection (4)(b), the state auditor shall, in addition to
- 1933 financial audits, and as the auditor determines is necessary, conduct performance and
- 1934 special purpose audits, examinations, and reviews of any entity that receives public

- 1935 funds, including a determination of any or all of the following:
- 1936 (i) the honesty and integrity of all the entity's fiscal affairs;
- 1937 (ii) whether the entity's administrators have faithfully complied with legislative intent;
- 1938 (iii) whether the entity's operations have been conducted in an efficient, effective, and
- 1939 cost-efficient manner;
- 1940 (iv) whether the entity's programs have been effective in accomplishing the intended
- 1941 objectives; and
- 1942 (v) whether the entity's management, control, and information systems are adequate,
- 1943 effective, and secure.
- 1944 (b) The auditor may not conduct performance and special purpose audits, examinations,
- 1945 and reviews of any entity that receives public funds if the entity:
- 1946 (i) has an elected auditor; and
- 1947 (ii) has, within the entity's last budget year, had the entity's financial statements or
- 1948 performance formally reviewed by another outside auditor.
- 1949 (5) The state auditor:
- 1950 (a) shall administer any oath or affirmation necessary to the performance of the duties of
- 1951 the auditor's office; and
- 1952 (b) may:
- 1953 (i) subpoena witnesses and documents, whether electronic or otherwise; and
- 1954 (ii) examine into any matter that the auditor considers necessary.
- 1955 (6) The state auditor may require all persons who have had the disposition or management
- 1956 of any property of this state or its political subdivisions to submit statements regarding
- 1957 the property at the time and in the form that the auditor requires.
- 1958 (7) The state auditor shall:
- 1959 (a) except where otherwise provided by law, institute suits in Salt Lake County in
- 1960 relation to the assessment, collection, and payment of revenues against:
- 1961 (i) persons who by any means have become entrusted with public money or property
- 1962 and have failed to pay over or deliver the money or property; and
- 1963 (ii) all debtors of the state;
- 1964 (b) collect and pay into the state treasury all fees received by the state auditor;
- 1965 (c) perform the duties of a member of all boards of which the state auditor is a member
- 1966 by the constitution or laws of the state, and any other duties that are prescribed by the
- 1967 constitution and by law;
- 1968 (d) stop the payment of the salary of any state official or state employee who:

- 1969 (i) refuses to settle accounts or provide required statements about the custody and  
 1970 disposition of public funds or other state property;
- 1971 (ii) refuses, neglects, or ignores the instruction of the state auditor or any controlling  
 1972 board or department head with respect to the manner of keeping prescribed  
 1973 accounts or funds; or
- 1974 (iii) fails to correct any delinquencies, improper procedures, and errors brought to the  
 1975 official's or employee's attention;
- 1976 (e) establish accounting systems, methods, and forms for public accounts in all taxing or  
 1977 fee-assessing units of the state in the interest of uniformity, efficiency, and economy;
- 1978 (f) superintend the contractual auditing of all state accounts;
- 1979 (g) subject to Subsection (8)(a), withhold state allocated funds or the disbursement of  
 1980 property taxes from a state or local taxing or fee-assessing unit, if necessary, to  
 1981 ensure that officials and employees in those taxing units comply with state laws and  
 1982 procedures in the budgeting, expenditures, and financial reporting of public funds;
- 1983 (h) subject to Subsection (9), withhold the disbursement of tax money from any county,  
 1984 if necessary, to ensure that officials and employees in the county comply with  
 1985 Section 59-2-303.1; and
- 1986 (i) withhold state allocated funds or the disbursement of property taxes from a local  
 1987 government entity or a limited purpose entity, as those terms are defined in Section  
 1988 67-1a-15 if the state auditor finds the withholding necessary to ensure that the entity  
 1989 registers and maintains the entity's registration with the lieutenant governor, in  
 1990 accordance with Section 67-1a-15.
- 1991 (8)(a) Except as otherwise provided by law, the state auditor may not withhold funds  
 1992 under Subsection (7)(g) until a state or local taxing or fee-assessing unit has received  
 1993 formal written notice of noncompliance from the auditor and has been given 60 days  
 1994 to make the specified corrections.
- 1995 (b) If, after receiving notice under Subsection (8)(a), a state or independent local  
 1996 fee-assessing unit that exclusively assesses fees has not made corrections to comply  
 1997 with state laws and procedures in the budgeting, expenditures, and financial reporting  
 1998 of public funds, the state auditor:
- 1999 (i) shall provide a recommended timeline for corrective actions;
- 2000 (ii) may prohibit the state or local fee-assessing unit from accessing money held by  
 2001 the state; and
- 2002 (iii) may prohibit a state or local fee-assessing unit from accessing money held in an

- 2003 account of a financial institution by filing an action in a court with jurisdiction  
2004 under Title 78A, Judiciary and Judicial Administration, requesting an order of the  
2005 court to prohibit a financial institution from providing the fee-assessing unit  
2006 access to an account.
- 2007 (c) The state auditor shall remove a limitation on accessing funds under Subsection (8)(b)  
2008 upon compliance with state laws and procedures in the budgeting, expenditures, and  
2009 financial reporting of public funds.
- 2010 (d) If a local taxing or fee-assessing unit has not adopted a budget in compliance with  
2011 state law, the state auditor:
- 2012 (i) shall provide notice to the taxing or fee-assessing unit of the unit's failure to  
2013 comply;
- 2014 (ii) may prohibit the taxing or fee-assessing unit from accessing money held by the  
2015 state; and
- 2016 (iii) may prohibit a taxing or fee-assessing unit from accessing money held in an  
2017 account of a financial institution by:
- 2018 (A) contacting the taxing or fee-assessing unit's financial institution and  
2019 requesting that the institution prohibit access to the account; or
- 2020 (B) filing an action in a court with jurisdiction under Title 78A, Judiciary and  
2021 Judicial Administration, requesting an order of the court to prohibit a financial  
2022 institution from providing the taxing or fee-assessing unit access to an account.
- 2023 (e) If the local taxing or fee-assessing unit adopts a budget in compliance with state law,  
2024 the state auditor shall eliminate a limitation on accessing funds described in  
2025 Subsection (8)(d).
- 2026 (9) The state auditor may not withhold funds under Subsection (7)(h) until a county has  
2027 received formal written notice of noncompliance from the auditor and has been given 60  
2028 days to make the specified corrections.
- 2029 (10)(a) The state auditor may not withhold funds under Subsection (7)(i) until the state  
2030 auditor receives a notice of non-registration, as that term is defined in Section  
2031 67-1a-15.
- 2032 (b) If the state auditor receives a notice of non-registration, the state auditor may  
2033 prohibit the local government entity or limited purpose entity, as those terms are  
2034 defined in Section 67-1a-15, from accessing:
- 2035 (i) money held by the state; and
- 2036 (ii) money held in an account of a financial institution by:

- 2037 (A) contacting the entity's financial institution and requesting that the institution  
2038 prohibit access to the account; or
- 2039 (B) filing an action in a court with jurisdiction under Title 78A, Judiciary and  
2040 Judicial Administration, requesting an order of the court to prohibit a financial  
2041 institution from providing the entity access to an account.
- 2042 (c) The state auditor shall remove the prohibition on accessing funds described in  
2043 Subsection (10)(b) if the state auditor received a notice of registration, as that term is  
2044 defined in Section 67-1a-15, from the lieutenant governor.
- 2045 (11) Notwithstanding Subsection (7)(g), (7)(h), (7)(i), (8)(b), (8)(d), or (10)(b), the state  
2046 auditor:
- 2047 (a) shall authorize a disbursement by a local government entity or limited purpose entity,  
2048 as those terms are defined in Section 67-1a-15, or a state or local taxing or  
2049 fee-assessing unit if the disbursement is necessary to:
- 2050 (i) avoid a major disruption in the operations of the local government entity, limited  
2051 purpose entity, or state or local taxing or fee-assessing unit; or
- 2052 (ii) meet debt service obligations; and
- 2053 (b) may authorize a disbursement by a local government entity, limited purpose entity,  
2054 or state or local taxing or fee-assessing unit as the state auditor determines is  
2055 appropriate.
- 2056 (12)(a) The state auditor may seek relief under the Utah Rules of Civil Procedure to take  
2057 temporary custody of public funds if an action is necessary to protect public funds  
2058 from being improperly diverted from their intended public purpose.
- 2059 (b) If the state auditor seeks relief under Subsection (12)(a):
- 2060 (i) the state auditor is not required to exhaust the procedures in Subsection (7) or (8);  
2061 and
- 2062 (ii) the state treasurer may hold the public funds in accordance with Section 67-4-1 if  
2063 a court orders the public funds to be protected from improper diversion from their  
2064 public purpose.
- 2065 (13) The state auditor shall:
- 2066 (a) establish audit guidelines and procedures for audits of local mental health and  
2067 substance abuse authorities and their contract providers, conducted pursuant to Title  
2068 17, Chapter 43, Part 2, Local Substance Abuse Authorities, Title 17, Chapter 43, Part  
2069 3, Local Mental Health Authorities, Title 26B, Chapter 5, Health Care - Substance  
2070 Use and Mental Health, and Title 51, Chapter 2a, Accounting Reports from Political

- 2071 Subdivisions, Interlocal Organizations, and Other Local Entities Act; and
- 2072 (b) ensure that those guidelines and procedures provide assurances to the state that:
- 2073 (i) state and federal funds appropriated to local mental health authorities are used for
- 2074 mental health purposes;
- 2075 (ii) a private provider under an annual or otherwise ongoing contract to provide
- 2076 comprehensive mental health programs or services for a local mental health
- 2077 authority is in compliance with state and local contract requirements and state and
- 2078 federal law;
- 2079 (iii) state and federal funds appropriated to local substance abuse authorities are used
- 2080 for substance abuse programs and services; and
- 2081 (iv) a private provider under an annual or otherwise ongoing contract to provide
- 2082 comprehensive substance abuse programs or services for a local substance abuse
- 2083 authority is in compliance with state and local contract requirements, and state and
- 2084 federal law.
- 2085 (14)(a) The state auditor may, in accordance with the auditor's responsibilities for
- 2086 political subdivisions of the state as provided in Title 51, Chapter 2a, Accounting
- 2087 Reports from Political Subdivisions, Interlocal Organizations, and Other Local
- 2088 Entities Act, initiate audits or investigations of any political subdivision that are
- 2089 necessary to determine honesty and integrity in fiscal affairs, accuracy and reliability
- 2090 of financial statements, effectiveness, and adequacy of financial controls and
- 2091 compliance with the law.
- 2092 (b) If the state auditor receives notice under Subsection 11-41-104(7) from the
- 2093 Governor's Office of Economic Opportunity on or after July 1, 2024, the state auditor
- 2094 may initiate an audit or investigation of the public entity subject to the notice to
- 2095 determine compliance with Section 11-41-103.
- 2096 (15)(a) The state auditor may not audit work that the state auditor performed before
- 2097 becoming state auditor.
- 2098 (b) If the state auditor has previously been a responsible official in state government
- 2099 whose work has not yet been audited, the Legislature shall:
- 2100 (i) designate how that work shall be audited; and
- 2101 (ii) provide additional funding for those audits, if necessary.
- 2102 (16) The state auditor shall:
- 2103 (a) with the assistance, advice, and recommendations of an advisory committee
- 2104 appointed by the state auditor from among special district boards of trustees, officers,

- 2105 and employees and special service district boards, officers, and employees:
- 2106 (i) prepare a Uniform Accounting Manual for Special Districts that:
- 2107 (A) prescribes a uniform system of accounting and uniform budgeting and
- 2108 reporting procedures for special districts under Title 17B, Limited Purpose
- 2109 Local Government Entities - Special Districts, and special service districts
- 2110 under Title 17D, Chapter 1, Special Service District Act;
- 2111 (B) conforms with generally accepted accounting principles; and
- 2112 (C) prescribes reasonable exceptions and modifications for smaller districts to the
- 2113 uniform system of accounting, budgeting, and reporting;
- 2114 (ii) maintain the manual under this Subsection (16)(a) so that the manual continues to
- 2115 reflect generally accepted accounting principles;
- 2116 (iii) conduct a continuing review and modification of procedures in order to improve
- 2117 them;
- 2118 (iv) prepare and supply each district with suitable budget and reporting forms; and
- 2119 (v)(A) prepare instructional materials, conduct training programs, and render other
- 2120 services considered necessary to assist special districts and special service
- 2121 districts in implementing the uniform accounting, budgeting, and reporting
- 2122 procedures; and
- 2123 (B) ensure that any training described in Subsection (16)(a)(v)(A) complies with
- 2124 Title 63G, Chapter 22, State Training and Certification Requirements; and
- 2125 (b) continually analyze and evaluate the accounting, budgeting, and reporting practices
- 2126 and experiences of specific special districts and special service districts selected by
- 2127 the state auditor and make the information available to all districts.
- 2128 (17)(a) The following records in the custody or control of the state auditor are protected
- 2129 records under Title 63G, Chapter 2, Government Records Access and Management
- 2130 Act:
- 2131 (i) records that would disclose information relating to allegations of personal
- 2132 misconduct, gross mismanagement, or illegal activity of a past or present
- 2133 governmental employee if the information or allegation cannot be corroborated by
- 2134 the state auditor through other documents or evidence, and the records relating to
- 2135 the allegation are not relied upon by the state auditor in preparing a final audit
- 2136 report;
- 2137 (ii) records and audit workpapers to the extent the workpapers would disclose the
- 2138 identity of an individual who during the course of an audit, communicated the

- 2139 existence of any waste of public funds, property, or manpower, or a violation or  
2140 suspected violation of a law, rule, or regulation adopted under the laws of this  
2141 state, a political subdivision of the state, or any recognized entity of the United  
2142 States, if the information was disclosed on the condition that the identity of the  
2143 individual be protected;
- 2144 (iii) before an audit is completed and the final audit report is released, records or  
2145 drafts circulated to an individual who is not an employee or head of a  
2146 governmental entity for the individual's response or information;
- 2147 (iv) records that would disclose an outline or part of any audit survey plans or audit  
2148 program; and
- 2149 (v) requests for audits, if disclosure would risk circumvention of an audit.
- 2150 (b) The provisions of Subsections (17)(a)(i), (ii), and (iii) do not prohibit the disclosure  
2151 of records or information that relate to a violation of the law by a governmental entity  
2152 or employee to a government prosecutor or peace officer.
- 2153 (c) The provisions of this Subsection (17) do not limit the authority otherwise given to  
2154 the state auditor to classify a document as public, private, controlled, or protected  
2155 under Title 63G, Chapter 2, Government Records Access and Management Act.
- 2156 (d)(i) As used in this Subsection (17)(d), "record dispute" means a dispute between  
2157 the state auditor and the subject of an audit performed by the state auditor as to  
2158 whether the state auditor may release a record, as defined in Section 63G-2-103,  
2159 to the public that the state auditor gained access to in the course of the state  
2160 auditor's audit but which the subject of the audit claims is not subject to disclosure  
2161 under Title 63G, Chapter 2, Government Records Access and Management Act.
- 2162 (ii) The state auditor may submit a record dispute to the ~~[State Records Committee,~~  
2163 ~~created in Section 63G-2-501]~~ director of the Government Records Office, created  
2164 in Section 63A-12-202, for a determination of whether the state auditor may, in  
2165 conjunction with the state auditor's release of an audit report, release to the public  
2166 the record that is the subject of the record dispute.
- 2167 (iii) The state auditor or the subject of the audit may seek judicial review of ~~[a State~~  
2168 ~~Records Committee]~~ the director's determination~~[under]~~ , described in Subsection  
2169 (17)(d)(ii), as provided in Section 63G-2-404.
- 2170 (18) If the state auditor conducts an audit of an entity that the state auditor has previously  
2171 audited and finds that the entity has not implemented a recommendation made by the  
2172 state auditor in a previous audit, the state auditor shall notify the Legislative



- 2173 Management Committee through the Legislative Management Committee's audit  
2174 subcommittee that the entity has not implemented that recommendation.
- 2175 (19) The state auditor shall, with the advice and consent of the Senate, appoint the state  
2176 privacy officer described in Section 67-3-13.
- 2177 (20) Except as provided in Subsection (21), the state auditor shall report, or ensure that  
2178 another government entity reports, on the financial, operational, and performance  
2179 metrics for the state system of higher education and the state system of public education,  
2180 including metrics in relation to students, programs, and schools within those systems.
- 2181 (21)(a) Notwithstanding Subsection (20), the state auditor shall conduct regular audits of:
- 2182 (i) the scholarship granting organization for the Carson Smith Opportunity  
2183 Scholarship Program, created in Section 53E-7-402;
- 2184 (ii) the State Board of Education for the Carson Smith Scholarship Program, created  
2185 in Section 53F-4-302; and
- 2186 (iii) the scholarship program manager for the Utah Fits All Scholarship Program,  
2187 created in Section 53F-6-402, including an analysis of the cost effectiveness of the  
2188 program, taking into consideration the amount of the scholarship and the amount  
2189 of state and local funds dedicated on a per-student basis within the traditional  
2190 public education system.
- 2191 (b) Nothing in this subsection limits or impairs the authority of the State Board of  
2192 Education to administer the programs described in Subsection (21)(a).
- 2193 (22) The state auditor shall, based on the information posted by the Office of Legislative  
2194 Research and General Counsel under Subsection 36-12-12.1(2), for each policy, track  
2195 and post the following information on the state auditor's website:
- 2196 (a) the information posted under Subsections 36-12-12.1(2)(a) through (e);  
2197 (b) an indication regarding whether the policy is timely adopted, adopted late, or not  
2198 adopted;
- 2199 (c) an indication regarding whether the policy complies with the requirements  
2200 established by law for the policy; and
- 2201 (d) a link to the policy.
- 2202 (23)(a) A legislator may request that the state auditor conduct an inquiry to determine  
2203 whether a government entity, government official, or government employee has  
2204 complied with a legal obligation directly imposed, by statute, on the government  
2205 entity, government official, or government employee.
- 2206 (b) The state auditor may, upon receiving a request under Subsection (23)(a), conduct

- 2207 the inquiry requested.
- 2208 (c) If the state auditor conducts the inquiry described in Subsection (23)(b), the state  
2209 auditor shall post the results of the inquiry on the state auditor's website.
- 2210 (d) The state auditor may limit the inquiry described in this Subsection (23) to a simple  
2211 determination, without conducting an audit, regarding whether the obligation was  
2212 fulfilled.
- 2213 (24) The state auditor shall:
- 2214 (a) ensure compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex, in  
2215 accordance with Section 63G-31-401; and
- 2216 (b) report to the Legislative Management Committee, upon request, regarding the state  
2217 auditor's actions under this Subsection (24).
- 2218 (25) The state auditor shall report compliance with Sections 67-27-107, 67-27-108, and  
2219 67-27-109 by:
- 2220 (a) establishing a process to receive and audit each alleged violation; and
- 2221 (b) reporting to the Legislative Management Committee, upon request, regarding the  
2222 state auditor's findings and recommendations under this Subsection (25).
- 2223 Section 28. Section **77-18-103** is amended to read:
- 2224 **77-18-103 . Presentence investigation report -- Classification of presentence**  
2225 **investigation report -- Evidence or other information at sentencing.**
- 2226 (1) Before the imposition of a sentence, the court may:
- 2227 (a) upon agreement of the defendant, continue the date for the imposition of the sentence  
2228 for a reasonable period of time for the purpose of obtaining a presentence  
2229 investigation report from the department or a law enforcement agency, or information  
2230 from any other source about the defendant; and
- 2231 (b) if the defendant is convicted of a felony or a class A misdemeanor, request that the  
2232 department or a law enforcement agency prepare a presentence investigation report  
2233 for the defendant.
- 2234 (2)(a) Notwithstanding Subsection (1), if a defendant is convicted of a felony offense  
2235 and the defendant is a habitual offender, the prosecuting attorney shall notify the  
2236 court that the defendant is a habitual offender.
- 2237 (b) Upon a notification under Subsection (2)(a), the court may not impose a sentence for  
2238 the conviction without ordering and obtaining a presentence investigation report,  
2239 unless the court finds good cause to proceed with sentencing without the presentence  
2240 investigation report.

- 2241 (3) If a presentence investigation report is required under Subsection (2) or the standards  
2242 established by the department described in Section 77-18-109, the presentence  
2243 investigation report under Subsection (1) shall include:
- 2244 (a) any impact statement provided by a victim as described in Subsection 77-38b-203  
2245 (3)(c);
  - 2246 (b) information on restitution as described in Subsections 77-38b-203(3)(a) and (b);
  - 2247 (c) recommendations for treatment for the defendant; and
  - 2248 (d) the number of days since the commission of the offense that the defendant has spent  
2249 in the custody of the jail and the number of days, if any, the defendant was released  
2250 to a supervised release program or an alternative incarceration program under Section  
2251 17-22-5.5.
- 2252 (4) The department or law enforcement agency shall provide the presentence investigation  
2253 report to the defendant's attorney, or the defendant if the defendant is not represented by  
2254 counsel, the prosecuting attorney, and the court for review within three working days  
2255 before the day on which the defendant is sentenced.
- 2256 (5)(a)(i) If there is an alleged inaccuracy in the presentence investigation report that  
2257 is not resolved by the parties and the department or law enforcement agency  
2258 before sentencing:
- 2259 (A) the alleged inaccuracy shall be brought to the attention of the court at  
2260 sentencing; and
  - 2261 (B) the court may grant an additional 10 working days after the day on which the  
2262 alleged inaccuracy is brought to the court's attention to allow the parties and  
2263 the department to resolve the alleged inaccuracy in the presentence  
2264 investigation report.
- 2265 (ii) If the court does not grant additional time under Subsection (5)(a)(i)(B), or the  
2266 alleged inaccuracy cannot be resolved after 10 working days, and if the court finds  
2267 that there is an inaccuracy in the presentence investigation report, the court shall:
- 2268 (A) enter a written finding as to the relevance and accuracy of the challenged  
2269 portion of the presentence investigation report; and
  - 2270 (B) provide the written finding to the department or the law enforcement agency.
- 2271 (b) The department shall attach the written finding to the presentence investigation  
2272 report as an addendum.
- 2273 (c) If a party fails to challenge the accuracy of the presentence investigation report at the  
2274 time of sentencing, the matter shall be considered waived.

- 2275 (6) The contents of the presentence investigation report are protected and not available  
2276 except by court order for purposes of sentencing as provided by rule of the Judicial  
2277 Council or for use by the department or law enforcement agency.
- 2278 (7)(a) A presentence investigation report is classified as protected in accordance with  
2279 Title 63G, Chapter 2, Government Records Access and Management Act.
- 2280 (b) Notwithstanding Sections 63G-2-403 and 63G-2-404, the [~~State Records Committee~~]  
2281 director of the State Records Office, created in Section 63A-12-202, may not order  
2282 the disclosure of a presentence investigation report.
- 2283 (8) Except for disclosure at the time of sentencing in accordance with this section, the  
2284 department or law enforcement agency may disclose a presentence investigation only  
2285 when:
- 2286 (a) ordered by the court in accordance with Subsection 63G-2-202(7);
- 2287 (b) requested by a law enforcement agency or other agency approved by the department  
2288 for purposes of supervision, confinement, and treatment of a defendant;
- 2289 (c) requested by the board;
- 2290 (d) requested by the subject of the presentence investigation report or the subject's  
2291 authorized representative;
- 2292 (e) requested by the victim of the offense discussed in the presentence investigation  
2293 report, or the victim's authorized representative, if the disclosure is only information  
2294 relating to:
- 2295 (i) statements or materials provided by the victim;
- 2296 (ii) the circumstances of the offense, including statements by the defendant; or
- 2297 (iii) the impact of the offense on the victim or the victim's household; or
- 2298 (f) requested by a sex offender treatment provider:
- 2299 (i) who is certified to provide treatment under the certification program established in  
2300 Subsection 64-13-25(2);
- 2301 (ii) who is providing, at the time of the request, sex offender treatment to the offender  
2302 who is the subject of the presentence investigation report; and
- 2303 (iii) who provides written assurance to the department that the report:
- 2304 (A) is necessary for the treatment of the defendant;
- 2305 (B) will be used solely for the treatment of the defendant; and
- 2306 (C) will not be disclosed to an individual or entity other than the defendant.
- 2307 (9)(a) At the time of sentence, the court shall receive any testimony, evidence, or  
2308 information that the defendant or the prosecuting attorney desires to present

2309 concerning the appropriate sentence.

2310 (b) Testimony, evidence, or information under Subsection (9)(a) shall be presented in  
2311 open court on record and in the presence of the defendant.

2312 (10) The court may not rely solely on an algorithm or a risk assessment tool score in  
2313 determining the appropriate sentence for a defendant.

2314 Section 29. Section **77-27-5** is amended to read:

2315 **77-27-5 . Board of Pardons and Parole authority.**

2316 (1)(a) Subject to this chapter and other laws of the state, and except for a conviction for  
2317 treason or impeachment, the board shall determine by majority decision when and  
2318 under what conditions an offender's conviction may be pardoned or commuted.

2319 (b) The board shall determine by majority decision when and under what conditions an  
2320 offender committed to serve a sentence at a penal or correctional facility, which is  
2321 under the jurisdiction of the department, may:

2322 (i) be released upon parole;

2323 (ii) have a fine or forfeiture remitted;

2324 (iii) have the offender's criminal accounts receivable remitted in accordance with  
2325 Section 77-32b-105 or 77-32b-106;

2326 (iv) have the offender's payment schedule modified in accordance with Section  
2327 77-32b-103; or

2328 (v) have the offender's sentence terminated.

2329 (c) The board shall prioritize public safety when making a determination under  
2330 Subsection (1)(a) or (1)(b).

2331 (d)(i) The board may sit together or in panels to conduct hearings.

2332 (ii) The chair shall appoint members to the panels in any combination and in  
2333 accordance with rules made by the board in accordance with Title 63G, Chapter 3,  
2334 Utah Administrative Rulemaking Act.

2335 (iii) The chair may participate on any panel and when doing so is chair of the panel.

2336 (iv) The chair of the board may designate the chair for any other panel.

2337 (e)(i) Except after a hearing before the board, or the board's appointed examiner, in  
2338 an open session, the board may not:

2339 (A) remit a fine or forfeiture for an offender or the offender's criminal accounts  
2340 receivable;

2341 (B) release the offender on parole; or

2342 (C) commute, pardon, or terminate an offender's sentence.

- 2343 (ii) An action taken under this Subsection (1) other than by a majority of the board  
2344 shall be affirmed by a majority of the board.
- 2345 (f) A commutation or pardon may be granted only after a full hearing before the board.
- 2346 (2)(a) In the case of a hearing, timely prior notice of the time and location of the hearing  
2347 shall be given to the offender.
- 2348 (b) The county or district attorney's office responsible for prosecution of the case, the  
2349 sentencing court, and law enforcement officials responsible for the defendant's arrest  
2350 and conviction shall be notified of any board hearings through the board's website.
- 2351 (c) Whenever possible, the victim or the victim's representative, if designated, shall be  
2352 notified of original hearings and any hearing after that if notification is requested and  
2353 current contact information has been provided to the board.
- 2354 (d)(i) Notice to the victim or the victim's representative shall include information  
2355 provided in Section 77-27-9.5, and any related rules made by the board under that  
2356 section.
- 2357 (ii) The information under Subsection (2)(d)(i) shall be provided in terms that are  
2358 reasonable for the lay person to understand.
- 2359 (3)(a) A decision by the board is final and not subject for judicial review if the decision  
2360 is regarding:
- 2361 (i) a pardon, parole, commutation, or termination of an offender's sentence;  
2362 (ii) the modification of an offender's payment schedule for restitution; or  
2363 (iii) the remission of an offender's criminal accounts receivable or a fine or forfeiture.
- 2364 (b) Deliberative processes are not public and the board is exempt from Title 52, Chapter  
2365 4, Open and Public Meetings Act, when the board is engaged in the board's  
2366 deliberative process.
- 2367 (c) Pursuant to Subsection [~~63G-2-103(25)(b)(xi)~~] 63G-2-103(26)(b)(xii), records of the  
2368 deliberative process are exempt from Title 63G, Chapter 2, Government Records  
2369 Access and Management Act.
- 2370 (d) Unless it will interfere with a constitutional right, deliberative processes are not  
2371 subject to disclosure, including discovery.
- 2372 (e) Nothing in this section prevents the obtaining or enforcement of a civil judgment.
- 2373 (4)(a) This chapter may not be construed as a denial of or limitation of the governor's  
2374 power to grant respite or reprieves in all cases of convictions for offenses against the  
2375 state, except treason or conviction on impeachment.
- 2376 (b) Notwithstanding Subsection (4)(a), respites or reprieves may not extend beyond the

- 2377 next session of the board.
- 2378 (c) At the next session of the board, the board:
- 2379 (i) shall continue or terminate the respite or reprieve; or
- 2380 (ii) may commute the punishment or pardon the offense as provided.
- 2381 (d) In the case of conviction for treason, the governor may suspend execution of the
- 2382 sentence until the case is reported to the Legislature at the Legislature's next session.
- 2383 (e) The Legislature shall pardon or commute the sentence or direct the sentence's
- 2384 execution.
- 2385 (5)(a) In determining when, where, and under what conditions an offender serving a
- 2386 sentence may be paroled or pardoned, have a fine or forfeiture remitted, have the
- 2387 offender's criminal accounts receivable remitted, or have the offender's sentence
- 2388 commuted or terminated, the board shall:
- 2389 (i) consider whether the offender has made restitution ordered by the court under
- 2390 Section 77-38b-205, or is prepared to pay restitution as a condition of any parole,
- 2391 pardon, remission of a criminal accounts receivable or a fine or forfeiture, or a
- 2392 commutation or termination of the offender's sentence;
- 2393 (ii) except as provided in Subsection (5)(b), develop and use a list of criteria for
- 2394 making determinations under this Subsection (5);
- 2395 (iii) consider information provided by the department regarding an offender's
- 2396 individual case action plan; and
- 2397 (iv) review an offender's status within 60 days after the day on which the board
- 2398 receives notice from the department that the offender has completed all of the
- 2399 offender's case action plan components that relate to activities that can be
- 2400 accomplished while the offender is imprisoned.
- 2401 (b) The board shall determine whether to remit an offender's criminal accounts
- 2402 receivable under this Subsection (5) in accordance with Section 77-32b-105 or
- 2403 77-32b-106.
- 2404 (6) In determining whether parole may be terminated, the board shall consider:
- 2405 (a) the offense committed by the parolee; and
- 2406 (b) the parole period under Section 76-3-202, and in accordance with Section 77-27-13.
- 2407 (7) For an offender placed on parole after December 31, 2018, the board shall terminate
- 2408 parole in accordance with the adult sentencing and supervision length guidelines, as
- 2409 defined in Section 63M-7-401.1, to the extent the guidelines are consistent with the
- 2410 requirements of the law.

- 2411 (8) The board may not rely solely on an algorithm or a risk assessment tool score in  
2412 determining whether parole should be granted or terminated for an offender.
- 2413 (9) The board may intervene as a limited-purpose party in a judicial or administrative  
2414 proceeding, including a criminal action, to seek:
- 2415 (a) correction of an order that has or will impact the board's jurisdiction; or  
2416 (b) clarification regarding an order that may impact the board's jurisdiction.
- 2417 (10) A motion to intervene brought under Subsection (8)(a) shall be raised within 60 days  
2418 after the day on which a court enters the order that impacts the board's jurisdiction.

2419 Section 30. **Repealer.**

2420 This bill repeals:

2421 Section **63G-2-101, Title.**

2422 Section **63G-2-406, Evidentiary standards for release of certain enforcement and**  
2423 **litigation records.**

2424 Section **63G-2-501, State Records Committee created -- Membership -- Terms --**  
2425 **Vacancies -- Expenses.**

2426 Section **63G-2-502, State Records Committee -- Duties.**

2427 Section 31. **Effective Date.**

2428 This bill takes effect on May 7, 2025.